



ISSUE PAPER “C”

Stormwater Regulatory Framework

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To: Minnesota Stormwater Manual Sub-Committee

From: EOR and CWP

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EXECUTIVE SUMMARY

Much work has been done to document the complexity of environmental regulations in Minnesota. Most notably is the 2002 report by the Minnesota Planning Department titled: Charting a Course for the Future: Report of the State Water Program Reorganization Project. The objective for this issue paper and the resulting Minnesota Stormwater Manual is not to re-analyze variations in Minnesota water programs. Rather, this paper focuses on Minnesota stormwater programs with the goal of creating a resource and reference for project planners to follow as they work to meet stormwater rules and goals for their individual projects. This paper reviews the diversity of stormwater related regulatory programs and authorities in the State of Minnesota, and proposes a structure for presentation in the forthcoming Manual.

The Issue Paper is organized into five sections as follows:

- I. Introduction
- II. Proposed Manual Content
- III. Regulatory Programs
- IV. Comparison to Other States
- V. References

A supplemental Overlaps and Gaps Analysis was prepared as a separate document and provided to the Manual Sub-Committee as background information on stormwater management in Minnesota.

The Manual Sub-Committee is asked to review the list of regulatory programs and permits for inclusion in the Manual and provide guidance on how each should be handled in the context of the Manual.

I. INTRODUCTION

The focus of this issue paper is to explore the existing regulatory framework within Minnesota as it relates specifically to stormwater. This will lead to preparation of detailed stormwater program and permit descriptions to be included in the Manual which can then be used as a guidance document for developers and the regulated community. This document and the information within should not be considered as a final resource for regulatory authority, but rather as a reference document that describes existing regulations and points a practitioner in the right direction.

In preparation for this Issue Paper, the project team met informally with representatives of both regulated and regulating groups. Groups include: municipalities, watershed districts/organizations, MPCA staff, Minnesota Chamber of Commerce, League of Minnesota Cities, and the Minnesota Department of Health. An invitation to meet was offered to representatives of Builder's Association of the Twin Cities (BATC), however it was not possible to schedule a meeting prior to the deadline for this paper. Issues raised and solutions proposed at these meetings are discussed in the separate Overlaps and Gaps Analysis document.

II. PROPOSED MANUAL CONTENT

As described above, the manual should be a reference document and organized in such a way that the regulated community can identify potential permits and programs necessary for compliance for a specific project. Further, the manual will focus on only those programs and permits that are specifically tied to stormwater management. It will not be possible to identify all combinations of permits and considerations for all possible types of projects. The manual will provide the following categories of information:

1. Agency description and stormwater authority
2. Enabling legislation or regulation
3. Program information and permit summary with agency contacts
4. Applicant guidance worksheet

A summary table is included to identify each of the permit programs at the State and Federal level and include regulated activities, applicability, regulator, and implementation authority (enabling legislation). In addition, local governments including counties, watershed

organizations, and municipalities will be included with general descriptions of their regulatory authorities.

Agencies and Stormwater Authority

A summary of each Federal and State agency with authority or regulations related to stormwater will be included in the Manual. The following agencies will be included in the summary:

- Environmental Protection Agency
- Federal Emergency Management Agency
- U. S. Army Corps of Engineers
- Minnesota Pollution Control Agency
- Minnesota Department of Health
- Minnesota Department of Natural Resources
- Board of Water and Soil Resources
- Metropolitan Council (sub-unit of the State)

Local, watershed and county authorities also relate to stormwater management and will be so indicated as appropriate in this paper and the Manual.

Enabling Legislation or Regulation

Numerous resources which describe programs and permits exist. A summary of the enabling legislation for stormwater programs and permits will be included in the Manual. Appendix A of this paper includes a summary of the enabling legislation proposed to be included in the manual. The following legislation is proposed to be included in the Manual:

Federal Enabling Legislation

- Clean Water Act
- Rivers and Harbors Act, Section 10
- Coastal Zone Act Reauthorization Amendments, Section 6217
- Safe Drinking Water Act
- Wild and Scenic Rivers Act

State Enabling Legislation

- M.S. 103A – Water Policy Information ([Chapter 103A](#))
- M.S. 103B – Water Planning and Project Implementation ([Chapter 103B](#))
- M.S. 103C – Soil and Water Conservation Districts ([Chapter 103C](#))
- M.S. 103D – Watershed Districts ([Chapter 103D](#))
- M.S. 103E – Drainage ([Chapter 103E](#))
- M.S. 103F – Protection of Water Resources ([Chapter 103F](#))
- M.S. 103G – Waters of the State ([Chapter 103G](#))

- M.S. 103H – Groundwater Protection (Chapter 103H)
- M.S. 115 – Water Pollution Control – Sanitary Districts (<http://www.revisor.leg.state.mn.us/stats/115/>)
- M.S. 116 – Pollution Control Agency (<http://www.revisor.leg.state.mn.us/stats/116/>)
- M.S. 144 – Department of Health (<http://www.revisor.leg.state.mn.us/stats/144/>)

Program and Permit Information

The Manual will focus primarily on descriptions of existing stormwater programs and permits at the Federal and State levels. Additional authorities exist at the local, watershed, and county levels, but they vary considerably and would go beyond the scope of this document if addressed individually. Appendix A of this paper includes excerpts from identified web links for the programs and permits proposed for inclusion in the Minnesota Stormwater Manual. A worksheet will also be developed and included in the Manual to aid the Manual user in determining from which agencies and governmental units a permit may be required. The manual will provide two types of links: some will link to portions of the manual; others will link to web pages that should have the most current information.

The following Federal and State regulatory programs have been singled out as having relationship to stormwater management and therefore will be included in the Minnesota Stormwater Manual (additional local, watershed and county authorities are referenced where appropriate throughout the paper):

Federal Regulatory Programs

- National Pollutant Discharge Elimination System (NPDES) Stormwater Program (EPA)
- Total Maximum Daily Load Program (EPA)
- National Flood Insurance Program (FEMA)
- Coastal Management Program (EPA, NOAA)
- National Wild and Scenic Rivers Program (NPS)
- Section 404 of the CWA Permit Program (COE)
- Section 10 of the Rivers and Harbors Act of 1899 Permit Program (COA)

State Regulatory Programs and Permits

- Public Waters Work Permit Program (DNR)
- Storm Water Program (MPCA)
- Coastal Nonpoint Pollution Control Program for Lake Superior (MPCA, DNR)
- Feedlot Program (MPCA, County)
- Wellhead Protection Program (MDH)
- Wetland Conservation Act Program (BWSR, DNR, LGU)
- Shoreland Management Program (DNR, LGU)
- Floodplain Management Program (DNR, LGU)
- Minnesota Nonpoint Source Management Program (MPCA)

- Wild and Scenic Rivers Program (DNR)
- Mississippi River Critical Area Program (DNR)
- MNRRA Program (NPS, DNR)
- Minnesota State Water Pollution Control Program (MPCA)
- Lake Management Program (DNR)
- River and Stream Management Program (DNR)
- Clean Water Act, Section 401 Certification (MPCA)

A preliminary summary of stormwater related permitting programs is presented in Table 1. This summary will also be included in the Manual as a quick reference for the user along with more detailed information on the individual programs.

Table 1: Stormwater related permit programs

Permit Title	Regulatory Agency	Implementation Authority	Applicability	Stormwater Regulated Activities
NPDES/SDS Construction Site Permit	MPCA	EPA - Clean Water Act M.S. 115.01-115.09	Applies to all construction disturbing one or more acres of land, areas less than one acre if that activity is part of a "larger common plan of development or sale" that is greater than one acre, and MPCA designated construction activities disturbing less than one acre that have the potential for contribution to a violation of a water quality standard or for significant contribution of pollutants to water resources.	Stormwater discharge associated with road building, landscaping clearing, grading, excavation, and construction of homes, office buildings, industrial parks, landfills and airports.
NPDES/SDS Municipal Separate Storm Sewer System Permit	MPCA	EPA - Clean Water Act M.S. 115.01-115.09 Mn. Rules 7001	Applies to municipal separate storm sewer systems located in federally designated urbanized areas.	On going site management and maintenance activities. Site management must include at a minimum the Six Minimum Control Measures: 1. public education and outreach, 2. public participation and involvement, 3. illicit discharge detection and elimination, 4. construction site storm water runoff control, 5. post construction storm water management, and 6. pollution prevention / good house keeping.
NPDES/SDS Industrial Site Permit	MPCA	EPA - Clean Water Act M.S. 115.01-115.09 Mn. Rules 7001	Applies to public (municipal) and private operators of industrial facilities included in one of the 11 categories of industrial activity defined in the federal regulations by an industry's Standard Industrial Classification (SIC) code or a narrative description of the activity found at the industrial site are required to apply for a permit	On going site management and maintenance activities. Site management may include BMPs such as oil and grease separators, designated wash out locations, site sweeping, and storing materials indoors.
NPDES/SDS Feedlot Permit	MPCA	EPA - Clean Water Act M.S.115.076 and 116.07 Mn. Rules 7001, 7020, 7050, and 7060	Applies to owners and operators of feedlots capable of holding 1,000 animal units or more or Concentrated Animal Feeding Operations (CAFOs) meeting criteria in 40 CFR § 122.23(b)(4).	Stormwater discharge associated site location and expansion activities; construction activities; manure application, storage (stockpiling) location, and management; phosphorus management, pollutions prohibitions; and process wastewater and milk house wastes

Permit Title	Regulatory Agency	Implementation Authority	Applicability	Stormwater Regulated Activities
Industrial Discharge	Met Council	Mn. Rules 473	Applies to industrial users of the Metropolitan Disposal System (public sanitary sewers)	Stormwater discharge, leachate, and groundwater where there is no prudent or feasible disposal alternatives
404 Wetland Permit	USACE	EPA - Clean Water Act Section 404 (33 U.S.C. 1344)	Applies to territorial seas; all navigable waters and adjacent wetlands; tributaries to navigable waters and adjacent wetlands; Interstate waters and adjacent wetlands; and all waters not identified above in which the destruction or degradation could affect interstate commerce	Discharge of dredged or fill material into waters of the United States
401 Water Quality Certification	MPCA	EPA – Clean Water Act (33 U.S.C. 1341) M.S. 115.03 Mn. Rules 7001	Applies to all activities requiring a federal permit that may have discharge to state waters.	Water quality impacts that may be generated from the structure, siting, or runoff management.
Wetland Conservation Act Permit	Local Government Unit (as designated in WCA)	Wetland Conservation Act M.S. 103G Mn. Rules 8420	Applies to all jurisdictional wetlands.	Draining, filling, and in some cases excavation, degradation of water quality due to untreated stormwater runoff
Public Waters Work Permit	DNR	M.S. 103G.245 Mn. Rules 6115	Development activities below the ordinary high water level (OHWL) in public waters and public waters wetlands	Filling, excavation, shore protection, bridges and culverts, structures, docks, marinas, water level controls, dredging, and dams.
Shoreland Management	DNR and LGUs*	State Floodplain Management Act M.S.103F.101 Mn. Rules 6120	Applies to all lakes greater than 25 acres (10 acres in municipalities) and rivers with a drainage area two square miles or greater	Standards and guidelines for the use and development of shoreland property, including a sanitary code, minimum lot size, minimum water frontage, building setbacks, building heights, and subdivision regulations. Local units of government with priority shorelands are required to adopt these or stricter standards into their zoning ordinances.

Permit Title	Regulatory Agency	Implementation Authority	Applicability	Stormwater Regulated Activities
Floodplain Management	DNR and LGUs	State Floodplain Management Act M.S.103F.101 Mn. Rules 6120	Requires structures built on a floodplain to meet floodplain management ordinances set by federal, state and local authorities	Floodplain management ordinances require that the elevation of the surface of the lowest floor of a dwelling be at or above the regulatory flood protection elevation. Local regulations will also require the top of the access road elevations to be within 2 feet of the flood protection elevation. Local units of government are required to adopt DNR minimum or stricter standards into their zoning ordinances.

* LGU = local governmental unit

The following example outlines the proposed organizational format for the Manual. Details organized in this format will be provided in the Manual for all of the previously referenced authorities.

Public Waters Work Permit Program

The DNR Water Permits Unit oversees the administration of the Public Waters Work Permit Program. This program, begun in 1937, regulates water development activities below the ordinary high water level (OHWL) in public waters and public waters wetlands. The Public Waters Work Permit Program applies to those lakes, wetlands, and streams identified on DNR Public Water Inventory maps. Proposed projects affecting the course, current, or cross-section of these water bodies may require a Public Waters Work Permit from the DNR.

There are two types of Public Waters Work Permits: general permits and individual permits. If work proposed in public waters or public waters wetlands meets the requirements of a specific general permit, an individual permit is not required. Currently there are five categories of general permits as follows:

1. Emergency Repair of Public Flood Damages
2. Multiple Purposes
3. Bridge and Culvert Projects
4. Dry Hydrants
5. Bank/Shore Protection or Restoration

An individual permit is required if the proposed work does not meet the requirements of a specific general permit.

Enabling Legislation: Minnesota Statutes 103G.245, Minnesota Rules Chapter 6115

Required Permit(s): **Public Waters Work Permit**

Regulatory Authority: DNR Water Permits Unit

Applicability: Development activities below the ordinary high water level (OHWL) in public waters and public waters wetlands.

Stormwater Regulated Activities: Filling, excavation, shore protection, bridges and culverts, structures, docks, marinas, water level controls, dredging, and dams within or along DNR Public Waters.

References and Links

Public Works Permit Programs -

http://www.dnr.state.mn.us/waters/watermgmt_section/pwpermits/index.html

DNR permit web site - <http://www.dnr.state.mn.us/permits/water/needpermit.html>

DNR permit application forms site –

<http://www.dnr.state.mn.us/waters/forms.html>

A worksheet will also be provided in Appendix D (Templates and Checklists) of the Manual to assist the Manual user with determining which authorities may be involved for a project in or near a protected water resource. It is important that the Manual user complete the entire worksheet in order to obtain an accurate picture of all of the regulatory authorities that may be

involved. Once the regulators are identified, the user should contact their local and zoning authorities for more information about local regulations and can use the links provide to state and federal level authorities. Watershed organizations (Watershed Districts and Watershed Management Organizations) should also be contacted immediately if they exist in the project area. Every location in the metro area will fall under a watershed jurisdiction. In Greater Minnesota, counties have undertaken general water planning and should also be contacted. The table will provide links to other appendices of the Manual where a user can go for more information on where these resources are located in relation to their project. An example of the worksheet is included as Table 2.

Table 2: Applicant guidance worksheet example

Resource Grouping	Are you in, near, or draining to:	Yes	No	Not Sure	If yes, you may need a permit or review from**:
Lakes	a lake?			Link to lakes	DNR, PCA
	a trout lake or lake trout lake?			Link to trout lakes	DNR, PCA
	the Coastal Zone?			Link to Coastal zone	U.S. Army Corps of Engineers, PCA
	a water of the US?			Link to navigable waters description	U.S. Army Corps of Engineers, DNR, PCA
	DNR public waters?			Link to PWI	DNR, PCA
Rivers, Streams and Ditches	a stream or river?			Link to NWI	U.S. Army Corps of Engineers, DNR, PCA
	a trout stream?			Link to trout streams	U.S. Army Corps of Engineers, DNR, PCA
	a water of the US?			Link to navigable waters description	U.S. Army Corps of Engineers, DNR, PCA
	DNR public waters?			Link to PWI	DNR, PCA
	a wild, scenic, or recreational river?			Link to wild, scenic, rivers	U.S. Army Corps of Engineers, DNR, PCA
	the Upper Mississippi River?			Link to UMR (?)	U.S. Army Corps of Engineers, DNR, PCA
	the Mississippi River Critical Area?			Link to MRCA	U.S. Army Corps of Engineers, DNR, PCA
	a public drainage ditch?			Link to public ditch system (?)	U.S. Army Corps of Engineers, DNR, PCA, County Drainage Authority (or its delegate)
Ground Water	a source water protection area?			Link to SWP areas	PCA, MDH
	a drinking water protection area?			Link to DWSMA	PCA, MDH
	a karst area?			Link to Karst	Local authorities
	a wellhead protection area?			Link to wellhead protection areas (?)	PCA, MDH
Wetlands	wetlands?			Link to NWI	PCA, WCA LGU
	DNR public waters wetlands?			Link to PWI	DNR, PCA, WCA LGU
	waters of the U.S.?			Link to navigable waters (?)	U.S. Army Corps of Engineers, PCA
	DNR public waters?			Link to PWI	DNR, PCA, WCA LGU
	a calcareous fen?			Link to calcareous fen	DNR, WCA LGU

Resource Grouping	Are you in, near, or draining to:	Yes	No	Not Sure	If yes, you may need a permit or review from**:
Impaired Waters	an impaired water or TMDL listed water?			Link to TMDL waters	PCA
Other	outstanding resource value waters (ORVWs)?			Link to ORVWs	DNR, PCA
	a shoreland protection area?			Link to shoreland protection area info	DNR
	a floodplain, floodway, or flood zone?			Link to FEMA (?)	FEMA, DNR, PCA, County
	a wilderness area?			Link to BWCA wilderness areas	EPA, DNR
	a scientific or natural area?			Link to SNA	DNR, PCA
	a lake improvement district?			Link to lake improvement district info	DNR, PCA, Lake Association
	a watershed district or water management organization?			Link to WD and WMOs	Watershed District, Watershed Management Organization
	an Indian Reservation?			Link to Reservations (?)	EPA, Tribal Authorities
	federally protected lands?			Link to National Forest, National Parks, National Wildlife Refuge, National Recreation Area	EPA, DNR
** In all cases, your local zoning authority and your Watershed Districts or Watershed Management Organizations (if one exists) should be contacted for information on requirements for local stormwater regulations.					

III. REGULATORY PROGRAMS

Tables 3 and 4 were compiled to summarize the federal, state, and local entities with regulatory jurisdiction over stormwater activities impacting water resources. They were intended to provide a quick reference to the subcommittee, stimulate conversation, and illustrate potential gaps and overlaps in coverage. *Discussion at the MSC meeting should provide direction on whether these tables should be incorporated into the manual, and if so how the information in these tables could best be incorporated into the regulatory section.* Table 3 is organized according to activities that would trigger permitting or reviews. Table 4 is organized by receiving water/special protection area. Each table includes a series of three symbols as described below:

- ✓ Represents an agency or organization with permitting authority
- + Represents an agency or organization that will have permitting authority under certain circumstances (i.e., if they are designated as LGU, if the receiving water is a drinking water source, etc.)
- Represents an agency or organization with review authority or authority to set standards

The information obtained from the regulatory programs analysis was combined with information obtained from stakeholder interviews and summarized in a supplemental Overlaps and Gaps Analysis document for MSC review.

Table 3: Regulatory authority table for action classes

Action Classes	Federal			State				Local*			
	EPA	ACOE	FEMA	MPCA	DNR	BWSR	MDH	Met Council	County	Watershed	Municipality/Township/Tribal
Erosion and Sediment Control	+			✓					+	+	+
Lake, Stream, River Protection	+	✓	+	✓	✓				+	+	+
Wetland Protection	+	+	+	+	+	○			+	+	+
Groundwater Protection	+			✓			○		+	+	+
Surface Water Quality Protection	+			✓	+				+	+	+
Construction Stormwater Discharge	+			✓					+	+	+
Municipal Stormwater Discharge	+			✓					+	+	+
Industrial Stormwater Discharge	+			✓				+	+	+	+
Agricultural Stormwater Discharge	+			✓					+	+	+
Flood Control		✓	✓	○	○				+	+	+

* Depending upon location in the state, the local jurisdictions may be administered at the county, watershed organization (if one exists), city/township/village, or tribal level or a combination of these. Contact the local zoning authority for more information on local regulations.

Table 4 Regulatory authority based on receiving water or special protection area

Group	Resource	Federal			State				Local		
		EPA	ACOE	FEMA	MPCA	DNR	BWSR	MDH	County	Watershed	Municipality/ Township Village Tribal
Lakes	Lake	+	+	+	+○	✓		○	+	+○	+○
	Trout Lake/Lake Trout Lake	+	+	+	+○	✓		○	+	+○	+○
	Coastal Zone	+	✓	+	✓	+		○	+	+○	+○
	Water of the US	+	✓	+	+	+		○	+	+○	+○
	DNR Public Water	+	+	+	+	✓		○	+	+○	+○
Rivers, Streams and Ditches	Stream or river	+	✓	+	+	✓		○	+	+○	+○
	Trout Stream	+	+	+	+○	✓			+	+○	+○
	Water of the US	+	✓	+	+○	+		○	+	+○	+○
	DNR Public Water	+	+	+	+	✓		○	+	+○	+○
	Wild, Scenic or Recreational river	+	✓	+	+	✓		○	+	+○	+○
	Upper Mississippi River	+	✓	+	+	✓		○	+	+○	+○
	Mississippi River Critical Area	+	✓	+	+	✓		○	+	+○	+○
	Public Drainage System	+	+	+	+	+			+	+○	+○
Ground Water	Source water protection area	+			+			○	+	+○	+○
	Drinking water protection area	+			+			○	+	+○	+○
	Wellhead protection area	+			+			○	+	+○	+○
	Karst Area	+			+				+	+○	+○
Wetlands	Wetlands	+	+	+	+	+	○		+	+○	+○
	DNR Public Waters Wetlands	+	+	+	+	+	○		+	+○	+○
	Water of the US	+	✓	+	+	+	○		+	+○	+○
	Calcareous Fen	+	+	+	+	+	○		+	+○	+○

Impaired Waters	Impaired water or TMDL listed water	+	+	+	+○	+	○	○	+	+○	+ ○
Other	outstanding resource value waters (ORVM)	+	+	+	+	✓	○	○	+	+○	+ ○
	Shoreland Protection Area	+		+	+	○			+	+○	+ ○
	Floodplain, Floodway, Flood Zone	+	+	✓	+○	○			+	+○	+ ○
	Wilderness Area	+	+	+	+	✓	○		+	+○	+ ○
	Scientific and Natural Area	+	+	+	+	✓	○		+	+○	+ ○
	Watershed District/ Water Management Organization	+	+	+	+	+	○	○	+	+○	+ ○
	Lake Improvement District	+	+	+	+	+	○	○	+	+○	+ ○
	Indian Reservation	✓	+	+							+ ○
	Federally protected lands	✓	+	+						+○	+ ○

* Depending upon location in the state, the local jurisdictions may be administered at the county, watershed organization (if one exists), city/township/village, or tribal level or a combination of these. Contact the local zoning authority for more information on local regulations.

IV. COMPARISON TO OTHER STATES

The report *Charting a Course for the Future: Report of the State Water Program Reorganization Project*, 2002, Minnesota Planning Agency, includes a section describing water programs of other states. A reproduction of the appendix from that report is included as Appendix B of this issue paper.

V. REFERENCES

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<http://www.epa.gov/watertrain/cwa/cwa58.htm>.

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APPENDIX A – Relevant Minnesota Rules, Regulations and Programs

ENABLING LEGISLATION

The following Federal and State legislation enables the creation of and delegates authority for stormwater programs and regulations.

Federal Enabling Legislation

A summary of the following legislation is included in this section:

- Clean Water Act
- Section 10 of the Rivers and Harbors Act of 1899
- Coastal Zone Management Act of 1990, Section 6217
- Safe Drinking Water Act
- Wild and Scenic Rivers Act

Clean Water Act

The Federal Water Pollution Control Act Amendments of 1972 were enacted in response to a growing awareness and concern over water pollution. The Act established the basic structure for regulating discharges of pollutants into the waters of the United States. It gave EPA the authority to implement pollution control programs such as setting wastewater standards for industry. The Clean Water Act also continued requirements to set water quality standards for all contaminants in surface waters. The Act made it unlawful for any person to discharge any pollutant from a point source into navigable waters, unless a permit was obtained under its provisions. It also funded the construction of sewage treatment plants under the construction grants program and recognized the need for planning to address the critical problems posed by nonpoint source pollution. The CWA is summarized on the EPA's website:

<http://www.epa.gov/region5/water/cwa.htm>.

Sections 303, 319, 401, 402, and 404 of the CWA specifically address EPA's authority and responsibility in managing pollution of the nation's waters. A detailed discussion of the CWA can be found in EPA's Introduction to the CWA module found at: <http://www.epa.gov/watertrain/cwa/index.htm>.

The following is a summary of these sections and state required actions and regulations:

Section 303, Water Quality Standards and Implementation Plans

The CWA requires states to publish, every two years, an updated list of streams and lakes that are not meeting their designated uses because of excess pollutants. The list, known as the 303(d) list, is based on violations of water quality standards and is organized by river basin. For each pollutant that causes a water body to fail to meet state water quality

standards, the CWA requires the MPCA to conduct a Total Maximum Daily Load (TMDL) study.

EPA's TMDL web site: <http://www.epa.gov/owow/tmdl/intro.html#definition>

Section 319, Nonpoint Source Management Program

Under the CWA Section 319, states, territories, and delegated tribes are required to develop nonpoint source pollution management programs if they wish to receive 319 funds.

EPA's CWA module Section 319 page: <http://www.epa.gov/watertrain/cwa/cwa52.htm>

Section 401, Water Quality Certification

According to the CWA, anyone who wishes to obtain a federal permit for any activity, which may result in a discharge, must first obtain a state 401 water quality certification. The MPCA is the delegated authority to issue Section 401 water quality certifications in Minnesota. A Section 401 water quality certification may be granted if the applicant demonstrates that an activity, such as discharge of dredged or fill materials, will not violate water quality standards or result in adverse long- or short-term impacts on water quality. Such impacts can be direct or cumulative in nature.

EPA's CWA module Section 401 page: <http://www.epa.gov/watertrain/cwa/cwa58.htm>

Section 402, National Pollutant Discharge Elimination System (NPDES)

EPA, in coordination with States, the regulated community, and the public develops, implements, and conducts oversight of the National Pollutant Discharge Elimination System (NPDES) permit program based on statutory requirements contained in the CWA and requirements contained in the NPDES regulations. Regulatory authority has been handed over to the State of Minnesota through the MPCA.

EPA's NPDES web site: <http://cfpub.epa.gov/npdes/index.cfm>

EPA's CWA module Section 402 page: <http://www.epa.gov/watertrain/cwa/cwa37.htm>

Section 404, Discharge of dredge or fill material into waters of the U.S.

Although most commonly associated with activities that involve filling of wetlands, Section 404 actually deals with one broad type of pollution -- placement of dredged or fill material into "waters of the United States". Wetlands are one component of "waters of the United States;" however, there are numerous other types including intermittent streams, small perennial streams, rivers, lakes, bays, estuaries, and portions of the oceans. The 404 permit program is administered jointly by EPA and the U.S. Army Corps of Engineers (ACOE). The ACOE handles the actual issuance of permits (both individual and general); it also determines whether a particular plot of land is a wetland or water of

the United States. The ACOE has primary responsibility for ensuring compliance with permit conditions, although EPA also plays a role in compliance and enforcement

EPA's CWA module Section 404 page: <http://www.epa.gov/watertrain/cwa/cwa55.htm>
US Army Corp of Engineers' wetland information web site:
<http://www.sac.usace.army.mil/permits/wet.html>

Section 10 of the Rivers and Harbors Act of 1899

The Rivers and Harbors Act, Section 10 states: That the creation of any obstruction not affirmatively authorized by Congress, to the navigable capacity of any of the waters of the United States is hereby prohibited; and it shall not be lawful to build or commence the building of any wharf, pier, dolphin, boom, weir, breakwater, bulkhead, jetty, or other structures in any port, roadstead, haven, harbor, canal, navigable river, or other water of the United States, outside established harbor lines, or where no harbor lines have been established, except on plans recommended by the chief of Engineers and authorized by the Secretary of War; and it shall not be lawful to excavate or fill, or in any manner to alter or modify the course, location, condition, or capacity of, any port, roadstead, haven, harbor, canal, lake, harbor of refuge, or in closure within the limits of any breakwater, or of the channel of any navigable water of the United States, unless the work has been recommended by the chief of Engineers and authorized by the Secretary of War prior to beginning the same.

Under Section 10, an ACOE permit is required to do any work in, over or under a Navigable Water of the U.S. Waterbodies have been designated as Navigable Waters of the U.S. based on their past, present, or potential use for transportation for interstate commerce.

US Army Corp of Engineers' Rivers and Harbors Act web site:
<http://www.sac.usace.army.mil/permits/sec10.html>

Coastal Zone Management Act of 1990, Section 6217

Section 6217 of the Coastal Zone Management Act requires the 29 states and territories with approved Coastal Zone Management Programs to develop Coastal Nonpoint Pollution Control Programs. In its program, a state or territory describes how it will implement nonpoint source pollution controls, known as management measures, that conform with those described in Guidance Specifying Management Measures for Sources of Nonpoint Pollution in Coastal Waters. This program is administered jointly with EPA and the National Oceanic and Atmospheric Administration (NOAA).

EPA's Coastal Zone Management Act web site:
<http://www.epa.gov/owow/nps/czmact.html>

CZMA (section 6217) http://www.ocrm.nos.noaa.gov/czm/czm_act.html#anchor203914

Safe Drinking Water Act

The Safe Drinking Water Act (SDWA) was originally passed by Congress in 1974 to protect public health by regulating the nation's public drinking water supply. The law was amended in 1986 and 1996 and requires many actions to protect drinking water and its sources: rivers, lakes, reservoirs, springs, and ground water wells. The SDWA authorizes the EPA to set national health-based standards for drinking water to protect against both naturally-occurring and man-made contaminants that may be found in drinking water.

<http://www.epa.gov/safewater/sdwa/30th/factsheets/understand.html>

Wild and Scenic Rivers Act

The Wild and Scenic Rivers Act states: It is hereby declared to be the policy of the United States that certain selected rivers of the Nation which, with their immediate environments, possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values, shall be preserved in free-flowing condition, and that they and their immediate environments shall be protected for the benefit and enjoyment of present and future generations. The Congress declares that the established national policy of dam and other construction at appropriate sections of the rivers of the United States needs to be complemented by a policy that would preserve other selected rivers or sections thereof in their free-flowing condition to protect the water quality of such rivers and to fulfill other vital national conservation purposes.

<http://www.nps.gov/rivers/wsract.html>

State Enabling Legislation

At the State level, water law is organized into a series of Statutes and Rules. MN Statutes 103A through 103G constitute Water Law in Minnesota. These Statutes and their associated Rules are the enabling legislation related to stormwater at the State level. Links to 2004 statutes are provided.

- M.S. 103A – Water Policy Information ([Chapter 103A](#))
- M.S. 103B – Water Planning and Project Implementation ([Chapter 103B](#))
- M.S. 103C – Soil and Water Conservation Districts ([Chapter 103C](#))
- M.S. 103D – Watershed Districts ([Chapter 103D](#))
- M.S. 103E – Drainage ([Chapter 103E](#))
- M.S. 103F – Protection of Water Resources ([Chapter 103F](#))
- M.S. 103G – Waters of the State ([Chapter 103G](#))
- M.S. 115 – Water Pollution Control – Sanitary Districts
- M.S. 116 – Pollution Control Agency

In addition, M.S. 103H (Chapter 103H) provides the enabling legislation at the State level for groundwater protection.

Summaries of each of the statutes are provided below. Specific acts, laws, or programs contained within the statutes are also summarized.

M.S. 103A – Water Policy Information

Regulatory policy is defined within this chapter. Policy related to wetlands, hydropower, groundwater management, rainwater conservation, soil and water conservation, floodplain management, scenic river protection, marginal and erodable land, and water law policy are defined and addressed in this statute. Term definitions, jurisdiction, petition for intervention rules, authority, court referral, hearings, procedure, and statewide water information systems are defined and addressed.

M.S. 103B – Water Planning and Project Implementation

Statute 103B addresses water planning and project implementation. Statute 103B specifically creates and defines plans, programs, districts, commissions, organizations and boards to protect water resources. Statutes cover issues such as taxing authority, planning, levies, capital improvements, dispute resolution and project implementation.

The following Acts, Programs and Laws applicable to stormwater are included within M.S. 103B:

Lake Improvement District Law (103B.501 – 103B.581)

The purpose of this law is defined in Statute 103B.511 Subdivision 1, “to preserve and protect the lakes of the state and to increase and enhance the use and enjoyment of the lakes it is in the public interest that a statewide lake improvement program is established to: preserve the natural character of lakes and their shore land environment where feasible and practical; improve the quality of water in lakes; provide for reasonable assurance of water quantity in lakes, where feasible and practicable; and to assure protection of the lakes from the detrimental effects of human activities and certain natural processes. The commissioner shall coordinate and supervise a local-state program for the establishment of lake improvement districts by counties for lakes located within their boundaries, based on state guidelines and rules and compatible with all state, regional, and local plans where the plans exist.”

Comprehensive Local Water Management Act (103B.301 – 103B.355)

This act encourages counties to develop and implement local water management plans. Local water management plans must, according to Statute 103B.311 Subdivision 4,

1. cover the entire area within a county;
2. address water problems in the context of watershed units and groundwater systems;
3. be based upon principles of sound hydrologic management of water, effective environmental protection, and efficient management;
4. be consistent with local water management plans prepared by counties and watershed management organizations wholly or partially within a single watershed unit or groundwater system; and
5. the local water management plan must specify the period covered by the local water management plan and must extend at least five years but no more than ten years from the date the board approves the local water management plan. Local water management plans that contain revision dates inconsistent with this section must comply with that date provided it is not more than ten years beyond the date of board approval. A two-year extension of the revision date of a local water management plan may be granted by the board, provided no projects are ordered or commenced during the period of the extension.

M.S. 103C – Soil and Water Conservation Districts

M.S. Chapter 103C (Soil and Water Conservation District Law) addresses soil and water conservation policy. Statutes cover issues such as the formation of soil and water conservation districts, consolidation and division of districts, cooperation between districts and other public agencies, powers and duties of the Board of Water and Soil Resources, and project determination and assessments. Soil and water conservation policy is defined in Statute 103C.005 as, “Maintaining and enhancing the quality of soil and water for the environmental and economic benefits they produce, preventing degradation, and restoring degraded soil and water resources of this state contribute greatly to the health, safety, economic well-being, and general welfare of this state and its citizens. Land occupiers have the responsibility to implement practices that conserve the soil and water resources of the state. Soil and water conservation measures implemented on private lands in this state provide benefits to the general public by reducing erosion, sedimentation, siltation, water pollution, and damages caused by floods. The soil and water conservation policy of the state is to encourage land occupiers to conserve soil, water, and the natural resources they support through the implementation of practices that:

1. control or prevent erosion, sedimentation, siltation, and related pollution in order to preserve natural resources;
2. ensure continued soil productivity;
3. protect water quality;
4. prevent impairment of dams and reservoirs;
5. reduce damages caused by floods;
6. preserve wildlife;
7. protect the tax base; and
8. protect public lands and waters.

M.S. 103D – Watershed Districts

Chapter 103D addresses the establishment and termination of Watershed Districts, consolidation and boundary changes of districts, watershed management plans, project procedure and implementation, general provisions and the funding of watershed districts and projects. The Chapter is commonly referred to as the Watershed Law.

Statute 103D.201 Subdivision 1 states the general purposes of a watershed district is, “to conserve the natural resources of the state by land use planning, flood control, and other conservation projects by using sound scientific principles for the protection of the public health and welfare and the provident use of the natural resources, the establishment of watershed districts is authorized under this chapter.”

Statute 103D.201 Subdivision 2 states that a watershed may be established for any of the following purposes:

1. to control or alleviate damage from flood waters;
2. to improve stream channels for drainage, navigation, and any other public purpose;
3. to reclaim or fill wet and overflowed land;
4. to provide a water supply for irrigation;
5. to regulate the flow of streams and conserve the streams' water;
6. to divert or change all or part of watercourses;
7. to provide or conserve water supply for domestic, industrial, recreational, agricultural, or other public use;
8. to provide for sanitation and public health, and regulate the use of streams, ditches, or watercourses to dispose of waste;
9. to repair, improve, relocate, modify, consolidate, and abandon all or part of drainage systems within a watershed district;
10. to control or alleviate soil erosion and siltation of watercourses or water basins;
11. to regulate improvements by riparian property owners of the beds, banks, and shores of lakes, streams, and wetlands for preservation and beneficial public use;
12. to provide for hydroelectric power generation;
13. to protect or enhance the water quality in watercourses or water basins; and
14. to provide for the protection of groundwater and regulate its use to preserve it for beneficial purposes.

M.S. 103E – Drainage

M.S. Chapter 103E addresses general provisions, petitions for drainage projects, preliminary surveying and hearings, detailed surveying and viewing, drainage outlets, drainage construction, funding and payment of drainage system costs, and procedure to repair drainage systems.

M.S. 103F – Protection of Water Resources

Chapter 103F addresses the protection of water resources, specifically the Southern Minnesota Rivers Basin Area, shoreland development, the Wild Scenic Rivers Act, Mississippi Headwaters Planning and Management, the Minnesota River Basin Joint Powers Board, Project Riverbend,

soil erosion, the water bank program, lake preservation and protection, and the Wetland Establishment and Restoration Program.

The following Acts and Laws applicable to stormwater are included within M.S. 103F:

Floodplain Management Law (103F.101 – 103F.155)

The policy of the Floodplain Management Law is stated in Statute 103F.105. It summarizes the law's intent stating, "the legislature finds:

1. a large portion of the state's land resources is subject to recurrent flooding by overflow of streams and other watercourses causing loss of life and property, disruption of commerce and governmental services, unsanitary conditions, and interruption of transportation and communications, all of which are detrimental to the health, safety, welfare, and property of the occupants of flooded lands and the people of this state; and
2. the public interest necessitates sound land use development as land is a limited and irreplaceable resource, and the floodplains of this state are a land resource to be developed in a manner which will result in minimum loss of life and threat to health, and reduction of private and public economic loss caused by flooding.

It is the policy of this state to reduce flood damages through floodplain management, stressing nonstructural measures such as floodplain zoning and flood proofing, flood warning practices, and other indemnification programs that reduce public liability and expense for flood damages.

It is the policy of this state:

1. not to prohibit but to guide development of the floodplains consistent with legislative findings;
2. to provide state coordination and assistance to local governmental units in floodplain management;
3. to encourage local governmental units to adopt, enforce and administer sound floodplain management ordinances;
4. to provide the commissioner of natural resources with authority necessary to carry out a floodplain management program for the state and to coordinate federal, state, and local floodplain management activities in this state; and
5. to provide incentives for communities to participate in the national flood insurance program and for citizens of Minnesota to take actions such as purchasing and maintaining flood insurance to reduce future flood damage to private property.

Minnesota Wild and Scenic Rivers Act (103F.301 – 103F.345).

The policy behind the development of this act is stated in Statute 103F.351 Subdivision 1. It states, "the lower St. Croix River, between the dam near Taylor's Falls and its confluence with the Mississippi River, constitutes a relatively undeveloped scenic and recreational asset lying close to the largest densely populated area of the state. The preservation of this unique scenic

and recreational asset is in the public interest and will benefit the health and welfare of the citizens of the state. The state recognizes and concurs in the inclusion of the lower St. Croix River into the federal wild and scenic rivers system by the Lower St. Croix River Act of the 92nd Congress, Public Law 92-560. The authorizations of the state are necessary to the preservation and administration of the lower St. Croix River as a wild and scenic river, particularly in relation to those portions of the river that are to be jointly preserved and administered as a wild and scenic river by this state and Wisconsin.”

Clean Water Partnership Law (103F.701 – 103F.761)

Statute 103F.705 states, “It is the purpose of the legislature in enacting sections 103F.701 to 103F.761 to protect and improve surface and ground water in the state, through financial and technical assistance to local units of government to control water pollution associated with land use and land management activities. It is also the purpose of the legislature to:

1. identify water quality problems and their causes;
2. direct technical and financial resources to resolve water quality problems and to abate their causes;
3. provide technical and financial resources to local units of government for implementation of water quality protection and improvement projects;
4. coordinate a nonpoint source pollution control program with elements of the existing state water quality program and other existing resource management programs; and
5. provide a legal basis for state implementation of federal laws controlling nonpoint source water pollution.”

M.S. 103G – Waters of the State

Chapter 103G addresses the waters of the state. The statute includes the commissioner’s authority, public water designation and use, wetlands, work affecting public waters, water diversion and appropriation, permit procedure, water level establishment and control, Big Stone Lake, Mississippi Headwater Lakes, dam construction and maintenance, flowage easements, water aeration and deicing, harvest and control of aquatic plants, sunken log recovery, and streams.

M.S. 115 – Water Pollution Control; Sanitary Districts

Chapter 115 addresses issues concerning water pollution control, sanitary districts, municipal water pollution control, individual and alternative discharging sewage treatment systems, regional sanitary sewer districts, water supply systems, and wastewater treatment facilities.

The following Acts and Laws are included within M.S. 115:

State Water Pollution Control Act (M.S. 115.01 – 115.09)

This Act specifically addresses stormwater issues and the National Pollutant Discharge Elimination System (NPDES). Subdivision 5 names the MPCA authority and states, “Notwithstanding any other provisions prescribed in or pursuant to this chapter and, with respect to the pollution of waters of the state, in chapter 116, or otherwise, the agency shall have the authority to perform any and all acts minimally necessary including, but not limited to, the establishment and application of standards, procedures, rules, orders, variances, stipulation agreements, schedules of compliance, and permit conditions, consistent with and, therefore not less stringent than the provisions of the Federal Water Pollution Control Act, as amended, applicable to the participation by the state of Minnesota in the NPDES; provided that this provision shall not be construed as a limitation on any powers or duties otherwise residing with the agency pursuant to any provision of law.

Subd. 5a. Public notice for NPDES permit application. The commissioner must give public notice of a completed NPDES permit application for new municipal discharges in the official county newspaper of the county where the discharge is proposed.

Subd. 5b. Storm water permits; compliance with non-degradation and mitigation requirements.

1. During the period in which this subdivision is in effect, all point source storm water discharges that are subject to and in compliance with an individual or general storm water permit issued by the MPCA under the NPDES are considered to be in compliance with the non-degradation and mitigation requirements of agency water quality rules.
2. This subdivision is repealed on the earlier of July 1, 2007, or the effective date of rules adopted by the Pollution Control Agency that provide specific mechanisms or criteria to determine whether point source storm water discharges comply with the nondegradation and mitigation requirements of agency water quality rules.

Subd. 5c. Regulation of storm water discharges.

1. The agency may issue a general permit to any category or subcategory of point source storm water discharges that it deems administratively reasonable and efficient without making any findings under agency rules. Nothing in this subdivision precludes the agency from requiring an individual permit for a point source storm water discharge if the agency finds that it is appropriate under applicable legal or regulatory standards.
2. Pursuant to this paragraph, the legislature authorizes the agency to adopt and enforce rules regulating point source storm water discharges. No further legislative approval is required under any other legal or statutory provision whether enacted before or after May 29, 2003.”

Regional Sanitary Sewer District Law (M.S. 115.16 – 115.67)

The purpose and authority of the Regional Sanitary Sewer District Law is articulated in Section 115.61. Section 115.61 states, “A sanitary sewer district, when created as contemplated by

sections 115.61 to 115.67, shall be a municipal corporation and governmental subdivision of the state, responsible for acquiring, constructing, improving, extending, operating, and maintaining facilities for the collection, treatment, and disposal of sewage and industrial and other wastes received from the sewer systems of all municipalities within its corporate limits, for the purpose of preventing pollution of public waters in excess of such reasonable standards of purity and quality as may be established by state regulatory agencies pursuant to law. For this purpose it shall have perpetual succession; may sue and be sued; may acquire real and personal property, including easements, within or outside its corporate limits, by purchase, gift, devise, condemnation, lease, or otherwise, which property, while held, used, or occupied by it, shall be exempt from taxation; may manage, control, sell, convey, lease, and otherwise dispose of such property; may make contracts, borrow money, issue bonds, levy taxes and special assessments, and establish and collect charges for services furnished or made available; and may exercise all powers granted any municipality by chapters 117, 412, 429, and 475, sections 471.59, 444.075, and 115.46, and, without limitation by the foregoing, all municipal power necessary or expedient to accomplish said purpose, whether or not necessarily implied from any power herein expressly granted."

M.S. 116 – Pollution Control Agency

Statute 116 addresses issues related to the MPCA. Issues emphasized in this chapter related to water include, the creation and powers of the MPCA, the Water Pollution Control Program, nutrients in cleaning agents and water conditioners, storage tanks, and waste facility training and certification. Feedlots are specifically addressed in this chapter in Statute 116.07 Subdivision 7c. Requirements for NPDES permitting are stated as the following:

(a) The agency must issue NPDES permits for feedlots with 1,000 animal units or more and that meet the definition of a "concentrated animal feeding operation" in Code of Federal Regulations, title 40, section 122.23, based on the following:

1. a permit for a newly constructed or expanded animal feedlot that is identified as a priority by the commissioner, using criteria established under paragraph (d), must be issued as an individual permit;
2. after January 1, 2001, an existing feedlot that is identified as a priority by the commissioner, using criteria established under paragraph (e) must be issued as an individual permit; and
3. the agency must issue a general NPDES permit for animal feedlots that are not identified under clause (1) or (2).

(b) Prior to the issuance of a general NPDES permit for a category of animal feedlot facility permittees, the agency must hold at least one public hearing on the permit issuance.

(c) To the extent practicable, the agency must include a public notice and comment period for an individual NPDES permit concurrent with any public notice and comment for:

1. the purpose of environmental review of the same facility under chapter 116D; or

2. the purpose of obtaining a conditional use permit from a local unit of government where the local government unit is the responsible governmental unit for purposes of environmental review under chapter 116D.

(d) The commissioner, in consultation with the Feedlot and Manure Management Advisory Committee, created under section 17.136, and other interested parties must develop criteria for determining whether an individual NPDES permit is required under paragraph (a), clause (1). The criteria must be based on proximity to waters of the state, facility design, and other site-specific environmental factors.

(e) The commissioner, in consultation with the Feedlot and Manure Management Advisory Committee, created under section 17.136, and other interested parties must develop criteria for determining whether an individual NPDES permit is required for an existing animal feedlot, under paragraph (a), clause (2). The criteria must be based on violations and other compliance problems at the facility.

(f) The commissioner, in consultation with the Feedlot and Manure Management Advisory Committee, created under section 17.136, and other interested parties must develop criteria for determining when an individual NPDES permit is transferred from individual to general permit status.

(g) Notwithstanding the provisions in paragraph (a), until January 1, 2001, the commissioner may issue an individual NPDES permit for an animal feedlot. After the general permit is issued and the criteria under paragraphs (d) and (e) are developed, individual permits issued pursuant to this paragraph that do not fit the criteria for an individual permit under the applicable provisions of paragraph (d) or (e) must be transferred to general permit status.

(h) The commissioner, in consultation with the Feedlot and Manure Management Advisory Committee, created under section 17.136, and other interested parties must develop criteria for determining which feedlots are required to apply for and obtain a NPDES permit and which feedlots are required to apply for and obtain a State Disposal System permit based upon the actual or potential to discharge.

M.S. 116A – Public Water and Sewer Systems

Statute 116A addresses the power of county boards to construct and maintain public water and sewer systems. Statute 116A.01 Subdivision 2 outlines the purpose of the establishment of such systems. Subdivision 2 states, "Upon receipt of a petition for the establishment of a water or sewer system or combined water and sewer system in any area of the county not organized into cities, or in any area to be included within a system in accordance with subdivision 4, and after determining the sufficiency of the petition as provided in section 116A.02 and making such investigations and surveys as it considers necessary to ascertain whether it should be granted, the court or board may by resolution provide for the establishment of such a system; cause plans and specifications to be prepared for water system facilities adequate to obtain, store, treat, and distribute water for domestic, commercial, and industrial use therein, or sewer system

facilities adequate to collect, treat, and dispose of sewage and waste in a sanitary manner, or both such types of facilities; contract for the construction of such facilities; acquire land and easements for the purpose by purchase, gift, condemnation, or other lawful means; establish, collect, and revise charges for the use and availability of water or sewer service or both to all premises within the area to which service is furnished or made reasonably available, and for connection to the facilities, in the manner provided in section 444.075; levy special assessments upon properties specially benefited by the construction of the facilities; issue bonds of the county to finance such construction as provided in section 116A.20, and require hook up or attachment to the system by all residents in the service area.”

M.S. 144 – Department of Health

Statute 144 addresses issues of concern to the Department of Health. Specifically addressed in sections 144.381 to 144.387 are issues related to safe drinking water. These sections may be cited as the Safe Drinking Water Act of 1977. Statute 144.383 describes the purpose and authority of the state commissioner of health stating, “In order to insure safe drinking water in all public water supplies, the commissioner has the following powers:

- (a) To approve the site, design, and construction and alteration of all public water supplies and, for community and nontransient noncommunity water systems as defined in Code of Federal Regulations, title 40, section 141.2, to approve documentation that demonstrates the technical, managerial, and financial capacity of those systems to comply with rules adopted under this section;
- (b) To enter the premises of a public water supply, or part thereof, to inspect the facilities and records kept pursuant to rules promulgated by the commissioner, to conduct sanitary surveys and investigate the standard of operation and service delivered by public water supplies;
- (c) To contract with boards of health as defined in section 145A.02, subdivision 2, created pursuant to section 145A.09, for routine surveys, inspections, and testing of public water supply quality;
- (d) To develop an emergency plan to protect the public when a decline in water quality or quantity creates a serious health risk, and to issue emergency orders if a health risk is imminent;
- (e) To promulgate rules, pursuant to chapter 14 but no less stringent than federal regulation, which may include the granting of variances and exemptions.”

STORMWATER PROGRAMS AND PERMITS

Federal Regulatory Programs and Permits

The following Federal regulatory programs and permits are described below:

- National Pollutant Discharge Elimination System (NPDES) Stormwater Program
- Section 319, Nonpoint Source Management Program
- Total Maximum Daily Load Program
- Coastal Nonpoint Source Pollution Control Program
- National Flood Insurance Program
- National Wild and Scenic Rivers Program
- Source Water Assessment Program
- U.S. Army Corps of Engineers 404 permits

National Pollutant Discharge Elimination System (NPDES) Stormwater Program

As authorized by the Clean Water Act, the National Pollutant Discharge Elimination System (NPDES) permit program controls water pollution by regulating point sources that discharge pollutants into waters of the United States. Industrial, municipal, and other facilities must obtain permits if their discharges go directly to surface waters. In most cases, the NPDES permit program is administered by authorized states. Since its introduction in 1972, the NPDES permit program is responsible for significant improvements to our Nation's water quality.

EPA's NPDES web site: <http://cfpub.epa.gov/npdes/index.cfm>

EPA's Clean Water Act module Section 402 page:

<http://www.epa.gov/watertrain/cwa/cwa37.htm>

Section 319, Nonpoint Source Management Program

When Congress added Section 319 to the CWA in 1987, it created a federal grant program that provides money to states, tribes, and territories for the development and implementation of NPS management programs. Once it has approved a state's nonpoint source program, EPA provides grants to these entities to implement NPS management programs under Section 319(h).

EPA's Clean Water Act module Section 319 page:

<http://www.epa.gov/watertrain/cwa/cwa52.htm>

Total Maximum Daily Load Program

A TMDL specifies the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards, and allocates pollutant loadings among point and nonpoint pollutant sources. By law, EPA must approve or disapprove lists and TMDLs established by

states, territories, and authorized tribes. If a state, territory, or authorized tribe submission is inadequate, EPA must establish the list or the TMDL. EPA issued regulations in 1985 and 1992 that implement section 303(d) of the Clean Water Act - the TMDL provisions.

Overview of Current Total Maximum Daily Load - TMDL - Program and Regulations

<http://www.epa.gov/owow/tmdl/overviewfs.html>

EPA's TMDL web site: <http://www.epa.gov/owow/tmdl/intro.html#definition>

Coastal Nonpoint Source Pollution Control Program

The Coastal Nonpoint Source Pollution Control Program builds upon existing state coastal zone management and water quality programs by applying a consistent set of economically achievable management measures to prevent and mitigate runoff pollution problems.

State programs incorporate management measures to address land-based sources of runoff from agriculture, forestry, urban development, marinas, hydromodification (e.g., stream channelization), and the loss of wetlands and riparian areas. They also provide accountability through a variety of implementation tools, including rules, ordinance, voluntary approaches, educational campaigns, and financial incentives all backed by enforceable policies and mechanisms

Facts about the Coastal Nonpoint Pollution Control Program:

<http://www.ocrm.nos.noaa.gov/pdf/NONPOINT.pdf>

NOAA's Coastal Nonpoint Pollution Control Program web site:

<http://www.ocrm.nos.noaa.gov/czm/6217/>

National Flood Insurance Program

The National Flood Insurance Program (NFIP) enables property owners in participating communities to purchase insurance protection against losses from flooding. This program is designed to provide an insurance alternative to disaster assistance to meet the escalating costs of repairing damage to buildings and their contents caused by floods.

The U.S. Congress established the NFIP with the passage of the National Flood Insurance Act of 1968. The NFIP was broadened and modified with the passage of the Flood Disaster Protection Act of 1973 and other legislative measures. It was further modified by the National Flood Insurance Reform Act of 1994, signed into law on September 23, 1994. The NFIP is administered by Federal Emergency Management Agency (FEMA) a component of the Department of Homeland Security (DHS).

Participation in the NFIP is based on an agreement between local communities and the Federal Government that states if a community will adopt and enforce a floodplain management ordinance to reduce future flood risks to new construction in Special Flood Hazard Areas, the

Federal Government will make flood insurance available within the community as a financial protection against flood losses.

Link to FEMA's NFIP website: <http://www.fema.gov/nfip/intnfip.shtm>

National Wild and Scenic Rivers Program

Created by an act of Congress in 1968, the Wild and Scenic Rivers Act calls on the nation to preserve select rivers with outstanding scenic, recreational, geologic, fish and wildlife, historic, cultural or other important values in free-flowing condition. Rivers in this national system are protected for the benefit and enjoyment of present and future generations.

Partnership Wild and Scenic Rivers are a subset of this national system. While most of the 160 rivers in the National Wild and Scenic Rivers System flow through federal lands such as National Forests or National Parks, Wild and Scenic Partnership Rivers flow through private lands and lands owned by state and local governments.

The following federal agencies are charged with protecting and managing our wild and scenic rivers and our nation's cultural, recreational and natural resources.

- Bureau of Land Management
- National Park Service
- U.S. Fish and wildlife Service
- U.S. Forest Service

In the state of Minnesota the DNR maintains the Wild and Scenic River Program. See state programs for more information.

National Park Service WSR program website:

<http://www.nps.gov/nero/rivers/wildandscenic.htm>

National Wild and Scenic Rivers System: <http://www.nps.gov/rivers/>

Source Water Assessment Program

The Safe Drinking Water Act (SDWA) Amendments of 1996 requires states to develop and implement Source Water Assessment Programs (SWAP) to analyze existing and potential threats to the quality of the public drinking water throughout the state. A source water assessment is a study and report, unique to each water system that provides basic information about the water used to provide drinking water.

EPA's Source Water Assessment Page:

<http://www.epa.gov/ogwdw/protect/assessment.html>

Source Water Assessment Program: <http://www.epa.gov/ogwdw/protect/assessment.html>

U.S. Army Corps of Engineers 404 permits

This regulation prescribes those special policies, practices, and procedures to be followed by the Corps of Engineers in connection with the review of applications for permits to authorize the discharge of dredged or fill material into waters of the United States pursuant to section 404 of the CWA.

Overview of the Corps' Permit Programs:

<http://www.mvp.usace.army.mil/regulatory/default.asp?pageid=799>

USACE Section 404 Regulations:

<http://www.usace.army.mil/inet/functions/cw/cecwo/reg/33cfr323.htm>

State Regulatory Programs and Permits

The following State regulatory programs and permits are described below:

- Public Waters Work Permit Program
- Floodplain Management Program
- Stormwater Program
- Feedlot Program
- Coastal Nonpoint Pollution Control Program for Lake Superior
- Wellhead Protection Program
- Wetland Conservation Act Program
- State Clean Water Partnership Program
- River Resources Management Program
- Mississippi River Critical Area Program
- Nonpoint Source Management Program
- Lake Management Program

Public Waters Work Permit Program

The DNR Water Permits Unit oversees the administration of the Public Waters Work Permit Program. This program, begun in 1937 under Minnesota State statutes 103G.245, regulates water development activities below the ordinary high water level (OHWL) in Public waters and public waters wetlands. The Public Waters Work Permit Program applies to those lakes, wetlands, and streams identified on DNR Public Water Inventory maps. Proposed projects affecting the course, current, or cross-section of these water bodies may require a Public Waters Work Permit from the DNR.

There are two types of Public Waters Work Permits: general permits and individual permits. If work proposed in public waters or public waters wetlands meets the requirements of a specific general permit, an individual permit is not required. Currently there are five categories of general permits as follows:

6. Emergency Repair of Public Flood Damages
7. Multiple Purposes
8. Bridge and Culvert Projects
9. Dry Hydrants
10. Bank/Shore Protection or Restoration

An individual permit is required if the proposed work does not meet the requirements of a specific general permit.

http://www.dnr.state.mn.us/waters/watermgmt_section/pwpermits/index.html

Floodplain Management Program

In 1969, the Minnesota Legislature enacted the State Floodplain Management Act (Minnesota Statutes, Chapter 103F.101). This Act and sound floodplain management principles stress the need for a comprehensive approach to solving flood problems by emphasizing nonstructural measures, such as floodplain zoning regulations, flood insurance, floodproofing, and flood warning and response planning. By law, Minnesota's flood prone communities are required to: 1) adopt floodplain management regulations when adequate technical information is available to identify floodplain areas; and 2) enroll and maintain eligibility in the National Flood Insurance Program (NFIP) so that the people of Minnesota may insure themselves from future losses through the purchase of flood insurance. In 1987, the Flood Plain Management Act was amended to establish a state cost-sharing grant program to help local government units plan for and implement flood hazard mitigation measures. The DNR is the state agency with overall responsibility for implementation of the State Flood Plain Management Act.

At the state level, the DNR has promulgated minimum standards for floodplain management entitled "Statewide Standards and Criteria for Management of Flood Plain Areas of Minnesota" (Mn. Rules 6120.5000 - 6120.6200). These standards have two direct applications: 1) all local floodplain regulations adopted after June 30, 1970 must be compliant with these standards; and 2) all state agencies and local units of government must comply with Minnesota Regulations in the construction of structures, roads, bridges or other facilities located within floodplain areas delineated by local ordinance. Local floodplain regulatory programs, administered by county government, predominately for the unincorporated areas of a county, and by municipal government for the incorporated areas of a county, must be compliant with federal and state floodplain management standards. Both federal and state standards identify the 100-year floodplain as the minimum area necessary for regulation at the local level. These regulations are intended to protect new development and modifications to existing development from flood damages when locating in a flood prone area cannot be avoided.

Floodplain Management Program web site:

http://www.dnr.state.mn.us/waters/watermgmt_section/floodplain/index.html

Stormwater Program

Mandated by Congress under the CWA, the MPCA Stormwater Program is a comprehensive national program for addressing polluted stormwater runoff. Minnesota regulates the disposal of stormwater through State Disposal System (SDS) permits. The MPCA issues combined NPDES/SDS permits for construction sites, industrial facilities, and municipal separate storm sewer systems (MS4s). The MPCA Stormwater Program is designed to reduce the pollution and damage caused by stormwater runoff.

<http://www.pca.state.mn.us/water/stormwater/index.html>

Construction Sites

The Stormwater Program for construction activity is designed to reduce the amount of sediment and pollution entering surface and ground water both during and after construction projects. Stormwater discharges associated with construction activities are regulated through the use of NPDES permits. Through this permit, the owner is required to develop a Stormwater Pollution Prevention Plan (SWPPP) that incorporates specific best management practices applicable to their site. Construction activities requiring a permit include road building, landscaping clearing, grading, excavation, and construction of homes, office buildings, industrial parks, landfills and airports. Both owners and operators are responsible for submitting the permit application. Permits are required from owners and operators for any construction activity disturbing one acre or more of land. Disturbances of less than one acre also need permit coverage if that activity is part of a "larger common plan of development or sale" that is greater than one acre. In addition, the MPCA may designate construction activities disturbing less than one acre based on the potential for contribution to a violation of a water quality standard or for significant contribution of pollutants to water resources to obtain a permit.

Most construction activities can be covered by the MPCA general stormwater permit for construction activity. Some sites need to obtain individual permit coverage. Construction sites that discharge near special waters must use additional best management practices and enhanced runoff controls. Sites that discharge near an impaired water for which there is a TMDL allocation for sediment and parameters associated with sediment transport must meet special conditions. Discharges to calcareous fens may require an individual permit.

MPCA link to Construction Sites NPDES information:

<http://www.pca.state.mn.us/water/stormwater/stormwater-c.html>

Industrial Sites

The Stormwater Program for industrial activity is designed to reduce the amount of pollution that enters surface and ground water from industrial facilities in the form of stormwater runoff. Stormwater discharges associated with 11 categories of industrial activities are regulated through the use of NPDES permits. Facilities that need a permit must develop and implement a SWPPP that is designed to eliminate or minimize stormwater contact with significant materials that may result in polluted stormwater discharges from the industrial site. The SWPPP must incorporate specific best management practices applicable to the site. Public (municipal) and private

operators of industrial facilities included in one of the 11 categories of industrial activity defined in the federal regulations by an industry's Standard Industrial Classification code or a narrative description of the activity found at the industrial site are required to apply for a permit.

MPCA link to Industrial Facilities NPDES information:

<http://www.pca.state.mn.us/water/stormwater/stormwater-i.html>

Municipal Separate Storm Sewer Systems

The Stormwater Program for Municipal Separate Storm Sewer Systems (MS4s) is designed to reduce the amount of sediment and pollution that enters surface and ground water from storm sewer systems to the maximum extent practicable. Stormwater discharges associated with MS4s are regulated through the use of NPDES permits. Through this permit, the owner or operator is required to develop a SWPPP that incorporates best management practices applicable to their MS4.

A MS4 is a conveyance or system of conveyances (roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, storm drains):

- Owned or operated by a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage districts, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States;
- Designed or used for collecting or conveying stormwater;
- Which is not a combined sewer; and
- Which is not part of a publicly owned treatment works.

MPCA link to MS4s NPDES information:

<http://www.pca.state.mn.us/water/stormwater/stormwater-ms4.html>

Feedlot Program

The MPCA is the state agency responsible for regulating animal feedlots in Minnesota (Mn. Rules 7020). In addition, counties may be delegated by the MPCA to administer the program for feedlots that are not under federal regulation. MPCA regulates the collection, transportation, storage, processing and disposal of animal manure and livestock processing activities, and provides assistance to counties and the livestock industry. The rules apply to all aspects of livestock production areas including the location, design, construction, operation and management of feedlots, feed storage, stormwater runoff, and manure handling facilities.

MPCA link to Feedlots NPDES information:

<http://www.pca.state.mn.us/hot/feedlots.html#forms>

Coastal Nonpoint Pollution Control Program for Lake Superior

Minnesota's Lake Superior Coastal Nonpoint Pollution Control Program is designed to reduce nonpoint pollution in the Lake Superior Basin. Minnesota became part of the national Coastal Management Program after receiving federal approval in July 1999. Upon acceptance to the national coastal program, the State of Minnesota had 30 months to develop a nonpoint pollution control program that is equivalent to the federal guidance for addressing nonpoint issues in the Lake Superior Basin or Watershed.

<http://www.pca.state.mn.us/water/basins/superior/coastalnp.html>
<http://www.dnr.state.mn.us/waters/lakesuperior/cnp/index.html>

Wellhead Protection Program

The purpose of the Wellhead Protection Program (M.S. 144.381-144.385) is to prevent contamination of public drinking water supplies by identifying water supply recharge areas and implementing management practices for potential pollution sources found within those areas.

Wellhead protection is designed to protect public water supply wells. States are required to have wellhead protection programs under the provisions of the 1986 amendments to the federal SDWA. A capture zone for the well (called the wellhead protection area) is designated and a plan is developed and implemented for managing potential contamination sources within the wellhead protection area. The Minnesota Department of Health (MDH) assigns staff in the Source Water Protection Unit to assist public water suppliers with preparing and implementing wellhead protection plans. MDH administers the state wellhead protection rule Minnesota Rules, Chapter 4720.5100 - 4720.5590 that set standards for wellhead protection planning. The goal is to have all affected public water suppliers implementing some level of wellhead protection by the year 2006.

<http://www.health.state.mn.us/divs/eh/water/swp/whp/index.htm>

Wetland Conservation Act Program

To retain the benefits of wetlands and reach the legislation's goal of no-net-loss of wetlands, the Wetland Conservation Act (WCA) requires anyone proposing to drain, fill, or excavate a wetland first to try to avoid disturbing the wetland; second, to try to minimize any impact on the wetland; and, finally, to replace any lost wetland acres, functions, and values. Certain wetland activities are exempt from the act, allowing projects with minimal impact or projects located on land where certain pre-established land uses are present to proceed without regulation. Local government units including cities, counties, watershed management organizations, soil and water conservation districts, and townships implement the WCA locally. The Minnesota Board of Water and Soil Resources administers the act statewide, and the DNR is responsible for enforcement.

<http://www.bwsr.state.mn.us/wetlands/wca/index.html>

State Clean Water Partnership Program

In 1986, the MPCA Citizens Board passed a resolution urging the Minnesota legislature to consider legislation authorizing the creation and funding of a program called the Clean Water Partnership Program (CWP program). In 1987, the Minnesota legislature did so (Minn. Stat. § 103F.701 to 103F.761). The program focus is control of nonpoint sources of pollution through watershed management to protect and improve surface and ground water in Minnesota. The CWP Program provides financial assistance through matching grants and loans and technical assistance to local units of government to lead pollution control projects. The CWP Rules define the criteria and procedural conditions under which the MPCA may award grants and loans to local governments.

<http://www.pca.state.mn.us/water/cwp.html>

River Resources Management Program

The River Resource Management Program is responsible for overseeing the DNR's river management programs statewide, including the Wild and Scenic Rivers Program. Other activities within the River Resource Management Program include those related to the Mississippi River Critical Area Program, the federal Mississippi National River and Recreation Area (MNRRA) program, and the Mississippi River Management – Navigation.

The River Resources Management Program functions to coordinate activities among the various state and federal river programs that DNR is involved with. It allows for sharing of information between programs and building on experiences of staff who work with the river programs to apply to the all of the programs as appropriate.

http://www.dnr.state.mn.us/waters/watermgmt_section/river/index.html

Wild and Scenic Rivers Program

Minnesota's Wild and Scenic Rivers Program (Minnesota Statutes 103F.301) assists communities in developing management plans that protect the scenic, recreational, natural, historical, and cultural values for which the rivers were originally designated. The Minnesota State Wild & Scenic Rivers Program was established in 1973 to protect rivers, which have outstanding natural, scenic, geographic, historic, cultural, and recreational values. Six rivers in Minnesota have segments, which are designated as wild, scenic, or recreational under the state program.

In addition, the St. Croix River in Minnesota and Wisconsin is part of the National Wild and Scenic Rivers Program, created in 1968. The upper 200 miles of the St. Croix is managed by the National Park Service. Cooperative management of the lower 52 miles of the St. Croix River is shared by Minnesota DNR, Wisconsin DNR, and the National Park Service.

Each of the 7 designated river segments in Minnesota has a management plan, which outlines the rules and goals for that waterway. These rules work together with local zoning ordinances to protect the rivers from pollution, erosion, over-development, and degradation factors, which undermine the wild, scenic, and recreational qualities for which they were designated.

http://www.dnr.state.mn.us/waters/watermgmt_section/wild_scenic/index.html

Mississippi National River and Recreation Area Program

The Mississippi National River and Recreation Area (MNRRA) Program is a joint federal (National Park Service), state, and local program, which provides coordination for 72 miles of the Mississippi River, four miles of the Minnesota River, and 54,000 acres of adjacent corridor lands. This corridor stretches from Ramsey and Dayton, Minnesota, to the southern boundary of Dakota County on the west/south side of the river and the boundary with the Lower St. Croix National Scenic Riverway on the east/north side of the river, and runs through the heart of Minneapolis-St. Paul.

The MNRRA Comprehensive Management Plan adopts and incorporates by reference the state Critical Area Program, Shoreland Management Program, and other applicable state and regional land use management programs that implement the plan's visions.

DNR's MNRRA website:

http://www.dnr.state.mn.us/waters/watermgmt_section/mnrri/index.html

US Forest Service MNRRA website: <http://www.nps.gov/miss/index.html>

Mississippi River Critical Area Program

The Mississippi River Critical Area Program is a joint local and state program that provides coordinated planning and management for 72 miles of the Mississippi River, four miles of the Minnesota River, and 54,000 acres of adjacent corridor lands. The designated Mississippi River Critical Area Corridor stretches from Ramsey and Dayton, Minnesota, to the southern boundary of Dakota County on the west/south side of the river and the boundary with the Lower St. Croix National Scenic Riverway on the east/north side of the river, and runs through the heart of Minneapolis-St. Paul. The Mississippi River Critical Area Program works in partnership with the Mississippi National River and Recreation Area (MNRRA) Program, a unit of the National Park Service.

Mississippi River Critical Area Program:

http://www.dnr.state.mn.us/waters/watermgmt_section/critical_area/index.html

Nonpoint Source Management Program

The State of Minnesota Nonpoint Source Management Program Plan (NSMPP) is a requirement for Minnesota to remain eligible to receive NPS grant funds from the EPA under Section 319 of

the CWA. Section 319 of the CWA requires each state to assess nonpoint sources of pollution within its boundaries. State investigations must identify nonpoint sources of pollution that contribute to water quality problems, as well as waters or stream segments unlikely to meet water quality standards without additional nonpoint source controls. Any nonpoint source water pollution control project must be cited in this document to be eligible for a Section 319 grant award.

<http://www.pca.state.mn.us/water/nonpoint/mplan.html>

MPCA's NPS and CWP application website: <http://www.pca.state.mn.us/publications/wq-cwp7-02.doc>

Lake Management Program

The Lake Management Program mission statement is to make Minnesota's lake management options more understandable and responsive to citizens by coordinating DNR Waters lake-related programs with other DNR disciplines, agencies, boards, committees, associations and public groups involved in comprehensive lake management/watershed efforts. The Shoreland Management Program (Minnesota Rules 6120.2500 - 3900) and the Lake Improvement District Program (Minnesota Statutes §103B.501 - §103B.581) are two programs managed under the Lake Management Program.

DNR's Lake Management Program website:
http://www.dnr.state.mn.us/waters/watermgmt_section/lake/index.html

Shoreland Management Program

The Lake Management Unit of DNR Waters (formed under Minnesota Statutes 103F.201; Mn. Rules 6120.2500 – 6120.3900) oversees the operation of the shoreland management program as it is administered by local governmental units in order to preserve and enhance the quality of surface waters, preserve the economic values of shoreland properties and ensure the sustainable use of water and related resources. Minnesota DNR statewide minimum shoreland standards apply to all lakes greater than 25 acres (10 acres in municipalities) and rivers with a drainage area two square miles or greater. These standards apply to the use and development of shoreland property including: a sanitary code, minimum lot size and water frontage, building setbacks and heights, land use, BMPs, shoreland alterations, subdivision and planned unit development regulations. The Shoreland Management Program regulates all land within 1,000 feet of a lake and 300 feet of a river and its designated floodplain. Upon notification by DNR Waters, local governmental units having shorelands are required to adopt these or stricter standards into their zoning ordinances.

Minnesota Shoreland Management Resource Guide:

<http://www.shorelandmanagement.org/>

DNR Minimum Shoreland standards:

http://www.dnr.state.mn.us/shorelandmgmt/guide/standards_tables.html

Lake Improvement District Program

Minnesota Statutes (103B.501 - 103B.581) allow local citizen initiatives to petition counties to create lake improvement districts in order to address specific concerns within a lake watershed that cannot be addressed under normal governmental actions. Citizens and counties willing to undertake such initiatives benefit from greater local involvement in the management of their own lakes. DNR Waters provides oversight and assistance.

DNR's Lake Management Program website:

http://www.dnr.state.mn.us/waters/watermgmt_section/lake/index.html

FEDERAL AND STATE CONTACT INFORMATION

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Telephone: (651) 290-5200

Fax: (651) 290-5330

Web: <http://www.mvp.usace.army.mil/>

United States Fish and Wildlife Service

Great Lakes/Big Rivers Regional Office

1 Federal Drive

Fort Snelling, MN 55111

Phone: (612) 713-5360

Fax: (612) 713-5280

Web: <http://www.fws.gov/midwest/regionaloffice/>

United States Environmental Protection Agency

Region 5

77 West Jackson Boulevard

Chicago, IL 60604

Phone: (312) 353-2000

Web: <http://www.epa.gov/Region5/>

National Oceanic and Atmospheric Administration
National Ocean Service
Office of Ocean and Coastal Resource Management
N/ORM 10th Floor SSMC4
1305 East-West Highway
Silver Spring, MD 20910
Web: <http://www.ocrm.nos.noaa.gov/>

National Park Service

Voyagers National Park
3131 Highway 53 South
International Falls, MN 56649-8904
Phone: 218-283-9821
Fax: 218-285-7407
Web: <http://www.nps.gov/voya/index.htm>

U.S. Forest Service

Eastern Region - R9
626 East Wisconsin Ave.
Milwaukee, WI 53202
Phone: (414) 297-3600
Web: <http://www.fs.fed.us/r9/>

State Contact List

Minnesota Pollution Control Agency

General Information Number: 1-800-657-3864

Minnesota Pollution Control Agency

Industrial Storm-water Permit Program
520 Lafayette Road North
Saint Paul, MN 55155-4194
Telephone 651-297-2274 or 800-646-6247 (in Minnesota only)
Web: <http://www.pca.state.mn.us/water/stormwater/stormwater-i.html>

Minnesota Pollution Control Agency

Construction Storm-water Program
520 Lafayette Road North
Saint Paul, MN 55155-4194
Telephone (651) 297-2274 or 800-646-6247 (in Minnesota only)
Web: <http://www.pca.state.mn.us/water/stormwater/stormwater-c.html>

Minnesota Pollution Control Agency

Municipal Separate Storm Sewer System Program

520 Lafayette Road North

Saint Paul, MN 55155-4194

Telephone (651) 297-2274 or 800-646-6247 (in Minnesota only)

Fax (651) 297-8676

Web: <http://www.pca.state.mn.us/water/stormwater/stormwater-ms4.html>

Minnesota Department of Natural Resources

Division of Waters

Central Office

500 Lafayette Road

Saint Paul, MN 55155-4040

(651) 296-4800

Web: <http://www.dnr.state.mn.us/waters/orgchart.html>

Minnesota Department of Health

Minnesota Department of Health

P.O. Box 64975

Saint Paul, MN, 55164-0975

651-215-5800

651-215-8980 TDD

Web: <http://www.health.state.mn.us/about/direct.html>

Source Water Protection

651-215-0800

Environmental Health Services

651-215-0870

Minnesota Board of Water and Soil Resources

520 Lafayette Road North

Saint Paul, MN 55155

Phone: 651- 296-3767

TTY: 800-627-3529

Fax: 651-297-5615

Web: <http://www.bwsr.state.mn.us/index.html>

LOCAL JURISDICTIONS*Municipality and Township*

Minnesota municipalities and townships have regulatory authority over activities within that municipality or township that are in addition to federal, state, county, and other local regulations and ordinances. The municipality or township in which the activities are to occur should be contacted for more information about specific regulations and permits required for any activity

undertaken that may impact land use, stormwater, wetlands and other bodies of water, zoning, planning, grading or any land altering activity.

Municipal web sites and contact information are maintained at the Minnesota State Website:
<http://www.state.mn.us/cgi-bin/portal/mn/jsp/content.do?subchannel=-536879913&id=-8494&agency=NorthStar>

Watershed Districts and Watershed Management Organizations

Watershed Districts

Watershed districts are local units of government that work to solve and prevent water-related problems. The boundaries of the districts follow those of a natural watershed, and the districts are usually named after that watershed. Minnesota's watershed districts are each governed by a board of managers appointed by the boards of commissioners of the counties that have land in the district. Chapter 103D of Minnesota Statutes is the enabling statute for watershed districts. Watershed districts are formed for reasons ranging from flood control to water quality protection. Any activity that will impact land use, stormwater, wetlands and other bodies of water, zoning, planning, grading or any land altering activity must consult with the with their local watershed organization to determine the local regulations.

Minnesota Association of Watershed Districts web site:
<http://www.mnwatershed.org/>

Board of Water and Soil Resources Watershed Organization web site:
<http://www.bwsr.state.mn.us/watermgmt/overview.html>

Watershed Management Organization

Watershed management organization (WMO) is a more general term than watershed district because it may include watershed districts, and a more specific term because it only applies to the Twin Cities Metropolitan Area (TCMA). Under the Metropolitan Surface Water Management Act (M.S. 103B.201), a watershed management organization is defined as a watershed district wholly within the metropolitan area or a joint powers entity established wholly or partly in the metropolitan area by special law or agreement to perform some or all of the functions of a watershed district. Any activity that will impact land use, stormwater, wetlands and other bodies of water, zoning, planning, grading or any land altering activity must consult with the with their local watershed organization to determine the local regulations.

Board of Water and Soil Resources Watershed Organization web site:
<http://www.bwsr.state.mn.us/watermgmt/overview.html>

APPENDIX B – Programs of Other States

Source: Charting a Course for the Future: Report of the State Water Program Reorganization Project, Minnesota Environmental Quality Board, February 2002

Examples of water management initiatives from other states:

1. Maryland – Water Monitoring Council

The council consists of state, federal and local agency representatives, as well as members of academia, volunteer groups and private industry. The council seeks to promote collaborative and effective monitoring through communication of monitoring activities to other parties and development and promotion of quality assured procedures.

The council was started by the Maryland DNR, which along with the Maryland Department of the Environment, does a majority of the state's water data collection. The council also consists of subcommittees that are specialized to deal with various topics including planning, monitoring methods, indicators, data management and assessment and reporting. A key goal of the council is to document Maryland's monitoring activities.

2. Michigan – Cooperative Resources Management Initiative.

The Michigan Departments of Agriculture and Natural Resources fund a partnership of state, federal and local governments that is designed to promote long-term natural resource health and sustainability. The program utilizes the divisions of local conservation districts which are combined into regions, and lists contact information for foresters, biologists, resource specialists and others. In some cases the person who answers a resource management question may be a state DNR employee, in other cases it may be an extension specialist. The program also lists county-specific contact information for various other specialists such as resource professionals, NRCS representatives or an extension specialist. A person can use the contact list to locate a specific person or find out whom to call for a specific question for both their county or region. Although this program is aimed at providing technical expertise for land management, many aspects of it could be modified to "cooperatively manage" water resources in Minnesota.

3. Wisconsin – Large "super agency" structure.

The state of Wisconsin is managing natural resources through large agencies with many functions. For example, the Wisconsin DNR is charged with many functions that Minnesota uses a variety of agencies to carry out. These functions in Wisconsin are spread across many divisions including: air and waste; land; forestry; water (which includes fisheries and habitat protection); customer service and external relations; administration and technology; and, enforcement and science. Many functions that are part of Minnesota's PCA, DNR and Health departments are found in Wisconsin's DNR. This management approach does not go without criticism, however. A common criticism

of Wisconsin's Natural Resources Department is that they are too centralized and lack "line" management (opposite of Minnesota).

4. Wisconsin – Department of Natural Resources Integrated Science Services Bureau: terrestrial and aquatic data standards.

The Integrated Science Services Bureau within the state of Wisconsin DNR published a document that describes the standards for collecting and processing data gathered by the agency and its contractors.

Among the processes described are data collection methods, recording guidelines, locational data standards for everything from plant and animal communities to aquatic biology and chemical and multimedia samples. Wisconsin is still working on getting everyone in the agency to use the standards. The Wisconsin DNR as one agency collects much of the same data that several agencies would have the responsibility for collecting in Minnesota. While they cannot make everyone collecting data everywhere in the state adhere to the standards, all parties the Wisconsin DNR contracts with or funds to collect data must adhere to the standards. However, in most cases, data is stored and maintained separately by each program.

5. Wisconsin – Land conservation districts.

The Wisconsin equivalent of a soil and water conservation district is a land conservation district (LCD). As in Minnesota, Wisconsin's conservation districts are divided by county. However, LCD staff are county employees, who often sit next to planning and zoning and environmental services staff. In Wisconsin, each county must develop a Land and Water Resource Management Plan. The plans are developed by LCD staff in response to a redesigning of the state's nonpoint programs. State agencies "develop minimum statewide performance standards and prohibitions for nonpoint pollution and soil erosion control" that are ultimately used as a basis to distribute local grants. The plans outline how each county will meet state standards as well as local concerns with state and federal grant assistance (as well as other funds), and also describe how each county will lead the local implementation efforts (with rewards for innovative methods). A Local Conservation Committee, consisting of locally elected county board members, oversees the operation and helps to set direction. Locating LCD staff with planning and zoning and environmental services staff also allows land and water management plans to be developed cooperatively.

6. Nebraska – Natural resources districts.

Nebraska's conservation districts are loosely organized by basin or similar landscape features. NRDs perform many of the same functions as Minnesota's watershed districts, SWCDs and local water planning combined. However, because so much of Nebraska relies on ground water for drinking water supplies, NRDs have a unique power to designate Ground Water Management Areas (GWMA) in their jurisdictions. The GWMA program, administered by Nebraska's Department of Environmental Quality (NDEQ),

focuses assessment on areas where nonpoint sources of contamination may be a problem. The NDEQ then conducts detailed field surveys to determine relationships between land use practices and contamination sources.

7. Iowa – Iowa Water Quality Initiative.

The Iowa Water Quality Initiative is a package of roughly 15 programs that have a role in improving Iowa's water resources. Overall, the initiative is designed to focus the water quality efforts on the programs that are thought to be the most effective. Most of the programs such as CREP and ISTS are not unique to Iowa, yet they have been identified as key factors in protecting and improving Iowa's waters. Because they have been identified as priorities, they receive special funding. Most programs are administered by the Iowa DNR or Department of Agriculture. Note: The Iowa DNR handles many of the programs that Minnesota's PCA manages (for example, setting total maximum daily loads, or TMDLs, for contaminants).

8. Maryland – Surf Your Watershed.

“The Surf Your Watershed project is a cooperative effort involving the Maryland Departments of the Environment and Natural Resources to ‘catalog’ important environmental, socioeconomic and programmatic information on a watershed basis. The project provides a database in which natural resources and biological information (including hydrologic, hydraulic, and water quality); bibliographic references; contacts, programs and activity descriptions; and other data can coexist and be easily obtained for watershed management, planning and natural resource conservation programs and projects.” — excerpts from the Maryland DNR Web site at: www.dnr.state.md.us/watersheds/surf.

Although the water quality and quantity data Maryland lists is limited, the model they use could probably work here for data that is important to Minnesota. In addition, their Web site lists very specific metadata that could be used by resource professionals to determine if the data will work for their needs.