103G.265 WATER SUPPLY; MANAGEMENT.

Subdivision 1. **Assurance of supply.** The commissioner shall develop and manage water resources to assure an adequate supply to meet long-range seasonal requirements for domestic, municipal, industrial, agricultural, fish and wildlife, recreational, power, navigation, and quality control purposes from waters of the state.

Subd. 2. **Diversion greater than 2,000,000 gallons per day.** A water-use permit or a plan that requires a permit or the commissioner's approval, involving a diversion of waters of the state of more than 2,000,000 gallons per day average in a 30-day period, to a place outside of this state or from the basin of origin within this state may not be granted or approved until a determination is made by the commissioner that the water remaining in the basin of origin will be adequate to meet the basin's water resources needs during the specified life of the diversion project and, for groundwater, the diversion meets the applicable standards under section 103G.287, subdivision 5.

Subd. 2a. MS 2012 [Repealed, 2013 c 114 art 4 s 108]

Subd. 3. **Consumptive use of more than 2,000,000 gallons per day.** A water-use permit or a plan that requires a permit or the commissioner's approval, involving a consumptive use of more than 2,000,000 gallons per day average in a 30-day period, may not be granted or approved until a determination is made by the commissioner that the water remaining in the basin of origin will be adequate to meet the basin's water resources needs during the specified life of the consumptive use and, for groundwater, the consumptive use meets the applicable standards under section 103G.287, subdivision 5.

Subd. 4. **Diversion or consumptive use from Great Lakes greater than 5,000,000 gallons per day.** (a) A water-use permit or a plan that requires a permit or the commissioner's approval, involving a diversion or consumptive use of waters of the state from the Great Lakes water basin within this state where the diversion or consumptive use of waters would be more than 5,000,000 gallons per day average in a 30-day period, may not be granted or approved until:

(1) the commissioner has notified and solicited comments on the proposed diversion or consumptive use from the offices of the governors of the Great Lakes states and premiers of the Great Lakes provinces, the appropriate water management agencies of the Great Lakes states and provinces, and the international joint commission;

(2) the commissioner has considered the comments and concerns of the offices, agencies, and commission to which notice was given under clause (1); and

(3) the diversion or consumptive use has been approved by the legislature.

(b) If an objection is made to the proposed diversion or consumptive use by an office, agency, or commission to which notice was given under paragraph (a), clause (1), the commissioner must convene a meeting with the affected office, agency, or commission to investigate and consider the issues involved, and to seek a mutually agreeable solution to be recommended to the commissioner. In making a final decision on the approval of a permit or plan subject to review under this subdivision, the commissioner shall consider the record of the meeting and the recommendation. The commissioner must send notification of the final decision to each office, agency, or commission to which notice was given under paragraph (a), clause (1).

Subd. 5. **Preapplication evaluation of certain water appropriation projects.** (a) This subdivision applies to a data center, as defined in section 216B.02, subdivision 11, whose proposed consumptive use exceeds 100,000,000 gallons per year and which requires a permit amendment or a new individual permit.

(b) In response to a contact from a data center regarding a project that is likely to be subject to this subdivision, the department may request preapplication information from the data center that is helpful in assisting the department to assess the factors affecting the ability of a water source to meet a project's water use needs at a proposed location, including:

(1) a project description;

(2) the project's estimated water use rates and volumes for the maximum day, maximum month, and average year;

(3) the anticipated source of water; and

(4) water quality or temperature requirements.

(c) The department may request any additional information necessary from the data center to assist it to assess the ability of a water source to meet a project's water use needs.

(d) The commissioner shall evaluate the information supplied under this subdivision and shall respond in writing, which may be electronically transmitted, describing potential water availability constraints at each proposed project site.

(e) In determining the impact of a potential project on water quality and quantity, the commissioner may consult with the commissioners of health, agriculture, and the Pollution Control Agency, and other state agencies.

(f) Any communication made or information exchanged under this subdivision between a data center and a government agency, or between government agencies, is nonpublic data, as defined in section 13.02, subdivision 9.

(g) None of the discussions, filings, or evaluations made under this subdivision preclude or supplant environment review, preliminary well-construction approval, appropriation permit review, or any other requirements under federal, state, or local law.

History: *1990 c 391 art 7 s 26; 1990 c 406 s 1; 1993 c 186 s 2; 2012 c 272 s 49; 2013 c 114 art 4 s 67,68; 1Sp2025 c 12 s 3*