CHAPTER 103A

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GENERAL PROVISIONS

103A.001 CITATION; WATER LAW.

Chapters 103A, 103B, 103C, 103D, 103E, 103F, and 103G constitute the water law of this state and may be cited as the "Water Law."

History: *1990 c 391 art 1 s 1*

WATER POLICY

103A.201 REGULATORY POLICY.

Subdivision 1. **Policy.** To conserve and use water resources of the state in the best interests of its people, and to promote the public health, safety, and welfare, it is the policy of the state that:

(1) subject to existing rights, public waters are subject to the control of the state;

(2) the state, to the extent provided by law, shall control the appropriation and use of waters of the state; and

(3) the state shall control and supervise activity that changes or will change the course, current, or cross section of public waters, including the construction, reconstruction, repair, removal, abandonment, alteration, or the transfer of ownership of dams, reservoirs, control structures, and waterway obstructions in public waters.

Subd. 2. **Wetlands findings; public interest.** (a) Wetlands identified in the state under section 103G.005, subdivision 19, do not:

(1) grant the public additional or greater right of access to the wetlands;

(2) diminish the right of ownership or usage of the beds underlying the wetlands, except as otherwise provided by law;

(3) affect state law forbidding trespass on private lands; and

(4) require the commissioner to acquire access to the wetlands.

(b) The legislature finds that the wetlands of Minnesota provide public value by conserving surface waters, maintaining and improving water quality, preserving wildlife habitat, providing recreational opportunities, reducing runoff, providing for floodwater retention, reducing stream sedimentation, contributing to improved subsurface moisture, helping moderate climatic change, and enhancing the natural beauty of the landscape, and are important to comprehensive water management, and that it is in the public interest to:

(1) achieve no net loss in the quantity, quality, and biological diversity of Minnesota's existing wetlands;

(2) increase the quantity, quality, and biological diversity of Minnesota's wetlands by restoring or enhancing diminished or drained wetlands;

(3) avoid direct or indirect impacts from activities that destroy or diminish the quantity, quality, and biological diversity of wetlands; and

(4) replace wetland values where avoidance of activity is not feasible and prudent.

History: *1990 c 391 art 1 s 2; 1991 c 354 art 1 s 2*

103A.202 WETLAND POLICY.

The legislature finds that it is in the public interest to preserve the wetlands of the state to conserve surface waters, maintain and improve water quality, preserve wildlife habitat, reduce runoff, provide for floodwater retention, reduce stream sedimentation, contribute to improved subsurface moisture, enhance the natural beauty of the landscape, and promote comprehensive and total water management planning.

History: *1990 c 391 art 1 s 3*

103A.203 HYDROPOWER POLICY.

The legislature finds that:

(1) the public health, safety, and welfare of the state are also promoted by the use of state waters to produce hydroelectric or hydromechanical power in a manner consistent with laws relating to dam construction, reconstruction, repair, and maintenance; and

(2) the leasing of existing dams and potential dam sites primarily for power generation is a valid public purpose.

History: *1990 c 391 art 1 s 4*

103A.204 GROUNDWATER POLICY.

(a) The responsibility for the protection of groundwater in Minnesota is vested in a multiagency approach to management. The following is a list of agencies and the groundwater protection areas for which the agencies are primarily responsible; the list is not intended to restrict the areas of responsibility to only those specified:

(1) Environmental Quality Board: coordination of state groundwater protection programs;

(2) Pollution Control Agency: water quality monitoring and reporting and the development of best management practices and regulatory mechanisms for protection of groundwater from nonagricultural chemical contaminants;

(3) Department of Agriculture: sustainable agriculture, integrated pest management, water quality monitoring, and the development of best management practices and regulatory mechanisms for protection of groundwater from agricultural chemical contaminants;

(4) Board of Water and Soil Resources: reporting on groundwater education and outreach with local government officials, local water planning and management, and local cost-share programs;

(5) Department of Natural Resources: water quantity monitoring and regulation, sensitivity mapping, and development of a plan for the use of integrated pest management and sustainable agriculture on state-owned lands; and

(6) Department of Health: regulation of wells and borings, and the development of health risk limits under section 103H.201.

(b) The Environmental Quality Board shall prepare a report on policy issues related to its responsibilities listed in paragraph (a), and include these reports with the assessments in section 103A.43 and the "Minnesota Water Plan" in section 103B.151.

History: *1994 c 557 s 11; 2008 c 363 art 5 s 14*

103A.205 CONSERVATION POLICY FOR RAINWATER.

It is the policy of the state to promote the retention and conservation of all water precipitated from the atmosphere in the areas where it falls, as far as practicable. Except as otherwise expressly provided, all officers, departments, and other agencies of the state or political subdivisions having any authority or means for constructing, maintaining, or operating dams or other works or engaging in other projects or operations affecting precipitated water shall use the authority, as far as practicable, to effectuate the policy in this section.

History: *1990 c 391 art 1 s 5*

103A.206 MS 2022 [Repealed, 2024 c 90 art 3 s 88]

103A.207 FLOODPLAIN MANAGEMENT POLICY.

(a) It is the policy of this state to reduce flood damages through floodplain management, stressing nonstructural measures such as floodplain zoning and floodproofing, and flood warning practices.

(b) 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; and

(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.

History: *1990 c 391 art 1 s 7*

103A.208 SCENIC RIVER PROTECTION POLICY.

The legislature finds that certain of Minnesota's rivers and their adjacent lands possess outstanding scenic, recreational, natural, historical, scientific and similar values. It is in the interest of present and future generations to retain these values, and a policy of the state, and an authorized public purpose to preserve and protect these rivers.

History: *1990 c 391 art 1 s 8*

103A.209 MARGINAL, ERODIBLE LAND RETIREMENT POLICY.

It is state policy to encourage the retirement of marginal, highly erodible land, particularly land adjacent to public waters and drainage systems, from crop production and to reestablish a cover of perennial vegetation.

History: *1990 c 391 art 1 s 9*

103A.211 WATER LAW POLICY.

The Water Law of this state is contained in many statutes that must be considered as a whole to systematically administer water policy for the public welfare. Water law that seems contradictory as applied to a specific proceeding creates a need for a forum where the public interest conflicts involved can be presented and, by consideration of the whole body of water law, the controlling policy can be determined and apparent inconsistencies resolved.

History: *1990 c 391 art 1 s 10*

103A.212 WATERSHED MANAGEMENT POLICY.

The quality of life of every Minnesotan depends on water. Minnesota's rivers, lakes, streams, wetlands, and groundwater provide a foundation for drinking water and the state's recreational, municipal, commercial, industrial, agricultural, environmental, aesthetic, and economic well-being. The legislature finds that it is in the public interest to manage groundwater and surface water resources from the perspective of aquifers, watersheds, and river basins to achieve protection, preservation, enhancement, and restoration of the state's valuable groundwater and surface water resources.

History: *2010 c 361 art 4 s 48*

DETERMINING WATER LAW AND POLICY

103A.301 DEFINITIONS.

Subdivision 1. **Applicability.** The definitions in this section apply to sections 103A.301 to 103A.341.

Subd. 2. **Agency.** "Agency" means a state officer, board, commission, bureau, division, or agency, other than a court, exercising duty or authority under laws listed in section 103A.305.

Subd. 3. **Board.** "Board" means the Board of Water and Soil Resources.

Subd. 4. **Court.** "Court" means the district court or a judge of the district court before whom the proceeding is pending.

Subd. 5. **Proceeding.** "Proceeding" means a procedure under any of the laws listed in section 103A.305 that involves administrative discretion or duty.

Subd. 6. **Question of water policy.** "Question of water policy" means a question of water law and policy in which use, disposal, pollution, or conservation of water is a factor in a proceeding, including:

(1) determination of the governing policy of state law in the proceeding and resolution of apparent inconsistencies between different statutes; or

(2) the proper application of the policy of state law to facts in the proceeding if application is a matter of administrative discretion.

History: *1990 c 391 art 1 s 11*

103A.305 JURISDICTION.

Sections 103A.301 to 103A.341 apply if the decision of an agency in a proceeding involves a question of water policy in one or more of the areas of water conservation, water pollution, preservation and management of wildlife, drainage, soil conservation, public recreation, forest management, and municipal planning under section 97A.135; 103A.411; 103E.011; 103E.015; 103G.245; 103G.261; 103G.271; 103G.275; 103G.281; 103G.287; 103G.297 to 103G.311; 103G.315, subdivisions 1, 10, 11, and 12; 103G.401; 103G.405; 103I.681, subdivision 1; 115.04; or 115.05.

History: *1990 c 391 art 1 s 12; 1991 c 199 art 2 s 1; 2010 c 361 art 4 s 49*

103A.311 PETITION FOR INTERVENTION.

Subdivision 1. **Authority.** The board may intervene in a proceeding if a petition is filed with the board for referral of a question of water policy involved in the proceeding.

Subd. 2. **Petition for intervention.** A petition for intervention must identify the proceeding in which it is made and state the grounds for referral in a general manner with sufficient detail to inform interested parties of the nature of the questions proposed to be presented to the board and the public importance of the questions.

Subd. 3. **Petitioners and signatures.** (a) A petition for intervention may be made by:

(1) the applicant in the proceeding;

(2) a party to the proceeding;

(3) the governor;

(4) the agency;

(5) the commissioner or director of a division in the Department of Natural Resources;

(6) the head of another state department or agency;

(7) a bureau or division of the federal government with a concern in the proceeding;

(8) an organization or group of persons with appropriate purpose related to the proceedings; or

(9) a person the board considers representative of a substantial segment of the state or peculiarly able to present evidence bearing on the public interest.

(b) The petition must be:

(1) signed and verified by the petitioner or an officer of the petitioner; or

(2) signed by the petitioner's attorney.

Subd. 4. **Filing petition.** The petition must be filed in duplicate, one copy with the board, the other with the agency.

Subd. 5. **Period for intervention by board.** The petition shall allow intervention in a proceeding by the board if the petition is filed after the proceeding is initiated and before the agency's order is made.

History: *1990 c 391 art 1 s 13*

103A.315 COURT REFERRALS.

The court may refer a proceeding under its jurisdiction involving a law listed in section 103A.305 to the board by a petition of the court directed to the board. The referral may be made in original and appellate proceedings. A party to a proceeding may ask the court to refer a matter to the board. On receiving a petition for referral, the board shall proceed under sections 103A.301 to 103A.341.

History: *1990 c 391 art 1 s 14*

103A.321 PETITION ABATES PROCEEDING UNTIL BOARD ACTS.

A petition for intervention filed with the board abates a proceeding until there is a recommendation by the board or until 60 days have passed after conclusion of hearing before the board, whichever is earlier, unless the agency makes a written finding stating reasons that the public interest requires the board to act immediately.

History: *1990 c 391 art 1 s 15*

103A.325 BOARD DECISION TO INTERVENE.

After receiving a petition, the board must decide whether the petition and the record made before the agency show an important question of water policy according to rules adopted by the board. If the board decides that there is not an important question of water policy, the board may not intervene and the proceeding continues in the agency as though the petition had not been made. If the board decides there is an important question of water policy and intervention in the public interest is justified, the board must issue a brief statement to the petitioner and the agency describing in general terms the questions of water policy it will consider.

History: *1990 c 391 art 1 s 16*

103A.331 HEARING AND DETERMINATION.

Subdivision 1. **Hearing.** After a petition is filed, the board must proceed expeditiously to hear, determine, and make its recommendations on the questions it has consented to consider. The hearings must be conducted to fully inform the board about all aspects of the public interest in the questions of water policy to be determined to make an impartial, scientific, and fully considered judgment.

Subd. 2. **Determination.** (a) The recommendation of the board is the board's decision on the question of water policy considered by it.

(b) The ultimate question to which the board's recommendation is directed is the proper course of action to be followed by the agency in the proceeding in relation to questions of water policy considered by the board.

(c) The decision of the board must be in the form of a written recommendation to the agency. The decision must state the controlling facts in sufficient detail to inform the parties, the agency, and a reviewing court of the basis and reason for the decision.

Subd. 3. **Recommendation as evidence.** In the proceeding and upon judicial review, the recommendation of the board is evidence. A certified copy is competent evidence of the recommendation of the board.

History: *1990 c 391 art 1 s 17*

103A.335 FILING, NOTICE, AND PROCEDURE.

Subdivision 1. **Notice.** A consent, notice, or recommendation made by the board must be filed with the agency. The filing is notice of the board's action. The board's rules may provide for a notice, in addition to filing by mail, posting, publication, or otherwise, to inform parties and interested persons of the board's actions.

Subd. 2. **Subpoena.** (a) To implement sections 103A.301 to 103A.341, the chair of the board or a board member may subpoena witnesses, administer oaths, and compel the production of books, records, and other evidence.

(b) Disobedience of a subpoena, refusal to be sworn, or refusal to answer as a witness, is punishable as a contempt of the district court. The board or a board member must file a complaint of the disobedience with the district court of the county where the disobedience occurred.

(c) Witnesses receive the same fees and mileage as in civil actions.

(d) Persons must be sworn before testifying and the right to examine or cross-examine is the same as in civil actions.

Subd. 3. **Hearings.** Hearings must be public, conducted by the board or an authorized board member, and affected persons have the opportunity to be heard. The board must provide a stenographer to take the testimony and proceedings at the hearings must be recorded and preserved. Hearings must be conducted as much as practicable in the same way as civil actions.

Subd. 4. **Position of state agencies.** State agencies may adopt opposite positions on the matter before the board when full advocacy will assist in disclosing the public interest.

History: *1990 c 391 art 1 s 18*

103A.341 FINDINGS BY BOARD.

Within 60 days of the close of a hearing, the board must make findings and recommendations based solely on the evidence presented at the public hearing.

History: *1990 c 391 art 1 s 19; 2025 c 20 s 61*

WATER INFORMATION

103A.401 STATEWIDE WATER INFORMATION SYSTEM.

The commissioner of natural resources, in cooperation with other state agencies including the Minnesota geologic survey, shall establish and maintain a statewide water information system to gather, process, and distribute information on the availability, distribution, quality, and use of waters of the state. Local, regional, and state governmental units and their officers and employees shall cooperate with the commissioner to implement and maintain the statewide water information system.

History: *1990 c 391 art 1 s 20*

103A.403 STATEWIDE NITRATE DATA.

The Environmental Quality Board shall ensure that all available data regarding the presence of nitrates in groundwater in the state that meet state standards recommended under Laws 1992, chapter 544, section 13, are integrated into the Minnesota Geospatial Information Office's statewide nitrate database according to published data compatibility guidelines. Costs of integrating the data in accordance with data compatibility standards must be borne by the agency generating the data or, if the data are not generated by an entity that receives or received state appropriations for monitoring or information management, by the Environmental Quality Board.

History: *1992 c 544 s 4; 2009 c 101 art 2 s 107*

103A.405 DIRECTOR'S APPROVAL FOR FEDERAL WATER DATA AGREEMENTS.

A contract or agreement may not be made by a department or agency of the state or a municipality, with the United States or an agency or department of the United States, for the collection of basic data pertaining to surface water or groundwater of the state without obtaining written approval of the director of the Division of Ecological and Water Resources of the Department of Natural Resources.

History: *1990 c 391 art 1 s 21; 1991 c 199 art 1 s 14; 2019 c 50 art 1 s 129*

103A.411 PUMPING TEST AND DATA ACQUISITION; TRAINING PROGRAMS.

The commissioner shall set up a statewide training program to provide training in the conduct of pumping tests and data acquisition programs.

History: *1990 c 391 art 1 s 22*

103A.43 WATER ASSESSMENTS AND REPORTS.

(a) The Environmental Quality Board shall consolidate the assessments required in paragraphs (b) and (c) with the policy report in section 103A.204 and submit a single report to the house of representatives and senate committees with jurisdiction over the environment, natural resources, and agriculture and the Legislative-Citizen Commission on Minnesota Resources by September 15, 2010, and every five years thereafter.

(b) The Pollution Control Agency and the Department of Agriculture shall provide an assessment and analysis of water quality, groundwater degradation trends, and efforts to reduce, prevent, minimize, and eliminate degradation of water. The assessment and analysis must include an analysis of relevant monitoring data.

(c) The Department of Natural Resources shall provide an assessment and analysis of the quantity of surface water and groundwater in the state and the availability of water to meet the state's needs.

History: *1989 c 326 art 2 s 7; 1989 c 335 art 1 s 269; 1994 c 557 s 12; 1995 c 220 s 91; 1999 c 86 art 3 s 7; 2006 c 243 s 21; 2008 c 363 art 5 s 15; 2012 c 272 s 27; 2023 c 25 s 21*