

PART V

MINNESOTA'S
LAKE SUPERIOR COASTAL PROGRAM

CHAPTER 1

PROGRAM BOUNDARY

A. INTRODUCTION

The term “coastal waters” in the Great Lakes area means “the waters within the territorial jurisdiction of the United States consisting of the Great Lakes, their connecting waters, harbors, roadsteads, and estuary-type areas such as bays, shallows, and marshes.” The coastal waters in Minnesota, therefore, consist of those waters of Lake Superior within the territorial jurisdiction of Minnesota.

Section 304(1) of the Coastal Zone Management Act identifies the “coastal zone” as *the coastal waters (including lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal states, and includes islands, transitional and intertidal areas, salt marshes, wetlands, and beaches. The zone extends, in Great Lakes waters, to the international boundary between the United States and Canada, in other areas, seaward to the outer limit of the United States territorial sea.*

By definition, the zone “extends inland from the shorelines only to the extent necessary to control shorelands and the uses which have a direct and significant impact on the coastal waters. Excluded from the coastal zone are lands, the use of which is by law subject solely to the discretion of or which is held in trust by the federal government, its officers or agents” (CZMA, Section 304(1)).

The following boundaries have been developed for the Minnesota program: the seaward or waterward boundary, interstate boundary, excluded lands, and the inland boundary. Definitions of each boundary and a summary of the issues analyzed to develop the boundary are discussed. A detailed description for the inland boundary follows the discussion.

The program boundary chapter is broken down into two sections, **Introduction** and **Boundary Establishment**. The boundary establishment is divided into the following parts: 1. **Seaward Boundary and Interstate Boundary**, 2. **Excluded Lands**, 3. **Nonpoint Source Pollution Control Program Boundary** and finally, 4. **Inland Boundary**. Also included in this chapter is the Justification for the Selected Boundary. The legal description for the boundary is described in: a. St. Louis River Watershed, b. Duluth and Surrounding Urban Areas, c. St. Louis County - North Shore, d. Lake County - North Shore and e. Cook County - North Shore.

B. BOUNDARY ESTABLISHMENT

There are five elements to Minnesota's Lake Superior Coastal Program boundary: the inland boundary, the lakeward (seaward) boundary, the interstate boundary, the excluded federal lands, and the coastal nonpoint source program boundary. A boundary work group was established and developed recommendations for the boundary in Minnesota. The work group consisted of 14 local citizens representing the geographic area from Carlton to Cook County. The recommendations of the work group were presented at a series of open house meetings to obtain public input. Input was also solicited through state and local government participation, and a final work group recommendation was developed. The establishment of a final boundary is the result of thoughtful consideration and a decision which is acceptable to those impacted by the program.

1. Seaward Boundary and Interstate Boundary

Minnesota adjoins Lake Superior, one of the Great Lakes. The seaward boundary for Minnesota's Lake Superior Coastal Program is the international boundary with Canada and the boundaries with the adjacent states of Wisconsin and Michigan. Minnesota has consulted and coordinated with its coastal neighboring states of Wisconsin and Michigan.

Both adjoining coastal states provided input into the development and delineation of adjacent inland and lateral seaward boundaries. Based on the input received, it was determined that the lakeward coastal boundary as described is consistent with both states. Minnesota shares an inland state boundary with Wisconsin. The boundary in Wisconsin includes the entire county of Douglas adjacent to Minnesota. The Minnesota inland boundary does not extend inland as far as the adjoining Wisconsin coastal boundary. Through boundary work group consultation, it was determined that the interstate relationship would not be compromised, part of Douglas County does not drain into Lake Superior.

2. Excluded lands

States must exclude those federal lands as described in the chapter introduction. To meet this requirement, Minnesota will map and describe lands owned, leased, held in trust or otherwise used solely by federal agencies. The exclusion of federal lands from the coastal area does not remove federal agencies from the obligation of complying with Section 307 of the act (federal consistency review) when federal actions on these excluded lands have spillover effects on any land or water use or natural resource of Minnesota's Lake Superior Coastal Program. Table 9 lists and describes excluded federal lands for Minnesota's Lake Superior Coastal Program. Excluded federal lands are mapped if they are large scale holdings (more than 100 acre parcels) or near special management areas (Figures 5 - 8). Grand Portage and Fond du Lac Reservations are the only two federally excluded lands greater than 100 acres in the coastal boundary.

Table 9. Excluded Federal Lands.

These are sites that contain large land areas more than 50 acres in size or are located adjacent to special management areas. Not included in this table, but likewise excluded from Minnesota's Lake Superior Coastal Program, are individual federal buildings and sites such as post offices and small Coast Guard or Army Corps of Engineers installations.

SITE	AGENCY	COUNTY
Fond du Lac Indian Reservation	Bureau of Indian Affairs	Carlton
Duluth International Airport	Air National Guard	St. Louis
Duluth International Airport	U.S. Air Force	St. Louis
Minnesota Point	U.S. Army Corps of Engineers	St. Louis
Superior National Forest	U.S. Forest Service	Cook
Grand Portage Indian Reservation	Bureau of Indian Affairs	Cook
Grand Portage National Monument	National Park Service	Cook

3. Nonpoint Source Pollution Control Program Boundary

The Nonpoint Program of the CZMA, also known as Section 6217, serves as an update and expansion of the state Nonpoint Source Management Program developed under the federal Water Pollution Control Act, as the program under that section relates to land and water uses that affect coastal waters. The Nonpoint Program will be a stand alone program and the boundary for the program will be developed through a separate process. In general, the nonpoint program boundary should be large enough to address the land uses that individually or cumulatively may cause or contribute significantly to degradation of the quality of coastal waters. See Part VI, Coastal Nonpoint Pollution Control Program, for information on Minnesota's Nonpoint Source Program development efforts.

4. Inland Boundary

Federal regulations require that the inland boundary of Minnesota's coastal area include those areas for which management is necessary to control uses that have direct and significant impacts on coastal waters; special management areas; wetland areas subject to regular inundation by Lake Superior that contain flora typical of the region; sandy beaches, dunes, and rocky areas to the point of upland vegetation; and islands in their entirety, except when uses of interior portions do not cause direct and significant impacts.

The inland boundaries extend landward to cover all coastal resource areas, all major coastal issue areas, and all lands which could have a direct and significant impact on coastal waters as a result of their use.

Justification for Selected Boundary

In selecting boundaries for Minnesota's Lake Superior Coastal Program, a detailed analysis was made of those potential areas (including sensitive or fragile ecosystems and various physical considerations relative to development in these areas) which might have a direct and significant impact upon coastal waters. Another important consideration in developing boundaries for the program is funding and the limitations on funding for program implementation. A third consideration is the ease in which the boundary can be mapped, managed, and understood.

The Minnesota coastal area of Lake Superior can be divided into three parts for purposes of discussion. One part includes the area of the St. Louis River in Carlton County, south of Duluth. Another part is the city of Duluth and surrounding areas of urban growth and expansion to the north and west. The third part is the region between the Duluth city limits north to the Canadian border, also known as the "North Shore."

There are variations in the natural and cultural features in the coastal area. The St. Louis River, which flows south of Duluth before it enters Lake Superior, is a major source for hydropower generation and recreation in Carlton County. The major issues identified include erosion, contaminant/sediment problems, exotic species, and hydropower operations. The city of Duluth and surrounding urban area is the location of a major shipping port and is also the largest population center in the watershed. The major issues included in this part of the coastal area are: urban runoff, sewage treatment, erosion along waterways, harbor and port planning, and open space planning. The North Shore is unique in the fact that the area is not as densely populated; the majority of land adjacent to Lake Superior is in private ownership, and the majority of land inland from the coast is in public ownership. This part of the coastal area is valued for its natural character and beauty. Maintaining the character of the area while providing a sustainable way of life is important. The most important issues included in this part of the coastal area are water quality, sewage treatment, shoreline erosion, recreation, tourism, stream corridors, and unique management areas. Common concerns throughout the coastal area include water quality and erosion, sewage treatment, and the cumulative impacts from growth.

Because of the unique character of the North Shore, an inland boundary based on coastal townships was developed. Coastal townships include those areas that are described by the subdivision lines of the rectangular coordinate system established in the U.S. Public Land Survey. The U.S. Public Land System or the Rectangular Survey System is a method of land description used to describe more than 50 percent of the land in the United States. The land is divided into approximate squares called "townships" which have sides approximately 6 miles in length. Townships are further subdivided into 36 sections each approximately one square mile. The townships are described by a township (north or south) number and a range (east or west) number. The coastal township boundary is a convenient means to identify a coastal program boundary since the boundary is defined by a legal description shown in local land surveys and is typically an existing government subdivision boundary.

The coastal township boundary is defined as close to a 6- by 6-mile township as possible. In areas where the coastal township inland boundary was less than three or four miles from Lake Superior, the next inland 6-mile township was chosen as the coastal township boundary. In one instance, where the coastal boundary was less than 6 miles from Lake Superior and the next township boundary was 10 miles inland, the boundary of the Pat Bayle State Forest was used (Cook County). The forest border makes use of an existing known geographic boundary, thus avoiding confusion. In addition, a number of inland water resources, namely, Devil Track Lake, Caribou Lake, Christine Lake, White Pine Lake, and Mistletoe Creek are within the boundary. Using the rationale above, the inland coastal township boundary stays approximately six miles from the Lake Superior shore.

Based upon the analysis, considerations, and relying upon the assumption that “the closer a use is to the coast the greater the impact on coastal waters,” it was decided that the area within which activities would be eligible for program implementation funds and subject to program management policies would extend inland as described below (see Figure 5).

a. St. Louis River Watershed

The inland boundary affecting Carlton County, the Duluth-Superior Harbor and parts of St. Louis County: at the St. Louis River confluence with Lake Superior, going upstream along the Minnesota/Wisconsin border, within the county of St. Louis to the Carlton County line, thence south along the Jay Cooke State Park border, thence westerly along the park border and including the city limits of the city of Wrenshall, thence, northwesterly along the border of Jay Cooke State Park and including the city limits of Carlton to the intersection of Highway 210, thence westerly along Highway 210 to the western border of Section 6, T48N, R17W, thence north along the R17W line following the western border of the city of Cloquet to the St. Louis County border, thence easterly along the Carlton/St. Louis County line to the western border of Midway Township and the city of Hermantown (see Figure 6).

b. Duluth and Surrounding Urban Areas

The inland boundary for Minnesota’s Lake Superior Coastal Program affecting the Duluth metropolitan area, including the cities of Hermantown and Proctor within St. Louis County: from the point where Carlton County, Hermantown, Midway Township, and Solway Townships meet, north along Solway Road (County Road 889, the western border of Hermantown), to the intersection of Highway 53, thence northwesterly along Highway 53 to Munger Shaw Road (County Road 15), thence north on Munger Shaw Road to Abrahamson Road, thence east along the section line to the NE corner of Section 18, thence south on Midway Road to Martin Road (County Road 9), thence west on Martin Road to Rice Lake Road (County Road 4), thence north on Rice Lake Road, to West Beyer Road (County Road 259), thence east on West Beyer Road to Jean Duluth Road (County Road 37), the western border of Lakewood Township (see Figure 6).

c. St. Louis County - North Shore

From the intersection of Jean Duluth Road and West Beyer Road, north on Jean Duluth Road (County 37) to the north border of Lakewood Township, thence east to the west border of Duluth Township, thence north to the north border of Duluth Township, thence east to the Lake County border (see Figure 6).

d. Lake County - North Shore

From Unorganized Territory Number Two west border, north along the R11W line to the T53N, R11W north corner, thence east along the T53N line to county-state aid Highway 2, thence north along Highway 2 to the T54N line, thence east to the R9W west line, thence north to the T55N line, thence east to the R8W line, thence north along the R8W west line to the T56N line, thence east to the R7W line, thence north along the R7W west line to the T57N north line, thence east to the R6W line, thence north along the R6W west line to the T58N north line, thence east to the Cook County line (see Figure 7).

e. Cook County - North Shore

From the Cook County line (NW corner Section 6, T58N, R11W) north along the R5W west line to T59N north line, thence east to the R4W line, thence north along the R4W west line to T60N north line, thence east to the R3W line, thence north along the R3W west line 3 miles to the Pat Bayle State Forest border, thence east to the R2W line, thence north 3 miles along the R2W line to the Pat Bayle State Forest border, thence east to the R1W line, thence north along the R1W west line 2 miles to the Pat Bayle State Forest border, thence east to the R2E line, thence north along the R2E west line 4 miles to the T62N line, thence east along the T62N line 12 miles to the R4E line, thence north along the R4E west line to the T63N line, thence east along the T63N north line to the Grand Portage Indian Reservation, thence northerly along the west border of the Grand Portage Indian Reservation to the USA/Canada border, thence easterly along the Minnesota side of the USA/Canada border to Lake Superior (see Figure 8).

Maps which show the coastal boundaries in greater detail are on file at the Minnesota Department of Natural Resources office in Two Harbors.

Figure 5. The Coastal Boundary in Minnesota

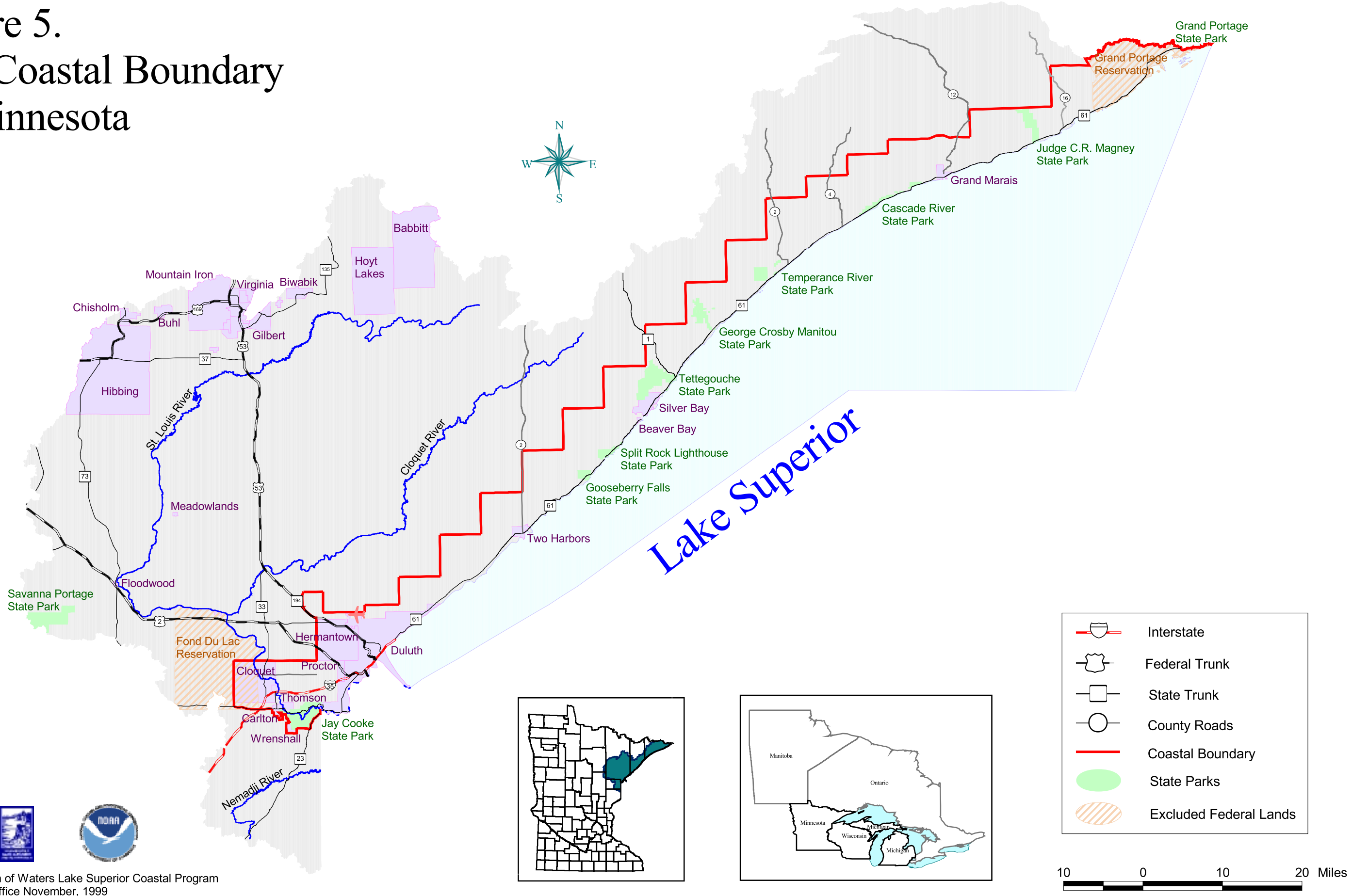


Figure 6. The Coastal Boundary in St. Louis and Carlton Counties, Minnesota

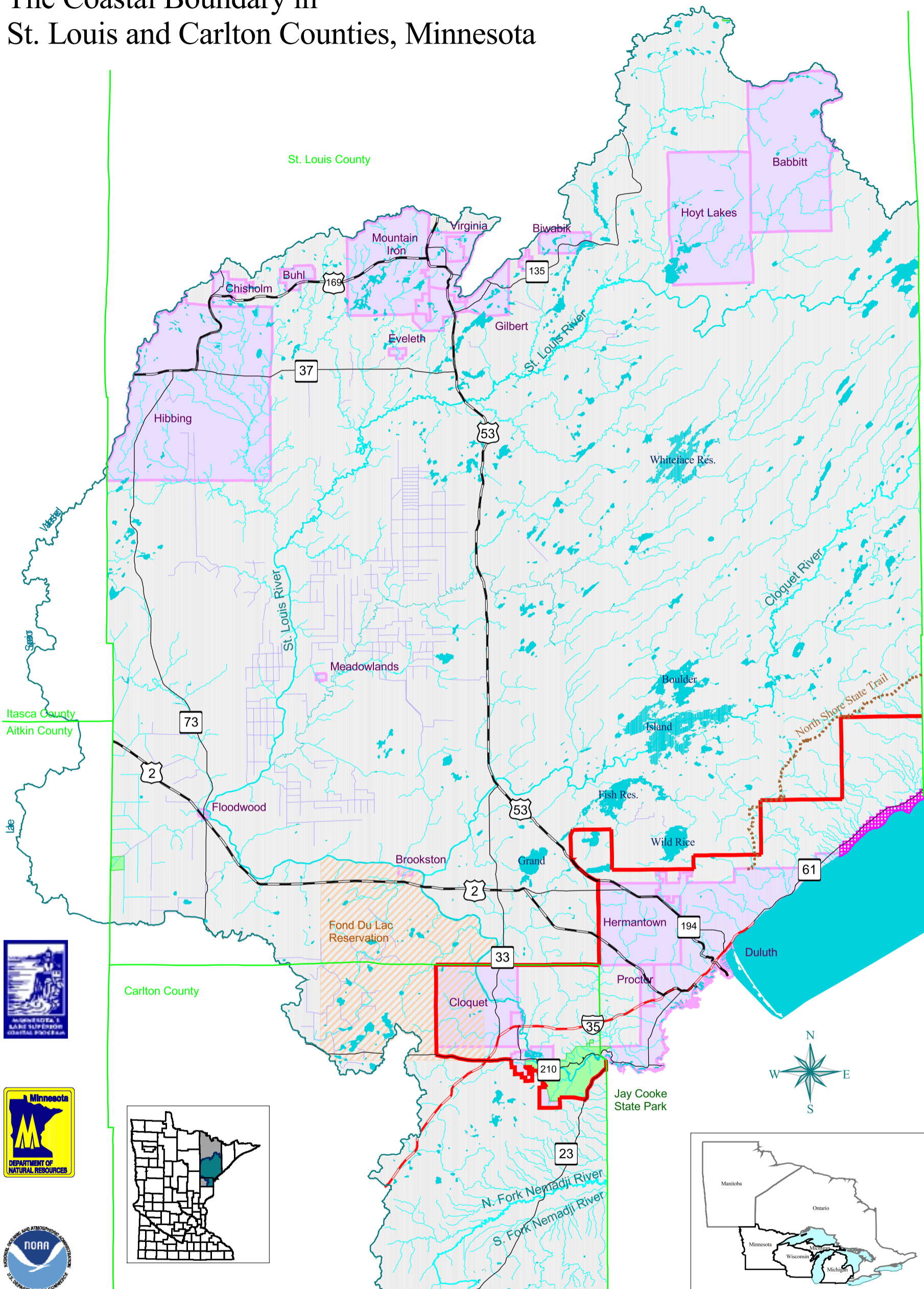
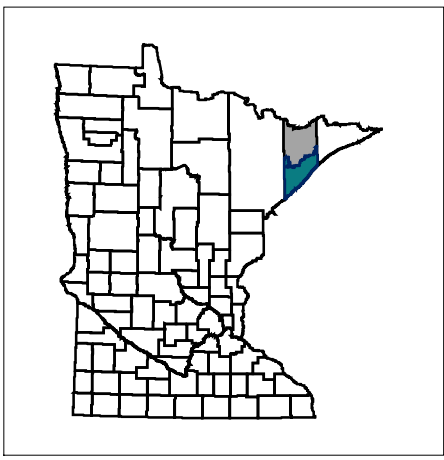
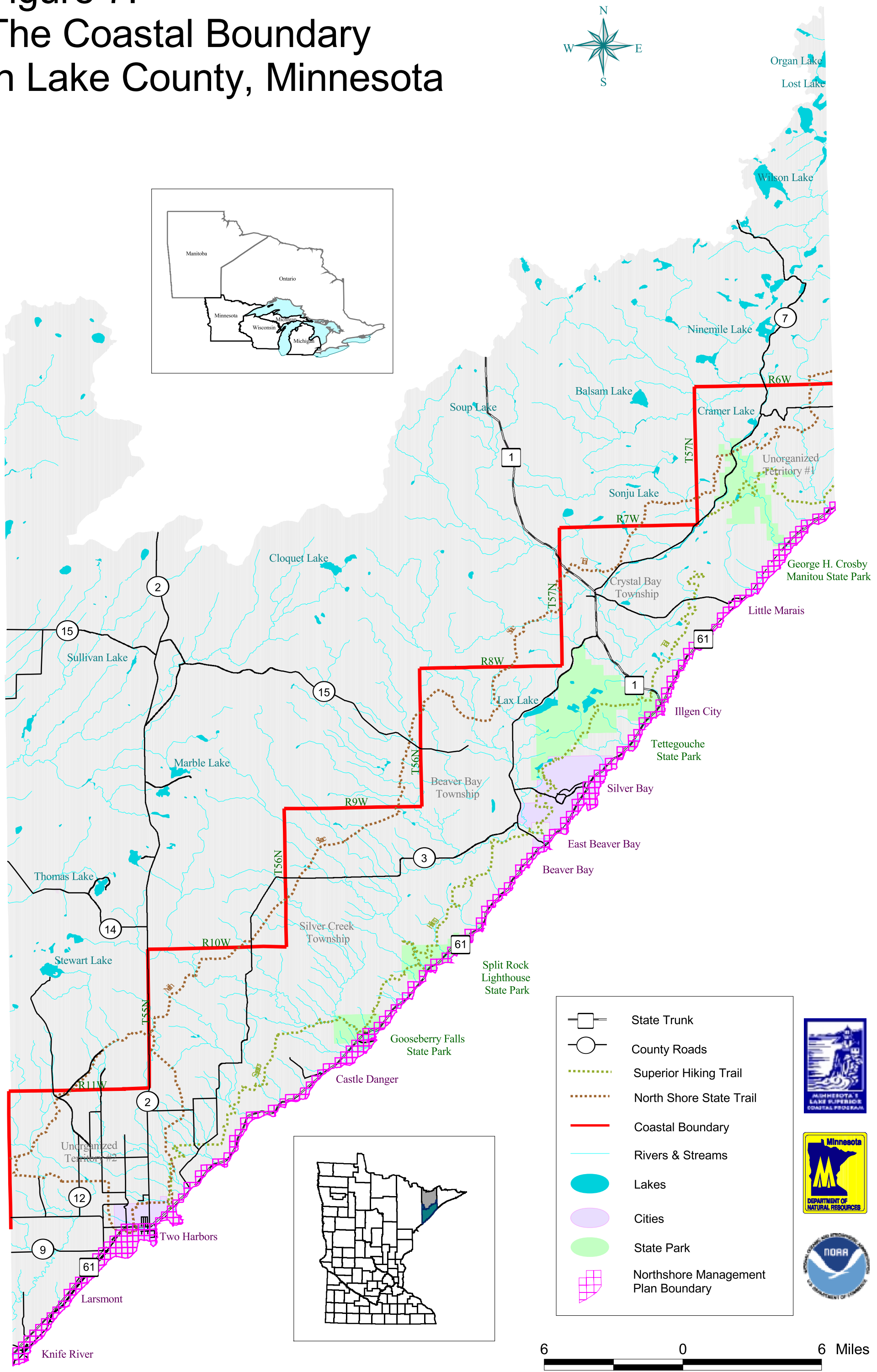




Figure 7. The Coastal Boundary in Lake County, Minnesota

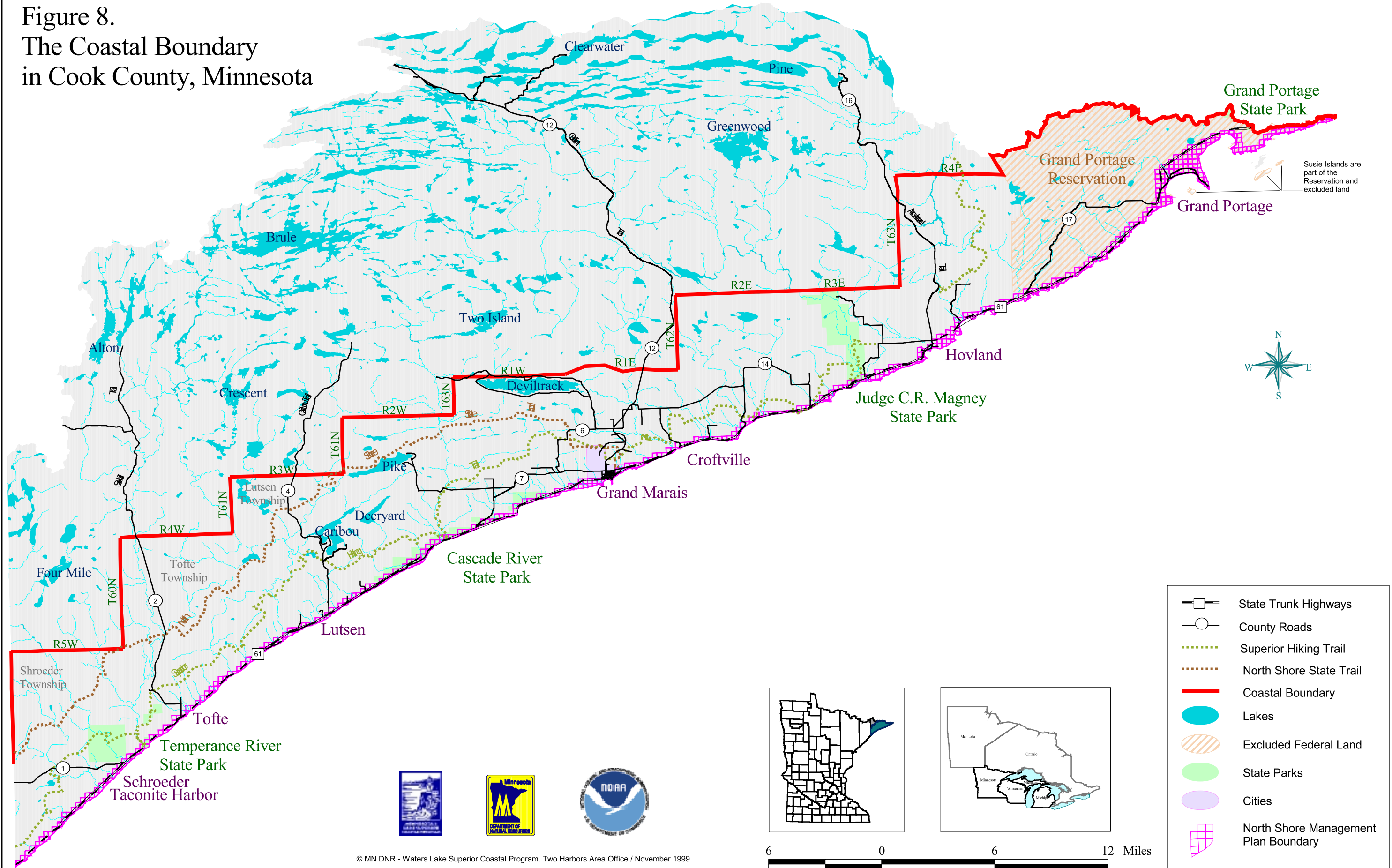


- State Trunk
- County Roads
- Superior Hiking Trail
- North Shore State Trail
- Coastal Boundary
- Rivers & Streams
- Lakes
- Cities
- State Park
- Northshore Management Plan Boundary



6 0 6 Miles

Figure 8.
The Coastal Boundary
in Cook County, Minnesota



CHAPTER 2 PROGRAM IMPLEMENTATION

A. ORGANIZATIONAL STRUCTURE

Collectively, state, local and federal agencies and units of government, through a variety of mechanisms, both policy and law, manage the natural and cultural resources of the Lake Superior watershed in Minnesota. Currently, the umbrella for all state and local management is the body of policy and law provided by the Minnesota Statutes. The statutes provide guidance and assign implementation authority to a variety of state agencies and local units of government as outlined in Chapter 3 - Management Policies and Authorities. Agencies and units of government work together with their stakeholders to address resource issues. It is through this network that Minnesota accomplishes resource management in the Lake Superior watershed. The management aspect of the program will be administered through the already existing authorities within state and federal rules and regulations. The Coastal Program will not in effect perform any management duties, other than to administer the Coastal Program grants program and consistency reviews.

Minnesota's Lake Superior Coastal Program was developed to encourage greater cooperation, to encourage simplification of governmental processes, and to provide tools to implement existing policies, authorities and programs within the area defined by the program boundary.

1. Role of the Lead State Agency

The Coastal Zone Management Act (CZMA) requires states to designate a single state agency to receive and administer the grants for implementing the state's Coastal Management Program. The agency must have the fiscal and legal capacity to accept and administer grant funds and have the administrative capability to monitor and evaluate the management of the state's coastal resources by the various agencies and/or local governments.

Tasks generally assigned to the lead agency include general program administration, federal consistency review, grant administration, program review and evaluation, monitoring and evaluation of compliance with the coastal program's policies and authorities, state agency consistency review, networking with state and local agencies, and outreach and education. As lead fiscal agent for the program, the agency will prepare and submit the grant application, as directed by the Coastal Council, administer funds, including pass-through grants and contracts, and monitor and summarize project performance as required by NOAA's Office of Ocean and Coastal Resource Management.

The Governor, with input from the organization and implementation work group and from the Commissioners of the various state agencies, has designated the Department of Natural

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Resources (DNR) as the lead agency for Minnesota's Lake Superior Coastal Program. This agency, working in partnership with other state resource agencies including the Board of Water and Soil Resources, the Pollution Control Agency, and the Departments of Health and Agriculture, will be responsible for program implementation and program related administrative activities. The office of the Coastal Program coordinator will be located within the coastal area as defined by Minnesota's Lake Superior Coastal Program boundary. As a networked program, functions including accounting, federal consistency, and implementation of many of the statewide and regional programs and authorities included within the program may take place or be directed from offices outside the coastal area.

This chapter is divided into four sections. Section A. **Organizational Structure** describes the roles of the lead agency, coastal council, local units of government, state agencies and the cooperation of other programs. Section B. **Program Implementation** describes the implementation of polices and authorities from the networked program, consistency, and the implementation of the grant program. Section C. **Review and Evaluation of Program** describes program priorities and review of performance, and Section D. describes the **Termination Recommendation Process**.

2. Role and Responsibilities of the Coastal Council

In the development of Minnesota's Lake Superior Coastal Program a work group made up of individuals from within the Lake Superior watershed (Carlton, St. Louis, Lake and Cook counties) representing a variety of perspectives, met to address several components of how a coastal management program might work in Minnesota. The Organization and Implementation Work Group recommended the establishment of an administrative board by the legislature whose members would be nominated by local units of government as well as selected from at-large nominations and be appointed by the Governor. It is designed to include representation from the large geographical area of the North Shore as well as the diversity of issues and perspectives.

This will be a two phased approach. Initially this board will be established through an Executive Order, which specifies that the role of the board is to make recommendations to the Commissioner of the DNR on program priorities, funding decisions, program evaluation and procedural review. This board will be limited to no more than fifteen members during this first phase. The board, under the Executive Order will be called the "Governor's Council on Minnesota's Coastal Program." In the second phase, the board will seek to be established through legislation, which specifies the role of the board, as one with decision making powers with regards to the use of the federal funds. The board will remain advisory and make recommendations to the Commissioner on the conduct and direction of the Coastal Program. Under this legislation, the board will be called the "Coastal Council."

Governor's Council on Minnesota's Coastal Program

15 Member Board Created through Executive Order Governor Appointed

12 members: 3 persons per county selected from pool submitted by each of the cities, townships, and counties within the coastal boundary

3 members selected from At-Large pool

Functions:

- Advise on grant program funding priorities
- Advise on pass-through grant decisions
- Participate in local program evaluation
- Assist and recommend changes at annual review of grant program operations.

The **Coastal Council** will initially be composed of 15 members, three from each of the four counties represented in the state's Coastal Management Program boundary (Carlton, St. Louis, Lake, and Cook) and three at-large members. After legislation, two more at-large members may be added. A minimum three and a maximum of five Council members will represent any one county, and no more than one elected official ((includes all state and local elected officials except soil and watershed conservation district (SWCD) supervisors)) from each county may be represented on the Council. No requirement exists to select an elected official. Policies governing

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administrative boards established through legislation are defined in Minn. Stat. §15.0575 and Minn. Stat. §15.0597.

As openings on the Coastal Council occur, each local government unit (LGU, defined to include all counties, cities/municipalities, and townships) within the county where the opening occurs, will be asked to submit two names for a pool of potential candidates.

The Governor will choose Council members to fill the open positions from this pool of names. As at-large openings occur a pool of names will be solicited from the public and private sector statewide. Selection by the Governor will be made from this pool of candidates.

As outlined in Minnesota Statutes, terms of Coastal Council members are for four years each with approximately one-fourth of the terms expiring each year. No member may serve more than two consecutive terms. Replacements for open, unexpired terms will be filled in the same manner as explained above with the replacement serving out the remainder of the unexpired term. The Coastal Council will establish recommended membership criteria and details of the application process not covered by statute. Applicants will complete the required State Open Appointment Application and Supplemental Application developed for this program. All terms will end on the first Monday of January.

The role of the coastal program staff in this process is to announce council openings, solicit applications, sort applications, and submit the list of nominations to the Governor's Open Appointment Office for selection. Filings for open terms are due to the program coordinator of Minnesota's Lake Superior Coastal Program by October 1. The list will be submitted to the Governor by October 31. Term length during the first four years of the Coastal Council's existence will vary to create staggered terms during subsequent years. Development of bylaws and working procedures and policies will be developed by the Coastal Council. The chair of the Council will be elected by the Council members.

The responsibilities of the Coastal Council include:

Development of grant program funding priorities: This process will be conducted with the assistance of program staff. Priorities will reflect a balance between preservation, protection,

Coastal Council

15-17 Member Board Created through Legislation Governor Appointed

12 members: 3 persons per county selected from pool submitted by each of the cities, townships, and counties within the coastal boundary

3-5 members selected from At-Large pool

Functions:

- Determine grant program priorities
- Make funding decisions on pass-through grants
- Participate in local program evaluation
- Determine and annually review procedures for

development and where possible the restoration and enhancement of the coast for present and future generations, as defined by the CZMA. Opportunities for input by stakeholders will be an important component of the development of program priorities.

Review and selection of grant proposals: The process for solicitation, review, and selection has been developed by the organization and implementation work group and is detailed in “Proposal Guidance for Minnesota’s Lake Superior Coastal Program” which will be published and distributed annually.

Review of annual budget: The Coastal Council will work together with the DNR to establish an annual administrative (nonproject administration) budget for the program. During the first year of the program administrative funds will be approximately 20 percent. During successive years staff will draft an administrative budget for review and agreement jointly by the Council and the DNR. It is expected that the administrative budget be approximately 20 percent annually.

Periodic review of program: A program evaluation will be held every two to three years. Review may coincide with NOAA’s Office of Ocean and Coastal Resource Management (OCRM) review as described in Section 312 of the Coastal Zone Management Act (CZMA). This review will evaluate the programs efforts to ensure a balance between preservation, protection, development, restoration and enhancement of the coastal resources as specified in the CZM Act. Input from stakeholders, state and federal agencies and local units of government will be sought during this review. (See Part V 2-17).

a. Relationship Between the Coastal Council and Coastal Program Staff

The Coastal Council is the decision making mechanism through which Minnesota’s Lake Superior

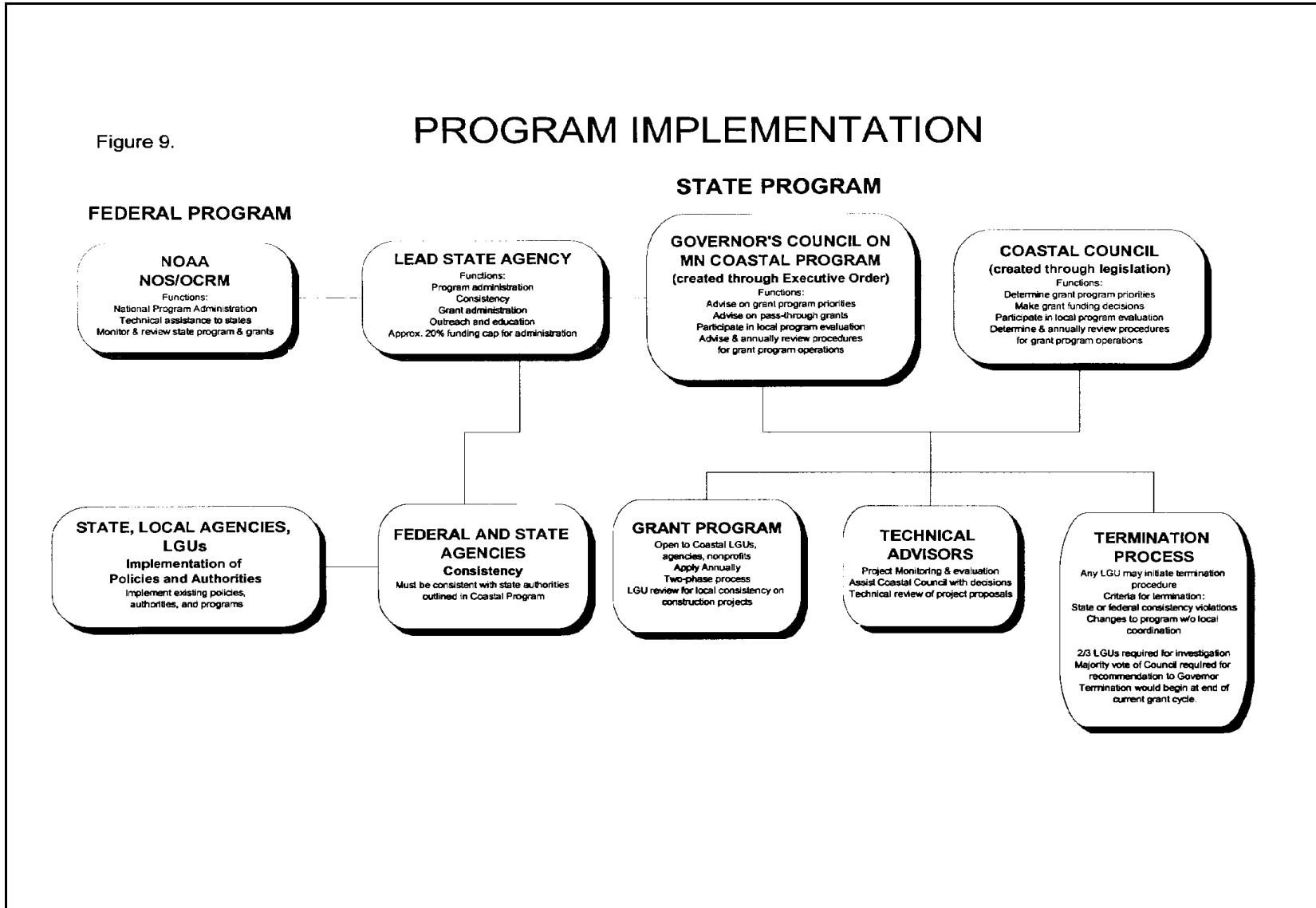
Coastal Program implements the grant program. The Coastal Program staff will work together with and as staff for the Coastal Council on responsibilities related to the grant program as listed in the previous section. Other functions, such as federal consistency and monitoring and evaluating coastal policies and authorities are accomplished by state agencies as outlined by statute or as coordinated by the program coordinator. The Coastal Council will assist and recommend direction for the Coastal Program to the program coordinator.

b. Relationship Between the Coastal Council and Technical Advisors

Technical advisors include professional staff (private or public) in fields such as resource management, engineering, planning, recreation and public works. The role of technical advisors will be determined specifically by the Coastal Council, but generally professionals will be asked to provide technical review of project proposals and to assist the Coastal Council in their decision making role, as requested.

Figure 9.

PROGRAM IMPLEMENTATION



3. Local Units of Government

Counties, Cities, Townships

The following local units of government are included within the coastal area. Each unit manages land use within its political boundary through comprehensive land use plans and supporting ordinances and zoning as authorized by state statute. A variety of relationships occur between state and local agencies and between local agencies regarding implementation of state statutes and implementation and enforcement of local comprehensive land use plans and zoning ordinances.

Cook County	Lake County	St. Louis County	Carlton County
Grand Marais	Beaver Bay	Canosia Township	Cloquet
Lutsen Township	Beaver Bay Township	Duluth	Carlton
Schroeder Township	Crystal Bay Township	Duluth Township	Scanlon
Tofte Township	Silver Bay	Hermantown	Silver Brook Township
Cook County	Silver Creek Township	Grand Lake Township	Thomson
	Two Harbors	Lakewood Township	Thomson Township
	Lake County	Midway Township	Twin Lakes Township
		Proctor	Wrenshall
		Rice Lake Township	Carlton County
		St. Louis County	

County Soil and Water Conservation Districts

Though Soil and Water Conservation Districts (SWCD) are local units of government that manage and direct conservation programs, they are not eligible to submit nominations to the Coastal Council. The district's function is to assist land occupiers in both rural and urban settings to protect soil and water resources. Board of Water and Soil Resources (BWSR) is the state administrative agency for the SWCDs and channels state funds to the districts for many conservation programs.

4. Roles of State Agencies

Mechanism for Networking

To address simplification of governmental processes and encourage cooperation, the state has developed numerous agreements (Memoranda of Understanding (MOU), Memoranda of Agreement (MOA), and Memoranda of Direction (MOD)) within agencies, between agencies and between units of government to address specific responsibilities related to resource protection and land use. Existing agreements which are applicable to Minnesota's Lake Superior Coastal Program are listed in Appendix G. In addition, communication and cooperation between local units of government and between state and local agencies and/or units of government also occur through numerous formal and informal means including the North Shore Management Board (NSMB), the Arrowhead Regional Development Commission (ARDC), the Metropolitan Interstate Committee (MIC), and the Harbor Technical Advisory Committee (HTAC). Forums, such as those facilitated by Minnesota Sea Grant, the University of Minnesota Extension Office, and others, offer additional opportunities for individuals, agencies and government representatives to learn and share information.

Minnesota's Lake Superior Coastal Program will assist in enhancing communication and in simplifying governmental processes through the encouragement of additional MOUs and MOAs, through implementation grants that address these issues, and by collecting input and recommending solutions through its public participation process during program review (see section on Program Review, Part V 2-17). The effectiveness of current strategies for networking - between federal and state agencies, between state agencies, and between state and local agencies and local units of government will also be considered during program review.

Organized below are the state agencies that have a role in managing land and water resources in the State of Minnesota. Listed for each is the agency mission statement followed by the policies, authorities, and programs included in Minnesota's Lake Superior Coastal Program and administered by the agency. It is proposed that each of the agencies has signed a Memorandum of Understanding (MOU) that confirms its role in implementation of Minnesota's Lake Superior Coastal Program, its understanding of and agreement to be consistent with the state's Coastal Management Program, and its support for collaborative management of our coastal resource - Lake Superior.

The role of the DNR and other regulatory agencies will remain unchanged. Permits will be granted or denied with respect to each agency's existing statutes and regulations, and there is no new requirement to be consistent with or comply with local ordinances or approvals.

State permitting agencies will only administer and apply their existing statutes and regulations, they will not be applying authorities of other agencies or programs.

BOARD OF WATER AND SOIL RESOURCES (BWSR): The mission of the Board of Water and Soil Resources is to provide leadership enabling local governments to properly manage water and soil resources and to help all citizens be stewards of our irreplaceable natural resources. It is unique in its purpose of working with local units of government - particularly soil and water conservation districts (SWCDs), watershed districts and water management organizations, and counties - to assist in effective resource management at the local level. The BWSR has an office in Duluth. The Board also has a role in the question of water policy with the process under Minn. Stat. ch. 103A Water Policy and Information that contain procedures for conflict resolution, if one should occur.

Authorities, policies, or programs this agency administers which are part of Minnesota's Lake Superior Coastal Program and are detailed in the following two chapters include:

- C Wetland Conservation Act (Administration)*
 - C County Water Plans*
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DEPARTMENT OF AGRICULTURE (MDA): The Minnesota Department of Agriculture is responsible for ensuring that the food we eat is safe and wholesome all the way from the farm until it reaches the consumer. Its mission is to work toward a diverse agricultural industry that is profitable as well as environmentally sound; to protect the public health and safety regarding food and agricultural products; and to assure orderly commerce in agricultural and food products. The Department of Agriculture has an office in Duluth.

Authorities, policies, or programs this agency administers which are part of Minnesota's Lake Superior Coastal Program and are detailed in the following two chapters include:

- C Groundwater Protection Act*
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DEPARTMENT OF HEALTH (MDH): The mission of the Minnesota Department of Health is to protect, maintain and improve the health of the citizens of Minnesota. The Department of Health has offices in Duluth and a district office in Virginia, Minnesota.

Authorities, policies, or programs this agency administers which are part of Minnesota's Lake Superior Coastal Program and are detailed in the following two chapters include:

- C Safe Drinking Water Act*
 - C Wells, Borings, and Underground Uses*
 - C Well Water Construction Code*
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DEPARTMENT OF NATURAL RESOURCES (DNR): The mission statement of the Department of Natural Resources is to preserve, protect and enhance Minnesota's natural resource heritage in order to benefit the environment, economy, and quality of life of all Minnesotans, present and future. The DNR has a number of offices along the North Shore including those in Cloquet, Two Harbors, Duluth, Duluth Township, Finland and Grand Marais.

Authorities, policies, or programs this agency administers which are part of Minnesota's Lake Superior Coastal Program and are detailed in the following two chapters include:

- C Shoreland Management Act*
 - C Floodplain Management Act*
 - C DNR Protected Waters Program*
 - C Water Appropriation Permits*
 - C Dam Safety*
 - C Wetland Conservation Act (enforcement of Act)*
 - C Groundwater Protection, Degradation Prevention Goal*
 - C Fish and Wildlife Management*
 - C State Water Access Site Program*
 - C Minnesota State Parks, Monuments, Recreation Reserves, Waysides*
 - C State Trail System*
 - C Utility Crossings of Public Lands and Waters*
 - C Scientific and Natural Areas Program*
 - C County Biological Survey*
 - C Mineland Reclamation*
 - C Forest Resource Management Act (1982)*
 - C Sustainable Forest Resources Act (1995)*
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DEPARTMENT OF TRANSPORTATION (MNDOT): The Minnesota Department of Transportation fundamental purposes are: to develop a coordinated transportation network by leading and acting to preserve, manage, and improve the state's highway system; to promote and support the transit, air, rail, waterways, bicycle and pedestrian systems; to promote nontravel alternatives; and to promote and support connections among transportation systems.

Authorities, policies, or programs this agency administers which are part of Minnesota's Lake Superior Coastal Program and are detailed in the following two chapters include:

- C MN DOT Rest Area Program*
 - C MN DOT Highway Program*
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ENVIRONMENTAL QUALITY BOARD (EQB): The Environmental Quality Board is the state's principle forum for discussing environmental issues. The current 15-member board is composed of a chairperson and five citizen members appointed by the Governor, the Commissioners of the State Department of Agriculture, Health, Natural Resources, Public Services, Transportation, and Pollution Control Agency, and the Directors of the Office of Strategic and Long Range Planning and the Office of Environmental Assistance. It provides the public with an accessible forum for debating and discussing the environmental policies and decisions of state government; it provides the mechanism for coordinating the actions of major state agencies and the impact of their decisions on the environment; and it provides the Governor and the legislature with a tool for working on those environmental issues and problems that do not fit in one of the state's other environmental agencies. The EQB does not currently have an office

along the North Shore. Staff and consultant support for Board activities is provided by the Office of Strategic and Long-Range Planning (MN Planning).

Authorities, policies, or programs this agency administers which are part of Minnesota's Lake Superior Coastal Program and are detailed in the following two chapters include:

- C Minnesota Environmental Rights Law*
 - C Environmental Review Program*
 - C Minnesota Power Plant Siting Act*
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MINNESOTA HISTORICAL SOCIETY (MHS): The mission of the Minnesota Historical Society is to foster an awareness of Minnesota history among people so that they may draw strength and perspective from the past and find purposes for the future.

Authorities, policies, or programs this agency administers which are part of Minnesota's Lake Superior Coastal Program and are detailed in the following two chapters include:

- C State Historic Sites and Monuments*
 - C Submerged Cultural Resource Management Program*
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OFFICE OF ENVIRONMENTAL ASSISTANCE (OEA): The Office of Environmental Assistance (OEA) protects Minnesota's environment and assures a sustainable economy through waste prevention and resource conservation. Types of programs included under the umbrella of O.E.A. include environmental education, business assistance, solid waste assistance, sustainable communities, and financial assistance (for waste management projects). The Office of Environmental Assistance has no office in Duluth.

POLLUTION CONTROL AGENCY (MPCA): The Minnesota Pollution Control Agency is the state agency responsible for protecting Minnesota's air, water and land resources from the effects of pollution. The MN Pollution Control Agency has an office in Duluth.

Authorities, policies, or programs this agency administers which are part of Minnesota's Lake Superior Coastal Program and are detailed in the following two chapters include:

- C Clean Water Act Section 401 Water Quality Certification*
 - C Air Emissions*
 - C Acid Deposition*
 - C Lead-based paints*
 - C Water Pollution Control Act*
 - C Water Quality Standards*
 - C National Pollutant Discharge Elimination System*
 - C Animal Feedlots*
 - C Waste Water Treatment Facilities*
 - C Onsite Septic Systems*
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- C Groundwater Protection Act*
 - C Solid Waste Management, Policy and Authorization*
 - C Sewage Sludge Management*
 - C Waste Treatment Facilities*
 - C Hazardous and Radioactive Waste; State Potable Water Protection Policy*
 - C St. Louis River RAP*
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The Environmental Cluster, established by Governor Carlson and reorganized on July 8, 1997 is composed of the heads of the following departments or boards: DNR, Health, Board of Water and Soil Resources, Transportation, Office of Environmental Assistance, MN Planning, PCA, Environmental Quality Board, Public Utilities Commission, Public Service and Agriculture. The function of this group is to share information on agency activity and to discuss issues of regional or statewide importance. Changes in administration may change the composition, organization, and function of this group. To ensure support for a collaborative approach to resource protection and development along the North Shore, it is recommended that agency heads or their designates for each of the state resource agencies meet at least annually to discuss Minnesota's Lake Superior Coastal Program and issues related to resource protection and development that impact or have the potential to impact Lake Superior and the Lake Superior watershed.

North Shore State Agency Meetings

To facilitate communication and coordination between agencies, it is recommended that area staff representing each of the state resource agencies (BWSR, DNR, and PCA) with field offices on the North Shore, meet quarterly to share information and coordinate efforts within the Lake Superior watershed. Efforts to encourage networking between federal, state, and local agencies, local organizations and businesses should be considered as well as mechanisms for reducing redundancy and simplifying permitting procedures.

5. Cooperation with Other Programs

Arrowhead Regional Development Commission (ARDC)

One of several regional development commissions located throughout Minnesota, ARDC serves seven counties in northeastern Minnesota. Through its mission to provide local leadership, it is involved in many issues related to the environment in the Lake Superior basin including serving as staff for the North Shore Management Board (NSMB). It is anticipated that ARDC may work together with local units of government, and the NSMB to prepare grant proposals and assist in implementing projects through this program.

North Shore Management Board (NSMB)

The North Shore Management Board was created in July 1987 to develop a North Shore Management Plan. The Board consists of county, city and township elected officials and is assisted by two 16-member advisory committees, the Citizens Advisory Committee and the Technical Advisory Committee. Through a Joint Powers Agreement, the Board monitors how each local unit of government carries out the plan and sees that the plan's policies are applied and

enforced. As administrator of the North Shore Management Plan, the NSMB and the local governments it represents, plays a valuable role in the vision and implementation of planning, development, and resource protection along the North Shore. It is anticipated that funding through this program will assist the Board and its individual members in implementing its goals.

Sea Grant

A unique partnership of public and private sectors that combines research, education and technology transfer for public service - is a NOAA-sponsored national network of universities meeting the changing environmental and economic needs of Americans in coastal ocean and Great Lakes regions. The Minnesota Sea Grant office is located on the lower campus of the University of Minnesota - Duluth. Opportunities to collaborate on projects, especially those related to providing opportunities to gather public input and to disseminate information on coastal resources and resource issues, have occurred throughout program development and should continue during program implementation.

B. PROGRAM IMPLEMENTATION

1. Implementation of Policies and Authorities Through Networked Program

a. Implementation Mechanisms

Minnesota will implement its Coastal Program through **existing** mechanisms. Primary among these mechanisms are Minnesota statutes and rules, many which are implemented by local units of government, and state, and local programs and plans. Within the state's Coastal Management Program the CZMA requires the state to identify enforceable mechanisms to control land and water uses. In addition, Minnesota has chosen to include those nonregulatory measures it uses to manage its resources and the impacts of development upon those resources.

The specifics of these authorities and programs are reviewed in subsequent chapters.

b. Monitoring and Enforcement Mechanisms

Monitoring and enforcement of the authorities listed in this document are generally outlined by law. In an effort to evaluate the success or value of these programs relative to Lake Superior's coastal resources, the program coordinator will compile, for periodic program reviews (see section on 312 reviews), documentation on the following: NSMB annual reports to the DNR, information on changes in local planning and zoning, a summary of federal consistency actions, annual state agency consistency reports, and summaries of the accomplishments of grant funding over the review period. Additional monitoring strategies and enforcement mechanisms may be recommended during program review by local, state, or federal agencies or by stake holders. New regulations (state statutes or rules) however **will not** be created directly by the creation or implementation of this program. Recommendations to local or state agencies regarding additional enforcement needs may be made to the pertinent agencies for consideration. Changes made to Minnesota statutes however which directly impact Minnesota's Lake Superior Coastal Program will be reviewed by stakeholders and this may impact continued participation in the nationwide Coastal Program (see termination process).

2. Consistency

a. State Consistency

CZMA regulations require that the state "bind each party which exercises statutory authority that is part of the management program to conformance with relevant enforceable policies and management techniques." This component requires state agencies to be consistent with state policies and authorities included within this document. The Governor's Executive Order will reaffirm the state's commitment to this component of the Coastal Zone Management Act.

State agencies are encouraged to be proactive. It is recommended that input be sought from local units of government and interest groups which may be impacted by agency decisions, particularly

regarding land acquisition and development within the coastal program boundary. If it is determined that an action will not be consistent with the state's program, the agency should notify Minnesota's Lake Superior Coastal Program coordinator as early as possible in the planning process. Further, it is recommended that the agency document the rationale for its decision and provide information to the public regarding the uniqueness of the situation.

State consistency does not require state agencies to implement new monitoring or reporting requirements. State agencies will continue to implement existing policies and authorities pursuant to rules, authorities, executive orders and policies. Where there is conflict between state agency programs and state and local programs, the coastal program will assist in attempting to resolve the conflict, if so requested by each party.

b. Mechanisms to Ensure State Consistency

Each state agency which conducts activities or issues permits or licenses within the area included in the boundary of Minnesota's Lake Superior Coastal Program will receive a copy of the program document and subsequent revisions. Workshops to inform agencies on the Coastal Program and the requirement of state consistency will be conducted by coastal program staff.

This program and the requirement of state consistency do not impose any new requirements on any state agency, local government, or person. Furthermore, this program and the requirement of state consistency do not give any state agency or local government any new regulatory authority or criteria to apply.

The program document will assist state agencies in understanding the role of other governmental units and programs. No new criteria have been introduced, therefore, the program document serves to remind state agency managers of the various authorities of existing state programs.

Agencies listed previously as "networked agencies" administer one or more of the policies, authorities, or programs included within this document. It is proposed that Memorandums of Understanding (MOU) will be developed between these agencies and the DNR which acknowledge the agency's understanding of state consistency with Minnesota's Lake Superior Coastal Program and an agreement to be consistent to the maximum extent practicable with the state's Coastal Program. The DNR will review these MOUs with other agencies that share jurisdiction of issues in these documents.

Conflicts between Divisions within the DNR regarding state consistency with Minnesota's Lake Superior Coastal Program will be addressed by the Commissioner of the DNR at the request of Coastal Program staff. Conflicts between state agencies regarding consistency with Minnesota's Lake Superior Coastal Program will be addressed through the Commissioners of each agency using the appropriate and existing mechanisms for conflict resolution. Parties to the conflict will resolve the issues at the appropriate level.

c. Federal Consistency

Considered by states as one of the key benefits of the national Coastal Management Program, federal consistency, the component of the Coastal Zone Management Act that requires actions of federal agencies to be consistent with the state's Coastal Management Program, will encourage federal agencies to seek input early in the planning of activities and gives the state additional leverage in and assurance that federal actions will be conducted in accordance with state law.

The Coastal Program staff within the DNR will take the lead for the state in reviewing proposed federal actions to determine if they will be consistent with the state's Coastal Management Program. An annual summary of consistency reviews will be prepared by Minnesota's Lake Superior Coastal Program coordinator. At the federal level, NOAA oversees the state's use of consistency, mediates consistency disputes and processes appeals to the Secretary of Commerce.

Specific processes for applying consistency in Minnesota have been developed following the guidance from NOAA's Office of Ocean and Coastal Resource Management for the review of federal activities and development projects, permits and licenses, and federal assistance programs that may impact the coastal area. Where Memoranda of Understanding have been developed and received public input, alternative processes for reviewing consistency may be used. Whenever possible, efforts will be made to consolidate and simplify the review process into existing procedures. Detailed consistency procedures and time lines are discussed in Part V 6-7.

3. Implementation of the Grant Program

The DNR is responsible for the disbursement of funds received through the national Coastal Management Program. Together with the Coastal Council an annual budget will be drafted and submitted to OCRM for approval. The budget will include administrative costs which should approximate 20 percent as well as specific project proposals. The Coastal Council will annually draft, and direct staff to publish and distribute a "Proposal Guidance for Minnesota's Lake Superior Coastal Program" which will describe the process for solicitation, review, and selection of projects and programs to be funded through this program. During the phase in which the Coastal Council is established under Executive Order, their role will be as an advisory council to the DNR. After being established through legislation, the role of the Coastal Council will become one of decision making with regards to the expenditure of federal 306 and 306A funds for pass-through grants. The DNR will administer funding, including coordination of pass-through grants. Staff will monitor project progress and complete semiannual reports on program implementation to OCRM. OCRM remains the final decision maker on all applications for federal funds.

C. REVIEW AND EVALUATION OF PROGRAM

1. Program Priorities

Program priorities will be determined by the Governor's Council on Minnesota's Coastal Program (during the Executive Order term) in an advisory capacity until the Coastal Council is established through legislation and priorities will be determined with decision making authority.

2. Review of Performance

A continuing review of the performance of states with respect to coastal management as outlined by the CZMA (Section 312) is conducted by NOAA's Office of Ocean and Coastal Resource Management (OCRM). OCRM monitors state performance through ongoing review of financial assistance awards and performance reports, and through a periodic (usually every three years) evaluation of the state's Coastal Program. Evaluation of the state's Coastal Program means the state must effectively implement and enforce the policies and standards it has developed to guide public and private uses of its coastal area. The state must also show compliance to the terms of federal financial assistance awards.

D. TERMINATION RECOMMENDATION PROCESS

The work group developed the following termination process to address concerns regarding additional regulation by state or federal agencies that would cause undue hardship through participation in the Coastal Program and regarding violations of the program by state or federal agencies. For the purpose of this document, termination is defined as withdrawal by the state from the national Coastal Zone Management Program.

Any local unit of government may initiate program termination procedure based on the following reason(s):

- a) Noncompliance of **consistency component** of program by state or federal agencies. (According to the CZMA, federal and state agencies must comply with policies and Authorities within the state's Coastal Program to the maximum practicable extent - See Part V 6-7 of the program document).
- b) Changes are made in federal or state policies or authorities which have a significant effect on Minnesota's Lake Superior Coastal Program **and which are made without coordination with local program participants.**

The local unit of government initiating program termination will provide a statement clearly outlining their complaints. The statement should include as many specifics as possible including dates, explanations of events, impact on the local unit of government, impact on Minnesota's Lake Superior Coastal Program, action taken by the local unit of government, and a recommended action(s). The program termination request should be received by the Coastal Council in the form of a resolution as approved by the local unit of government.

The local unit of government initiating the termination becomes the process leader and has the responsibility to circulate a petition to all LGUs within the Coastal Program boundary. Two-thirds of the LGUs must sign the petition and submit official actions or resolutions supporting termination of the program for the resolution to be considered by the Coastal Council.

The Coastal Council will appoint a team to investigate the facts stated in the petition. Discrepancies will be discussed with the initiating LGU. The Coastal Council will review the investigating team's findings and recommendations. The Coastal Council will also review and consider evaluation of the impacts and ramifications of termination of the program.

If the Coastal Council, by a majority vote, supports the advisory recommendation, the recommendation will be forwarded to the Governor and information copied to the DNR. Advisory recommendations short of termination may also be forwarded at this point. Upon receipt of the Coastal Council's recommendation to terminate the program, the Governor will review the advisory recommendation and notify in writing, his/her decision whether or not the state should withdraw as a participant in the national Coastal Zone Management Program. Termination

becomes effective at the end of the current funding cycle to allow time to complete projects for which funding has been received.

If the Coastal Council does not support the recommendation, they will return the statement and petition to the initiating local unit of government, stating their reasons for nonsupport. The initiating LGU may request a meeting with the Coastal Council to try to resolve the differences or they may resubmit a petition which responds to the comments of the Coastal Council.

CHAPTER 3 MANAGEMENT POLICIES AND AUTHORITIES

The Coastal Zone Management Act (CZMA), Section 306 (d) (B), requires Minnesota to define what constitutes permissible land and water uses within the Minnesota coastal boundary which have a direct and significant impact on the coastal waters. Those land and water uses are defined in this chapter.

This chapter also identifies the methods by which Minnesota addresses land and water uses through measures such as state laws and regulations. In addition, the chapter lists the agencies (including local governments, area wide agencies, regional agencies, or interstate agencies) that have the authority for the management of the coastal area in accordance with the program. These authorities include the administration of land and water use regulation. General techniques include the establishment of criteria and standards for local implementation, such as the Shoreland Management Act administered through local zoning ordinances and the North Shore Management Plan (NSMP). Other techniques include direct state land and water use planning and regulation, such as the Protected Waters and Wetlands Program or other comprehensive legislation and networked programs. The program also contains a method of assuring that land use and water use regulations do not unreasonably restrict or exclude uses of regional benefit.

Minnesota's Lake Superior Coastal Program will be based on existing policies and authorities governing land and water use and resource protection. No new policies or authorities will be created by implementation of the state's Coastal Program. In addition, there will be no new applications of existing laws or new requirements for conformance with existing laws created by the implementation of the state's Coastal Program. The state legislature, state agencies, and local government units can adopt new laws or new rules according to existing processes and mechanisms.

The Minnesota's Lake Superior Coastal Program is based on the policies presented in this chapter. These policies are drawn from existing state laws. In the Minnesota coastal area, the state policies and authorities are the minimum standards by which activities on land or in water are managed. Local plans either countywide or at the municipality and township level can be developed that are more restrictive than the state standards.

For the purposes of the Minnesota Coastal Program, the state statutes and rules are the authorities for state and federal agency consistency.

Matrices have been developed identifying state and local programs. The matrices include non-enforceable programs which contribute toward effective management of Minnesota's coastal resources but, as nonregulatory enabling legislation, they do not constitute enforceable policies of the program and are not subject to federal consistency reviews. The matrix of respective programs follows each section.

CHAPTER THREE

The Minnesota Statutes referenced in this document as well as other state statutes can be found in offices of state and local agencies, most public libraries, local courthouses, and numerous other public offices including the State Office of Revisor of Statutes, Seventh Floor, State Office Building, St. Paul, MN, 55155. Minnesota Statutes can also be found on the World Wide Web at <http://www.leg.state.mn.us/leg/statutes.html>. Minnesota Rules can be found at <http://www.revisor.leg.state.mn.us/forms/getrulechap.html>.

This chapter is a general introduction to the relevant laws, but the applicable statutes, rules, and case law decisions must be consulted for an authoritative statement of the applicable requirements. The summary of the laws in this chapter is not binding on any person or agency. Readers should obtain specific legal advice from their own lawyers to the extent necessary. The summary is not intended to be an exhaustive statement of all relevant requirements of any of the reference laws or programs. Furthermore, the summary is not a complete listing of all the laws applicable to the coastal zone, only the laws that are identified as part of Minnesota's Coastal Program.

This chapter is broken down into sections by topic, starting with the land management programs in Minnesota, then describing other Minnesota programs which fulfill the national coastal management program requirements. Section A of this chapter, **Coastal Land Management**, describes the programs most directly applicable to the Coastal Program in Minnesota such as the Shoreland Management Act and the North Shore Management Plan. Section B describes **Coastal Water Management** programs, Section C describes **Air and Water Quality** programs, Section D describes **Fish and Wildlife Management**, Section E describes **Forest Management** Programs, Section F describes **Mineral Resources**, Section G describes **Energy** programs, and Section H describes **Environmental Review**.

Each program described within these sections contains the following elements:

- C *Legislative Policy*
- C *Activities Managed*
- C *Implementation*
- C *Standards and Criteria*
- C *Authorities*

A. COASTAL LAND MANAGEMENT

Since activities which occur on land can profoundly impact the quality of nearby surface waters, the State of Minnesota has recognized the importance of managing development and use of lands abutting surface waters within the coastal area. Improper land management can contribute nutrient, sediment, and chemical loading to surface waters reducing the water's ability to support a diversity of fish and wildlife species, limiting its use for water supply and recreational purposes, and decreasing its aesthetic and economic values.

Lake Superior offers a multitude of opportunities for recreational pursuit and its North Shore provides scenic vistas that are unequalled anywhere else in the state. Such amenities draw an estimated three million visitors to the region annually, placing considerable pressure on the region's natural resources. The bulk of this activity is concentrated along the Trunk Highway 61 corridor which follows the shore of Lake Superior and provides the only major land transportation route between Duluth and Thunder Bay, Ontario. Development within this corridor has been intense, with townhouse and condominium developments and conversions, commercial service-related uses, and traditional recreational developments representing the greatest pressures. Yet, the very nature of the North Shore that attracts these types of land uses also places it at great risk: a landscape generally characterized by rock outcroppings having steep slopes and limited soil cover. Each new development proposal on this fragile landscape poses unique challenges with respect to sewage treatment, water supply, and soil erosion potential.

Since the remainder of the Lake Superior watershed beyond the Trunk Highway 61 corridor is traversed by numerous rivers and streams which drain to the lake, this area also plays a role in the overall management of the coastal area. While development activities within this area are less intense than in the corridor, they nonetheless have the potential to impact resources within the coastal area. Therefore any efforts to identify and manage activities that could threaten the coastal area must include consideration of the Lake Superior watershed as a whole.

In order to guide development in a manner that protects these fragile resources, Minnesota has in place a combination of state policies and laws and local authorities that apply controls to the subdivision and use of land. Within the coastal area, these controls are specifically administered through the Shoreland Management Act, the North Shore Management Plan, County Planning and Zoning, Municipal and Township Planning and Zoning, the Floodplain Management Act, and the Wetland Conservation Act. Although each of these programs is guided by state standards or enabling laws, their administration and enforcement are accomplished at the local level, i.e., by the counties, municipalities, and townships.

1. Shoreland Development

Within the coastal area, control over the use of lands adjacent to lakes and rivers is primarily accomplished through the Shoreland Management Act and the North Shore Management Plan. These programs guide activities on shorelands for the primary purpose of minimizing the potential impacts of land development on the area's surface water and ground water features. While the provisions of the Shoreland Management Act apply to lakes and rivers in general, those of the North Shore Management Plan more specifically apply to land located along the North Shore of Lake Superior.

a. Shoreland Management Act

Legislative Policy: *It is in the interest of the public health, safety, and welfare to: (1) Provide guidance for the wise development of shorelands of public waters and thus preserve and enhance the quality of surface waters; (2) Preserve the economic and natural environmental values of shorelands; and (3) Provide for the wise use of water and related land resources of the state.*

Activities Managed: The Shoreland Management Act controls the following activities within the coastal area:

- C Residential lot sizes
- C Placement and height of structures
- C Placement and design of roads, driveways and parking areas
- C Shoreland alterations
- C Agricultural activities
- C Forest management activities
- C Extractive use/Mining of metallic minerals and peat
- C Commercial, industrial, public, and semi-public uses
- C Storm water management
- C Sanitary systems
- C Subdivisions and planned unit developments
- C Administrative review

Implementation: Under the act, the Commissioner of Natural Resources is mandated to promulgate minimum standards for the subdivision, use, and development of shorelands of "public waters" in both unincorporated areas of counties and within municipalities. Shorelands include lands within 300 feet of streams and rivers and within 1,000 feet of lakes and flowages. "Public waters" for the purposes of shoreland management means any waters as defined in Minn. Stat. §103G.005, Subdivision 15. No lake, pond, or flowage of less than ten acres in size in municipalities and 25 acres in size in unincorporated areas need be regulated for the purposes of these rules.

Standards for counties were developed in 1970, and separate standards were developed for municipalities in 1976. In 1989, these standards were amended and combined into a single document under Minn. Rules 6120.2500 - 6120.3900. The act requires counties and

municipalities to adopt and administer these state standards as part of their official land use controls. A local government may adopt and enforce controls that are more restrictive, and may, under special circumstances and with the Commissioner's approval, adopt shoreland management controls that are not in strict conformity with these minimum standards and criteria through alternative management standards. Local governments are required to adopt land use ordinances when they are notified by the Commissioner in writing according to Minn. Rules 6120.2800. Failure to adopt means the community has not submitted a draft or adopted ordinance to the Commissioner. The Shoreland Management Act obligates the Commissioner to adopt an ordinance for a community when the community refuses to do so.

Activities such as grading, filling, tree and shrub removal, onsite sewage treatment system placement, types of development allowed, and subdivisions and planned unit developments are guided by a system of building permits, conditional use permits, variances, and shoreland alteration permits. Permits for activities having minimal impact and meeting the performance standards of the local controls are generally issued by the local government's zoning staff, while the more complicated permits may be reviewed and approved by a zoning commission, board of adjustment, or the governing body. If a planned shoreland activity proposes excavation where the intended purpose is connection to a public water, local government approval to excavate may be given only after the Commissioner of Natural Resources has approved the proposed connection to public waters pursuant to Minn. Stat. §103G.245. Any aggrieved person can appeal a permit decision of a local governmental unit. Such appeals may be heard by the governing body of the local government or ultimately be decided by an appropriate state court of law.

Local governments are required to provide the Commissioner with copies of all notices of any public hearings to consider variances, amendments, or conditional uses under their shoreland controls at least 10 days before the hearings. Also, copies of approved amendments and subdivision plats, and notices of final decisions granting variances or conditional uses must be provided to the Commissioner within 10 days of final action. This notification process allows the DNR to provide advisory information to local governments on shoreland development proposals and enables the Department to monitor local decision making to assure consistency with the statewide minimum standards. The Department works with the local government to insure that it has fulfilled all statutory procedural requirements in the granting of plats, variances, and conditional use permits. The Department has no prior approval authority over the issuance of a variance or conditional use permit. However, the Department does have legal standing to appeal these decisions within 30 days to the district court.

Within the coastal area, compliant shoreland controls have been adopted by all of the coastal counties, cities, and townships with shoreland area that have been notified by the DNR.

Standards and Criteria:

Residential lot sizes: All newly created lots must meet the minimum size requirements that are prescribed in the statewide standards (Minn. Rules 6120.3300, Subparts 2a and 2b). Minimum lot sizes on lakes range from 15,000 square feet in area to 80,000 square feet, and from 75 feet in width to 200 feet. Minimum lot widths on rivers range from 75 feet to 300 feet. Generally, the lot size standards are more restrictive in areas not served by a municipal sewer system than in those

areas that are served by a municipal system. The reason for this is that in areas without a municipal sewer system, all residential structures must instead utilize an onsite sewage treatment system constructed in accordance with Minnesota Pollution Control Agency standards (Minn. Rules ch. 7080). These onsite systems may occupy several hundred square feet of land area. Therefore, lots sizes must be sufficient to accommodate these onsite systems along with the other customary improvements that might occur, such as residences, garages, and driveways.

Placement and height of structures: Structures must meet minimum setbacks from public waters that range from 50 feet to 200 feet. Here too, the greater structure setbacks are generally required on properties that utilize onsite sewage treatment, the reason being that onsite systems generally pose fewer maintenance problems where gravity feed from the residence to the system can be maintained. Shorelands nearly always slope downward toward a lake or stream, placement of a sewage system at a safe distance from the waterbody would then place the residence even further back from the waterbody.

Another key setback requirement that applies to structures is the setback from a bluff. A “bluff” is land that slopes toward a waterbody and rises at least 25 feet above the waterbody at an average slope of 30 percent or greater. Since development on bluffs can threaten soil stability and result in high structure visibility as viewed from a waterbody, a minimum setback of 30 feet from the top of a bluff applies to all buildings. Only stairways, lifts and landings are allowed to be constructed on a bluff.

The height of structures is also limited to a 25-foot maximum within residential districts in municipalities in order to minimize the visibility of these structures from a waterbody. This height limit would generally keep structures below the height of the surrounding trees thereby preserving the natural screening of the structures.

Placement and design of roads, driveways and parking areas: Roads, driveways and parking areas must meet structure setbacks from water bodies, unless such locations are infeasible or unreasonable, in which case they may be located within the structure setback limits if they are designed to minimize adverse impacts on the land and adjacent waters.

Shoreland Alterations: Shoreland alterations are controlled in order to minimize adverse impacts to the natural resources of shoreland areas that can result from alterations to vegetation and the topography. The complete removal of trees and shrubs from a contiguous patch, strip or block (termed “intensive vegetation clearing”) is prohibited within shorelands. Instead, thinning of such vegetation is allowed if necessary to provide a view of the waterbody from a residential structure. Any movement of more than 10 cubic yards of earth by excavating or filling must first be authorized by a grading and filling permit from the local governmental unit if such activity is in a shore impact zone (i.e., land extending from the shore to a distance equal to one-half the required structure setback), or is within a bluff impact zone or a steep slope area (land having a slope greater than 12 percent as measured over horizontal distances of 50 feet or greater).

Agricultural use and forest management standards: Agricultural practices must maintain permanent vegetation in shore and bluff impact zones and on steep slopes under a conservation

plan that is consistent with the field office technical guides of the local Soil and Water Conservation District or the USDA Natural Resources Conservation Service. Animal feedlots are not allowed within 300 feet of public waters or within bluff impact zones. Forest management, including timber harvesting, must meet a set of best management practices prescribed by Protecting Water Quality and Wetlands in Forest Management “Best Management Practices in Minnesota.”

Extractive uses standards/mining of metallic minerals and peat: Extractive uses (i.e., sand and gravel pits) must follow a site development and restoration plan that is approved by the local governmental unit. Any processing machinery associated with an extractive use operation must meet the minimum shoreline setbacks applicable to structures if such use abuts a waterbody. Mining of metallic minerals and peat may be allowed in shoreland areas, however, such mining is more specifically regulated under separate laws (Minn. Stat. §93.44 - 93.51) that mandate an in-depth analysis and environmental review of each mining proposal, and requires a state level permit to mine, and compliance with state prescribed site reclamation standards.

Standards for commercial, industrial, public, and semi-public uses: Any commercial, industrial or semi-public uses which do not have surface water-oriented needs must be located on lots or parcels without water frontage, or, if located on lots or parcels with water frontage, must either be setback double the shoreline setback or be substantially screened from view from the waterbody by vegetation or topography.

Storm water management: All shoreland developments must give consideration to the proper handling of storm water runoff. Natural features such as existing drainage ways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain storm water runoff before discharge to water bodies. Where such natural features do not exist, constructed facilities including diversions, settling basins, skimming devices, dikes, waterways, and ponds may be required. For all shoreland lots, impervious surface coverage is limited to a maximum of 25 percent.

Sanitary systems: All public and private supplies of water for domestic purposes must meet or exceed water quality standards of the Minnesota Department of Health and the Minnesota Pollution Control Agency. The location, construction, maintenance and abandonment of wells are controlled by the Water Well Construction Code of the Minnesota Department of Health (Minn. Rules 4725.0100 - 4725.7600). As mentioned previously, all onsite sewage treatment systems must meet design standards of the Minnesota Pollution Control Agency (Minn. Rules ch. 7080).

Subdivisions and planned unit developments: Under the shoreland standards, all local governmental units are required to perform a land suitability evaluation for each lot created through subdivision. The suitability analysis must consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near shore aquatic conditions unsuitable for water based recreation, important fish and wildlife habitats, presence of significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.

The guidance provided in this part of the standards is that each newly created lot must be suitable in its natural state for the intended use with minimal alteration (Minn. Rules 6120.3500, Subpart 1).

In addition, all subdivisions that create five or more parcels or lots that are less than two and one-half acres in size must be processed by local governmental units as plats in accordance with Minn. Stat. ch. 505. This processing procedure includes a formal review by the local governmental units which often involves a public hearing before the planning and zoning commission appointed by the local governing body.

Provisions of the shoreland standards allow local governmental units to permit planned unit developments (PUDs) as an alternative to the more conventional subdivision process for dividing and developing land. PUD standards seek to group or cluster dwelling units or sites within areas of suitable soils and slopes that have vegetative screening. These standards also designate the more sensitive resource areas within a development including wetlands, steep slopes, and the near shore areas along lakes and streams into open space preservation areas. Services such as sewer and water and water oriented recreational facilities are also centralized within suitable areas of the PUD. This type of land development is encouraged in areas having a mixture of land types that are both suitable and unsuitable for development.

Administrative review: The shoreland standards contain administrative procedures that seek to manage and eliminate nonconformities. This is a key component of the shoreland program since it directs local governmental units to require the upgrading or replacement of any existing nonconforming onsite sewage treatment system. Nonconforming sewage systems are often considered to be the most significant sources of contamination that threatens the surface and ground water resources within the coastal area. Such systems may be identified through either of two mechanisms: 1) through an evaluation of a property's existing system at the time a landowner applies for any type of local land use permit, or 2) through a general systematic review of existing records or a systematic onsite inspection program conducted by the local governmental unit. Any nonconforming systems that are identified are upgraded to meet the Minn. Rules ch. 7080 standards.

The shoreland standards require local governmental units to notify the Commissioner of Natural Resources of any proposed hearings to consider variances, conditional uses, subdivisions and PUDs, and proposed shoreland ordinance amendments. Following these hearings, they are required to provide the Commissioner with copies of approved amendments and subdivision plats, as well as final decisions granting variances or conditional uses. The purpose of these notification procedures is to afford the Commissioner an opportunity to review and comment to the local governmental unit on individual development proposals, and to monitor a unit's performance in administering the standards of the shoreland management program.

Authorities:

C Shoreland Management Act, Minn. Stat. §103F.201 - 103F.221

C Statewide Standards for "Management of Shoreland Areas," Minn. Rules 6120.2500 - 6120.3900

b. North Shore Management Plan

The North Shore of Lake Superior is a high amenity area with abundant natural resources and outstanding recreational opportunities. Lake Superior has long been recognized by federal, state and local officials, as well as private interests, as a unique body of water with distinctive shoreland characteristics. Lake Superior is no longer seen as just a products shipping waterway. As demonstrated by the recent increase in fishing, pleasure boating, marina proposals, condominium and townhouse developments and the expansion of land oriented recreational facilities, the North Shore has developed into an area of multiple uses.

The North Shore will continue to experience significant development pressure over the next several decades. Tourism will play an increasing role in the economy of the area. Townhouses and condominium development, resort/condominium conversions, traditional recreational developments and greater demand for land and especially water based recreational facilities all present economic development opportunities and resource management challenges. Several issues concerning Highway 61, the critical transportation link through the North Shore area, need to be addressed in concert with land and water resources policies.

Minnesota's Statewide Shoreland Management Program was conceived by the Legislature in 1969 as a cooperative effort of the Minnesota Department of Natural Resources (MDNR) and local units of government. In 1981, the Legislative Commission on Minnesota Resources funded a program evaluation which identified Lake Superior as a distinctive management unit, not adequately addressed by the existing statewide Shoreland Management Program.

Recommendation for this evaluation called for the initiation and support of a local government effort to develop a shoreland management plan for the North Shore of Lake Superior.

During the fall of 1986, the MDNR proposed new shoreland management regulations. These draft regulations were presented by MDNR staff at a public information meeting to concerned citizens and government officials on the North Shore. During that meeting, it became evident that there was a large amount of opposition to the proposed management regulations. The opposition mainly centered around the rules not being applicable to the North Shore, the difficulty and added administrative costs for enforcement of the rules, and the further erosion of local control.

From October 1986 to July 1987, a task force consisting of representatives from the North Shore, local units of government, MDNR and the Arrowhead Regional Development Commission (ARDC), discussed the possibility of jointly organizing the government units along the North Shore for the purpose of developing and implementing a management plan for the shoreland corridor of Lake Superior. The establishment of a Joint Powers Board was recommended. In July of 1987 the North Shore Management Board (NSMB), consisting of county, city and township governments, was established.

The purpose of the NSMB is to direct the development of a North Shore Management Plan with strategies for environmental protection and orderly growth of the North Shore of Lake Superior. The management responsibility is jointly shared by the counties, cities and townships exercising

land use control and jurisdiction over certain public and private lands within this corridor. Management responsibility accomplished through adoption of a comprehensive North Shore Management Plan which provides the foundation for strong local official controls and policy decisions within the boundaries of the member units of government.

A Memorandum of Understanding between the NSMB and the MDNR pertaining to the coordination, cooperation and responsibilities in developing the Shoreland Management Plan was developed in October of 1987. The goals of the Memorandum of Understanding were to define the responsibilities of the MDNR and NSMB in support of common objectives, interests and statutory requirements; to ensure timely identification and resolution of differences; and, to enhance communication and coordination.

Two sixteen member advisory committees, the Citizens Advisory Committee and the Technical Advisory Committee, were appointed by the NSMB in October of 1987 to provide assistance in defining issues to be addressed during the planning process. Services were purchased from ARDC to provide technical assistance during the planning process.

The North Shore Management Board adopted the plan on November 29, 1988 after an extensive process of local participation through which all major interests were fully represented.

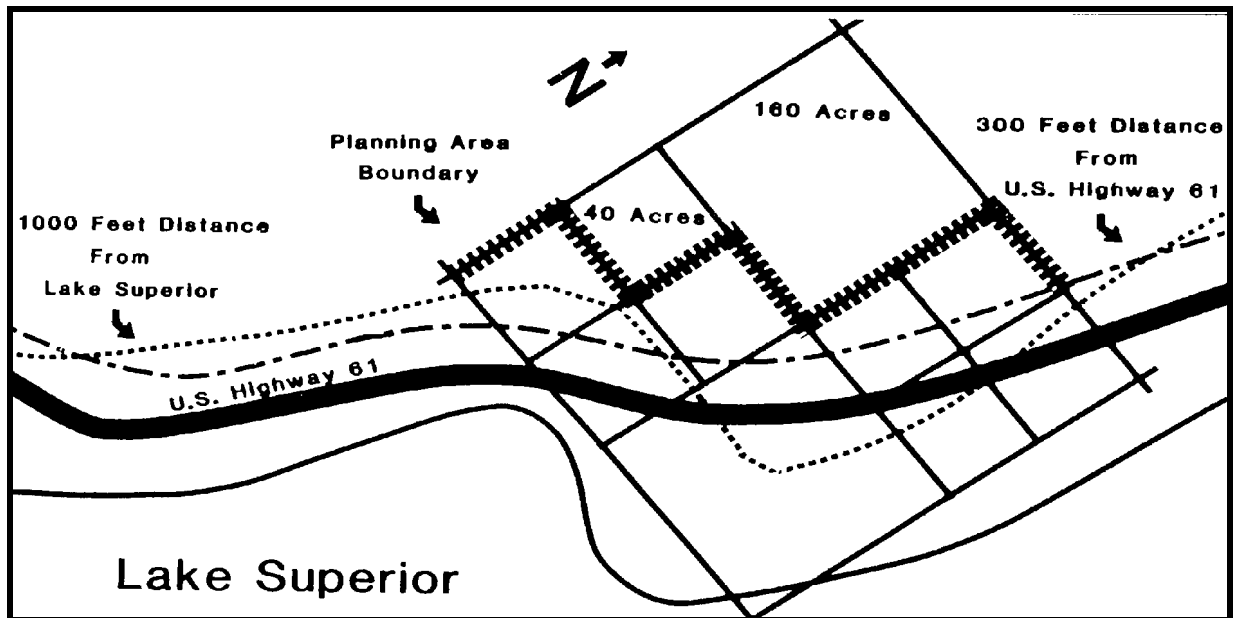
When the North Shore Management Board adopted the plan it requested the Department of Natural Resources to adopt the plan as a state rule through the non-controversial rule making process. As outlined in the Memorandum of Understanding between the Board and the DNR, it has, from the initiation of the process, been the intent of the DNR to adopt the Management Plan as a state rule to replace the statewide Shoreland Management Rules for the North Shore from and including Duluth Township in St. Louis County to the Canadian Border at the Pigeon River in Cook County.

The North Shore Management Plan (NSMP - Minn. Rules 6121.2800 subp. 1.a.) incorporates standards for shoreland management that are consistent with the statewide minimum standards contained in Minn. Rules 6120.2500 - 6120.3900, Statewide Standards for "Management of Shoreland Areas." The minimum standards and criteria for the subdivision, use, and development of the shoreland of Lake Superior, other than for the city of Duluth, are those specified in the North Shore Management Plan, A Shoreland Management Plan for Lake Superior's North Shore, December 1988. Local governments shall adopt shoreland management controls conforming to the North Shore Management Plan and comply with Minn. Rules 6120.3900, subpart 6, in administration of their shoreland management controls. (Minn. Rules 6120.2800, Shoreland Management Plan for Lake Superior's North Shore.)

The NSMP planning area is approximately 150 miles long, extending from and including Lakewood Township east of Duluth, to the Pigeon River on the USA/CANADA border. The inland boundary includes the 1,000 feet shoreland jurisdiction along Lake Superior as established in Minn. Stat. §103F.205, but also extends to include the Trunk Highway 61 corridor. As stated in the North Shore Management Plan, A Shoreland Management Plan for Lake Superior's North Shore, December 1988, "The NSMP area boundary is defined along the 40 acre subdivision lines

of the rectangular coordinate system established in the U.S. Public Land Survey, nearest to the landward side of a line 1,000 feet from the shoreline of Lake Superior or 300 feet landward from the center line of U.S. Highway 61, whichever is greater. However, the boundary between Lakewood Township and the western corporate limits of Two Harbors is the center line of the U.S. Highway 61 Expressway” (see Figure 10).

Figure 10. North Shore Management Plan Boundary.



Policies: The policies and goals of the NSMP are identified in the planning document titled: North Shore Management Plan. A Shoreland Management Plan for Lake Superior's North Shore, December 1988. Within the NSMP, there are 16 policy fundamentals identified which provide the foundation for the shoreland management standards and criteria of this plan. These policies are intended to serve as general guidelines of the NSMP and characterize more specific shoreland management policies and implementation strategies which are detailed in the NSMP. They provide a range of options and address anticipated development and shoreland management protection problems and issues. They provide the policy guidance to be followed by local units of government in revising their existing ordinances to be consistent with the plan, as well as assist in making specific land use decisions during the implementation (administration and enforcement) phases of the plan. They are intended to address a variety of possible situations, issues and problems and therefore are necessarily broad. They can, however, serve as a policy reference for local zoning officials, planning commissions, boards of adjustment, or county boards in deciding specific shoreland use questions. The policy fundamentals are self-evident and are intended to be used in conjunction with the specific management area policies which follow. The specific management area policies should be consulted and the policy fundamentals used as a further guide. Proposed developments that are inconsistent with the specific management area policies and/or the policy fundamentals should not be permitted.

The North Shore Management Plan Policy Fundamentals

- 1. Shoreland use should first satisfy the economic, social, and environmental needs of the North Shore region and its people.***
- 2. Shoreland areas particularly suited for specific and appropriate use should be designated and reserved for such use through shoreland use districts.***
- 3. Shoreland areas unsuitable for development because of public health or physical limitations should be designated and managed to encourage appropriate use.***
- 4. Where feasible, shoreland use should restore, enhance, or maintain the land and water environments.***
- 5. Shoreland use should not negatively affect the economic base of the area.***
- 6. Shoreland development should be encouraged in areas where public services and facilities essential to such development are adequate.***
- 7. Like or compatible shoreland use should be located in an orderly manner rather than developed at random.***
- 8. All shoreland use should be located, designed, constructed and operated in a manner that assures minimal impact on surrounding lands and waters and their use.***
- 9. All shoreland use should be aesthetically compatible with the natural environment.***
- 10. Scenic, aesthetic, geologic and ecological qualities of natural and developed shoreland should be recognized and where possible preserved as valuable resources.***
- 11. Fish and wildlife habitats should be protected, preserved, and where practical restored or enhanced so as to maintain their viability as habitats.***
- 12. Structures, sites or areas that are of significance in the history, architecture, archeology or culture of the North Shore should be identified and protected, enhanced or restored.***
- 13. All proposed governmental agency management decisions and plans within the NSMP area should be consistent with the policies, standards and criteria of this plan and be coordinated through the North Shore Management Board.***
- 14. All North Shore Management actions shall protect and enhance the public health and safety of residents and visitors.***
- 15. Existing public access areas should be protected and maintained. Additional public access opportunities should be pursued.***
- 16. Lake Superior's land and water resources should be locally managed and protected recognizing their statewide and national significance.***

Shoreland Management Areas: The shoreland use guide plan defines six types of management areas within the North Shore planning area to guide local plan implementation and shoreland decision making. Management areas are defined and goals and policies established for each.

When necessary, local ordinances and/or performance standards will be revised to be consistent with the management area policies. The goals and policies are intended to be used by local units of government in carrying out their specific planning and zoning responsibilities. The goals and policies provide a uniform decision-making framework for the North Shore. They address shorewide issues and treat the North Shore as a single resource unit. Local units of government have the responsibility of carrying out their specific planning and zoning responsibilities, including but not limited to the issuance of permits, conditional uses, variances and land use zoning district designations or zoning changes. To ensure that the goals and objectives of the plan are achieved, these local decisions should be made after consulting these policies and in compliance with them.

The management area policies together with the maps provide the framework for future protection and development of the shore. The management area concept is designed to separate incompatible uses, provide for shoreland development and protection consistent with the carrying capacity of the shoreland (provide development policies that will ensure stable, long term growth and protection of environmentally sensitive areas) and foster the “node” concept of development. The “node” concept seeks to centralize like or compatible uses. Sensitive environmental areas or areas that are of exception scenic or historical value should be protected from the more intense types of land uses.

Within each management area, specifically designed land use policies provide development and/or performance standards which protect existing uses and land values. Incompatible uses are strongly discouraged. Policies also ensure to the extent possible compatibility with adjacent management areas. For example, uses immediately adjacent to sensitive protected resource areas should be permitted only if such uses don’t adversely affect the protected resource area. Low impact uses could be allowed.

The management area policies and maps are a general guide for local shoreland zoning decision making, including zoning district delineation, permits, conditional uses and prohibited uses. In most cases the management area policies are founded on common sense principles and are intended to bracket the range of options available to local decision makers in each management area and provide a degree of consistency along the entire corridor. The ultimate decision for shoreland use is left to the responsible local unit of government, but the plan provides the common policies and parameters for those local decisions. The criteria used to determine the management areas were existing development patterns, existing zoning, shoreland resource characteristics, location of scenic and historical areas, and desired location for new uses. The management areas are broadly mapped and do not replace existing zoning maps of the counties, cities or townships. They are intended to reflect existing development patterns and are to be used to further the “node” concept of development and resource protection.

Industrial areas were limited to existing industrialized areas, or where existing industrial parks are located. Only water dependent industrial uses are allowed in shoreland areas (and only in

industrial management areas). A water dependent use is one that must be located near the lake for its successful existence and/or operation, that is, water is required either for the transportation or use of finished product or raw materials or water is needed for the industrial process, or water is otherwise needed to support or sustain the economic viability of the industry. If an industry does not require a waterfront location to exist, then it is not a water dependent use.

The planning area is divided into six management areas which are identified in the plan: Protected Resource Areas, Residential Areas, Commercial/Rural Areas, Commercial/Urban Areas, Resort/Commercial Areas, and Industrial Areas. For each of these management areas, the NSMP elaborates management goals and policies. The plan contains a set of maps showing the boundaries for these management areas.

Protected Resource Areas (PR) - Protected resource areas are outstanding or unique natural or scenic areas, existing relatively free from human influence, significant archeological or historic areas, state parks and other public lands managed for resource conservation or recreation purposes.

Residential Areas (R) - Areas presently zoned or developed primarily for residential uses, capable of supporting low to medium density residential uses and compatible uses such as small resorts. Areas where residentially planned unit developments (PUDs) could be allowed under special conditions to ensure compatibility with surrounding land use.

Commercial/Rural Areas (CR) - Unincorporated areas presently zoned or developed for commercial use. Existing commercial nodes with low to medium intensity commercial use such as grocery stores, shops, gas stations or other traditional retail, wholesale or service oriented activities. Areas developed or capable of supporting commercial PUDs. Major highway corridor intersections where commercial development should locate to provide needed services and facilities.

Commercial/Urban Areas (CU) - Sewered areas which are zoned for or developed for commercial use, and areas within incorporated areas which are zoned for or developed for commercial use.

Industrial Areas (I) - Areas where industrial activities have already located along the shore such as in Two Harbors, Silver Bay and Taconite Harbor. Areas where water dependent, light industrial use can be found to be compatible with the shoreland environment.

Activities Managed:

- C Zoning
- C Sanitary systems
- C Shoreland alterations
- C Erosion hazard areas
- C Planned unit developments

Implementation: The NSMP was developed by the North Shore Management Board (NSMB), a joint power's board created under the authority of a joint powers agreement (Minn. Stat. §471.59). The NSMB comprises the counties of Cook, Lake, and St. Louis, the cities of Beaver

Bay, Grand Marais, Silver Bay, and Two Harbors, and the townships of Duluth and Lakewood. Under the joint powers agreement, the NSMB is empowered to:

- C Contract for services, in the manner prescribed by law, that are required and necessary to prepare a comprehensive plan for management of the North Shore of Lake Superior within the boundaries of the members units of government from the western boundary of Lakewood Township to the Pigeon River in Cook County.
- C Accept and disburse funds. To apply for state and federal funds necessary to prepare and implement its plan.
- C Develop and recommend a schedule for plan implementation by member units of government and to provide assistance in those instances where common administration of plan elements is appropriate and approved by member units of government. This could include general technical assistance, certain zoning oversight responsibilities, issues investigation, operation of the Citizens and Technical Advisory Committees, etc.
- C Initiate and maintain a liaison with governmental agencies necessary to complete a comprehensive plan for the North Shore of Lake Superior within the members government jurisdictions.
- C Appoint advisory committees and conduct such public meetings and hearings as are necessary to provide full public review and participation of the management plan for the North Shore of Lake Superior.
- C Arrange for the independent audit of its expenditures and disbursements, consistent with state law.

Exercise of these powers and duties will require a majority of the North Shore Management Board voting members.

To assure consistency of governmental decisions with the Plan, the NSMB has retained the authority to review certain zoning decisions of the members local governmental units. The types of decisions subject to the board's review include ordinance amendments, variances, conditional uses, subdivision plats, and planned unit developments. The DNR, through the Area Hydrologist, provides ongoing technical assistance to the NSMB units of government in the administration and enforcement of their ordinances. In addition, all major federal and state agency permit decisions and plan approvals within the planning area are first reviewed by the NSMB for the purposes of evaluating plan consistency. Formal appeals of decisions made by local governments within the NSMP planning area are heard by the governing body of the local government or by a court of law of the state. The NSMP is the statewide standards and criteria for both municipalities and counties (local governments). As indicated on Part V, page 3-5, local governments failure to adopt an ordinance obligates the Commissioner of the DNR to adopt for them.

Standards and Criteria: The North Shore Management Plan contains specific standards to guide the management of the Lake Superior shoreland area. Lake Superior offers challenges for land use managers that go far beyond those normally associated with inland lakes and streams. Natural forces that play upon Lake Superior's shoreline pose formidable problems for development. Hence, it is necessary to tailor development standards specifically for the lake, the purpose of the NSMP. The NSMP contains specific standards for zoning, sanitary systems, shoreline alterations, erosion hazard areas, and planned unit developments. Additional components of the plan describe administrative review procedures that apply within the NSMP planning area. As mentioned above, the details of these standards can be found in the NSMP.

Authorities:

- C **North Shore Management Plan, Minn. Rules 6120.2800**
- C **Joint Exercise of Powers, Minn. Stat. §471.59**
- C **Shoreland Development Model Standards and Criteria, Minn. Stat. §103F.211**
- C **Planning, Development, Zoning (County), Minn. Stat. ch. 394**
- C **Municipal Planning and Development, Minn. Stat. ch. 462**

2. Floodplain Management

Minnesota has more than 14,000 lakes and 95,000 miles of streams and rivers. These lakes and watercourses are confined within their banks throughout most years, however, periodically these water bodies reclaim the low-lying surrounding lands, resulting in flooding. This flooding is normally the result of heavy summer thunderstorms, or a combination of snowmelt and spring rains.

The state Floodplain Management Act enacted in 1969 (Minn. Stat. §103F.101 - 103F.165), stresses the need for a comprehensive approach for solving flood problems by emphasizing nonstructural measures, such as floodplain zoning regulations, flood insurance, flood proofing, and flood warning and response planning.

Flood considerations along the Lake Superior shoreline require special attention. Here, flooding is influenced by two factors: lake level fluctuation and storm induced wave runup. The most sensitive flood hazard area is along Minnesota Point (Park Point), the beach/bar interface between Lake Superior and the St. Louis River. During fall storm events, wind generated waves, primarily from the northeast can result in property and infrastructure damage along the point. The city of Duluth is working with the Park Point Community Club and state and federal agencies to develop both short term and long term strategies to protect property from damages due to wave action. Included in this strategy is a proposal to coordinate with the U.S. Army Corps of Engineers to place clean dredge material along the beach for nourishment. Other proposals that are being implemented include revegetation of beach dunes, improved signage to minimize impacts from recreational users, and cost share assistance to land owners from federal, state, and local sources for shore protection structures.

In addition, the National Flood Insurance Program in cooperation with the U.S. Fish and Wildlife Service has identified a coastal barrier resources system for the undeveloped area along the end of Minnesota Point. This area is particularly susceptible to wave damage and has significant value for fish and wildlife habitat. As a result of this designation, flood insurance is not available for structural development in this area. The designation has been incorporated into the city of Duluth's floodplain management standards.

Legislative Policy: *It is the policy of this state to reduce flood damages through floodplain management, stressing nonstructural measures such as floodplain zoning and flood proofing, and flood warning practices. It is the policy of this state: (1) not to prohibit but to guide development of the flood plains 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. (Minn. Stat. §103F.105)*

Activities Managed:

- C Delineation of floodplains and floodways
- C Regulation and use of land in the floodplain
- C Structure alterations and hazardous uses
- C Flood protection measures
- C Administrative review

Implementation: By law, flood prone communities in Minnesota 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 community residents may insure themselves from future losses through the purchase of flood insurance. A state cost-sharing grant program to help local government units plan for and implement flood hazard mitigation measures were enacted in 1987.

Pursuant to the Floodplain Management Act, DNR developed statewide minimum standards for the management of floodplain areas (Minn. Rules 6120.5000 - 6120.6200). Where sufficient technical information is available for the delineation of floodplains and floodways on watercourses within a local governmental unit and the governmental unit is advised by the Commissioner of Natural Resources of the availability of this information, the local government must prepare or amend its floodplain management ordinances in conformance with these standards within six months after receiving the Commissioner's notice (Minn. Stat. §103F.121, Subdivision. 2). If a local governmental unit fails to adopt a floodplain management ordinance as prescribed above, then the Commissioner shall adopt an ordinance meeting the state minimum standards for that governmental unit. (Minn. Stat. §103F.121, Subdivision. 3). Permit decisions made pursuant to a local government's floodplain management ordinance may be appealed either to the local government's Board of Adjustment or, if necessary, to a state court of law.

No flood hazard areas have been identified in Cook and Lake Counties, therefore, even though they participate in the NFIP, these counties and the communities within each county are not required to develop flood plain controls pursuant to Minn. Stat. ch. 103F. The local government units with identified areas susceptible to flooding and their associated controls include:

Carlton County

- C Carlton County, Floodplain Management Ordinance, #15.
- C City of Cloquet, Ordinance No. 185A.

St. Louis County

- C St. Louis County, Floodplain Management Ordinance #43.
- C City of Hermantown, Ordinance #92-08.
- C City of Duluth, Water Resource Management Ordinance, Chapter 51.
- C City of Proctor, Municipal Floodplain Ordinance.
- C Rice Lake Township, Floodplain Management Ordinance #20.
- C Midway Township, Midway Zoning Ordinance #76-6.

- C Lakewood Township, Lakewood Township Ordinance #93-7-1.
- C Canosia Township, Floodplain Ordinance #92-1.
- C Gnesen Township, Town of Gnesen General Floodplain Ordinance.

Standards and Criteria: Minnesota Rules define the technical standards and requirements for determining floodplain delineations and mandate that the limits of the floodway shall be designated so that permissible encroachments on the floodplain will not cause an increase in the stage of the regional flood of more than 0.5 feet in any reach or for the cumulative effect of several reaches of a watercourse.

Minnesota's floodplain management rules prohibit the storage of any potentially hazardous materials within the floodway, and require proper elevation, floodproofing, or containment of these materials within flood fringe areas. Any proposed construction of solid or liquid waste treatment and disposal facilities in floodplain areas requires preparation of emergency plans and procedures for action to be taken in the event of flooding.

State standards place limits on improvements to any existing nonconforming uses located within the floodplain. Additions and modifications to nonconforming uses must be protected to the regional flood elevation and must not increase the flood damage potential or increase the degree of obstruction to flood flows. Local governmental units may provide for the gradual elimination of all nonconforming uses located within the floodway. In administering their floodplain ordinances, local governmental units are required to submit to the Commissioner of Natural Resources notices of all hearings to consider any variance or special use permit under the provisions of their ordinances.

Authorities:

- C **Floodplain Management Act, Minn. Stat. ch. 103F**
- C **Floodplain Management, Minn. Rules 6120.5000 - 6120.6200**

3. Coastal Shoreline Erosion

The North Shore Management Plan (Minn. Rules 6120.2800, subp. 1a) establishes development standards for “Erosion Hazard Areas”(EHA). EHAs are defined as those areas of Lake Superior’s North Shore where the long term average annual rate of recession is one foot or greater per year.

The Erosion Hazard Subcommittee of the North Shore Management Planning Process used the following process to identify EHAs. First, a detailed soil map from the 1978 Coastal Zone Management study was transferred onto a Minnesota Department of Transportation strip map of the North Shore. Then, 199 surveys from a 1986 shoreline erosion survey were transferred to the map. Surveys indicating high erosion rates were tagged for further analysis. Fifty sites were revisited and measurements were made to see how far the erosion had progressed since 1986. From this information, it was determined that many of the erosion problems reported in 1986 were attributed to the extremely high water level and severe storms of the period. Losses of cobble beaches, collapse of sea caves and the erosion of rocky shorelines were identified as outside EHAs. However, areas of high clay banks continued to show signs of failure despite the two intervening years of relatively low, calm water. These are the areas identified as Erosion Hazard Areas on the maps in the NSMP.

The more critical areas of clay banks were examined from the water. The area from French River to Split Rock River was covered by boat and pictures were taken of potential EHAs. Field notes, photos, and the 1986 and 1988 videotapes of the shoreline were then used to set the approximate boundaries.

The EHAs accurately represent the more severe problems of erosion on the shore. Further studies such as the Natural Resources Research Institute (NRRI) study on recession rates and detailed mapping by local zoning officials have improved the data used to identify and manage erodible areas along the shore.

Policy: The goal of these special management standards is, “*To Protect public and private property and protect public interest and safety by guiding development in areas prone to excessive shoreline erosion including promoting awareness and understanding of shoreline erosion, defining and identifying Erosion Hazard Areas, and designating special provisions for Erosion Hazard Areas*” (North Shore Management Plan).

Activities Managed:

- C Vegetation removal including proposed landscaping
- C Proposed sewage treatment systems
- C Structure and driveway location
- C Bluff toe protection
- C Slope alterations

Implementation: Structural measures to control erosion along Lake Superior are regulated by the Minnesota Department of Natural Resources, pursuant to Minn. Stat. ch. 103G, and Minn. Rules ch. 6115. Any activity to control erosion that occurs at or below the Ordinary High Water

Level (OHWL) requires a permit. (On Lake Superior, the OHWL is the wave run up line or vegetation line). See Protected Waters Program in Part V, Section B, 1. The North Shore Management Plan, which stands as the state Shoreland Rule (pursuant to the State of Minnesota Shoreland Act, Minn. Stat. ch. 103F) establishes development standards for EHAs.

Technical Assistance: Technical assistance is provided primarily through the local Soil and Water Conservation Districts. At the regional level, technical assistance is provided through the MPCA, DNR, but primarily comes from the Board of Water and Soil Resources, North Shore engineer stationed in Duluth. Other regional providers of technical assistance include the Joint Powers Board #3 (Duluth) and the Natural Resources Conservation Service (NRCS) district conservationists, also in Duluth.

There are many brochures, guidebooks, and handouts that provide information to land owners on how to protect and develop their property in order to minimize the effects of erosion. Information is available from the BWSR, DNR, and local SWCDs. In addition, Minnesota developed a set of Shoreland Best Management Practices (BMP). This series of eighteen fact sheets contains technical assistance to help shoreland property owners protect their investment. Number 7 in the series, "Stabilizing your Shoreland to Prevent Erosion", is specifically aimed at reducing erosion hazards along the shoreline.

Financial Assistance Programs: It is estimated that the cost for installation of natural rock rip rap along the Lake Superior shoreline is approximately \$100-175 or more per foot of protection. Because the cost is quite high, financial assistance is available to property owners to reduce and eliminate the hazard of living in and near EHAs.

- C **SWCD Cost-Share Funds** - Local SWCDs receive annual allotments of funds that are used to fund erosion control and water quality improvement projects. Cost-share rates vary from 50 to 75 percent and are available on a year-round basis.
- C **Special Project Funds** - The State of Minnesota makes additional funds available for erosion control and water quality improvement through the Board of Water & Soil Resources. These funds are applied for on a competitive basis by Soil and Water Conservation Districts across Minnesota. Cost share rates vary from 50 to 75 percent. Application time periods are December and April.
- C **State Revolving Loan Fund** - Low interest loans are available to individuals for qualifying projects. Eligible projects may include erosion control projects and sewage treatment systems. Included in this is the Lake Superior Shoreline Protection Project low interest loans.

Standards and Criteria: The policies, authorities, and design standards of the NSMP and local government ordinances control and mitigate the effects of erosion caused by Lake Superior's storm-generated waves. The North Shore Management Plan contains maps which serve as guidelines for designation of Erosion Hazard Areas (EHA).

The standards and criteria of the NSMP require at the time of permitting and/or sale of a property within an erosion hazard area (EHA) that a covenant be recorded against the property stating that it is in an EHA. Prior to all new construction in an EHA, a site development plan shall be required and approved by the local land use authority. Structures and sewage treatment systems shall be set back the annual erosion rate times 50 plus 25 feet from the top edge of the eroding bluff. In the absence of an established long term erosion rate, the setback shall be 125 feet. The setback can be modified by variance if the landowner provides technical data proving a different recession rate or that the erosion hazard, although correctly estimated, can be mitigated by structural protection.

Authorities:

- C Shoreland Management Act, Minn. Stat. ch. 103F**
- C Protected Waters Program, Minnesota Rules ch. 6115, Minn. Stat. ch. 103G**
- C North Shore Management Plan, Minn. Rules 6120.2800**

4. County, Municipal and Township Planning and Development

Legislation in Minnesota empowers local governmental units (counties, townships, and municipalities) with the authority to plan for and manage the use of lands located within their boundaries. In contrast to the Shoreland Management Act and the NSMB Plan which manage the use of lands within specifically defined areas that are associated with surface water features such as lakes, streams and the North Shore of Lake Superior, local planning and development authority enables local governments to manage land use activities throughout their entire jurisdiction.

In granting local governments this authority, Minnesota has recognized that certain activities, regardless of their location, can have impacts that are of more than local significance. Local controls provide a means for managing such activities, thereby minimizing the impacts associated with them.

The planning and zoning authority of local government units in Minnesota are the cornerstones by which a great deal of state policies and programs are implemented. Shoreland, floodplain, wetlands, hazard areas, and other management programs are administered and enforced by the township, municipality, city, or county, whichever is the responsible local government unit with planning and zoning authority.

***Legislative Policy:** The legislature finds that municipalities are faced with mounting problems in providing means of guiding future development of land so as to insure a safer, more pleasant and more economical environment for residential, commercial, industrial and public activities and to promote the public health, safety, morals and general welfare. Municipalities can prepare for anticipated changes and by such preparations bring about significant savings in both private and public expenditures. Municipal planning, by providing public guides to future municipal action, enables other public and private agencies to plan their activities in harmony with the municipality's plans. Municipal planning will assist in developing lands more wisely to serve citizens more effectively, will make the provision of public services less costly, and will achieve a more secure tax base. It is the purpose of Sections 462.351 to 462.364 to provide municipalities, in a single body of law, with the necessary powers and a uniform procedure for adequately conducting and implementing municipal planning (Minn. Stat. §462.351, Municipal, Planning and Development; Statement of Policy).*

For the purpose of promoting the health, safety, morals, and general welfare of the community any county in the state having less than 300,000 population according to the 1950 federal census is authorized to carry on county planning and zoning activities. (Minn. Stat. §394.21, Planning, Development, Zoning; Authority to Carry on County Planning and Zoning Activities)

Activities Managed:

- C Zoning activities
- C Subdivision plats
- C Nonconformities
- C Administrative procedures

Implementation and Organization: Local governmental units develop comprehensive land use plans and local zoning ordinances. The local ordinances manage subdivisions, and control development so that it is done in an orderly manner consistent with established local customs/traditions and state and regional policies. In general, it is the policy and intent of local government to promote the health, safety, and welfare of citizens by dividing the local governmental unit into zones and regulating the uses of land and the placement of all structures with a view to encouraging the most appropriate use of the land, and to recognize and preserve the economic and natural environmental values of all lands within the governmental unit.

Official controls adopted by the local government apply to the use of land for both private and public purposes, except that no land owned or leased by the federal or state government shall be subject to official controls of the local government.

Counties, cities, and townships may adopt land use controls that are more restrictive than minimum state standards and criteria. State standards that are implemented through local controls or ordinances apply to state and federal agencies and are only enforceable to the extent of the state standard.

Local governmental units apply their land use controls throughout their jurisdictions. This has the effect of establishing procedures for the review of building placement, land division, and evaluating the appropriateness of proposed uses in locations not covered by the aforementioned Shoreland Management Act, North Shore Management Plan, or Floodplain Management Act. Appeals of local decisions are made to the governing body or to a court of law of the state. Local land use plans and controls include:

Carlton County

- Ⓒ Carlton County Shoreland Management Ordinance #19.
- Ⓒ Carlton County Subdivision Ordinance #8.
- Ⓒ Carlton County Zoning Ordinance #6.

Cook County

- Ⓒ Cook County Zoning Ordinance #37.
- Ⓒ City of Grand Marais Zoning Ordinance, Sec. 19.

Lake County

- Ⓒ Lake County Comprehensive Plan and Land Use Ordinance #12.
- Ⓒ Lake County Sewage Treatment Ordinance #11.
- Ⓒ Lake County Solid Waste Ordinance #4.
- Ⓒ Subdivision Regulations of Lake County, Ordinance #9.
- Ⓒ City of Two Harbors, Zoning Ordinance #317.
- Ⓒ Beaver Bay Zoning Ordinance.
- Ⓒ City of Silver Bay, Ordinance No. 73 “N.”

St. Louis County

- C Subdivision Regulations of St. Louis County, Minnesota, Ordinance #33.
- C Zoning Ordinance of St. Louis County, Minnesota, Ordinance #46.
- C St. Louis, Cloquet, Whiteface Corridor Management Plan.
- C Duluth Zoning Regulations, Chapter 50.
- C Duluth Water Resources Management Ordinance, Chapter 51.
- C Zoning Ordinance for the City of Proctor.
- C Zoning Ordinance for the City of Hermantown.
- C Town of Lakewood Zoning Ordinance #15.
- C Zoning Ordinance for the Town of Duluth.
- C Zoning Ordinance for Canosia Township, Ordinance #98-1.
- C Canosia Township Comprehensive Plan, February 1996.

Standards and Criteria: Within each local governmental unit, official controls may be adopted by ordinance to establish districts within which the use of land may be regulated. The specific standards that are developed will vary for each local governmental unit, however, the standards typically control the placement, height, and size of structures, the specific uses for which structures might be utilized, minimum lot sizes, structure setbacks from roads and highways, controls relating to appearance including signs, lighting, and hours of operation, off street loading and parking facilities, and special standards near airports.

Local governmental units may, under the authorities granted by Minn. Stat. ch. 394 and 462, adopt standards to guide the subdivision of land, however, standardized procedures for the preparation and review of subdivision plats is specifically contained in Minn. Stat. ch. 505.

The planning and development authority given to local governmental units under Minn. Stat. ch. 394 and 462 allow these units to manage nonconformities. Local planning and zoning legislation provides local governmental units with the authority to establish a planning commission and a board of adjustment for the purposes of developing the local unit's land use controls and reviewing and approving development proposals that are regulated by those controls.

Authorities:

- C **Planning, Development, Zoning, Minn. Stat. ch. 394**
- C **Municipal Planning and Development, Minn. Stat. ch. 462**

Table 10.

Enforceable Policies/Programs Subject to Federal Consistency
Section A. Coastal Land Management Programs

Agency Name	Program	Authority	Funding	Program Delivery
<p>DNR Area Hydrologist or Shoreland Management Program: (612) 296-4800</p>	<p>Shoreland Management Program: establishes standards for development of shoreland areas (land within 300 feet of a stream or 1,000 feet of a lake or wetland, or within the floodplain). Standards address subdivision of land, structure setbacks, vegetative management, land alterations, agricultural activities, and sewage treatment</p>	<p>Minn. Stat. §103F.201 to 103F.221 Minn. Rules 6120.2500 to 6120.3900</p>	<p>General Fund</p>	<p>State sets standards that are incorporated into local government zoning ordinances. DNR reviews and comments on certain zoning actions. DNR provides technical support and grants to local governments to help implement programs.</p>
<p>DNR Division of Waters Floodplain Management Program: (612) 296-4800</p>	<p>Flood Plain Management: provides standards for identifying floodplains, floodways and flood fringe areas; describes flood protection measures for new construction in the flood fringe.</p>	<p>Minn. Stat. §103F.101 to 103F.165 Minn. Rules 6120.5000 to 6120.6200</p>	<p>FEMA-CAP funds and state General Fund</p>	<p>State has set standards that are incorporated into local government zoning ordinances. DNR reviews and comments on certain zoning actions, provides technical support to local governments, and reviews and conducts flood studies.</p>
<p>North Shore Management Board (NSMB)</p>	<p>North Shore Management Plan: establishes standards within the North Shore Management Plan boundary (land adjacent to Lake Superior). NSMP standards are used in place of the Shoreland Management Program standards.</p>	<p>Minn. Stat. §103F.201 to 103F.221 Minn. Rules 6120.2500 to 6120.3900 Minn. Rules 6120.2800</p>	<p>General Fund</p>	<p>NSMB has set NSMP standards that are incorporated into local government land use ordinances. ARDC provides staff assistance to NSMB. Citizens Advisory Committee (CAC) and Technical Advisory Committee (TAC) assist NSMB. DNR provides technical and financial assistance, reviews and approves annual work plan.</p>

Table 11. **Other Non-Regulatory Programs Not Subject to Federal Consistency Reviews**
 Section A. Coastal Land Management Programs

Agency Name	Program	Authority	Funding	Program Delivery
BWSR Grants Coordinator: (612) 297-7361	Local Water Resources Protection and Management Program: provides grants to counties to assist in administration and implementation of approved and adopted local water plans. Wetlands inventory, monitoring and data collections are eligible uses of these grant funds.	Minn. Stat. §103B.3369; Minn. Rules ch. 9400	State funds are provided as base grants to counties, combined with special local levy for water plan implementation to provide \$37,500 in revenue for each participating county.	Administered at the state level by BWSR; administered locally by counties and water planning task forces. Counties must have a state approved and locally adopted plan.
BWSR Water Planning Coordinator: (612) 297-5617	Local Water Resources Protection and Management Program: provides noncompetitive base grants and competitive challenge grants to counties for administration and implementation of approved and locally adopted local water plans. Lakes restoration and enhancement projects are an eligible action.	Minn. Stat. §103B.3369, Minn. Rules ch. 8405	\$2.5 million annually. Funding is provided annually as base grants to counties. Base grant amounts are variable but when combined with the special levy for water plan implementation results in \$37,500 per county. Challenge grants are available when funding permits.	Administered at the state level by BWSR; administered locally by counties and water planning task forces. Counties prepare work plans and budgets during October through December of each year. Counties must have a state approved and locally adopted plan to receive funding.
BWSR Grants Coordinator: (612) 297-7361	Streambank, Lakeshore, and Roadside (SLR) Program: provides financial assistance to local units of government and private landowners to solve erosion and sediment control problems on streams, lakes and roadsides. Priority is given to projects eligible for federal matching funds.	Minn. Stat. §103C.501, Minn. Rules ch. 8400	\$150,000 annually; cost-share rates cannot exceed 50%, or 50% of the local share if federally funded.	Administered by the BWSR at the state level; administered locally through soil and water conservation districts. Applications are taken once each year; application deadline is April 1.

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Agency Name	Program	Authority	Funding	Program Delivery
<p>DNR Shoreland Hydrologist: (218) 828-2605</p>	<p>Lake Advocate Program: train private citizens living on lakes as "lake advocates" regarding shoreland regulations, state permitting processes and surface and ground water issues. Answer questions from other lake residents or refer to governmental units.</p>	<p>Agency authorities</p>	<p>Federal grant to PCA and local governments.</p>	<p>A partnership among the DNR, PCA, local units of government and coalition of Lake Associations. They provide training and materials to advocates and coordinate this network.</p>
<p>DNR Local Area Hydrologist or Floodplain Management Program: (612) 296-4800</p>	<p>Flood Damage Reduction Program: provides matching grants to local governments to implement flood damage reduction projects.</p>	<p>Minn. Stat. §103F.161</p>	<p>State General Fund and Bonding</p>	<p>Local Area Hydrologists provide assistance. If funds are available, DNR can make grants up to \$75,000. For larger projects, the legislature acts on bonding requests.</p>

B. COASTAL WATER MANAGEMENT

Minnesota's wealth of high quality surface and ground water offer immense benefits to the state's overall economy. The state boasts some 25,000 miles of fishable streams, 15,000 lakes (more than 10 acres in size), 10 million acres of wetlands, and vast quantities of ground water that support a multitude of uses including shipping, recreation, industry, domestic water supply, irrigation, and hydropower generation. As abundant as these waters may seem, they are not evenly distributed throughout the state, therefore competition for available supplies can impact both the quantities and qualities of available water.

Lake Superior and the adjacent coastal waters in the watershed have long been recognized for their value as a source for transportation, economic opportunities, and recreational pursuits. Lake Superior is the largest fresh water lake in the world, and its tributaries are coldwater streams and creeks that support native and non-native populations of trout. The lake and tributaries are a focus for hunting, fishing, camping, hiking, boating, skiing and other recreational pursuits. The corridor areas around the lake and tributary streams are also valued for commercial and residential development as well as some industrial uses. Since there is a public need to utilize the coastal waters of Lake Superior in many different ways, there are often conflicts between competing uses. To manage Minnesota's water resources, the state has promulgated a body of laws that guide the alteration and use of water in order to assure its continued high quality and availability for future users.

The primary state agencies involved in the protection and regulation of Minnesota's water and wetland resources are the Department of Natural Resources (DNR), the Board of Water and Soil Resources (BWSR) and the Minnesota Pollution Control Agency (MPCA). The U.S. Army Corps of Engineers (USCOE) is the primary federal agency involved with water and wetland regulation. The USCOE regulates various activities in virtually all of Minnesota's waters (lakes, rivers and all wetland types). All four of these agencies are working to simplify and coordinate the regulatory process.

The DNR administers the Protected Waters Permits Program for activities at or below the ordinary high water level which alter the course, current or cross-section of Minnesota's public waters and public waters wetlands (Protected Waters). A DNR Water Appropriation Permit is required for taking in excess of 10,000 gallons of water per day and/or one million gallons per year.

The Board of Water and Soil Resources (BWSR) and Soil and Water Conservation Districts oversee local governmental unit (LGU) regulation of wetland areas (Types 1 through 8 with certain exemptions) not under the jurisdiction of the DNR. There are no minimum basin size limit and the jurisdictional boundaries of regulated wetland areas generally corresponds to the boundary that would be used by the U.S. Army Corps of Engineers (1987 Federal Delineation Manual). Applicants must replace altered/degraded wetlands under a locally approved mitigation plan.

The MPCA issues certification for activities which will result in the discharge of dredge or fill materials into waters of the state. The MPCA's rules are applicable to both state and federal permits. When applicable, regulatory agencies may send a copy of application materials to the MPCA.

At the local level, Soil and Water Conservation Districts (SWCD) assist landowners in the implementation of plans to conserve and protect soil and water resources. Many counties and municipalities have implemented shoreland, floodplain and wetland ordinances, in addition to their own building and zoning codes, to control development and protect the environment.

Depending on the size and the type of wetland or water basin affected by a proposed action, a permit applicant could be faced with working with a number of possible combinations of regulatory agencies. To address this issue, the DNR and the Board of Water and Soil Resources, in cooperation with the U.S. Army Corps of Engineers, have developed the “Combined Joint Notification” form. This form allows a potential applicant to notify all regulatory agencies of a project. The applicant is responsible for sending a copy of the form, with required attachments including plans and drawings to each agency listed on the back of the form. The form enables regulatory agencies to determine jurisdictional authority over a proposed project. The agencies then notify the applicant of their jurisdictional interest, and the need for any additional application forms, project information and fees. The forms are available from all the agencies.

1. Protected Waters Program

Introduction

The Department of Natural Resources administers the state's Protected Waters Permit Program on surface water features that meet certain criteria. Public waters are those waters as defined in Minn. Stat. §103G.005, subd. 15. For the purposes of administration of the DNR program, protected waters are defined per Minn. Rules 6115.0170, subp. 31. This program has been in place in its present form since the late 1970s.

Lake Superior is a protected water. The waters regulated as protected waters include all watercourses, lakes, and wetlands that have been inventoried on the DNR's protected waters inventory maps.

Protected waters and wetlands inventory maps are developed for each county and are on file in the county auditor's office. The Protected Waters Permit Program applies to physical changes such as excavation, fill, and construction of permanent structures that extend below the ordinary high water level (OHWL) of a protected water. The OHWL means the boundary of water basins, watercourses, public waters, and wetlands, and is defined in Minn. Stat. §103G.005, Subdivision 14.

The Protected Waters Program is broken down into three categories in this section: work in the beds permits; water appropriations; and dam safety. The legislative policy and implementation are the same for each of the three categories except where additional information is provided in a category.

Legislative 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. (Minn. Stat. §103A.201 Regulatory Policy)*

Implementation: Protecting water resources and managing usage is the responsibility of the DNR Waters. Through the Protected Waters and Water Appropriation Permits, the DNR manages water resources. A DNR Protected Waters Permit is required for *activities that will alter the course,*

current or cross-section of a protected water or wetland; or a DNR Water Appropriation Permit is required for activities that result in appropriation of large volumes of water (see item (b.) Water Appropriation Permits).

Applications for Protected Waters Permits are submitted to and reviewed by DNR Waters and decisions on individual applications are guided by a set of state rules that are identified as Minn. Rules 6115.0150 - 6115.0520. The standards prescribed in these rules were developed upon the following legal premise contained in state statutes. If plans are reasonable, practical, and will adequately protect public safety and promote the public welfare, the permit may be granted. Generally, the rules seek to balance one's lawful right to reasonable use of and access to protected waters with the need to maintain the quantity and quality of these waters for the benefit of the public as a whole. The evaluation of activities that result in physical changes to protected waters is necessary to assure that private/public projects will minimize impacts to the public values of waters, which include fish and wildlife habitat, water supply, flood damage reduction, recreational use, and aesthetic amenities. While the program primarily manages physical alterations to waters such as excavations and placement of structures or fill, it also establishes a link with water quality issues. Issuance of a Protected Waters Permit may be conditioned upon certain specific water quality parameters. Where such parameters are managed under other programs more specifically related to water quality, those programs are identified and addressed more fully in Section C, "Air and Water Quality."

Administration of this program at the area level is handled by the DNR Waters Area and Regional Hydrologist. Permit applications are reviewed within the DNR by Area Fisheries and Wildlife Managers, Regional Nongame Wildlife Specialist, and the Regional Environmental Assessment Ecologist. Applications are also reviewed by the local soil and water conservation district, the county and the affected municipality. The DNR typically makes decisions on permit applications within 60 days of receiving a completed application. The DNR notifies the local governmental unit, the local SWCD, and the U.S. Army Corps of Engineers of the DNR application. The agencies are given 30 days to review and comment. Based on comments and input received during the review period, the application is either issued, denied, or modified. The applicant can request a public hearing to seek reversal of a permit decision. The applicant may not proceed with the project until a permit is issued. Violations occur when an activity is conducted without a permit or if conditions of a permit are not met. Violations are prosecuted by criminal and civil proceedings, and restoration can be ordered, if necessary. A permit issued from the DNR applies only to activities regulated by the DNR. A DNR permit does not give authorization for work outside of the Department's jurisdiction.

a. Work in the Beds Permits

Activities Managed:

- C Placement of fill
- C Excavation
- C Placement of structures
- C Water level controls
- C Bridges, culverts, intakes and outfalls

- C Mining
- C Drainage
- C Diversions of water
- C Dredging and port development

Standards and Criteria: In the protected waters of the state, Minnesota Rules regulate placement of fill, excavation, placement of structures, water level controls, bridges, culverts, intakes, and outfalls, mining, drainage, and diversions of water. Minnesota Rules lay out comprehensive goals for each of these activities and criteria for specific types of activities.

Filling: Placement of fill is not permitted for:

- C Vegetation control, creating upland areas;
- C Stabilizing the beds of protected waters in areas that cannot support the fill;
- C Stabilizing or impounding active springs;
- C Disposing of rock, sand, or any other solid material resulting from activities carried out above the ordinary high water level;
- C Constructing roadways or pathways to islands;
- C Filling posted fish spawning areas.

Filling necessary for port development or improvement shall be allowed only on those waters which are under the jurisdiction of established port authorities subject to the following:

- C No filling shall be allowed to extend beyond the limits of federally established harbor lines, or where no harbor line has been established, beyond the maximum distance waterward which could be attained without obstructing navigational use of waters;
- C The proposed development must be part of a comprehensive port development plan which has been approved by the Commissioner;
- C Adverse effects of the proposed filling on the physical and biological character of the area shall be subject to mitigation measures approved by the Commissioner.

The Duluth Comprehensive Port Plan details the goals and procedures for compliance with the port development and improvement standards. The Port Plan is described in Chapter 4, Special Programs and Management Areas, Part V 4-6.

Water Level Controls: It is the goal of the Department to manage protected waters in order to:

- C Maintain natural flow and natural water level conditions to the maximum feasible extent;
- C Encourage the construction of small upstream retarding structures for the conservation of water in natural waterbasins and watercourses;
- C Limit the artificial manipulation of water levels except where the balance of affected public interests clearly warrants the establishment of appropriate controls and it is not proposed solely to satisfy private interests.

Excavation: The goals of the program relating to excavation are:

- C To limit excavation from the beds of protected waters in order to preserve the natural character of protected waters and their shoreland;
- C Regulate the nature, degree, and purpose of excavations so that excavations will be compatible with the capability of the waters to assimilate the excavation; and
- C Control the deposition of materials excavated from protected waters and protect and preserve the waters and adjacent lands from sedimentation and other adverse physical and biological effects.

Placement of structures: Structures are not permitted in protected waters where it:

- C Will obstruct navigation or create a water safety hazard;
- C Will be detrimental to significant fish and wildlife habitat or protected vegetation;
- C Is designed or intended to be used for human habitation or as a boathouse; or
- C Is designed or intended to include walls, a roof, or sewage facilities.

Bridges, Culverts, Intakes, Outfalls: Bridge and culvert crossings may be permitted for a variety of purposes provided they are properly designed. They are not permitted where they will:

- C Obstruct navigation or create a water safety hazard;
- C Cause or contribute to significant increases in flood elevations and flood damages either upstream or downstream;
- C Involve extensive channelization of a stream channel;
- C Be detrimental to water quality, protected vegetation, or significant fish and wildlife habitat;
- C Provide private access to an island.

Water intake and sewer outfall structures may be permitted in protected waters if they are designed to:

- C Minimize detrimental impacts on fish and wildlife habitat, navigation, water supply, water quality, and storm water retention;
- C Incorporate erosion control measures.

Mining: It is the goal of the DNR to protect and preserve protected water basins and wetlands from damage or destruction by drainage. Minnesota has also adopted specific legislation relating to the drainage of water to facilitate mining activities.

To control mining impacts, the DNR has set the goal to ensure that alterations of protected waters for mining or reclamation of mining areas will:

- C Minimize adverse environmental effects,
- C Preserve water resources to the maximum extent feasible and practical, and
- C Encourage the planning of future land and water utilization while at the same time promoting the orderly development of mining and the use of sound mining practices.

Mineral development within the coastal area is discussed in greater detail in Section F of this chapter.

Minnesota discourages any diversions of water from the state for use in other states or regions of the United States or Canada. Diversions that are related to the mining of iron ore, taconite, copper, copper-nickel, or nickel in Minnesota are subject to the same review standards that are established for drainage activities pursuant to Minn. Stat. §103G.297, Subdivision 3. Those standards are described more fully in Section 2, a, (3), g, above and will not be repeated here.

Authorities:

- C Protected Waters Permit Program, Minn. Stat. §103G.201 - 103G.315**
- C Water Permits, Minn. Rules 6115.0010 - 6115.0810**

b. Water Appropriation Permits

In the Minnesota coastal area, permitted water appropriation is generally limited to surface water withdrawals. Because of the great depth to water bearing formations and low yields, ground water is used sparingly for domestic supply (mostly to single residences). Surface water appropriation of Lake Superior is used for municipal supply for the cities along the coast, including the cities of Duluth, Cloquet, Two Harbors, Silver Bay, and Grand Marais. Other large appropriators include the paper and mining industry. Appropriation of ground and surface water for agricultural use is insignificant. In terms of conflicts, the coastal area in Minnesota has very few competing users. Generally, the precipitation exceeds evapotranspiration, requiring very little surface or ground water appropriation to meet needs.

In Minnesota, surface and ground water is managed to avoid interference among users and to ensure an available supply of water for priority uses. Permits are required for large water users (>10,000 gallons per day and/or one million gallons per year). Annual water use fees, based on the amount of water used, are collected from water users to recover program costs. This program is closely coordinated with the surface water and ground water monitoring programs to identify and resolve water use conflicts. A priority system allocates water when a water source is limited. Protected flows for streams, protected elevations for basins, and safe yields for aquifers are being identified to protect instream needs and higher priority users and to ensure that long-term withdrawals do not exceed the available supply.

Activities Managed:

- C Irrigation
- C Public water supplies
- C Mining and processing of metallic minerals and peat
- C Thermal heat pumps
- C Hydropower

Implementation: Applications for Water Appropriation Permits are submitted to and reviewed by DNR Waters and decisions on individual applications are guided by a set of state rules that are identified as Minn. Rules 6115.0600 - 6115.0810. The standards prescribed in these rules were developed upon the legal premise contained in state statute. If plans are reasonable, practical, and will adequately protect public safety and promote the public welfare the permit may be granted (Minn. Stat. §103G.315). Generally, the rules seek to balance one's lawful right to appropriations and use of waters of the state with the need to conserve and utilize the water resources of the state in the public interest.

Standards and Criteria: Permit issue for water appropriation is based on the standards and criteria in Minnesota Rules. These rules regulate activities including irrigation, public water supply, mining and processing of minerals and peat, thermal heat pumps, and hydropower. The rules lay out comprehensive goals for each of these activities and criteria for specific types of activities. Irrigation under these standards includes agricultural, wild rice, golf courses, sod, nurseries, horticultural crops, and landscaping. Decisions to issue permits for irrigation are based

on climatic characteristics of the area involved, soil types and major crops to be irrigated, best available technology and crop-water use requirements of the Irrigation Guide for Minnesota.

The approval of amendments and expansions to public water supplies is based on the impact of the proposal to the water resource and conflict or well interference of neighboring wells. Water Appropriation Permit approval requires a drought contingency plan and is also based on the number of domestic users, reasonable projection of population growth, type of industrial and commercial users, and other users such as golf courses, and wastewater treatment systems.

Activities managed under mining include makeup water, dewatering, water level control in tailing basins or treatment ponds, and reclamation. Permits are approved based on the impacts to the water resources involved and interference to other users, the applicant's utilization of available surplus water from pre-existing mining operations or facilities, legal requirements for water quality, disposal of excess water, and the utilization of water from runoff and other related mining operations.

Minnesota Stat. ch. 156A, Water Wells and Exploratory Boring define Minn. Stat. ch. 103G requirements regarding appropriation of water for thermal conductance. A water appropriation permit is required if actual flow exceeds 20 gallons per minute.

Permits for hydropower activities include raising or lowering of spillway level; changes in water level fluctuation and discharge; dam modification/reconstruction; dredging and disposal of dredge material; shore protection, riprap, shoreline excavation; partial or complete drainage; water level control structure; stream or channel enlargement or relocation; and diversion of water out of the river channel.

Authorities:

- C Work in Public Waters, Minn. Stat. §103G.245**
- C Appropriation and Use of Water/Denial and Issuance of Permits, Minn. Stat. §103G.271 - 103G.315**
- C Water Resources, Minn. Rules 6115.0600 - 6115.0810**

c. Dam Safety

The purpose of the Dam Safety Program is to ensure that dams are designed, constructed, operated and maintained to protect public safety and welfare. DNR Waters reviews designs or plans and issues permits for dam construction, inspects dams to detect unsafe conditions, and provides grants to local governmental units (LGUs) to make repairs or remove structures when they become safety hazards or are too expensive to repair. The Dam Safety Program is also responsible for coordinating state review of federal hydropower license applications and dam operating plans to establish minimum stream flow levels necessary to protect instream uses such as fish and wildlife habitat, and recreation.

Activities Managed: Minnesota Dam Safety Rules have been in effect since March 1980. The rules regulate the construction and alteration of dams, as well as the enlargement, repair, maintenance, operation, transfer of ownership and abandonment of such structures. A protected waters permit is required to construct, alter, enlarge, operate, conduct major repair or maintenance work, transfer the ownership, or abandon any dam as defined in the Dam Safety Rules or the Protected Water Permits Rules (Minn. Rules 6115.0320). A dam is any artificial barrier, together with appurtenant works, which does or may impound water and/or waste materials containing water except:

1. Dams which are less than 25 feet in height and have a storage capacity at maximum storage elevation of less than 50 acre/feet shall be exempt from Dam Safety Permit requirements if they do not have potential for loss of life resulting from failure or misoperation;
2. Any artificial barrier which is not in excess of six feet in height regardless of storage capacity or which has a storage capacity not in excess of 15 acre/feet regardless of height;
3. Underground or elevated tanks to store water and/or waste;
4. Any artificial barrier constructed solely for the purpose of containment of sewage or biological treatment of wastewater which is under the jurisdiction of the MPCA;
5. Dams owned by the United States;
6. Dikes and levees constructed for flood control purposes to divert water flood waters and which are not intended to act as impoundment structures.

Implementation: Minnesota Rules governing dam safety are intended to be consistent with the goals and objectives of applicable federal and state environmental quality programs and policies. Where the dam safety rules conflict with other appropriate rules and requirements, the most restrictive provision shall apply.

The DNR is required to make an initial detailed systematic technical inspection and evaluations of every Class I, II, or III dam in order to assess the general safety conditions including a review and

analysis of available data on the design, construction, and operation, and for the adequacy and quality of maintenance and operating equipment and procedures.

The permit applicant must submit a final design report, together with plans and specifications to the DNR for approval. Approval of a dam safety permit is based on the potential hazards to the health, safety and welfare of the public and the environment including probable future development of the area downstream or upstream. The applicant may be required to take measures to reduce risks, and the DNR shall furnish information and recommendations to local governments for present and future land use controls to minimize risks to downstream areas. Compliance with prudent, current environmental practices throughout the structure's existence is required.

For water level control structures 25 feet or more in structural height or having a maximum storage capacity of 50 acre/feet or more, permits will be issued only to governmental agencies, public utilities, or corporations having authority to construct and maintain such projects, except that a title-registration type permit may be issued to the owner or owners of the private property upon which the proposed water level control structure will be located where the provisions of the program are met.

Standards and Criteria: Dam owners are required to keep records and report on maintenance, operation, staffing, and engineering and geologic investigations and any other data necessary to protect the public health, safety, and welfare.

Unless the dam is removed, the dam owner is required to perpetually maintain the dam and appurtenances so as to ensure the integrity of the structure. For dams utilized for waste disposal, the owner must prepare and submit to the Commissioner of Natural Resources plans for termination of operations and perpetual maintenance which will address the owner's plans for both an unanticipated or premature termination of operations and for the ultimate intended termination of operations.

All construction must be carried out in accordance with the approved design, plans, and specifications. No alteration, modification, or addition to the approved designs, plans, and specifications that could adversely affect the safety or environmental impact of the dam may be made by the permittee without prior permission of the DNR. The DNR makes inspections for the purpose of securing conformity with approved designs, plans, and specifications and shall require the owner to perform, at the permittee's expense, work or tests as found necessary to disclose sufficient information to determine if there is conformity.

Authorities:

- C **Waters of the State, Minn. Stat. ch. 103G**
- C **Dams, Minn. Rules 6115.0300**

2. Wetlands Programs

Statewide, more than 80 percent of the state's original prairie pothole wetlands have been drained and more than 60 percent of the state's total original wetland base have been drained, filled or otherwise diminished. Before passage of the Wetlands Conservation Act (WCA) it was estimated that the loss of wetlands in the state, both rural and urban, was in excess of 5,000 acres per year. According to the National Wetland Inventory (NWI), there are approximately 1.2 million acres or 90 percent of wetlands in the Minnesota Lake Superior watershed.

The University of Minnesota has calculated that 4.3 million acres of wet mineral and peat soils exist in the seven northeastern counties of Minnesota. Approximately 3.75 million acres are in public ownership. The majority of the wetlands are Type 6, 7, and 8. In the Lake Superior watershed, greater than 90 percent of the presettlement wetlands remain. Wetland management in Minnesota, including the coastal area, strives to achieve a “no net loss” of wetland values. The preservation of wetlands is necessary in order to preserve the multitude of public benefits they provide flood water and storm water retention, including reducing the potential for flooding in the watershed; water quality benefits, including filtering of pollutants out of surface water and ground water, using nutrients that would otherwise pollute public waters, trapping sediments, protecting shoreline, and recharging ground water supplies; public recreation and education benefits, including hunting and fishing areas, wildlife viewing areas, and nature areas; commercial benefits, including wild rice and cranberry growing areas and aquaculture areas; fish and wildlife habitat; low flow augmentation benefits during times of drought; and other public uses. Because of the large amount of wetland losses statewide, Minnesota has placed a high priority on the need to preserve, restore, and enhance wetlands. Wetland protection at the state level is accomplished primarily through the Wetland Conservation Act of 1991 (Minn. Stat. §103G.222-.2373) and its amendments. Other wetland protection is accomplished through Clean Water Act Section 401 Water Quality Certification, the DNR Protected Waters Program, and state Executive Order 91-3, No Net Loss of Wetlands. Approximately 90 percent of the total wetland acreage in the coastal area is affected under the auspices of the Wetland Conservation Act.

Minnesota has developed a state wetland management plan. The plan, Minnesota Wetlands Conservation Plan, Version 1.01, 1997 refines the public policy goals for wetlands, establishes specific management objectives to achieve those goals, and identifies how to improve the system.

State Executive Order 93-1: Issued by the Governor of Minnesota in 1991, it directs state agencies to protect, enhance, and restore wetlands to the fullest extent of their authority, and to follow a strict policy of “no-net-loss” of wetlands for any projects which are their responsibility. The order requires state agencies to survey and categorize all wetlands on lands being acquired by or donated to the state, and wetlands on state lands that may be threatened by developments. The head of each state agency is required to report to the Commissioner of Natural Resources each year summarizing the extent of wetland activities resulting from an agency’s activities. All state agencies are required to monitor and record all wetland impacts, wetland mitigation, wetlands restored or created other than for mitigation, and the acreage of wetlands acquired or removed from state ownership or administration. The DNR and BWSR report to the Governor and the legislature on the status of the implementation of wetland regulations.

Clean Water Act Section 404 Program: The Section 404 Program is a component of the federal Clean Water Act and is administered by the U.S. Army Corps of Engineers (Corps) with oversight from the U.S. EPA. The program regulates the placement of fill, ditching, channelization, and mechanized land clearing in all waters of the United States, which includes all wetlands. Section 404 jurisdiction at the federal level is equal to the WCA and Protected Waters Program at the state level. Activities covered by the Section 404 program must be authorized by a permit issued by the St. Paul District of the Corps. Various types of permits are issued, depending on the situations described below. The Minnesota Pollution Control Agency (MPCA) has the Clean Water Act Section 401 water quality certification responsibility. A Section 401 Water Quality Certification is required for all activities which require a 404 Permit from the U.S. Army Corps of Engineers (discharges of fill into surface waters, including wetlands). Under the Section 401 provision, the MPCA reviews Corps permits for compliance with state water quality standards (Minn. Rules ch. 7050). Water quality certification may be approved, waived, or denied. The Corps cannot issue a permit for which water quality certification has been denied by the MPCA. Approval for discharges to wetlands is usually dependent on satisfactory mitigation sequencing and wetland replacement. The MPCA has issued blanket water quality certifications for the Section 404 nationwide permits, with regional conditions, and for the General Permit (MN-001-GP) for the State of Minnesota. See Part V, Chapter 3(C) for air and water quality standards, policies, and authorities.

Nationwide Permits: A variety of activities having minor impacts are covered by nationwide permits which essentially constitute authorizations. They are subject to regional conditions tailored to Minnesota. Certain nationwide permits require notification of the Corps prior to the activity; others may proceed without prior notification. Activities covered by certain of the nationwide permits are exempt from the Wetland Conservation Act.

General Permit (MN-001-GP): This is a blanket authorization for certain activities that are regulated by the DNR under the Protected Waters Program. The intent is to eliminate regulatory duplication. If an applicant receives a DNR permit for any of the activities covered by the general permit, authorization from the Corps is automatic. Procedurally, the DNR Regional Hydrologist sends the Corps a copy of the Protected Waters Permit Application. If the activity qualifies, the Corps will send a letter to the applicant notifying them that they may proceed upon receipt of the DNR permit.

Individual Permit: All activities regulated by the Corps that do not qualify for a nationwide permit or the general permit must be authorized by an individual permit. An individual permit is subject to a public interest review conducted by the Corps. A public notice is prepared and circulated to solicit comments from the public and other agencies.

Legislative 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 (Minn. Stat. §103A.202 Wetland Policy).*

DNR Protected Waters Program: Types of 3, 4, and 5 wetlands, as defined in U.S.F.W.S. Circular No. 39, are 10 or more acres in size in unincorporated areas or 2.5 acres in size in incorporated areas, are inventoried and mapped as "public waters" pursuant to Minn. Stat. ch. 103G, Waters of the State. These wetlands were inventoried during the 1980s. The total acreage of protected waters wetlands in the coastal area is about 5 percent of the total acreage of all wetlands and deep water habitats. Projects affecting the "course, current, or cross-section" of these wetlands are regulated by the Minnesota Department of Natural Resources through Minn. Rules, ch. 6115. See Part V, pages 3-31 to 3-39 for more information on the Protected Waters Program.

Minnesota Wetlands Conservation Act of 1991: The Wetland Conservation Act (WCA) of 1991, along with subsequent amendments, extended protection to wetlands not covered under the "public waters" statute (Minn. Stat. ch. 103G), and established a "no net loss" policy. The purpose of the act is to: *achieve no net loss in the quantity, quality, and biological diversity of Minnesota's existing wetlands; increase the quantity, quality, and biological diversity of Minnesota's existing wetlands; avoid direct or indirect impacts from activities that destroy or diminish the quantity, quality, and biological diversity of wetlands; and replace wetland values where avoidance of activity is not feasible and prudent.* The central tenet of the WCA is that wetlands may not be drained or filled without replacement by wetlands of equal public value, either through restoration or creation. In the coastal area, it regulates draining and filling of wetlands that are greater than 400 square feet within shoreland areas and wetlands Type 1, 2, 6 or 7 (except for white cedar and tamarack wetlands) that are greater than 10,000 square feet and outside of shoreland areas. The de minimis exemption of 10,000 square feet only applies to those counties that have greater than 80 percent of their presettlement wetlands (Minn. Rules ch. 8420). All of the coastal counties in Minnesota have greater than 90 percent of their wetlands still remaining. In Lake and Cook Counties, the estimate for wetland areas remaining from presettlement is close to 100 percent. Under WCA, Wetlands are defined according to the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (January 1987).

Amendments to WCA in 1996 (Laws 1996, Chapter 462) provided additional local control, regionalization, and flexibility by allowing local units of government to develop a comprehensive wetland protection and management plan with modifications to certain provisions of the state rule. To accomplish this, the amendment provides for the integration of wetland protection measures with the local water planning process and local zoning ordinances. In addition, the amendments streamline the approval process for landowners by enabling local governments to act in a reasonable time frame, and allowing onsite determinations for small projects.

Additional features of WCA include:

- C A dedicated state fund for restoring wetlands impacted by local road authorities.
- C Additional incentives to include vegetative buffers and water quality treatment systems in areas adjacent to wetlands, thereby enhancing the water quality and wildlife benefits of the wetlands.

- C A strong state participation and oversight role in the development, implementation, and enforcement of local government comprehensive wetland protection and management plans. This state presence is intended to ensure that the law is consistently and fairly administered.
- C Enhancement of the notification and administrative appeals process, by providing an avenue for concerned citizens to participate in the environmental review process to help ensure that the public maintains an active voice in the management of their resources, while allowing project sponsors to get timely decisions on their proposals.
- C A tax exemption program and an easement program to protect high priority wetlands. Landowners who maintain wetlands (rather than draining or filling them) will have access to some financial compensation for the value of their land.
- C The commitment to protecting calcareous fens.
- C Incentives to retain restored wetlands that are eligible for drainage.
- C Local government liability prevention, whereby the state will pay claims against and assist in the defense of the local government if they are properly implementing the law and a court awards a taking or damage claim against the local government.

Activities Managed:

- C Exemptions
- C Calcareous fens
- C Mining
- C High priority regions/areas and wetland preservation areas
- C Sequencing, wetland replacement plans and monitoring
- C Local comprehensive wetland protection and management plans
- C Wetland banking

Implementation: A key feature of the Wetland Conservation Act is that it gives to local government units (counties, cities, townships, watershed districts, or soil and water conservation districts) the primary responsibility for implementing the WCA, including review and approval of wetland replacement plans. The Minnesota Board of Water and Soil Resources provides administrative and technical assistance, coordinates wetland mitigation banking, and hears administrative appeals. The DNR provides enforcement (along with local government units), regulation of calcareous fens, and wetlands impacted by metallic and peat mining, and review of proposed replacement plans.

A joint notification form allows all relevant agencies to view proposed wetland impacts. The USCOE, DNR, BWSR, SWCD, MPCA (401 Water Quality Certification) and the LGU all review the same application. This technique is efficient for both the landowner and government agencies.

A person or entity proposing to fill or drain a wetland, unless the activity is exempt, must apply to the appropriate local government unit for a sequencing determination and approval of a wetland replacement plan to compensate for all unavoidable wetland losses. LGUs are the counties, cities, or their delegate, in some instances the soil and water conservation district. The replacement plan contains a description of the proposed impact and a proposal for replacing the lost wetland values through restoration or creation of another wetland, which may involve the use of a wetland bank. The LGU must determine that impacts have been fully avoided and minimized and if the proposed restoration or creation will adequately replace the lost wetland values. State agencies act as the LGU for their own projects and are therefore not required to obtain local government approvals for their projects. However, they must comply with the sequencing and replacement provisions of the WCA and are required to consult with local government units having jurisdiction in the project area. The notice includes both the proposed impact and the mitigation required (replacement plan).

All the agencies that administer wetland laws have consistent mitigation requirements so that one mitigation plan is usually accepted by all the agencies if various permits are required.

The decision of a local government unit can be appealed to the Board of Water and Soil Resources. Enforcement of the act is performed by the Commissioner of Natural Resources, conservation officers, and other peace officers through Cease and Desist Orders and Restoration and Replacement Orders. Violation of any of these orders is a misdemeanor offense in Minnesota.

Funding for wetlands is provided for the Board of Water and Soil Resources to establish wetland banking credits, for easement and acquisition on Reinvest in Minnesota (RIM) land, and some money may be used by the Board on waterbank conversion acres and enrollment in the wetland preserve program.

If the Board of Water and Soil Resources has information that a local government unit is not following Minn. Rules ch. 8420 (Wetland Conservation Act Rules) or the WCA in making exemption, no-loss, replacement plan, or banking determinations, the Board shall notify the local government unit of its concerns. If necessary the Board can take appropriate legal action to ensure compliance.

Technical assistance is available to local governmental units (LGUs) through a three member technical evaluation panel. The panel is composed of technical professionals from the LGU, the SWCD, and the Board of Water and Soil Resources. The panel makes determinations on matters such as wetland function and value, location, type and size for wetland replacement plans, exemptions, sequencing, and other responsibilities as appointed by the county board. For landowners, LGUs throughout the coastal area have been trained in wetland delineation. Usually for a fee, the LGU can ascertain the wetland limits and offer advice on proper land development. Contact LGU for advice on wetland delineations.

Standards and Criteria: The standards and criteria described below are an overview found in Minn. Rules, ch. 8420, Implementation of the Wetland Conservation Act (WCA).

Exemptions: An activity is exempt if it qualifies for any one of the activities listed in the Minnesota Rules. These exemptions do not apply to calcareous fens as identified by the Commissioner of Natural Resources or to wetlands that have been previously restored or created as a result of an approved replacement plan. Activities initiated under one of the exemptions must be performed with appropriate erosion control to prevent sedimentation of the water and cannot block fish activity in a watercourse. The activity must also be conducted in compliance with all other applicable federal, state, and local requirements.

Calcareous Fens: Calcareous fens may not be drained or filled or otherwise altered or degraded except as provided for in a management plan approved by the Commissioner of Natural Resources.

Mining: Wetlands may not be drained or filled as part of a project for which a permit to mine is required by Minnesota statutes, except as approved by the Commissioner of Natural Resources.

High Priority Regions, Areas, and Wetland Preservation Areas: The high priority regions and areas are those places in Minnesota that are priority regions and areas for replacement, enhancement, restoration, and preservation of wetlands. High priority regions include those counties that have lost 50 percent or more of their presettlement wetlands. In the coastal area, all counties have greater than 90 percent of their presettlement wetlands, therefore, there are no high priority regions, and high priority areas are those approved, as such, by a county board. Wetland preservation areas are wetlands located in areas that are both high priority regions and areas. High priority regions are identified in the county water plan updates.

Enrollment as a wetland preservation area results in the wetland becoming exempt from property tax. The state reimburses the county for the lost tax revenue. Wetland preservation areas are optional to LGUs. Currently, no coastal county is offering this program.

Sequencing, Wetland Replacement Plans, and Monitoring: A landowner intending to drain or fill a wetland who does not qualify for an exemption under Minn. Rules 8420.0122 is required to obtain approval from the local governmental unit (LGU) for a replacement plan before beginning any draining or filling. Minnesota rules specify the procedures and criteria for avoiding and minimizing (sequencing) impacts to wetlands and for ensuring adequate replacement of lost public values for unavoidable wetland impacts. Sequencing involves the compliance with the following principles in descending order of priority:

- C Avoidance of direct or indirect impacts;
- C Minimization of impacts by limiting magnitude or degree of activity;
- C Rectification of impact by repair, rehabilitation, or restoration;
- C Reduction or elimination of impacts over time;
- C Replacement of unavoidable impacts by restoration or creation;

Replacement plans must contain the following components pursuant to Minn. Rules 8420.0530. In general, the wetland acres and values being impacted must be replaced before or concurrent with the activity to drain or fill. Replacement of wetland functions and values are accomplished through

restoration or creation, although restoration is preferred. In addition to the physical characteristics of the impacted wetland, the following special considerations must be incorporated into the LGU review of replacement plans: federal or state listed endangered species, rare natural communities, special fish and wildlife resources, archaeological or historic sites, ground water sensitivity, sensitive surface waters, education or research use, waste disposal sites, and consistency with other plans.

Replacement wetlands must be located within the same watershed or county, except in areas where greater than 80 percent of presettlement wetlands remain such as the coastal counties, replacement may be in areas where less than 50 percent of presettlement wetlands remain. Monitoring is done to ensure that the replacement wetland achieves the goals of replacing the lost functions and values. A monitoring report is completed annually for a period of five years or until the replacement wetland is deemed fully functional (Minn. Rules 8420.0600).

Local Comprehensive Wetland Protection and Management Plans: In order to provide local government control, regionalization, and flexibility, amendments to the WCA made in 1996 allow local governmental units to adopt Local Comprehensive Wetland Protection and Management Plans. The plans allow certain modifications to the rules governing the act by providing the greater than 80 percent areas of the state (the coastal area) additional flexibility in the situations below.

Replacement credit may be allowed for any project that increases the public value of a wetland, including activities in adjacent uplands:

- C The agriculture exemptions for Types 1, 2, 6 wetlands may be expanded to non-ag land, provided there is no net loss of wetland values;
- C The application of sequencing may be varied; and
- C Individual impacts may be replaced anywhere within the plan area.

Wetland functional assessments must be used as the basis for public value determinations.

The local government unit must adopt the plan as an ordinance pursuant to Minn. Stat. ch. 462, for cities; Minn. Stat. ch. 395, for counties; Minn. Stat. ch. 366, for a town. The plan contents are identified in the rules and other state agencies can participate in the planning process. The Board of Water and Soil Resources reviews the final plan for compliance with Minn. Rules 8420.0650.

Wetland Banking: The creation of a wetland banking system must meet the intent of the WCA by achieving a “no net loss” of wetland functions and values including the quantity, quality, and biological diversity. The use of the wetland banking system is conditional on compliance with the sequencing requirements of the act, in addition to meeting the approval of the local government unit. Created and restored wetlands are allowed to be placed in wetland banks for the entire coastal area (greater than 80 percent areas). The local government unit is responsible for monitoring wetland banking within its jurisdiction. All local government units are required to submit an annual report to the Board of Water and Soil Resources summarizing the use of wetland banking.

Authorities:

- C **Public Water Wetlands- Minn. Stat. §103G.221 - 103G.2373**
- C **Wetland Conservation Act Rules - Minn. Rules ch. 8420**

Table 12.

Enforceable Policies/Programs Subject to Federal Consistency
B. Coastal Water Management Standards

Agency Name	Program	Authority	Funding	Program Delivery
DNR Area Hydrologists, or DNR Waters: (612) 296-4800	Protected Waters & Wetlands Permit Program: requires a permit for activities that will change or diminish the course, current or cross-section of wetlands or streams that are designated as protected waters or wetlands by the DNR. Scope: Approx. 100 permits are processed yearly in coastal area.	Minn. Stat. §103G.101-103G.315; Minn. Rules 6115.0150-6115.0280	Permit application fees go to the General Fund and are then appropriated to DNR Waters.	DNR regional offices process permit applications. Area hydrologists review applications and make recommendations for their respective areas. Permits are approved, modified or denied at region or Central Office depending on permit type.
DNR Area Hydrologists, or DNR Waters Permit Coordinator: (612) 296-4800	Water Appropriation Permit Program: requires permits for appropriations of surface or ground water exceeding 10,000 gallons per day or one million gallons per year. Includes surface waters in lakes, wetlands and streams. Scope: Approximately 100 permits are processed yearly in coastal area.	Minn. Stat. §103G.255 to 103G.297; Minn. Rules 6115.062	Permit application fees go to the General Fund and are then appropriated to the DNR Waters.	DNR regional offices process permit applications. Area hydrologists review applicants and make recommendations in their respective areas. Permits are approved, modified, or denied at the region or Central Office, depending on permit type.
DNR DNR Waters Dam Safety Supervisor or Area Hydrologist: (612) 296-0525	Dam Safety Program: requires a permit for construction, alteration, operation, repairs, transfer of ownership and abandonment of a dam which is greater than 6' in height and has a maximum storage capacity greater than 15 acre/feet with some exemptions.	Minn. Stat. ch. 103G Minn. Rules 6115.0300 to 6115.0520	Permit application fees go to state General Fund and are then appropriated to DNR Waters.	DNR regional offices process permit applications. Area hydrologists review and make recommendations. Technical review is conducted by the Dam Safety Unit, which also inspects and evaluates existing dams, the contact for grant program and hydropower information.

MANAGEMENT POLICIES AND AUTHORITIES

Agency Name	Program	Authority	Funding	Program Delivery
<p>DNR Surface Water Unit: (612) 296-0525</p>	<p>Stream Flow Protection & Regulation: recommends protected flow levels for rivers, lakes, hydropower and reservoir operations. Reviews applications to FERC for relicensing of hydropower facilities.</p>	<p>Minn. Stat. ch.103G</p>	<p>State General Fund</p>	<p>DNR Waters Permit Unit initiates requests for protected flow determination. Field studies and/or statistical analysis of historic flow data used to set protected flow levels.</p>
<p>BWSR Wetlands Specialist (612) 297-3432</p>	<p>Wetland Conservation Act: provides protection to wetlands that are not protected by other state and federal programs. Includes Wetland Preservation Areas to protect priority wetlands and tax incentives to landowners. The Act includes some exemptions.</p>	<p>Minn. Stat. §103G.222 through 103G. 2373 Minn. Rules ch. 8420</p>	<p>State General Fund</p>	<p>Local governments and watershed management organizations certify exemptions and approve replacement plans. DNR and local government licensed peace officers enforce the act.</p>
<p>DNR Area Hydrologist, or DNR Waters (612) 296-4800</p>	<p>Duluth Comprehensive Port Development Plan: provides standards and criteria for dredging activities and land use management for Duluth Harbor and St. Louis River Estuary.</p>	<p>Minn. Stat. ch. 103G Minn. Rules 6115.0191</p>	<p>State General Fund</p>	<p>City of Duluth, Port Authority of Duluth and MDNR through an MOU manage all actions relating to the Duluth Harbor.</p>

Table 13. **Other Non-Regulatory Programs Not Subject to Federal Consistency Reviews**
 B. Coastal Water Management Standards

Agency Name	Program	Authority	Funding	Program Delivery
DNR Program Coordinator: (612) 297-5476	Adopt-A-River Program: encourages better stewardship of state rivers by sponsoring group cleanups of nonpoint source pollution on designated rivers. Groups make a two-year commitment to clean a stretch at least once a year. Average stretch is 2 miles. Program has 144 active groups.	Commissioner's authority	Funds from Water Recreation Account. MN Conservation Corps used to leverage corporate and private funds that provide support program.	Interested groups contact the program coordinator, who provides "how-to" kits that explain the program. Groups register with the coordinator and receive a video describing cleanups, and determine a cleanup time and location with the coordinator.
DNR Area Wildlife Managers	Migratory Waterfowl Feeding and Resting Areas Program: designates and protects wetlands that provide feeding and resting habitat for ducks, geese, other migratory waterfowl and wildlife. Some uses of these areas are restricted to minimize human disturbance.	Minn. Stat. §97A.145	Duck stamp revenues and State General Fund	DNR area wildlife managers identify and designate refuge sites.
BWSR Grants Coordinator: (612) 297-7361	BWSR Cost-Share Program: provides financial assistance to landowners and operators for installation of erosion, sediment, and water quality control projects. Wetlands enhanced or restored to improve water quality may be eligible for this program.	Minn. Stat. §103C.501; Minn. Rules ch. 8400	Congressional appropriation. Cost-share with landowners up to 75% of total cost for high priority erosion and water quality problems.	Administered by BWSR at the state level, administered locally through soil and water conservation districts. Applications taken at SWCD offices year-round.

Agency Name	Program	Authority	Funding	Program Delivery
<p>BWSR</p> <p>Grants Coordinator: (612) 297-7361</p>	<p>BWSR Special Projects: provide cost-sharing to landowners and local units of government for projects such as wetlands restoration or enhancement done as part of a demonstration or special purpose project.</p>	<p>Minn. Stat. §103C.501; Minn. Rules ch. 8400</p>	<p>State General Fund</p>	<p>Administered by the BWSR at the state level, administered locally through soil and water conservation districts. Applications are taken once per year; deadline is in April.</p>
<p>BWSR</p> <p>Easement Coordinator: (612) 297-7965</p>	<p>Reinvest in Minnesota (RIM) Wetland Restoration Program: to restore drained or altered wetlands in agricultural areas of the state. Upon restoration the wetland must be protected with a perpetual easement with the State of Minnesota.</p>	<p>Minn. Stat. §103F.501-103F.535</p>	<p>Landowner payment for restoration is 100% of cost up to \$300 per acre. Payments to landowners for perpetual easements are 90% of estimated market value of ag-land in township.</p>	<p>Administered by the BWSR at the state level, administered locally through soil and water conservation districts. Application period determined annually.</p>
<p>BWSR</p> <p>Easement Coordinator: (612) 297-7965</p>	<p>Wetland Establishment & Restoration Program: allows the landowner to apply to counties or local watershed management organizations for assistance to restore or enhance wetlands in identified high priority areas.</p>	<p>Minn. Stat. §103F. 903</p>	<p>No appropriation. Local governments can apply to BWSR for cost-sharing on restoration for up to 50% of the total cost, not to exceed \$20,000.</p>	<p>Landowners apply to counties or local watershed management organizations.</p>
<p>DNR</p> <p>Area Wildlife Managers</p>	<p>Forestry Stewardship Program: funds the costs of wildlife habitat restoration projects on wetlands in forested areas. A cooperative program between DNR Wildlife and DNR Forestry.</p>	<p>Minn. Stat. §97A.145</p>	<p>U.S. Forest Service federal grant funds.</p>	<p>Local area wildlife manager or foresters provide information and assistance to interested landowners and local governments.</p>

CHAPTER THREE

Agency Name	Program	Authority	Funding	Program Delivery
<p>DNR Area Fisheries Supervisors</p>	<p>Northern Pike Spawning Area Program: develops controlled Type II wetlands adjacent to lakes and streams as northern pike spawning and nursery habitat by diking and manipulating water levels. Most sites are less than 15 acres, and selected where natural spawning habitat is limited or lost to drainage or shoreland development.</p>	<p>Minn. Stat. §97A.135, 97A.141 and 97A.145</p>	<p>Fishing license fees; Federal Aid in Sport Fishing Restoration; and Reinvest in Minnesota (RIM) Funds</p>	<p>Area fisheries supervisors identify sites for acquisition and development. Fisheries staff operate ponds to produce northern pike fingerlings.</p>
<p>DNR Area Wildlife Managers</p>	<p>Private Lands Wetland Restoration Program: assistance provided to private landowners to restore wetlands and improve associated upland areas for wildlife habitat.</p>	<p>Minn. Stat. §97A.145</p>	<p>RIM and pheasant stamp revenues</p>	<p>Contact local area wildlife manager for information and assistance.</p>
<p>DNR Area Wildlife Managers</p>	<p>Wildlife Habitat Enhancement on Wildlife Management Areas (WMAs) Program: improves wildlife habitat through wetlands restoration, addition of cover grasses, and development of upland habitat areas.</p>	<p>Minn. Stat. §97A.145</p>	<p>Waterfowl stamp revenues and surcharge on hunting licenses.</p>	<p>Local area wildlife managers identify or suggest projects.</p>
<p>DNR Area Wildlife Managers</p>	<p>Wildlife Lakes Designation and Enhancement Program: designates and enhances wetlands and lakes for wildlife management based on habitat suitability. These are generally shallow public waters with a history of wildlife use and public access.</p>	<p>Minn. Stat. §97A.145</p>	<p>Duck stamp revenues</p>	<p>Local area wildlife managers select appropriate lakes and develop and implement management plans.</p>

Agency Name	Program	Authority	Funding	Program Delivery
BWSR Wetlands Specialist: (612) 297-3432	Permanent Wetland Preserves Program: acquires perpetual conservation easements for existing Type 1, 2, and 3 wetlands.	Minn. Stat. §103F. 516	State bonding funds	Administered at the state level by BWSR; administered locally by soil and water conservation districts.
DNR Area Wildlife Managers	Consolidated Conservation Lands Program: acquires wetlands through tax forfeiture for development of wildlife habitat.	Minn. Stat. §97A.145	Lands transferred at no cost to DNR.	Local area wildlife managers identify and acquire properties.
DNR Area Wildlife Managers	Land Acquisition for Wildlife Management Areas Program: acquires existing or drained wetlands and associated upland areas in fee title for wildlife management areas.	Minn. Stat. §97A.145	RIM; surcharges on hunting licenses; private donations; federal grant funds; and LCMR funds.	Local Area Wildlife Managers develop a prioritized list of acquisition sites and implement this program.
BWSR Grants Coordinator: (612) 297-7361	Local Water Resources Protection and Management Program: provides grants to counties to assist in administration and implementation of approved and adopted local water plans. Wetlands inventory, monitoring and data collections are eligible uses of these grant funds.	Minn. Stat. §103B.369; Minn. Rules ch. 9400	State funds are provided as base grants to counties, combined with special local levy for water plan implementation to provide \$37,500 in revenue for each participating county.	Administered at the state level by BWSR; administered locally by counties and water planning task forces. Counties must have a state approved and locally adopted plan.
DNR Area Wildlife Managers	Game Lake Designation Program: includes survey, inventory and mapping of wetlands and lakes for potential wildlife habitat for waterfowl and furbearing animals.	Minn. Stat. §97A.145	Duck stamp revenues and General Fund	Local area wildlife managers implement this program.

CHAPTER THREE

Agency Name	Program	Authority	Funding	Program Delivery
<p>DNR Area Hydrologists or Protected Waters Coordinator: (612) 296-4800</p>	<p>Protected Waters and Wetlands Inventory: Inventory of waters and wetlands for which permits are required--includes 10,029 wetlands on 261,700 acres. Available as paper maps on county highway map base with legal descriptions for protected lakes, streams, and wetlands.</p>	<p>Minn. Stat. §103G.201</p>	<p>Inventory complete activities. Current digitization is funded by LCMR.</p>	<p>Area hydrologist or Central Office provides maps.</p>
<p>DNR Area Wildlife Managers</p>	<p>Purple Loosestrife Survey Program: includes informal surveys to locate and control purple loosestrife in wetlands.</p>	<p>Minn. Stat. §84.966</p>	<p>General Fund</p>	<p>Local area wildlife managers complete surveys at their discretion.</p>
<p>DNR Bemidji Wetland/Wildlife Research Station: (218) 755-2973</p>	<p>Waterfowl and Wetland Conditions Survey Program: count of breeding and migrating wildfowl and an index of wetland conditions statewide.</p>	<p>Minn. Stat. §97A.145</p>	<p>Duck stamp revenues and General Fund</p>	<p>The Bemidji Wetland/Wildlife Research Station is completing the survey.</p>
<p>DNR Bemidji Regional Waterfowl Specialist: (218) 755-2973</p>	<p>Waterfowl Survey in Forested Areas of Minnesota: survey of waterfowl populations in forested areas to develop population indices; a partnership with the U.S. Fish and Wildlife Service.</p>	<p>Minn. Stat. §84.03</p>	<p>General Fund and federal grant funds.</p>	<p>Bemidji regional waterfowl specialist and USFWS are completing the survey.</p>
<p>BWSR Grants Coordinator: (612) 297-7361</p>	<p>BWSR General Services: provides assistance to counties on the technical review panels required under the Wetland Conservation Act of 1991, assistance to local units of government on available programs, and interpretation of BWSR administered laws and rules.</p>	<p>Minn. Stat. ch. 103C</p>	<p>General Fund</p>	<p>County SWCD offices provide technical assistance. (State provides grants to local offices to support these services.)</p>

Agency Name	Program	Authority	Funding	Program Delivery
DNR Area Wildlife Managers	Wetland and Lake Wildlife Management Program: provides assistance to landowners to increase wildlife populations on wetlands and lakes including advice on enhancement techniques and funding available.	Minn. Stat. §97.145	General Fund	Local area wildlife managers provide information and assistance on request.
DNR Area Wildlife Managers	Wetland Restoration Technical Assistance: provides assistance to private landowners and local governments on wetlands restoration potential, best restoration techniques, and information on funds available, including funding from private sources such as Ducks Unlimited.	Minn. Stat. §97.145	General Fund	Local area wildlife managers provide information and assistance on request.
SWCD's Local SWCD Offices	SWCD Technical Assistance Programs: provide assistance to landowners and occupiers for planning, survey, and design of wetlands enhancements and/or restorations.	Minn. Stat. §103C.401	Federal funds given as grants to SWCDs.	Local SWCD staff provides information and technical assistance as requested.
DNR Area Wildlife Managers	DNR Training and Education Programs: provide workshops, training and education programs on wildlife and habitat development for professionals, clubs and schools. A variety of pamphlets and educational materials are available on request.	Minn. Stat. §84.027	State General Fund	Contact local area wildlife manager to schedule education and training programs.

C. AIR AND WATER QUALITY

In order to provide a reasonable standard of purity, and to meet the variety of pollution problems associated with water, air, and land, it was deemed to be in the interest of the state to create a Pollution Control Agency. The Minnesota Pollution Control Agency (MPCA or PCA) was subsequently created with the authority to improve air quality through waste disposal practices and energy sources. In areas relating to solid waste, the MPCA was charged with the mission to eliminate open dumps, improve incinerator systems, and encourage collection system improvements. The agency was also charged with adopting standards for hazardous waste and identification, labeling, classification, storage, collection, transportation, processing and disposal of hazardous waste. The MPCA has a very strong regulatory role, and data gathering role, as well as providing financial assistance to people and local units of government to resolve issues.

The areas of management and regulation include surface and ground water quality, air quality, solid waste disposal, inventory and management of feedlots, underground storage tanks and landfills, disposal of wastes or surplus waters in wells or sumps, hazardous waste shipment, storage, and disposal, used oil, used tires, operation and management of individual and municipal waste treatment systems, and cleanups of accidental spills.

Coordination and administration of Minnesota's air and water quality programs generally take place on a case by case basis. Authorities such as the Waste Water Treatment Assistance Program (Minn. Rules ch. 7077), for instance, require that municipalities work with the MPCA to obtain federal and state funding for upgrades and new construction of wastewater treatment plants. This process reduces competition between communities, and provides the Agency with the flexibility to target resources to areas with the greatest needs. Other programs such as the Individual Septic Treatment System Program (Minn. Rules ch. 7080) are implemented in parts, by local government units through permitting and inspection. Air and water quality authorities with permit requirements also include public notice requirements. These public notice requirements serve as an effective mechanism for interagency coordination and review. As a matter of courtesy, the MPCA typically sends these notices to state, federal, and local units of government. These notices are also sent to the state of Wisconsin in projects that includes the lower St. Louis River.

1. Air Quality

Minnesota Pollution Control Agency rules for air quality are, and continue to be promulgated under the authority provided by Minn. Stat. §116.07. The MPCA has delegated authority to implement EPA programs in the Clean Air Act (CAA) and Code of Federal Regulations (CFR). The MPCA must adopt minimum standards, criteria, and rules as prescribed in these sections. Additional or more restrictive rules or criteria may be promulgated by the MPCA in instances where it is deemed appropriate. Rules must be equal to or more stringent than CFR to obtain delegation authority from EPA.

Legislative Policies:

1. *Improve air quality by promoting, in the most practical way possible, the use of energy sources and waste disposal methods which produce or emit the least air contaminants consistent with the overall goal of reducing all forms of pollution.*
2. *Adopt standards of air quality, including maximum allowable standards of emission of air contaminants from motor vehicles, recognizing that due to variable factors, no single standard of purity of air is applicable to all areas of the state.*
3. *Recognize the fact that the quantity or characteristics of air contaminants or the duration of their presence in the atmosphere, which may cause air pollution in one area of the state, may cause less or not cause any air pollution in another area of the state, and take into consideration in this connection such factors, including others which it may deem proper, as existing physical conditions, zoning classifications, topography, prevailing wind directions and velocities, and the fact that a standard of air quality which may be proper as to an essentially residential area of the state, may not be proper as to a highly developed industrial area of the state.*
4. *Such standards of air quality shall be premised upon scientific knowledge of causes as well as effects based on technically substantiated criteria and commonly accepted practices.*
5. *No local government unit shall set standards of air quality which are more stringent than those set by the Pollution Control Agency (Minn. Stat. §116.07, Subd. 2, Adoption of Standards).*

Activities Managed:

- ☒ Air emission
- ☒ Air quality standards
- ☒ Acid deposition
- ☒ Lead based paints
- ☒ Noise

Implementation: Permits are required by the MPCA for air emissions of regulated pollutants from facilities, buildings, or installations with the propensity to result in mobile sources or stationary sources.

Standards and Criteria:

Air Emission: Under Minn. Rules ch. 7001, permits are required by the MPCA for air emissions of regulated pollutants from facilities, buildings, or installations with the propensity to result in mobile sources. Permit application procedures, deadlines, signature requirements, applicant record keeping requirements, and public review responsibilities are prescribed in Minn. Rules ch. 7001.

Minnesota Rules ch. 7002 establishes the annual fee schedule for all persons required to obtain an emission permit. Fees are based on a number of factors, including changes, modifications, and amendments to permits.

Minnesota Rules ch. 7005 establishes definitions and abbreviations as used in air quality rules. Described in this section are criterion for the specific pollutants including: sulfur dioxide, particulate matter, nitrogen oxides, carbon dioxide, ozone, lead, and other pollutants prescribed in 40 C.F.R., Part 50. Volatile organic compounds, stationary sources, secondary emissions, and other air quality terms are described in this section as well.

Minnesota Rules ch. 7007 prescribes permit requirements for installations, emission units, facilities, and stationary sources of air emissions regulated by the MPCA. Stationary air emission sources that have the potential to emit more than 100 tons of criteria pollutants or 10 to 25 tons of hazardous pollutants are required by Minn. Rules 7007.0200 to obtain a Part 70 or federal permit. Emission sources that have the potential to emit more than 50 tons of sulfur dioxide, 25 tons of PM-10, or 0.25 tons of lead are required to obtain a state permit. These emission sources include, but are not limited to: kraft pulp mills, portland cement plants, iron and steel mills, fuel conversion plants, lead smelters, municipal incinerators, fossil fuel fired electric plants, and petroleum refineries. Solid waste incinerators, and sources that must comply with the new source review and acid rain requirements of the Clean Air Act, must obtain permits regardless of emissions. State permits are required of emission sources with the potential to emit from .5 to 100 tons of certain pollutants. The MPCA also issues installation and operation permits. These permits are issued as an interim step in the process of obtaining a state permit. Insignificant sources such as barbecue pits, emergency backup generators, and residential fuel use do not require permits.

Under Minn. Rules ch. 7009, the MPCA has the authority to prescribe ambient air quality standards that protect healthy and sensitive individuals from acute or chronic symptoms or physiological effects, and that “does not interfere unreasonably with a person’s quality of or use of their property”. Ambient air quality standards are prescribed for hydrogen sulfide, ozone, carbon monoxide, sulfur dioxides, PM-10, particulate matter, lead, and nitrogen oxides. Under Minn. Rules ch. 7009.0040, the MPCA may revoke or modify permits or amend a stipulation agreement for violations of ambient air quality. In addition, the Commissioner of the MPCA has the authority to issue episodic air pollution alerts, air pollution warnings, and air pollution emergencies. This authority also allows the Commissioner to issue directives which require cessation or modification of air emissions from facilities that emit 250 tons or more in the affected area.

Minnesota Rules ch. 7011 establishes air quality standards for stationary sources of air emissions. These sources include, but are not limited to: fossil fuel burning activities and heating equipment, steam generators, industrial process equipment, cement plants, coal handling facilities, asphalt roofing plants, waste combustors, sewage sludge incinerators, kraft pulp mills, zinc and copper smelters, and lead acid battery plants. Minnesota Rules ch. 7011.0150 also covers control of

fugitive dust. This section requires implementation of preventative measures to control airborne particulate matter.

Minnesota Rules ch. 7017 establishes continuous emission standards and procedures for testing. Within this authority, the agency has the prerogative to require installation of systems or equipment necessary to monitor air emissions. This authority also extends to standards for equipment, sample locations, tests, and data collection.

Minnesota Rules ch. 7019 establishes a notification and record keeping system for continuous emission sources. Owners or operators of continuous emission sources are required by this authority to notify the agency of shutdowns, breakdowns, and operational changes of monitoring or control equipment. Where control equipment fails, the agency commissioner can compel the facility owner or supervisor to cease or modify operation of the emission source. Minn. Rules ch. 7019 also requires that annual emission reports be submitted to the agency by continuous emission operators and facility owners. These inventories are used to calculate yearly fees.

Minnesota Rules ch. 7023 addresses nonstationary or mobile air emission sources. Mobile emission sources include, but are not limited to motor vehicles, trains, boats, and construction equipment. This chapter covers inspection procedures, schedules, fees, and public notification requirements. Indirect sources, or facilities that attract mobile sources, require permits under Minn. Rule ch. 7023.9000. These facilities include, but are not limited to highways, and roads, retail, commercial, and industrial facilities, airports, and parking facilities. Minnesota Rules ch. 7023.9030 through 7023.9050 describe permit procedures, schedules, amendments, conditions, and modifications.

Acid deposition: Minnesota Rules ch. 7021 establishes acid deposition controls. Under MN Rules ch. 7021.0050, the MPCA Commissioner is authorized to review and impose additional control requirements on sulfur dioxide emission sources to meet the statewide limit of 194,000 tons per year. Waters in the coastal area of Lake Superior were identified as sensitive to acid deposition by the *Sulfur Emissions and Deposition in Minnesota: 1990 Biennial Report to the Legislature*.

Lead based paints: Minnesota Rules ch. 7025 establishes procedures for the testing and removal of lead-based paints by abrasives from buildings within 100 feet of a residential area, child care facility, school building or playground. Minnesota Rules ch. 7025.0030 through 7025.0060 prescribe procedures and conditions for testing, notification, containment, and cleanup of lead-based paints.

Stratospheric Ozone Protection: Minnesota Rules ch. 7027 adopts, with some modifications, federal regulations regarding servicing of motor vehicle air conditioners, and the servicing and recycling of appliances. In addition, the chapter provides a standard of competence, a technician certification program, and standards for appliance recyclers.

Noise Pollution: Minnesota Rules ch. 7030 prescribes noise standards, land use classifications, exemptions, and measurement methodologies. Provisions of this chapter also outline noise limits, standards, and exemptions associated with the use of motor vehicles.

Authorities:

- C Pollution Control Agency - Minn. Stat. ch. 116**
- C Air Emission Permits - Minn. Rules ch. 7001**
- C Air Emission Permit Fees - Minn. Rules ch. 7002**
- C Air Quality Rules - Minn. Rules ch. 7005**
- C Air Emission Permits - Minn. Rules ch. 7007**
- C Ambient Air Quality Standards - Minn. Rules ch. 7009, 7017, 7019**
- C Stationary Source Air Standards - Minn. Rules ch. 7011**
- C Acid Deposition Controls - Minn. Rules ch. 7021**
- C Mobile Source Air Quality Standards - Minn. Rules ch. 7023**
- C Lead-based Paints - Minn. Rules ch. 7025**
- C Noise Standards - Minn. Rules ch. 7030**

2. Water Quality

The water quality of Minnesota's coastal area is good. The conservation and protection of water resources and their improvement in areas adversely affected by human activities are major objectives of water managers.

Water quality management in the Minnesota coastal area may involve up to five levels of government: federal, interstate, state, regional, and local. At the state level, the Minnesota Pollution Control Agency is the primary agency responsible for water quality management. The comprehensive **Local Water Planning Act, Minn. Stat. ch. 103B**, enables counties to prepare local water management plans. In the sections that follow, management policies and authorities relating to surface and ground water quality are identified. In addition, the state's approach to addressing nonpoint source pollution in the coastal area is presented in Part VI of this program document.

The MPCA's authority to regulate pollution of state waters is principally vested in the federal Clean Water Act. The MPCA must adopt minimum standards, criteria, and rules as prescribed in the federal law and sections. Additional or more restrictive rules or criteria are promulgated by the MPCA in instances where it is deemed necessary and appropriate. The basic authorities of the agency with respect to water quality are found in **Minn. Stat. ch. 115 (Water Pollution Control Act) and Minn. Rules ch. 7050 (Water Quality Rules)**.

Legislative Policies: The policies of the state toward water pollution control are those powers and duties listed primarily in Minn. Stat. §115.03.

- 1. It is the policy of the State of Minnesota to protect all waters from degradation from point and nonpoint sources and wetland alterations, and to maintain existing water quality uses, aquatic and wetland habitats, and the level of water quality necessary to protect these uses.*
- 2. The maintenance of existing high quality in some waters of outstanding resource value to the state is essential to their function as exceptional recreational, cultural, aesthetic, or scientific resources.*
- 3. To preserve the value of these special waters, the agency will prohibit or stringently control new or expanded discharges from either point or nonpoint sources to outstanding resource value waters.*

Activities Managed:

- C Water quality standards
- C NPDES and state disposal permits
- C NPDES and storm water permits
- C Animal feedlots
- C Waste treatment facilities
- C Individual sewage treatment systems
- C Section 401 water quality certification

Implementation: The MPCA administers and enforces all laws relating to the pollution of any waters of the state. The MPCA is actively involved with gathering data concerning water quality in the state. They are involved with assessments of surface water and ground water quality, setting limits on contaminants, establishing nondegradation standards for water quality. The MPCA relies on local groups to assist with the data collection, and supports a number of programs to help fund these initiatives.

The MPCA is in the process of implementing a basin approach for planning and managing its programs and activities. The focus of the basin approach is on hydrologic units (basins and watersheds). This planning effort will be coordinated with the stakeholders involved in or affected by water resource management decisions. Comprehensive Local Water Plans developed by local governments, as well as other water quality related plans and activities already underway by various organizations, will be recognized and built upon under this planning process.

Through this process, a basin management plan for the Lake Superior watershed will be developed. It will describe how the MPCA will manage its programs with respect to the basin and why. The plan will identify the water quality related priorities and activities of other agencies, local governments, and the MPCA. Based on these programs, the MPCA will develop water quality priorities and management strategies, including a monitoring plan for the basin.

In 1985, the Minnesota legislature authorized counties to prepare and adopt comprehensive local water plans. These water plans are revised and updated every five years. Plan updates will include an emphasis on watershed management, water quality assessments, sensitive ground water areas, well-head protection, stormwater management for developing areas, and high priority wetland area identification. All of the counties within the coastal area of Lake Superior have developed and adopted comprehensive local water plans.

Clean Water Act Section 401 Water Quality Certification: The Minnesota Pollution Control Agency (MPCA) has the Clean Water Act Section 401 water quality certification responsibility. A Section 401 Water Quality Certification is required for all activities which require a 404 Permit from the U.S. Army Corps of Engineers (discharges of fill into surface waters, including wetlands). Under the Section 401 provision, the MPCA reviews Corps permits for compliance with state water quality standards (Minn. Rules ch. 7050). Water quality certification may be approved, waived, or denied. The Corps cannot issue a permit for which water quality certification has been denied by the MPCA. Approval for discharges to wetlands is usually dependent on satisfactory mitigation sequencing and wetland replacement. The MPCA has issued blanket water quality certifications for the Section 404 nationwide permits, with regional conditions, and for the General Permit (MN-001-GP) for the State of Minnesota. See Part V, Chapter 3(C) for air and water quality standards, policies, and authorities.

Standards and Criteria:

Water quality standards consist of two parts: beneficial uses for a water body and numeric or narrative water quality standards. Beneficial uses are the desirable uses that water quality should support, legally defined in Minn. Rules ch. 7050, to include domestic consumption, aquatic life, recreation (swimming), agriculture and wildlife, industrial consumption, and aesthetics. Numeric

water quality standards establish the minimum chemical and physical parameters required to support a beneficial use. Physical and chemical numeric standards set maximum concentrations of pollutants, acceptable ranges of physical parameters, and the minimum concentrations of parameters such as dissolved oxygen.

As required by the 1990 Great Lakes Critical Programs Act, Minnesota promulgated a special set of water quality rules for the Lake Superior watershed that became effective March 9, 1998. The rules, Minn. Rules ch. 7052, were established to provide water quality standards, and to implementation procedures and nondegradation policies that provide “a consistent level of environmental protection for the Great Lakes ecosystem (60 Fed. Reg. 15368).” The rules focus on point source discharges of 29 toxic or bioaccumulative pollutants. The rules also provide non-degradation provisions, including special protection designations, applicable to new and expanded discharges of 22 bioaccumulative chemicals of concern.

NPDES and State Disposal Permits: This regulation is hereby adopted and promulgated by the agency to implement the provisions of Minn. Stat. ch. 115 and 116, as amended, in instituting a permit program in accordance with the National Pollutant Discharge Elimination System (NPDES) and by providing for the processing of disposal system permits required pursuant to Minn. Stat. §115.07. The NPDES has been initiated by Congress through the enactment of the federal Water Pollution Control Act Amendments of 1972 (Public Law 92-500).

Minnesota Rules ch. 7001, establishes the procedures, terms, conditions, schedules, documentation requirements, and public notice requirements of MPCA permits issued for pollutants which enter waters of the state. Under 7001.0210, the MPCA may issue general permits for activities which are substantially similar types of discharges, facilities, and operations. With some exceptions, National Pollutant Discharge Elimination System (NPDES) permits are required under 7001.1030 for any person who discharges to waters of the state. Exceptions include, but are not limited to: discharges of sewage or effluent from a vessel, persons discharging pollutants into private treatment facilities, or persons discharging dredge or fill materials regulated under Section 404 of the Clean Water Act. The agency also has the authority under 7001.1400 to issue water quality certifications for any person who requires state certification as required under Section 401 of the Clean Water Act. The agency may issue, reissue, deny, revoke, or modify a Section 401 water quality certification.

NPDES and Storm Water Permits: Minn. Rules ch. 7002, establishes permit fees for both NPDES point source and storm water permits. This chapter prescribes fee schedules, annual fees, and late payment penalties. The 1987 amendments to the Clean Water Act required the EPA to develop regulations for storm water discharges associated with industrial activity. The activities that disturb five or more acres of land. These activities are managed by the MPCA through the Storm Water Permit for Construction Activities. The General Construction Storm Water Permit requires that a temporary erosion and sediment control plan be developed in order to prevent erosion during construction. The permit also requires that a permanent erosion and sediment control plan be developed for the project to address negative storm water impacts from the site after construction.

Animal Feedlots: Minn. Rules ch. 7020, establishes permit conditions and cooperative arrangements necessary for the regulation of animal husbandry. Unlike some laws and programs, these rules recognize the expertise and sensitivity of local governments to agricultural practices and soil and water conservation. Local units of government have the authority under Chapter 7020 to work in cooperation with the MPCA to develop plans and programs which meet unique geographic conditions and needs. Under 7020.0100, local units of government have the primary responsibility to manage animal husbandry in a manner that protect other land uses. Emphasis on local management, however, does not absolve the local unit of government or the Agency of its responsibility to protect the environment.

Chapter 7020 prescribes the pollution control procedures for animal feedlots, general agency permit procedures, county permit procedures, and appeal and variance processes. Under 7020.0500, owners of proposed or existing feedlots of more than ten animal units, are required to make a permit application to the MPCA whenever 1) a new feedlot is proposed, 2) a change of the existing feedlot is proposed, 3) feedlot ownership changes, and 4) whenever an NPDES permit is required by state and federal laws. Counties may assume some of these permit processing responsibilities by resolution. Counties' animal husbandry programs are responsible for the requirements specified in 7020.1600. Counties may voluntarily withdraw from program operation by stating the rationale for doing so, and by forwarding an official resolution to the agency. The agency may also revoke the county's review authority for failing to uphold the requirements of Part 7020.1600.

Sewage Sludge Management: Minn. Rules ch. 7041, outlines requirements for sewage sludge management. In general, this chapter specifies permit procedures, characteristics necessary of land spreading sites, and prerequisites of land spreading facilities. Applicants for land spreading site permits must submit detailed information to the MPCA regarding area hydrologic characteristics, well locations, soil conditions, recreational areas, and other pertinent data. Similar types of data are also required for permits to operate sewage land spreading facilities (i.e., storage facilities). Minn. Rules 7041 assigns specific performance standards to protect surface waters and public health. For instance, sewage land spreading sites may not be located within 1,000 feet of the ordinary high water mark of public waters. Sewage sludge applied to food chain crops must also meet the requirements of the U.S. Department of Agriculture, and the U.S. Food and Drug Administration.

Waste Treatment Facilities: Minn. Rules ch. 7048, defines wastewater treatment facilities and related terms, and specifies procedures and requirements for the certification of treatment operators. Disposal facilities are organized in five basic categories under 7048.0300. These categories include: 1) facilities that accept hazardous waste - Type I, 2) any facility that accepts solid waste, or that is permitted to dispose of sewage sludge as a solid waste - Type II, 3) any facility that accepts nonhazardous waste from industrial processes or construction waste - Type III, 4) any facility that land applies sewage sludge - Type IV, and 5) any disposal facility that land applies nonhazardous liquid waste from commercial, agriculture, or industrial sources - Type V.

Minnesota Rules 7048.0400 to 7048.1300 describe certification procedures and processes for the operators of each of these types of facilities.

Onsite Septic Systems: Minn. Rules ch. 7080, establishes technical standards and criteria, a framework for locally administered permitting and inspection programs, and describes “responsibilities, licensing, and enforcement requirements of sewage treatment system professionals.” Technical standards cover such areas as system sizing requirements, tank construction, soil standards, effluent distribution systems, and setbacks. Owners are also required to adhere to maintenance and system abandonment procedures as described in 7080.0175 through 7080.0176. County administration of the individual sewage treatment system program and licensing standards are outlined in 7080.0300 through 7080.0860.

Local units of government with onsite septic system ordinances must adopt Chapter 7080 by January 1, 1998. All of the coastal counties currently have onsite septic system ordinances. As such, these counties will be required to adopt provisions of Chapter 7080.

Cleaning Agents: Chapter 7100 establishes procedures and performance standards for the management of oil and other hazardous substances including excessive nutrients from cleaning agents. The purpose of 7100.0150 to 7100.0240 is to limit adverse impacts to surface waters from nutrients contained in cleaning agents and water conditioners. Minnesota Rules 7100.0210 requires that phosphorous not exceed .5 percent by weight for laundry detergents, 11 percent by weight for household and commercial detergents, .5 percent by weight for all household cleaners, and 20 percent by weight for chemical water conditioners. No person is allowed to sell, distribute, or offer for sale any cleaning agents or water conditioners which exceed the limitations described above.

Authorities:

- C Water Pollution Control Act - Minn. Stat. ch. 115, 115A-B**
- C Water Quality Standards - Minn. Rules ch. 7050**
- C Water Quality Standard - Standard Implementation, and Nondegradation Standard for Great Lakes Initiative Pollutants in the Lake Superior Basin - Minn. Rules ch. 7052**
- C NPDES and State Disposal Permits - Minn. Rules ch. 7001**
- C NPDES and Storm Water Permits - Minn. Rules ch. 7002**
- C Animal Feedlots - Minn. Rules ch. 7020**
- C Waste Treatment Facilities - Minn. Rules ch. 7048**
- C Individual Sewage Treatment Systems - Minn. Rules ch. 7080**
- C Oil and Hazardous Substances - Minn. Rules ch. 7100**
- C Sewage Sludge Management - Minn. Rules ch. 7041**

3. Ground Water Protection

Although better known for more than 10,000 lakes, Minnesota has an abundance of, and is highly dependent on ground water. Besides being used for drinking water, ground water is used for irrigation, and industrial and commercial water supplies. An adequate and high quality source of ground water is essential to the economic growth and sustainability of Minnesota's way of life. A variety of federal, state and local programs are designed to protect this resource. Federal involvement generally is related to the Clean Water Act, the Safe Drinking Water Act, the Resource Conservation and Recovery Act (RCRA), the Toxic Substances Control Act, or the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). These federal programs complement Minnesota's authorities and promote consistency among the states. Interstate involvement is through various commissions and boards that function by agreement between Minnesota and neighboring states and the Canadian and Provincial governments. Regional and local involvement is through regional development commissions, soil and water conservation districts, counties, and cities.

The MPCA and the Minnesota Department of Agriculture have responsibility for protecting ground water quality. The DNR works on water supply and quantity issues. The Minnesota Department of Health is responsible for protecting wells and drinking water supplies (see subsequent section). In the coastal area, ground water withdrawal is primarily from two types of water bearing formations: surficial sand aquifers, and precambrian age aquifers. The quality of water in most aquifers is suitable for most uses, however, ground water is unsuitable for some uses because of naturally occurring saline water along the North Shore of Lake Superior. The North Shore Volcanic Aquifer is the major bedrock aquifer along the North Shore of Lake Superior. Water generally is obtained from the upper 300 to 400 feet where fractures and weathering are extensive. The aquifer is moderately developed for rural and public supply.

Legislative Policy: *It is the goal of the state that ground water is maintained in its natural condition, free from any degradation caused by human activities. It is recognized that for some human activities this degradation prevention goal cannot be practicably achieved. However, where prevention is practicable, it is intended that it is achieved. Where it is not currently practicable, the development of methods and technology that will make prevention practicable is encouraged.*

Activities Managed:

- C Sensitive areas
- C Best management practices
- C Ground water pollutants

Implementation: Minnesota has extensive ground water management and planning legislation. Three state-level organizations implement most of the regulatory and planning programs mandated by this legislation.

DNR Waters provides technical assistance on water supply, conservation, and well interference issues and manages an appropriation permit program (see Water Appropriation Permits, Part V, page 3-36). The DNR is also responsible for maintenance of a statewide observation well monitoring program, and investigation of ground water resources. The research, data collection, and analysis are operated in cooperation with the U.S. Geological Survey.

The Minnesota Department of Health (MDH) is responsible for health-related and domestic supply issues involving ground water (see Water Supply, Part V, pages 3-69 to 3-70).

The MPCA administers programs dealing with ground water quality issues and pollution control requirements. (Minn. Stat. ch. 115 and 116). The MPCA implements these programs through a system of rules that prevent any new pollution and abate existing pollution. The MPCA also regulates sewage sludge land spreading, hazardous waste facilities, sanitary landfills, septic tanks and drainfields, storage of liquid products, and interstate and intrastate standards for water quality and purity. The Environmental Response and Liability Act (Minn. Stat. ch. 115B) passed in 1984, is referred to as the “Minnesota Superfund Act” and authorized the MPCA to provide funds to clean up contamination sites and gain reimbursement. Permits are required for disposal practices and to operate facilities that could affect the quality of ground water. The MPCA maintains a network of approximately 400 wells and springs to monitor ground water quality throughout Minnesota.

Standards and Criteria:

The Commissioner of Natural Resources in consultation with the Minnesota Geological Survey, soil and water conservation districts, local water planning authorities, and others identify the location of sensitive areas by mapping and other methods. The type of risk of ground water degradation that may occur from activities at or near the surface are identified for a particular area. Best management practices, water resource protection plans, and water resource protection requirements are established and implemented by the Minnesota Department of Agriculture and the MPCA. (Minn. Stat. §103H.101) A landowner’s portion of the sensitive area is subject to plans developed to protect the ground water from degradation through surface water recharges. BMPs have also been developed for agricultural chemicals and practices. Sensitive ground water areas are identified in county water plan updates.

If ground water pollution is detected, and implementation of BMPs fails to prevent or minimize the source of pollution, the MPCA and the Department of Agriculture may adopt rules and criteria for preventing and minimizing the pollution. Alternative protection measures can be proposed by an individual. Violation of a ground water protection requirement is subject to penalties for violating a rule under Minn. Stat. ch. 116 or Minn. Stat. ch. 18D, for agricultural chemicals and practices. For the purpose of protecting ground water as the primary source of potable water, Minn. Rules ch. 7060 prohibits discharge of sewage, industrial wastes, or other wastes directly into saturated zones. The regulation requires implementation of control measures for any person engaged in an activity which may impair, or potentially impair the quality of underground waters. Minnesota Rules ch. 7060, does preclude use of septic systems or holding tanks for organic materials in areas where public waste treatment systems are not feasible or available. This regulation also allows for the application of agricultural chemicals and fertilizers,

or the recharge of aquifers, where such activity does not present a significant pollution threat. An exemption from parts of Chapter 7060 may be granted where its enforcement would be unreasonable, impractical, or cause undue hardship.

Authorities:

- C Underground Waters - Minn. Rules ch. 7060**
- C Water Pollution - Minn. Stat. ch. 115**
- C Pollution Control Agency - Minn. Stat. ch. 116**
- C Agricultural Chemical Liability, Incidents, and Enforcement - Minn. Stat. ch. 18D**
- C Groundwater Protection Act - Minn. Stat. ch. 103H**

4. Water Supply

A variety of programs exist to assure that Minnesotans have a clean and plentiful water supply. Although other state and local agencies have a role, the Minnesota Department of Health (MDH) has the primary responsibility for water supply management. Standards for drinking water and water supply that are mandated by the federal Safe Drinking Water Act (SDWA) are implemented in Minnesota through the Safe Drinking Water Act (Minn. Stat. ch. 144) and drinking water regulations of Minn. Rules ch. 4720. The federal government through the EPA, sets standards for drinking water quality and establishes the frequency at which water samples must be collected and analyzed. In return for federal grant money, the Minnesota Department of Health administers and enforces safe drinking water regulations.

In 1986, Minn. Stat. ch. 115 (Water Pollution) was amended to establish potable water supply as the highest priority use of water in the state. The law prohibits the location of hazardous or radioactive waste facilities where they might cause pollution of potable water.

The MDH administers the state well code, and the well abandonment procedures found in Minn. Stat. ch. 103I.

Legislative Policies:

- 1. It is the policy of the state to insure safe drinking water in all public water supplies. (Safe Drinking Water Act, Minn. Stat. §144.383)*
- 2. It is policy to consider the actual or potential use of the underground waters for potable water supply as constituting the highest priority use and as such to provide maximum protection to all underground waters. For the conservation of underground water supplies for present and future generations and prevention of possible health hazards, it is necessary and proper to employ a nondegradation policy to prevent pollution of the underground waters of the state. (Classification of Underground Waters of the State and standards for Waste Disposal, Chapter Twenty-two: AC 22)*
- 3. It is the policy to protect the health and general welfare by providing a means for the development and protection of the natural resource of ground water in an orderly, healthful, and reasonable manner. (Wells, Borings, and Underground Uses, Minn. Stat. 103I.001)*

Activities Managed:

- C Public water supply
- C Water wells

Implementation: The Minnesota Department of Health (MDH) is concerned with the health related and domestic supply issues involving surface and ground water. The MDH approves plans for public water supply wells, establishes and enforces well construction standards, and licenses well drillers (Minn.Stat. ch.156A). The MDH also requires well completion reports for new wells,

regulates, through permits, the reinjection of ground water and ground water thermal exchange devices (Minn. Stat. ch. 103I), and administers the public water supply regulations in concurrence with the Safe Drinking Act (Minn. Stat. ch.144).

Standards and Criteria:

Public Water Supply: In accordance with MDH 136, no system of water supply, where such system is for public use, shall be installed by any public agency or by any person or corporation, nor shall any such existing system be materially altered or extended, until complete plans and specifications for the installation, alteration, or extension, together with such information as the State Board of Health may require, have been submitted in duplicate and approved by the director insofar as any features thereof affect or tend to affect the public health. No construction shall take place except in accordance with the approved plans. The plans for the well shall conform as specified by this well code. No municipal well may be drilled without approval of the site by the director.

Public water supply emergency and conservation plans are developed by water suppliers serving more than 1,000 customers. Water suppliers are also required to develop demand reduction measures before new wells or increases in water use are approved.

Water Wells: The rules and regulations, Minn. Rules ch. 4725, shall apply to all water wells in the State of Minnesota except those specifically exempted by the Safe Drinking Water Act. Those aspects covered are the construction of new wells, the repair and maintenance of wells where specified, and the proper abandonment of wells to protect the quality of ground water aquifers for providing safe drinking water supplies.

Authorities:

- C Safe Drinking Water Act - Minn. Stat. ch. 144**
- C Drinking Water Rules - Minn. Rules ch. 4720**
- C Wells, Borings, and Underground Uses - Minn. Stat. ch. 103I**
- C Minnesota Well Code - Minn. Rules ch. 4725**

5. Waste Management

a. Solid Waste

Protecting the coastal area's land, air, water, natural resources, and public health requires that garbage be managed in environmentally sound ways that recover resources from the garbage before disposal. The legislature seeks to encourage both the reduction of the amount and type of material entering the solid waste stream and the reuse and recycling of materials. Solid waste represents discarded material and energy resources, and it also represents an economic burden to the people of the state. The recycling of solid waste materials is one alternative for the conservation of material and energy resources, but it is also in the public interest to reduce the amount of materials requiring recycling or disposal.

Solid waste as defined in statute means "garbage, refuse, sludge from a water supply treatment plant or air contaminant treatment facility, and other discarded waste materials and sludge, in solid, semisolid, liquid, or contained gaseous form, resulting from industrial, commercial, mining, and agricultural operations, and from community activities." Solid waste does not include hazardous waste, animal waste used as fertilizer, sewage sludge, solid or dissolved material in domestic sewage, or other common pollutants in water resources.

b. Hazardous Waste Management

The waters within the coastal area, because of their abundant quantity and high natural quality, constitute a unique natural resource of immeasurable value which must be protected and conserved for the benefit of the health, safety, welfare, and economic well being of present and future generations of the people of the state. The actual or potential use of the waters of the state for potable water supply is the highest priority use of that water and deserves maximum protection by the state. The disposal of hazardous waste and radioactive waste in Minnesota may pose a serious risk of pollution of the waters of the state, particularly potable water.

Environmental Response and Liability Act: The Minnesota Environmental Response and Liability Act (MERLA) is the state counterpart to CERCLA. The purpose of the act was to provide state capability to clean up and remediate hazardous waste releases at sites not on the national priority listing, or where the federal government does not have sufficient financial capability. The act established a trust fund and assigned financial liability for clean up, personal injury damages, economic hardship costs to responsible parties. The trust fund is now supported by taxes on hazardous waste generators, penalties and fees paid in association with hazardous waste generation or management, interest on the account balance, and any grants, gifts, reimbursements to the account (Minn. Stat. §225B.22, 1992).

MERLA is similar to CERCLA in that any person who causes or threatens to cause the release of hazardous materials into the environment is responsible "jointly and severally" for costs and damages which result from the release or threatened release of a hazardous substance (Minn. Stat. §115B.04, 1992). This liability includes costs incurred by agencies and political subdivisions of

the state, removal costs incurred by any person, and damages to natural resources, including costs required to assess damages. Liability also extends to economic losses, including claims for personal or real property, wrongful death, and health complications (Minn. Stat. §115B.05, 1992).

c. Industrial Waste

Industrial waste is defined as any liquid, gaseous or solid waste substance resulting from any process of industry, manufacturing trade or business or from the development of any natural resource. The MPCA issues permits for industrial, hazardous, and mixed solid waste. Technical and research assistance programs for generators of industrial waste are designed to help obtain information about management, to identify and apply methods of reducing the generation of waste, and to improve management and compliance. Assistance is provided in the form of engineering, hydrology, and monitoring.

Legislative Policies: *In order to protect the state's water, air and land resources so as to promote the public safety, health, welfare and productive capacity of its population, it is in the public interest that counties conduct solid waste management programs. (Solid Waste Management, Policy and Authorization, Minn. Stat. §400.01)*

It is the policy of the State of Minnesota, consistent with the state's primary responsibility and rights to prevent, reduce, and eliminate water pollution and to plan for the preservation of water resources, that depositories for hazardous waste or radioactive waste should not be located in any place or be constructed or operated in any manner that can reasonably be expected to cause pollution of potable water.

Activities Managed:

- C Solid waste disposal
- C Waste treatment facilities
- C Hazardous waste facilities
- C Hazardous waste generators
- C Underground storage tanks
- C Above ground storage tanks
- C Petroleum contaminated soil management
- C Low level radioactive waste
- C Priority assessment criteria

Implementation: The MPCA shall promote solid waste disposal control by encouraging the updating of collection systems, elimination of open dumps, and improvements in incinerator practices. Consistent with these objectives, it shall be the policy of the Pollution Control Agency to encourage the development and expansion of solid waste control programs in cities, counties and other political subdivisions of the state and to provide planning, technical and enforcement assistance.

The Minnesota Office of Environmental Assistance (OEA) is established to assist in management of waste. Partnerships with local government, business and local educators help reduce the impact and better manages waste. The OEA was established on July 1, 1994. The agency is a descendant of the Minnesota Waste Management Board, established in 1980, and the Minnesota Office of Waste Management, established in 1989.

The OEA's Solid Waste Assistance Program provides help to local government in building and financing solid waste facilities and local and regional solid waste management planning. The OEA operates under the direction of the Commissioner of the MPCA and is established in the state's Waste Management Act.

The Pollution Control Agency is responsible for implementing the hazardous waste programs in the coastal area. The MPCA coordinates permit activities with the Office of Environmental Assistance.

Standards and Criteria: The MPCA has adopted standards for the control of the collection, transportation and disposal of solid waste for the prevention and abatement of water, air, and land pollution. Due to variable factors, no single standard of solid waste control is applicable to all areas of the state. Pursuant and subject to the provisions of Minn. Stat. ch. 115, the MPCA has adopted regulations and standards having the force of law relating to the collection, transportation, and disposal of solid waste for the prevention, abatement, or control of water, air, and land pollution, and the deposition in or on land of any other material that may tend to cause pollution. The MPCA has also adopted rules and standards for sewage sludge, addressing the suitability of land, the volume and rate of application of sewage sludge, designs of facilities, and operation of facilities and sites.

Solid Waste Procedural Authorities: Minnesota Rules ch. 7001 defines procedural authorities for the storage, treatment, utilization, processing, transfer, intermediate or final disposal of solid waste. Part 7001.0040 applies to permits associated with transfer, recycling, refuse-derived fuel processing, and recycling facilities. This chapter prescribes conditions, terms, schedules, and documentation and public notice requirements for permits. It also prescribes procedures for the extension, modification, and revocation of permits.

Solid Waste: With the exception of petroleum contaminated soil, Minn. Rules ch. 7035 outlines the requirements for the storage, processing, disposal, transportation, use, or disposal of any solid waste. This chapter defines the responsibilities of individual property owners, and the technical requirements of industrial and solid waste facilities. Parts 7035.2665 through 7035.2775 identify the closure and fiduciary responsibilities for owners and operators of mixed municipal solid waste land disposal and municipal solid waste combustor ash land disposal facilities. Other issues addressed within the context of this chapter include abandoned motor vehicles, scrap metal, infectious wastes, and solid waste grants and planning assistance.

Permits for new facilities or for additional capacity require solid waste management plans. As part of a permit for waste incineration, a plan for ash management and leachate treatment or ash utilization must be approved.

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Hazardous Waste: The MPCA has adopted rules and standards for the identification of hazardous waste and for the management, identification, labeling, classification, storage, collection, transportation, processing, remediation, and disposal of hazardous waste. No local unit of government may set standards of hazardous waste control which are in conflict or inconsistent with the rules set by the MPCA.

The location, construction, or operation of any depository for hazardous waste or radioactive waste, whether generated within or outside of the state, in any place or in any manner that can reasonably be expected to cause the pollution of potable water is prohibited.

Minnesota Rules ch. 7045, require that all hazardous waste facilities have contingency plans for the effective containment and control in any emergency condition. It also defines the properties and substances that constitute hazardous wastes; describes standards applicable to hazardous waste generators, transporters, and facilities; and outlines responsibilities for pre, post, and final closure of hazardous waste facilities. The chapter also addresses land disposal and restrictions and management of special wastes. Special wastes include such items as spent lead batteries and used oil burned for energy recovery purposes. Land disposal restrictions include substances such as dioxin, and hazardous wastes identified in subparts 7045.1320 through 7045.1335.

A mechanism must be established to assure that money to cover the costs of closure and postclosure monitoring and maintenance of hazardous waste facilities will be available. The owner or operator of a hazardous waste facility must have liability insurance during the operating life of the facility.

The owner or operator of a solid waste disposal facility or resource recovery system must have a management plan for the separation of household hazardous waste and other problem materials from solid waste prior to disposal or processing.

Chapter 7100 establishes procedures and performance standards for the management of oil and other hazardous substances. Minnesota Rules 7100.0020 states that “no substance shall be stored, kept, or allowed to remain in or upon any site without reasonable safeguards adequate to prevent the escape or movement of the substance or solution . . .” Storage of such substances requires a permit and the implementation of safeguards as described by 7100.0030. The MPCA is responsible for issuance of permits.

Minnesota Rules 7100.0300 establishes procedures for certificates of exemption for the use, possession, sale, purchase, or manufacture of polychlorinated biphenyl (PCBs). Certificates of exemption are not required for small, specific uses of products which contain PCBs. All persons who manufacture, use, possess, purchase, or sell PCBs must, however, obtain a certificate of exemption from the MPCA. Applications for certificates of exemption require the submission of a completed application as stipulated in 7100.0340. As part of the review process, the public may also comment on the application and/or seek a contested case hearing.

Industrial Waste: Minnesota Rules ch. 7105 requires that a person who installs, repairs, or who takes an underground storage tank permanently out of service, is first required to obtain a

certificate of competency from the MPCA. This chapter prescribes certification requirements, standards of performance, training course requirements and approvals, examinations and diplomas, sanctions, and fees.

Minnesota Rules ch. 7150 generally establishes standards for underground storage tank systems. Within the scope of this authority, are sections that cover tank design, construction, installation, release detection, and notification requirements. Sections of this rule also prescribe site close procedures and record keeping responsibilities.

Minnesota Rules ch. 7151 create the administrative and technical requirements for the above ground storage of liquids with the potential to impact waters of the state. This chapter outlines permit procedures, above ground tank and containment standards, labeling requirements, and tank operation and maintenance. This section also addresses liquid releases and the de-activation and re-activation of above ground tanks.

Minnesota Rules ch. 7037 establishes minimum standards for the management and treatment of petroleum contaminated soils removed from locations where a release occurs. This authority prescribes standards for land treatment of petroleum contaminated soil, soil spreading procedures, and acceptable and unacceptable treatment sites. This rule also outlines exemptions, soil sampling requirements, methods, and procedures for soils contaminated with hazardous wastes.

Minnesota Rules ch. 7042 purpose is to levy fees on the generators of low level radioactive waste.

Minnesota Rules ch. 7044 governs the procedures for establishing a permanent list of releases or threatened releases of hazardous substances, pollutants, or contaminants. In addition, this chapter establishes various classifications for sites with releases or threatened releases, describes the procedures for adding sites with releases or threatened releases, deletes sites from the permanent list, provides for an annual review and update of the permanent list, establishes the funding priority among classifications and the funding priority within classifications, creates an annual project list, and specifies a ranking system to be used in scoring sites.

Authorities:

- C Water Pollution Control Act - Minn. Stat. ch. 115**
- C Waste Management - Minn. Stat. ch. 115A**
- C Pollution Control Agency - Minn. Stat. ch. 116**
- C Waste Treatment Facilities - Minn. Rules ch. 7048**
- C Solid Waste Management, Policy and Authorization - Minn. Stat. §400.01**
- C Oil and Hazardous Substances - Minn. Rules ch. 7100**
- C Hazardous Waste - Minn. Rules ch. 7045**
- C Underground Storage Tanks - Minn. Rules ch. 7105**
- C Underground Storage Tanks Program - Minn. Rules ch. 7150**
- C Above Ground Storage Tanks - Minn. Rules ch. 7151**
- C Petroleum Contaminated Soil Management - Minn. Rules ch. 7037**
- C Low Level Radioactive Waste - Minn. Rules ch. 7042**
- C Priority Assessment Criteria - Minn. Rules ch. 7044**
- C Solid Waste Management Facility Permits - Minn. Rules ch. 7035**

Table 14.

Enforceable Policies/Programs Subject to Federal Consistency
Section C. Air and Water Quality

Agency Name	Program	Authority	Funding	Program Delivery
<p>MPCA</p> <p>Water Quality Programs: 1-800-657-3864</p>	<p>National Pollutant Discharge Elimination System (NPDES) Permit Program: regulates point source discharges into waters of the United States, including wetlands, lakes and streams. The MPCA is delegated by the U.S. Environmental Protection Agency (EPA) to issue these permits. Effluent limits are assigned to each permit for oxygen demand, solids, pathogens, nutrients, temperature, toxics, and other pollutants.</p>	<p>Minn. Stat. §115.07, Sub. 1 Minn. Stat. §116.081 Minn. Rules ch. 7050 Minn. Rules ch. 7001 Executive Order 91-3</p>	<p>Federal 106 Fund; Permit fees; State General Fund</p>	<p>An applicant applies to the MPCA at least 180 days prior to commencing construction of a facility that would result in a point source discharge to waters of the United States. Agency staff review the application and may require an environmental review of the proposed project. Permits are typically issued for five years.</p>
<p>MPCA</p> <p>Water Quality Programs: 1-800-657-3864</p>	<p>Water Quality Certification Program: requires that an applicant for federal permits or licenses for a project that may affect water quality obtain a certification from MPCA that water quality standards will be met before the license or permit may be granted. The majority of applications include construction projects which involve physical alterations of wetlands.</p>	<p>Minn. Stat. §116.07 Minn. Rules ch. 7050 Minn. Rules 7001.1400-.1470 Executive Order 91-3</p>	<p>State General Fund; Federal 106 Fund</p>	<p>An applicant may apply directly to the MPCA for a water quality certification, or the federal agency granting the permit or license may notify the MPCA of the application through public notice or other formal notification.</p>
<p>MPCA</p> <p>Air Quality Programs:</p>	<p>Air Quality: Defines the powers and duties of the PCA in improving air quality and developing air quality standards.</p>	<p>Minn. Stat. ch. 116</p>	<p>General Fund, EPA</p>	<p>Agency staff.</p>

Agency Name	Program	Authority	Funding	Program Delivery
MPCA Air Quality Programs:	Acid Deposition Control: Provides authority to review and control atmospheric sources of sulfur dioxide.	Minn. Stat. §116.44 Minn. Rules ch. 7021	General Fund, EPA Permit fees	PCA develops acid deposition standard for wet plus dry acid deposition in sensitive areas.
MPCA Air Quality Programs:	Air Emission Permits: provides instructions, procedures, fees, and deadlines for air quality permits. Establishes permit requirements for installations, units, facilities, and other stationary sources of air emissions.	Minn. Stat. §116.07 Minn. Stat. §116.44 Minn. Rules ch. 7001, 7002, 7007	General Fund, EPA Permit fees	Permits are required from the PCA for emission of air contaminants or the installation and operation of any air emission facility.
MPCA Air Quality Programs:	Air Quality Standards: establishes definitions. Provides the authority to protect human health and property uses from adverse impacts of air pollution. Establishes standards for stationary sources and mobile sources of air pollution.	Minn. Stat. §116.07 Minn. Rules ch. 7005, 7009, 7011, 7017, 7019, 7023	General Fund, EPA Permit fees	Air quality standards are developed by the PCA to protect health and environment. MPCA has the authority to require monitoring and testing of continuous sources; includes inspection procedures and public notification requirements for mobile sources of emission. Record keeping is also established for continuous emission sources.
MPCA Air Quality Programs:	Lead Paint Waste: establishes procedures for testing and removal of lead based paints.	Minn. Stat. §116.07 Minn. Stat. §144.07 Minn. Rules ch. 7025	General Fund, EPA Permit fees	Disposal of lead based paint must be done at an approved disposal facility.

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Agency Name	Program	Authority	Funding	Program Delivery
<p>MHD Well Management Unit:</p>	<p>Well Management Program: enforces the state well code to protect public health and ground water. Requires that persons constructing, repairing, or sealing wells or borings in Minnesota be licensed by MDH in one or more of eight license categories and that MDH be notified prior to construction of any water supply well. Requires construction permits for all monitoring wells, elevator shafts, heat pumps, and heat loops and some dewatering wells.</p>	<p>Minn. Stat. ch. 1031 Minn. Rules ch. 4725</p>	<p>State General Fund and fee recovery</p>	<p>Staff in eight district offices conduct inspections of the work of approximately 500 licenses/registered contractors involved in the construction, sealing, and repair of wells and borings to ensure compliance with the state well code. MDH also conducts training sessions throughout the year to provide information to well contractors, local program officials, and the general public. Water quality and well construction information are available on a computer database for wells constructed since Jan. 1, 1991.</p>
<p>MDH Supervisor, Special Services Unit: (612) 627-5169</p>	<p>Wellhead Protection Program: protects public wellhead areas from contaminants that may adversely affect human health. Public water suppliers are required to delineate wellhead areas and develop a program for managing contaminants in wells. The program will include a GIS to handle data, technical assistance, training, and education components.</p>	<p>Minn. Stat. §103I.101, subd. 5</p>	<p>State General Fund, Well notification filing and permit fees; USEPA Clean Water Act, Section 106 and 319 Ground Water and Nonpoint Source Grants.</p>	<p>MDH works closely with public water suppliers and local units of government in developing long-term WHPA management plans.</p>
<p>MDA Agronomy Services Division - Incident Response Unit: (612) 297-1975</p>	<p>Agricultural Chemical Spills Response Program: requires that spills of agricultural chemicals (pesticides or fertilizers) be immediately reported to MDA.</p>	<p>Minn. Stat. §18D.103-.331</p>	<p>Federal grants, Pesticide registration fees, Superfund, and penalties</p>	<p>The program is administered statewide by the MDA. Any person who has a spill of an agricultural chemical is required to immediately report it to the MDA.</p>
<p>MDH Division of Environmental Health: (612) 627-5100</p>	<p>Health Risk Limits Program: develops health based standards for ground water contaminants to be used by ground water regulatory programs in accordance with provisions of the 1989 Ground Water Protection Act, or incorporated into existing or new ground water regulations.</p>	<p>Minn. Stat. §103H.201</p>	<p>State General Fund</p>	<p>MDH's Section of Health Risk Assessment develops health risk limit rules.</p>

Agency Name	Program	Authority	Funding	Program Delivery
<p>MDH Public Water Supply Unit: (612) 627-5180</p>	<p>Public Water Supply Program: regulates public water supplies that use ground water and surface water sources through enforcement of water quality standards and facility construction standards. Provides technical assistance, training and public information.</p>	<p>Minn. Stat. §144.381-144.387 Minn. Rules ch. 4720</p>	<p>Fees and federal Safe Drinking Water grant (The federal Safe Drinking Water Program is enforced in MN by MDH through an agreement with the U.S. EPA)</p>	<p>MDH performs most monitoring; field staff conduct routine inspections of public water supplies and collect water samples. MDH provides water operator training and certification. Construction standards are enforced through a plan review and approval process. Remediation activities and public notice are the responsibility of the water supplier.</p>
<p>MPCA Water Quality Programs: 1-800-657-3864</p>	<p>Individual Sewage Treatment Systems (ISTS) Program: sets minimum standards and criteria for the design, location, installation, use and maintenance of individual sewage treatment systems.</p>	<p>Minn. Stat. §116.07 Minn Rules ch. 7080</p>	<p>General Fund</p>	<p>Local units of government administer and enforce the ISTS standards, mainly through incorporation into local planning and zoning.</p>
<p>MPCA Water Quality Programs: 1-800-657-3864</p>	<p>Sewage Sludge Management Program: issues permits for the design, location, and operation of municipal sewage sludge landspreading sites and facilities.</p>	<p>Minn Rules ch. 7041 and 7001</p>	<p>Permit Fees</p>	<p>MPCA issues permits and regulates activities</p>
<p>MPCA Water Quality Programs: 1-800-657-3864</p>	<p>Wastewater Treatment Facility Operator Certification, Training and Assistance Program: provides mandatory training to wastewater collection system and treatment facility operators. Certification is obtained through a combination of facility experience and by passing a written examination.</p>	<p>Minn. Stat. §115.71 - 115.82 Minn Rules ch. 7048</p>	<p>State Wastewater Operator Training Fund; State General Fund; EPA 104(g)1 grant</p>	<p>15 to 25 training courses are held each year throughout the state. Certification examinations are generally offered at each course. MPCA provides on-the-job assistance to any facility with a design flow less than 1.0 million gallons per day.</p>

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Agency Name	Program	Authority	Funding	Program Delivery
<p>MPCA Hazardous Waste Programs: 1-800-657-3864</p>	<p>Hazardous Waste Management Program: provides a tracking system for hazardous wastes. Tracks materials from the point at which the wastes are generated to their final disposal, and ensures that at all times the wastes are stored, handled and disposed of safely.</p>	<p>Minn Rules ch. 7001, 7045, and 7100</p>	<p>Federal funds and fees</p>	<p>The MPCA licenses all generators of hazardous waste and provides assistance to companies in managing hazardous wastes. Waste generators must notify the MPCA of waste shipments and verify receiving locations and proper disposal. Facility owners must clean up on-site contamination. Criminal penalties may be assessed for improper waste management.</p>
<p>MPCA Hazardous Waste Programs: 1-800-657-3864</p>	<p>Spills Response Program: ensures cleanup of hazardous materials spills, leaks and other catastrophic occurrences. State law requires those who are responsible for pollution to clean it up. Spill response staff also serve as responders to emergencies.</p>	<p>Minn. Stat. ch. 115 Minnesota Environmental Response and Liability Act (MERLA)</p>	<p>General Fund; Minnesota State Petrofund</p>	<p>All spills and incidents are required to be reported to the MPCA when they occur. MPCA staff coordinate the cleanup process. Training has been given to clean-up contractors to explain the MPCA guidance.</p>
<p>MPCA Ground Water and Solid Waste Programs: 1-800-657-3864</p>	<p>Superfund and Site Assessment Program: allows the MPCA to respond to releases or threatened releases of hazardous substances, largely from inactive or abandoned disposal sites, for the protection of public health, welfare or environment.</p>	<p>Minn. Stat. ch. 115B</p>	<p>Tax on hazardous waste generators and reimbursement of state expenses from responsible parties.</p>	<p>MPCA implements programs and may take removal or response actions if responsible parties do not. Program includes a fund for removal or remedial actions and injury compensation due to an exposure to a release, and establishes a process from site investigation through cleanup.</p>
<p>MPCA Ground Water and Solid Waste Programs: 1-800-657-3864</p>	<p>Solid Waste Disposal Program: requires permits for most categories of solid waste disposal, storage, and transfer facilities.</p>	<p>Minn. Stat. ch. 115, 115A, 116 Minn. Rules ch. 7001</p>	<p>State General Fund Fees Select Committee on Recycling and the Environment (SCORE)</p>	<p>MPCA issues permits. Permit requirements vary, depending on type of facility. Facilities must comply with design, siting, and operation requirements.</p>
<p>MPCA Water Quality Programs: 1-800-657-3864</p>	<p>State Disposal System Permit Program: permits required for facilities operating waste disposal systems that discharge wastewater to the environment. The permits limit pollutants from entering the waters of the state.</p>	<p>Minn. Stat. §115.03, subd. 1 Minn Rules ch. 7001</p>	<p>Permit Fees</p>	<p>MPCA issues permits for up to five years. Public notices and public comment periods allow citizen involvement in the permit process.</p>

Agency Name	Program	Authority	Funding	Program Delivery
<p>MPCA</p> <p>Ground Water and Solid Waste Programs: 1-800-657-3864</p>	<p>Underground Disposal Control Program: regulates the use of on-site sewage treatment systems for disposal of industrial and commercial wastewaters.</p>	<p>Minn. Stat. ch. 103H Minn. Rules ch. 7001 and 7060</p>	<p>State General Fund</p>	<p>The program is implemented by the MPCA through the Underground Disposal Coordinator.</p>
<p>MPCA</p> <p>Water Quality Programs: 1-800-657-3864</p>	<p>Feedlot Program: requires the owner of a proposed or existing feedlot of 10 or more animal units to apply for an MPCA permit when a feedlot is proposed, modified, changes ownership; when a federal permit is required; or an investigation of a complaint reveals a pollution problem.</p>	<p>Minn. Stat. §116.07 Minn Rules ch. 7020 and 7001</p>	<p>Federal 106 and 319 Funds</p>	<p>The MPCA reviews applications by examining the livestock facility for potential pollution problems. The feedlot review process results in issuance of a certificate of compliance, an interim permit, an NPDES permit or a five year feedlot permit.</p>
<p>MPCA</p> <p>Water Quality Programs: 1-800-657-3864</p>	<p>Water Pollution Control Act: authorizes the MPCA to regulate activities that have the potential to pollute waters of the state.</p>	<p>Minn. Stat. ch. 115</p>	<p>State General Fund</p>	<p>The MPCA is empowered to administer all laws relating to the pollution of any of the waters of the state, including NPDES, disposal systems, point sources, sanitary districts, and municipal water pollution control.</p>
<p>MPCA</p> <p>Water Quality Programs: 1-800-657-3864</p>	<p>Water Quality Standards: water quality standards are developed to regulate discharges to state waters. Standards include effluent standards, effluent limitations, water quality, pretreatment standards and prohibitions.</p>	<p>Minn. Sta. §115.44 Minn. Rules ch. 7050 and 7052</p>	<p>State General Fund</p>	<p>Any applicant for a federal or state permit or license for a project that has the potential to affect water quality must obtain a certification from MPCA that water quality standards will be met before the license or permit is issued.</p>
<p>MPCA</p> <p>Water Quality Programs: 1-800-657-3864</p>	<p>NDPES/Storm Water Permits: permits are required for industrial activities and construction activities that disturb five acres, or more, of land.</p>	<p>Minn. Rules ch. 7002</p>	<p>Federal Section 319 - Nonpoint Source Program</p>	<p>Any applicant that requires a permit must submit plans and design to control storm water runoff during construction and after development of a site. The MPCA coordinates review and monitoring of the permit.</p>

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Agency Name	Program	Authority	Funding	Program Delivery
MPCA	<p>Noise Abatement and Control: establishes measurement methodologies, standards, and limits for noise pollution. This authority includes recreational and motor vehicles, as well as land use activities that generate noise.</p>	<p>Minn. Stat. §116.07 Minn. Rules ch. 7030</p>	<p>Metropolitan Air Ports Commission</p>	<p>MPCA staff implements program.</p>
MPCA	<p>Underground Storage Tanks Program: generally establishes standards for underground storage tank systems. Within the scope of this authority, are sections that cover tank design, construction, installation, release detention, and notification requirements. Sections of the rule also prescribe site closure procedures and record keeping responsibilities.</p>	<p>Minn. Rules ch. 7150</p>	<p>Federal UST Program Grant; State General Fund</p>	<p>The MPCA implements the program often with the assistance of local government units. State inspectors conduct compliance inspections and enforce UST rules.</p>
MPCA	<p>Above Ground Storage Tanks: creates the administrative and technical requirements for the above ground storage of liquids with the potential to impact waters of the state. This chapter outlines permit procedures, above ground tank and containment standards, labeling requirements, and tank operation and maintenance. This section also addresses liquid releases and the de-activation and re-activation of above ground tanks.</p>	<p>Minn. Rules ch. 7151</p>	<p>General Fund</p>	<p>MPCA implements the program through the permit and notification procedures. Tanks must be registered, monitored and may also need other permits.</p>

Agency Name	Program	Authority	Funding	Program Delivery
MPCA	<p>Petroleum Contaminated Soil Management: establishes minimum standards for the management and treatment of petroleum contaminated soils removed from locations where a release occurs. This authority prescribes standards for the land treatment of petroleum contaminated soil, soil spreading procedures, and acceptable and unacceptable treatment sites. This rule also outlines exemptions, soil sampling requirements, methods, and procedures for soils contaminated with hazardous wastes.</p>	Minn. Rules ch. 7037	General fund	MPCA implements and oversees contaminated soil management. Permits and administration is accomplished through local government units where applicable.

Table 15. **Other Non-Regulatory Programs Not Subject to Federal Consistency Reviews**
Section C. Air and Water Quality

Agency Name	Program	Authority	Funding	Program Delivery
<p>MPCA Water Quality Division: (612) 296-7202</p>	<p>Clean Lakes Program: provides financial assistance through matching grants and technical assistance to local governments to lead lake restoration projects with an emphasis on watershed management. Includes data collection, problem identification, and development of an implementation plan to restore water quality.</p>	<p>Section 314 of the Clean Water Act. The program is administered by the Environmental Protection Agency, working through the Minnesota Pollution Control Agency for projects in Minnesota.</p>	<p>Federal funds. Local governments are required to provide a 50/50 match to the federal funds.</p>	<p>Local governments apply to the program to conduct a watershed project directed at protecting a specific lake resource. The applications are ranked and selected by the Environmental Protection Agency. Applicants of selected projects develop a work plan and monitoring plan that is approved by the MPCA. The local government then may apply for funds to implement their project.</p>
<p>MPCA Tanks and Spills Section: (612) 297-8564</p>	<p>Underground Storage Tank (UST) Program: maintains a database of registered underground storage tanks in the state. Program staff inspect selected sites for compliance with state and federal requirements. The program includes outreach and technical assistance.</p>	<p>Minn. Rules ch. 7105 and 7150; U.S. Resource Conservation and Recovery Act, Subtitle I</p>	<p>Federal UST Program Grant; State General Fund</p>	<p>The MPCA implements the program, often with the input and assistance of local units of government. State inspectors conduct compliance inspections, provide technical assistance, and enforce UST rules.</p>
<p>MPCA Water Quality Division: Nonpoint Source Section (612) 296-7248</p>	<p>Individual On-Site Wastewater Treatment Systems Grant Program: provides grants to municipalities to assist owners of individual on-site systems to upgrade or replace failing systems.</p>	<p>Minn Stat §116.18 Subd. 3c; Minn. Rules 7077.0700-7077.0765</p>	<p>Program will cover 50% of construction costs per dwelling to a maximum of \$2500 for trench systems and \$3750 for a mound system. Cluster systems are also eligible.</p>	<p>Municipalities contact MPCA for assistance. Only those notified that their project is fundable are eligible to submit applications. Projects must be within the official boundaries of a municipality or alternative approved planning area. Projects that meet requirements will be ranked in priority order based on median household income of municipality or planning area.</p>

Agency Name	Program	Authority	Funding	Program Delivery
<p>MPCA Water Quality Division (612) 296-7202</p>	<p>Clean Water Partnership Program: provides matching grants and technical assistance to local governments to lead watershed management projects; to protect and improve wetlands, lakes, streams, and/or ground water degraded by nonpoint sources of pollution.</p>	<p>Clean Water Partnership Act, (Minn. Stat. §103F.701); Minn Rules ch. 7076</p>	<p>Local governments provide a 50/50 match to state funds.</p>	<p>Local governments apply to the MPCA to conduct a project directed at protecting a specific resource. The applications are ranked, projects selected and work plans developed. Implementation funds are also available.</p>
<p>MPCA Ground Water and Solid Waste Division: (612) 296-7786</p>	<p>Potential Sources of Ground Water Contamination Inventories: a computer database listing potential sources of ground water contamination: suspected hazardous waste sites, state and federal superfund sites, hazardous waste permit and enforcement sites, solid waste permit sites, and known dumps.</p>	<p>Minn. Stat. ch. 115</p>	<p>State General Fund; Clean Water Act and Section 106 Ground Water Grant</p>	<p>MPCA staff maintain and update the database. Requests for information are handled on a fee-for-service basis. MPCA coordinates an interagency work group on the development of ground water contamination inventories.</p>
<p>MPCA Ground Water and Solid Waste Division: (612) 296-7777</p>	<p>Property Transfer Technical Assistance Program: provides technical assistance and file evaluation to buyers, sellers, lending institutions, or property owners who want to assess a property for potential environmental problems.</p>	<p>Minn. Stat. §115B.17, Subd. 14</p>	<p>Costs are paid by party requesting the services.</p>	<p>Upon request, the MPCA may provide assistance or review of voluntary investigations and cleanup plans, and oversee response action implementation. Assistance may include a review of MPCA records and files.</p>
<p>MPCA Hazardous Waste Division: (612) 297-8502</p>	<p>Household Hazardous Waste Program: helps local governments establish programs to safely manage household hazardous wastes that can affect ground water quality. Includes a public education component along with development of regional collection sites.</p>	<p>Minn. Stat. ch. 115A</p>	<p>State General Fund</p>	<p>Counties operate programs in partnership with the MPCA. MPCA provides technical assistance in program and collection facility design, staff training, waste management, and developing educational materials. Funding assistance is available to counties.</p>
<p>BWSR Hydrogeologist: (612) 296-0439</p>	<p>Well-Sealing Cost-Share Program: provides grants to counties to share the cost of sealing high-priority abandoned ground water wells with landowners.</p>	<p>Minn. Stat. §103I.331</p>	<p>State General Fund and LCMR</p>	<p>Counties deliver cost-share assistance to landowners and administer the program locally. Local water planning coordinators or BWSR provide information.</p>

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Agency Name	Program	Authority	Funding	Program Delivery
<p>DNR Ground Water Unit: (612) 296-0439</p>	<p>Geophysics Program: applies a variety of techniques to map subsurface ground water units, evaluate mineral resources, quantify ground water supplies, locate buried wastes and trace contaminant plumes.</p>	<p>Minn. Stat. §103H.101</p>	<p>State General Fund</p>	<p>The DNR Waters Ground Water Unit in St. Paul implements this program.</p>
<p>DNR Ground Water Unit: (612) 296-0433</p>	<p>Technical Analysis and Appropriation Permits Support: provides technical support and investigations for allocation of ground water. Includes assessing the impacts of resource development actions, quantification of ground water supplies and technical assistance for resource management.</p>	<p>Minn. Stat. §103H.101</p>	<p>State General Fund</p>	<p>Ground Water Unit Supervisor coordinates assistance.</p>
<p>DNR Ground Water Unit: (612) 296-0434</p>	<p>Regional Aquifer Studies: technical investigations of the entire area of an aquifer. Includes data gathering, modeling of flows, prediction of yield capability, water level change for future development levels, and ground water quality.</p>	<p>Minn. Stat. §103H.101</p>	<p>50% USGS funds and 50% DNR funding with state General Funds.</p>	<p>The Ground Water Unit in St. Paul coordinates these studies.</p>
<p>DNR Ground Water Unit: (612)296-0427</p>	<p>Well Inventory Program: requires the DNR to identify locations and status of all wells and abandoned wells on state property, present a plan and request appropriations to seal unused wells annually.</p>	<p>Minn. Stat. §103I.311</p>	<p>State General Fund</p>	<p>The Ground Water Unit in St. Paul implements this program.</p>
<p>LMIC Project coordinator: (612) 297-4986</p>	<p>Ground water Clearinghouse Database: will consolidate ground water data from various management agencies into one automated database that will be tied to LMIC's GIS.</p>	<p>Minn. Stat. §103H.175, subd. 2.</p>	<p>State General Fund</p>	<p>LMIC is developing this data base in cooperation with other agencies. LMIC will assist users in accessing data.</p>

Agency Name	Program	Authority	Funding	Program Delivery
<p>MDH Well Management Unit: (612) 627-5410</p>	<p>Well disclosure Program: maintains a database containing well disclosure information. Well disclosure certificates are filed with county recorders and passed to MDH. Any wells that are not in use must be returned to service, permanently sealed by a licensed well contractor, or placed under annual maintenance permits.</p>	<p>Minn. Stat. ch. 103I</p>	<p>Supported through a filing fee paid to county recorders.</p>	<p>Property sellers must disclose the status and location of known wells on property at the time of property transfer. MDH works with realtors, county recorders, title companies, and mortgage bankers to maintain well data and implement this program. Information on wells for a particular property is available upon request.</p>
<p>MGS Senior Scientist, Technical Mgr. Of County Atlas Program: (612) 627-4780</p>	<p>County Geologic Atlas Program: produces maps of bedrock geology and overlying deposits of Minnesota counties. Maps include geologically and hydrologically relevant control points, new maps of bedrock and surficial geology, and Quarternary stratigraphy at scale of 1:100,000 in both paper and ARC/INFO formats.</p>	<p>Ground Water Protection Act</p>	<p>\$90,000 cost share funds from each county; DNR base-level biennial contracts to MGS; Environmental Trust Fund</p>	<p>MGS produces paper maps, ARC/INFO digital data; upgrade of county well index for counties covered; workshops for county personnel, cooperative work on atlas with count personnel and local college students. Program jointly managed with DNR Waters which produces accompanying hydrogeologic and sensitivity maps.</p>

D. FISH AND WILDLIFE MANAGEMENT

The mission of the DNR Division of Fish and Wildlife (DFW) is “to protect and manage Minnesota’s fish, wildlife, native plants, and their communities for their intrinsic values and long-term benefits to the people of Minnesota”. As indicated in the plan for fish and wildlife resources, “to protect and manage” means the full range of resource stewardship responsibilities and activities pursued, including regulatory protection, physical management of populations and habitats, advocacy of ecosystem integrity, resource investigations, and education. “Minnesota’s fish, wildlife, native plants, and their communities” means all species of wild aquatic and terrestrial animals and native plants over which the DNR has jurisdiction, as well as the ecosystems they inhabit. The concept of ecosystem management requires that not just a species of interest be managed in a given habitat, but that all plants, animals, and the physical and chemical constituents of the environment be a part of the management program. “For their intrinsic values” mean the inherent values possessed by every living creature, whether or not utilized by humans. “For their long term benefits to the people of Minnesota” means benefits such as maintenance of a healthy environment, aesthetic value, and providing recreational and economic opportunities for society. People of Minnesota, including future generations, are the primary recipients of these benefits. (Fisheries Management Operational Guidelines, 1994).

Legislative Policy: *It is the policy of the state that fish and wildlife are renewable natural resources to be conserved and enhanced through planned scientific management, protection, and utilization (Minn. Stat. §84.941). The Commissioner shall make special provisions for the management of fish and wildlife to ensure recreational opportunities for anglers and hunters (Minn. Stat. §97A.045).*

Activities Managed:

- C Fish and habitat management
- C Wildlife and habitat management
- C Fish and wildlife harvest
- C Threatened, rare, and endangered species
- C Exotic species

Implementation: The Commissioner of Natural Resources is responsible for the management of fish and wildlife in the state. Minnesota is divided into six administrative regions which are subdivided into areas. All management functions within each area are performed by the area staff. For administration, logistical support, and program direction, the areas are grouped into regions under a regional manager. Regions are delineated, to the extent possible, to give the greatest degree of homogeneity in ecological classification types. Direct supervision of regional managers is by the fisheries chief or in wildlife through the operations manager. Program direction is provided by the program coordinator. The Central Office staff in St. Paul functions to coordinate and assist in implementing and monitoring all management programs.

The matrix of Fish and Wildlife Management Standards (Part V, page 3-91) describes the implementation mechanisms for state-based programs. Other wildlife program descriptions

can be found in the matrices of Coastal Water Management Standards in Part V, page 3-48. Management programs unique to Lake Superior include:

Fisheries Management Plan for The Minnesota Waters of Lake Superior, November 1995: As stated in the plan, "This plan is a comprehensive guide on how to best continue management for Minnesota's portion of the Lake Superior fishery. The plan is based on a community approach to fisheries management. The goals and objectives are expected to remain relevant for 10 years, but the plan is written to be flexible, and modifications are expected to occur during that time period. The long term goal for fisheries management is to protect the Lake Superior ecosystem and to develop a diverse, stable, self-sustaining fish community that provides both recreational and commercial fishing opportunities."

Lake Superior Habitat Coordination: The Lake Superior Habitat Coordination Program is a part of the Surveys and Review Unit, Section of Ecological Services, Division of Fish and Wildlife. This program is managed by the Lake Superior Habitat Coordinator located in the area office in Two Harbors. The program goal is to identify, protect, and restore important plant and animal habitat in the Lake Superior watershed. Funding for the program is from an EPA Great Lakes National Program Office grant.

Standards and Criteria: Habitat management for fish and wildlife is strongly emphasized as a means to maintain and enhance fish and wildlife populations. Habitat management involves protection, rehabilitation, and improvement to lake, stream, upland, and wetland habitat. The types of physical fisheries habitat improvements include: barrier removal and installation, maintenance and improvement of riparian areas, instream structures, flow modification, aeration, spawning development and improvement, aquatic plant management, and artificial habitat structures/fish attractors. Wildlife habitat improvement is coordinated with the state Scientific and Natural Areas Program, Wildlife Management Area Acquisition Program, and private organizations. Much habitat protection occurs through coordination with DNR and county foresters through forest planning processes. Wildlife habitat improvements include: landscaping, removal or installation of impoundment structures, restoration of wetland areas, and plantings.

Habitat loss or alteration and changes in biological communities are important factors threatening the survival of threatened and endangered species. Requirements for protection of threatened and endangered species are found in Minn. Stat. ch. 84. A list of species in Minnesota that fall into the categories of endangered, threatened, and of special concern are found in Minn. Rules ch. 6134. Minnesota Rules ch. 6212 provide details on regulations for the issuance of special permits dealing with endangered or threatened species.

Introduction of exotic species, or nonindigenous flora and fauna, to the coastal area have affected the area's ecosystem, economically as well as ecologically. The most devastating introduction to the Lake Superior community has been the sea lamprey, which virtually eliminated the lake trout in all but a few isolated areas of Lake Superior. Minnesota does not permit the introduction of exotic species (species not native to Minnesota) into the state without a thorough evaluation of their impact to the ecosystem. Authority to issue permits for the introduction of exotic species is

with the Director of the DNR Division of Fish and Wildlife. Minnesota Rules ch. 6216 and 6250 and Minn. Stat. ch. 18 and 84 describe the criteria and standards for exotic species management.

Authorities:

- C Department of Natural Resources - Minn. Stat. ch. 84**
- C Game and Fish - Minn. Stat. ch. 97A**
- C Hunting - Minn. Stat. ch. 97B**
- C Fishing - Minn. Stat. ch. 97C**
- C Game and Fish Rulemaking - Minn. Stat. ch. 14**
- C Aquaculture - Minn. Stat. ch. 17**
- C Exotic Species - Minn. Stat. ch. 18**
- C Game and Fish Rules - Minn. Rules ch. 6200 through 6290**
- C Threatened and Endangered Species - Minn. Stat. §84.0895**

Table 16.

Enforceable Policies/Programs Subject to Federal Consistency
Section D. Fish and Wildlife Management Standards

Agency Name	Program	Authority	Funding	Program Delivery
DNR Aquatic Biologist: (612) 296-0777	Aeration Program: issue permits to operate aeration systems in public waters to prevent winter fish kills. The agency also develops agreements with local governments to purchase & install aeration equipment on lakes with management plans.	Minn. Stat. §103G.611	Game and Fish funds plus federal cost share.	Central office in St. Paul handles applications and grants permits.
DNR Exotics Program Coordinator: (612) 297-1464	Aquatic Exotics Program: include inventory, monitoring and control of infestations of purple loosestrife, milfoil, and zebra mussels. Provide public education, information, and conducts research on control and eradication of exotics.	Minn. Stat. §18.317 and 84.966-.969	Water Recreation Account and boat license surcharge funds.	Ecological Services Division coordinates this program, with field assistance from regional offices in monitoring and control efforts.
DNR Aquatic Plant Management Program Supervisor: (612) 296-0782	Aquatic Plant Management Program: issue permits to lake property owners to kill aquatic vegetation on their property, and in adjacent waters, using herbicides or mechanical removal.	Minn. Stat. §84.092 and Commissioner Order No. 2210	Game and Fish Fund plus federal cost share.	Interested landowners apply to Area Fisheries Managers for permits. Information may be obtained at DNR local or St. Paul offices. Appeals handled at central office.
DNR Divison of Fish and Wildlife:	Aquaculture	Minn. Stat. §17.46	Game and Fish Fund	The DNR Section of Fisheries has the authority to license operations including the raising, transportation, and sale of fish.
DNR Division of Fish and Wildlife:	Fishing	Minn. Stat. ch. 97C	Game and Fish Fund	DNR Section of Fisheries manages fishing habitat, propagation, fishing methods, minnows, amphibians, reptiles, mussels and clams, and netting and commerical fishing.

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Agency Name	Program	Authority	Funding	Program Delivery
<p>DNR Division of Fish and Wildlife:</p>	<p>Game and Fish Laws</p>	<p>Minn. Stat. ch. 97A Minn. Rules 6200-6290</p>	<p>Game and Fish Fund</p>	<p>The game and fish laws provides the Commissioner of Natural Resources the authority to preserve, protect, propagate desirable species of wild animals, and ensure recreational opportunities for anglers and hunters. The majority of programs are implemented at the area level.</p>
<p>DNR Section of Wildlife:</p>	<p>Hunting</p>	<p>Minn. Stat. ch. 97B Minn. Rules ch. 6200-6290</p>	<p>Game and Fish Fund</p>	<p>Hunting program rules and laws implemented include those for hunting restrictions and requirements, big game, deer, bear, moose, elk, small game, birds, migratory waterfowl, fur-bearing animals and trapping. The majority of these programs are implemented at the area level.</p>
<p>DNR Section of Wildlife:</p>	<p>Threatened and Endangered Species: inventory of threatened and endangered species is maintained and updated. Research and surveys compliment the program. Consideration of these species in management decisions affecting forests, parks, wildlife management areas, and public waters. Taking of these species is generally prohibited.</p>	<p>Minn. Stat. §84.0895 Minn. Rules 6212.1800-.2300</p>	<p>Income tax checkoff, federal research funds, General Fund</p>	<p>The Nongame Wildlife Program coordinates this program. Education, habitat, research, species restoration and environmental review programs are coordinated in St. Paul and also implemented at the region and area level by specialists.</p>

Table 17. **Other Non-Regulatory Programs Not Subject to Federal Consistency Reviews**
Section D. Fish and Wildlife Management Standards

Agency Name	Program	Authority	Funding	Program Delivery
DNR Aquatic Plan Management Program Supervisor: (612) 296-0782	Fish Kill Investigations Program: investigate pollutants that cause fish and wildlife kills in lakes and streams. Pollutants are traced to the discharger, and damages are assessed based on damage to fish and wildlife.	Minn. Stat. §97C.065, plus PCA authority Chapter 115.	Game and Fish fund and federal cost-sharing.	Program is coordinated from the Ecological Services Division in St. Paul. Field office staff also conduct investigations when necessary. Contact St. Paul or field offices for assistance.
DNR Regional Fisheries Supervisors:	Lake Habitat Improvement Program: includes a variety of methods to manage lake communities and improve or maintain angling opportunities, such as shoreline stabilization, vegetative restoration or improvement, or development of fish spawning habitat.	Minn. Stat. §97A.345	Fishing license revenues, partially reimbursed by federal Sport Fish Restoration Funds.	Improvements initiated by regional fisheries managers or occasionally requested by local interests. Contact regional managers for information and project approval.
DNR Regional Fisheries Supervisors:	Lake Reclamation Program: intensive habitat improvement program that includes use of chemicals to effect fish kills and reclaim lakes for desired sport fish populations.	Minn. Stat. §97A.345	Funding from fishing license revenues, partially reimbursed by federal Sport Fish Restoration Funds.	Projects are initiated by regional fisheries managers or occasionally requested by local interests. Contact area managers for information and project approval.
DNR Regional Fisheries Managers:	Aquatic Management Areas Program: acquire easements along lakeshores to provide corridors for angler access, riparian protection, habitat improvement or rehabilitation, or fish structures/ barriers.	Minn. Stat. §86A.05	Funding from bonding programs, license fees, and federal Sport Fish Restoration Funds.	Projects are initiated by area fisheries managers.

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Agency Name	Program	Authority	Funding	Program Delivery
DNR Aquatic Education Coordinator: (612) 297-4919	MinnAqua Program: includes urban angling and volunteer instructor training programs to teach people about lake and stream ecology by teaching them to fish. Programs provided to groups include fishing clinics and specials fishing events. Classroom program available (Aquatic Wild) in cooperation with DNR - Wildlife.	MN Leg. Chapter 254, Article 1, Section 14, Sub. 8C.	RIM General Funds, federal Sportfishing Restoration Fund, and LCMR funds. Aquatic Wild also supported by Non-Game Program Check-Off Fund. Fees are charged to schools participating in this program.	Programs implemented in Twin Cities and Duluth by program coordinator, in cooperation with Hennepin County, Minneapolis Parks and Minnesota Extension Service 4-H Programs. Programs will be available throughout Minnesota in the future.
DNR Regional Fisheries Managers:	Trout Stream Habitat Improvement Program: improves trout habitat on streams in public ownership or where easements have been acquired by DNR. Includes grading of banks, riprap, and addition of instream cover structures as needed to improve habitat.	Minn. Stat. §97.135, .141 and .145	Supported by federal funds through trout and salmon stamp purchases, and state RIM Funds and fishing license revenues.	Program is delivered through Area Fisheries offices. DNR staff survey streams, prioritize for improvements, and implement improvement projects.
DNR Regional Fisheries Managers:	Warmwater Stream Habitat Improvement Program: includes a variety of techniques to maintain and improve fish habitat, such as shoreline stabilization, addition of instream cover and structures, and flow modifications such as dam or barrier removal.	Minn. Stat. §97.135, .141 and .145	Supported by fishing license fees, federal Sport Fish Restoration Funds and some state bonding funds.	Area fisheries managers propose and implement projects.
DNR Area Fisheries Supervisors:	Fisheries Land Acquisition for Angler Access Program: acquires corridor easements on designated trout streams for access by anglers and management agency and for riparian protections.	Minn. Stat. §97A.135, 97A.141 and 97A.145	Fishing license fees; Federal Aid in Sportfish Restoration; trout stamps; and Reinvest In Minnesota (RIM) Funds.	DNR fisheries personnel solicit landowners to sell corridor easements. Anglers are then permitted access to fish.
DNR Regional Fisheries Managers	Trout Stream Easements Program: acquire easements along trout streams to improve angler access. Includes riparian protection and habitat improvement activities.	Minn. Stat. §97A.135, .141 and .145	Supported by license fees, bonding, and partial reimbursement from federal Sport Fish Restoration Funds.	Area fisheries managers propose and implement projects.

Agency Name	Program	Authority	Funding	Program Delivery
DNR Senior Biologist: (218) 739-7449	In-Stream Flow Programs: collect biological and hydraulic data, mainly on warmwater streams, and apply Instream Flow Incremental Methodology (IFIM) models to examine water level manipulations (i.e., dams and water appropriation) and their effects on the ecology of the stream. Goal is to develop a modeling method that may be incorporated into water appropriation rules.	Minn. Stat. ch. 103G	RIM Fund	Studies are coordinated by Fergus Falls Regional office.
DNR Survey and Systems Coordinator: (612) 297-3287	Stream Creel Surveys (also called Study IV surveys): One stream in Minnesota is surveyed annually, based on management priorities. Survey includes fishing pressures, harvest, catch and recreational use parameters.	Minn. Stat. §97A.045	State Fish and Game Fund, partially reimbursed by USFWS Federal Aid for Sport Fish Restoration Fund. Occasionally trout stamp funds are also used.	Department produces a report for each creel survey, and uses data gathered to develop stream management plans.
DNR Survey and Systems Coordinator: (612) 297-3287	Stream Management Data Base: Department is currently developing this data base to include all data from DNR stream surveys and monitoring programs.	Minn. Stat. §97A.045	State Fish and Game Fund, partially reimbursed by USFWS Federal Aid for Sport Fish Restoration Funds.	Database maintained at fisheries division offices in St. Paul.
DNR SNA Planning Supervisor: (612) 297-2357	Scientific and Natural Areas Acquisition Program: acquires lands to preserve remaining natural areas and native ecosystems in the state for protection and scientific study.	Minn. Stat. §84.033	LCMR and RIM funds	Scientific and Natural Areas Program identifies areas for acquisition with field and central office staff.
DNR Regional Nongame Wildlife Specialists or Natural Heritage Program: (612) 296-4284	Annual Colonial Waterbird and Bald Eagle Survey Program: includes an annual survey of breeding sites and population characteristics. Data is entered in Natural Heritage Database.	Minn. Stat. §84.03	"Chickadee Checkoff" on state income tax forms.	Surveys completed by regional non-game specialists. Regional specialists or Natural Heritage Program in St. Paul can supply data.

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Agency Name	Program	Authority	Funding	Program Delivery
<p>DNR</p> <p>Natural Heritage Program: (612) 296-3344</p>	<p>Natural Heritage Program Inventory and Database: Minnesota County Biological Survey identifies remaining natural communities and locations of endangered, threatened and rare animals and plants in the state. Information is stored in extensive GIS database that also includes historical records, other rare features databases, colonial waterfowl and bald eagle nesting sites.</p>	<p>Minn. Stat. §84.0895</p>	<p>LCMR, RIM, "Chickadee Checkoff", and General Fund</p>	<p>Natural Heritage Program in St. Paul or regional nongame wildlife specialists provide information about rare feature locations and provide access to Natural Heritage Program information. Maps are being developed in counties where County Biological Survey has been completed.</p>
<p>DNR</p> <p>Nongame Wildlife Specialists: (612) 297-4966</p>	<p>Endangered Species Assessments and Technical Assistance: provides assistance to public agencies and private landowners in assessing the possible presence of endangered species and in managing species and their habitats.</p>	<p>Minn. Stat. ch. 84</p>	<p>LCMR, RIM, "Chickadee Checkoff" and General Fund</p>	<p>Nongame wildlife specialists at DNR regional and Central Offices provide information and technical assistance upon request.</p>
<p>DNR</p> <p>Project WILD-Minnesota: (612) 297-2423</p>	<p>Project WILD: an interdisciplinary environmental and conservation education program for K-12th grade students. Project materials are designed for integration into regular classroom activities.</p>	<p>Minn. Stat. ch. 97A</p>	<p>"Chickadee Checkoff" and General Fund</p>	<p>DNR Nongame Wildlife Program sponsors workshops throughout the state to introduce the project to teachers and environmental educators. Only participants who attend workshops can receive Project WILD materials suitable to the grade level they teach.</p>

E. FOREST MANAGEMENT

Northeastern Minnesota is the most heavily forested region of the state. Cook, Lake, St. Louis and Carlton counties contain 6.7 million acres of land of which 5.6 million acres, or 84 percent, are forested. Based on the original vegetation of the Minnesota portion of the Lake Superior watershed from public land survey notes by Marshner, approximately one-third of the area was aspen-birch forest with another 4 percent in other hardwood types. The majority of the area was coniferous stands of eastern white pine, jack pine, red pine, white spruce, black spruce, northern white cedar, balsam fir, and tamarack.

Approximately 79 percent of the forest land in these counties is classified as timberland. Timberland is forest land capable of producing a minimum of 20 cubic feet per acre per year of industrial wood crops and that is not withdrawn from timber harvesting. Nearly two-thirds (2.9 million acres) of the timberland is publicly owned. Publicly owned forest land is divided between the federal, state, and county governments. Management of these lands is, therefore, the combined responsibility of federal (e.g., primarily U.S. Forest Service), state (e.g., DNR) and county (e.g., county land commissioners) agencies. Private forest land management is influenced through technical assistance provided through the DNR via DNR staff and a number of cooperators (BWSR, SWCDs, private consulting foresters, and forest industry). Of the 1.6 million acres that are privately owned, about 260 thousand are held by forest industry. The remainder of private ownership is held by American Indians, farmers who own timberland, and miscellaneous individuals.

In April 1994, the Environmental Quality Board (EQB) completed the Generic Environmental Impact Statement on timber harvesting and forest management in Minnesota (GEIS). The purpose of the study was to determine the impacts of timber harvesting on a wide range of forest resource values related to environmental, economic, and social health. The study examined how the quality of these forest resources would change as timber harvesting levels increased throughout Minnesota. The GEIS recommended mitigating measures and programs and identified site and landscape level impacts. The GEIS represents one of the most extensive scientific studies ever conducted on forest resources and timber harvesting in the United States. (Minnesota Forest Resources Council, 1996)

The second phase of the process was the GEIS Implementation Strategy Roundtable, a collaborative effort of 25 leaders in Minnesota's forest policy representing the forest industry, government, and the environmental community. The recommendations of this group form the foundation of the Sustainable Forest Resources Act of 1995 (Minn. Stat. ch. 89A).

Legislative Policy: *It is the policy of the state to:*

(1) pursue the sustainable management, use, and protection of the state's forest resources to achieve the state's economic, environmental, and social goals; (2) encourage cooperation and collaboration between public and private sectors in the management of the state's forest resources; (3) recognize and consider forest resource issues, concerns, and impacts at the site and landscape levels; and (4) recognize the broad array of perspectives regarding the management, use, and protection of the state's forest resources, and establish processes and mechanisms that seek and incorporate these perspectives in the planning and management of the state's forest resources. (Sustainable Forest Resources Act of 1995, Minn. Stat. ch. 89A)

The Commissioner shall manage the forest resources of state forest lands under the authority of the Commissioner according to the principles of multiple use and sustained yield. The Forest Resource Management Policy shall not supersede any existing duty or authority of the Commissioner in managing forest lands, but the duties and authorities, as far as practicable, shall be exercised consistently with this policy. The Forest Resource Management Policy is not intended to exclude extractive uses of forest lands under the authority of the Commissioner pursuant to state law. (a) The Commissioner shall maintain all forest lands under authority of the Commissioner in appropriate forest cover with species of trees, degree of stocking, rate of growth and stand conditions designed to secure optimum public benefits according to multiple use, sustained yield principles and consistent with applicable forest management plans. (b) Each year the Commissioner shall strive to assure that (1) reforestation occurs annually on an acreage at least equal to the acreage harvested that year on all forest lands under the authority of the Commissioner; (2) additional reforestation is accomplished on areas previously harvested but not adequately reforested so that the backlog of reforestation work can be eliminated; and (3) poorly stocked forest land, or forest land damaged by natural causes, shall be returned to a state of productivity.

The Commissioner shall provide a system of forest roads and trails which provides access to state forest land and other forest land under the Commissioner's authority which is adequate to permit the Commissioner to manage, protect, and develop those lands and their forest resources consistent with the Forest Resource Management Policy, and to meet demands for forest resources (Minnesota Forest Management Act of 1982, Minn. Stat. ch. 89).

The Commissioner shall ascertain and observe the best methods of reforesting cut over and denuded lands, foresting waste and prairie lands, preventing destruction of forests and lands by fire, administering forests on forestry principles, encouraging private owners to preserve and grown timber for commercial purposes, and conserving the forests around the head waters of streams and on the watersheds of the state (Minn. Stat. §89.01, subd. 1).

The Commissioner shall execute all rules pertaining to forestry and forest protection within the jurisdiction of the state; have charge of the work of protecting all forests and lands from fire; shall investigate the origin of all forest fires; and prosecute all violators as provided by law; shall prepare and print for public distribution an abstract of the forest fire laws of Minnesota, together with such rules as may be formulated (Minn. Stat. §98.01, subd. 2).

The Commissioner shall cooperate with the several departments of the state and federal governments and with counties, towns, corporations, or individuals in the preparation of plans for forest protection, management, replacement of trees, wood lots, and timber tracts, using such influence as time will permit toward the establishment of scientific forestry principles in the management, protection, and promotion of the forest resources of the state (Minn. Stat. §89.01, subd. 4).

Federal Coordination. The Department of Natural Resources shall coordinate all forest resources planning efforts with the appropriate federal agencies in order to achieve optimum public benefit, to obtain federal assistance, to participate in the federal forestry planning process, and to enhance the productivity and multiple use management of forest resources (Minn. Stat. §89.011, subd. 4).

Public and Private Coordination. The Department of Natural Resources shall coordinate all forest resources planning efforts with counties and other public agencies and private organizations engaged in forest resource management and research (Minn. Stat. §89.011, subd. 5).

The county board may appoint a land commissioner and necessary assistants, such land commissioner to perform any or all of the following duties as directed by the county board: to gather data and information on tax-forfeited lands; make land classifications and appraisals of land, timber and other products and uses; enforce trespass laws and regulations; seize and appraise timber and other products and property cut and removed illegally from tax-forfeited lands; assist the county auditor in the sale and rental of forfeited lands and the products thereon; and such other duties concerning tax-forfeited lands as the county board may direct (Minn. Stat. §282.13).

Activities Managed:

- C Forest management including timber harvesting, reforestation, forest stand improvement, forest roads and recreation.
- C Forest protection including wildfire prevention/protection, forest health (i.e., insect and disease control), prescribed fire, and cultural/historic resources.
- C Monitoring including forest resource monitoring and monitoring the compliance and effectiveness of forest management practices.
- C Forest resource planning and coordination.
- C Forest resource information management.
- C Continuing education; certification.

Implementation: The 1995 Sustainable Forest Resources Act responds to the recommendations of the Generic Environmental Impact Statement (GEIS) on Timber Harvesting and Forest Management (MN EQB April 1994) by establishing a number of policies and programs to ensure the long-term sustainability of the state's forest resources. Among these are:

- C The Minnesota Forest Resources Council: established with major responsibility for implementing the Sustainable Forest Resources Act, and identifying consensus-based solutions to issues and concerns associated with the sustainable management, use, and protection of the state's forest resources. The 13-member Council is appointed by the Governor to represent various forest interests.
- C Development and implementation of comprehensive timber harvesting and forest management guidelines. The act requires the council to coordinate the development of comprehensive guidelines to address the water, air, soil, biotic, recreational, and aesthetic resources found in forest ecosystems. Integrated timber harvesting and forest management guidelines are expected to be available by the end of 1998.

- C Development and implementation of a landscape-based forest resources planning program, to be delivered through regional forest resource committees established by the council.
- C The Forest Resources Research Advisory Committee: established by the council to address research needs associated with sustainable forest resources management.
- C The Interagency Forest Resources Information Cooperative: established by the council to coordinate the development and use of, and access to a wide range of forest resource data in Minnesota.
- C Comprehensive monitoring programs: The DNR, with input and direction from the council, is responsible for establishing programs to better monitor the condition of the state's forest resources, use of various timber harvesting and forest management practices, compliance with voluntary management guidelines, and effectiveness of various timber harvesting and forest management practices.
- C Continuing education for loggers and natural resources professionals: the newly-established Center for Continuing Education for Natural Resources Professionals and Minnesota Logger Education Program are examples of these efforts.

The 1982 Forest Resources Management Act required the DNR to prepare a comprehensive statewide forest resource management plan designed to implement the policies stated in the FRMA (e.g., multiple-use, sustained yield; reforestation; forest roads). The statewide plan, referred to as the Minnesota Forest Resources Plan (MFRP) is to include two primary components:

- C A forest resource assessment updated at least once every ten years that includes, but is not limited to: the present and projected use and supply of and demand for forest resources in the state; development of a forest resources database; the current and anticipated reforestation needs for forest land; an inventory and map of all existing state forest roads and classification by use, standard, and condition. The statewide forest resource assessment was originally completed in 1983 and once again in 1995.
- C Program elements that are updated every four years and describe specific actions to address the assessment and to implement the forest resources management policy, the FRMA, including but not limited to: improvement of silvicultural practices and improved methods for harvesting and utilizing timber and timber residues; measures to improve reforestation practices; measures to enhance recreational opportunities and fish and wildlife habitat; priorities for construction and improvement of forest roads to achieve the FRMA's state forest road policy; an estimate of the expenditures necessary to implement the elements of the program, along with the sources and amounts of revenue necessary to finance the estimated expenditures. The statewide program plan was originally completed in 1983, then again in 1987 and 1991.

The 1982 FRMA also requires the DNR to prepare unit forest resource management plans for each geographic administrative unit of the Division of Forestry identified by the Commissioner as an

appropriate unit for forest resource planning. Unit plans are to be consistent with the forest resource management policy and statewide plan, including state reforestation and road policies. Unit plans set forth the specific goals and objectives for the management, protection, development, and production of forest resources in the administrative unit; and require integration of forest resource management with other uses of forest land. During the mid- to late-1980s the DNR completed unit forest resource management plans for six Division of Forestry areas. In the 1990s, DNR regions became the “appropriate administrative unit” for planning under the 1982 FRMA. In the future, the unit planning requirement will likely be satisfied via the Council’s landscape-based forest resource planning program using regions identified by the Council.

The DNR implements requirements contained in legislative policies, the 1982 FRMA and the 1995 SFRA through the programs and activities of several divisions and bureaus. Some of these programs are described in other sections of this chapter. The DNR Division of Forestry has established a number of programs to carry out these directives in concert with the Department’s vision and mission. For budget preparation and performance evaluation, these programs are grouped into two primary activities:

The **Forest Management** activity provides for the management of 3.2 million acres of state owned land within the boundaries of 57 state forests and 1.3 million acres of other state-owned lands for sustainable levels of resource outputs, uses, and opportunities. This activities also provides technical forest management and cost-share assistance to other public and private landowners; monitors the health, growth and composition of Minnesota’s forests; provides forest resource information to forest land managers and users; produces tree and shrub seedlings for planting on public and private lands; and coordinates the development and delivery of forestry related environmental education materials. Specific activities include:

- C Forest vegetation management planning for 4.5 million acres of state forest lands. Forest vegetation management planning directs state land timber sales and harvesting, reforestation, and timber stand improvements.
- C Maintenance and operation of the 2,064 mile state forest road system that provides access to state forest lands for public use and resource management, and to several million acres of federal, county, and private forest lands.
- C Maintenance and operation of 46 state forest campgrounds (with nearly 1,000 campsites), 44 day-use areas, and 1,200 miles of recreational trails.
- C Enforcement of state forest rules and regulations.
- C Forest stewardship planning, technical, and cost-share assistance for non-industrial private forest landowners.
- C Technical urban forestry and cost-share assistance to Minnesota communities.
- C Maintenance and analysis of the management-level forest resource inventory for DNR administered lands, and a statewide forest inventory that encompasses all land ownerships.

- C Implementation, and monitoring of water quality and wetland best management practices for forest management across all ownerships.
- C Implementation, and monitoring of visual quality guidelines for forest management across all ownerships through collaborative work with counties, other public agencies, and private landowners.
- C Development of a statewide ecological classification system (ECS) to support ecosystem-based management.
- C Forest pest population monitoring and evaluation on forest lands in the state, and the development and communication of pest management guidelines to forest landowners, industry, and other units of government.
- C Remote sensing products and services (e.g., aerial photography, satellite imagery, interpretation) for use by resource managers and the general public.
- C Development and coordination of geographic information system (GIS) technologies and applications for forest resource management.

The **Firefighting** activity provides for the protection of all non-federal lands in the state (45.5 million acres) from wildfires.

The Firefighting activity includes:

- C Promotion of wildfire prevention through public education, regulation of open burning, enforcement of wildfire statutes, and fuels management. Prevention activities are designed to reduce the number of wildfires and minimize the damage caused by wildfires.
- C Preparedness for wildfire suppression through interagency/cooperative training of firefighters and support personnel, developing and maintaining partnerships with local fire departments and federal agencies that are involved in fire protection, operation of a statewide interagency wildfire coordination center, maintaining a national interagency fire cache which is located in Minnesota, precontract arrangements for ground and aerial wildfire fighting equipment, maintenance of a radio communications network, developing mobilization and dispatching plans, and other activities to provide for effective wildfire fighting activities.
- C Detection and suppression of wildfires. The department detects wildfires through aerial detection flights and some wildfire lookout towers. The most effective and efficient way to extinguish reported wildfires is through quick initial response. Quick response by a balanced force of trained firefighters, support personnel, and aerial and ground equipment helps minimize overall program costs, and protects life, property, and natural resources.
- C Planning, coordination, and management of prescribed fire on state-administered lands.

Counties along the shore of Lake Superior would also have programs for the management of county administered forest lands as authorized in Minn. Stat. ch. 282. Counties play a significant role in the implementation of the 1995 SFRA and statewide strategic forest resource management direction.

Standards and Criteria: Technical teams are responsible for development of comprehensive timber harvesting and forest management guidelines for the areas of riparian zone, site-level wildlife habitat, soil productivity, and historical/cultural resources. The guidelines are used to address the impacts commonly associated with site-level forestry practices. The goals of the landscape-based planning include, in part, maintaining or expanding total forested land area within the region over time, and encouraging an appropriate mixture of forest cover types and age class to promote biological diversity and viable forest dependent fish and wildlife habitat. Each landscape region's forests shall be able to provide a full range of products, services, and values that contribute to economic stability, environmental quality, social satisfaction, and community well-being. Compliance monitoring and effectiveness monitoring is implemented to determine the effectiveness of silviculture practices and application of timber harvesting and forest management guidelines. Interagency information cooperation includes data sharing, development of systems, integration and linking of data to other resource information, and expanded capacity and reliability of models. Timber harvesters and forest resource professionals are encouraged to establish voluntary certification and continuing education programs. The MFRC shall develop programs where appropriate.

Forestry BMPs are contained in the revised guidebook, "Protecting Water Quality and Wetlands in Forest Management: Best Management Practices in Minnesota." The BMPs identified in this guidebook were developed to apply to all forest landowners in Minnesota. The guidebook recommends that timber harvesting and other forest management activities should be well planned to minimize sediment, nutrient and debris movement into surface water or ground water, and to minimize thermal impacts to surface water.

The water quality BMPs were expanded in 1995 to address wetland impacts. The revised BMPs provide expanded filter and shade strips adjacent to water and wetlands that, along with other practices in the guidebook, help minimize sediment, nutrient and debris movement. In addition, there is a field audit process that determines the degree of compliance with the BMP guidelines across all ownerships. The water quality/wetland BMPs will be incorporated into the comprehensive timber harvesting and forest management guidelines developed by the Minnesota Forest Resources Council. A compliance monitoring program will be implemented/continued for the comprehensive guidelines once they are completed.

Area Forest Resource Management Plans. Formerly known as the Timber Management Planning Information System (TMPIS) these plans are now completed on a five-year cycle instead of every ten years. These management plans incorporate DNR guidelines for old-growth forests and extended rotation forests, along with other standards such as the protection of listed species, rare communities, and cultural/historic sites.

Other Permits/Regulations:

Minnesota Stat. §92.45 - The Shipstead-Nolan Law (U. S. Code Title 16, Section 577) restricts logging adjacent to specified lakes and streams on public lands of the U.S. within Lake, Cook and St. Louis counties and within the boundaries of the Superior National Forest. Harvesting is also restricted on public lands of the U.S. adjacent to the natural shore line of Lake Superior. Within the area of Cook, Lake, and St. Louis counties described in the federal act, timber on state lands is subject to similar restrictions.

Minnesota Stat. §88.16 and §88.17 - A burning permit must be obtained from a Division of Forestry field office or township fire warden prior to conducting the burn activity.

Local Zoning - The St. Louis River Management Plan requires a no-cut zone along the St. Louis River as well as forest management plans. Implementation of the plan is the responsibility of St. Louis County. Carlton County has adopted the plan by reference. The North Shore Management Plan requires that clear cutting be reviewed by the local governmental unit where it occurs adjacent to Lake Superior (Refer to Chapter 3, Section A, Coastal Land Management). The state Shoreland Management Act also addresses timber harvesting in the shoreland area is described in Chapter 3, Section A, Coastal Land Management.

Authorities:

- C Sustainable Forest Resources Act of 1995 - Minn. Stat. ch. 89A**
- C Minnesota Forest Management Act of 1982 - Minn. Stat. ch. 89**
- C State Land on Meandered Lakes Withdrawn From Sale - Minn. Stat. §92.45**
- C Wildfire and Open Burning - Minn. Stat. ch. 88**
- C State Timber Sales - Minn. Stat. ch. 90**
- C Administration Sales of Tax-forfeited Forest Lands - Minn. Stat. ch. 282**

Table 18.

Enforceable Policies/Programs Subject to Federal Consistency
Section E. Forest Management Standards

Agency Name	Program	Authority	Funding	Program Delivery
DNR Fire Management Specialist: (612) 296-4490	Wildfire Protection and Management Program: includes prevention, presuppression and suppression of wildfires on public and private lands. Department provides public education, regulates open burning, trains local firefighters, provides law enforcement, and coordinates interagency actions. Includes prescribed burning activities for site preparation, forest regeneration, pest management, and maintenance of natural communities.	Minn. Stat. §88.04-90.041	State General Fund	Programs provided through regional and area forestry offices. MN Interagency Fire Center coordinates the activities and resources of state, federal, and local agencies.
DNR Division of Forestry	State Timber Sales	Minn. Stat. ch. 90	General Fund	Timber sales and permits for harvesting on state lands are administered at the area level. Foresters develop the site sale including standards and criteria for achieving management goals.

Table 19. **Other Non-Regulatory Programs Not Subject to Federal Consistency Reviews**
Section D. Forest Management Standards

Agency Name	Program	Authority	Funding	Program Delivery
DNR Private Forest Management: (612) 296-5970	Conservation Reserve Program (CRP): includes private landowner sign-up, conservation plan development and technical assistance on projects planting more than two acres of trees or shrubs.	Minn. Stat. §89.01, 88.79 Federal 1995 Farm Bill	Annual federal appropriation for CRP Program.	Area foresters provide technical assistance and training on forestry projects, in cooperation with county NRCS/FSA offices.
DNR Forest Pest Control: (612) 296-5965	County Forest Access Roads Assistance: provides pass-through grants to counties to improve access to timber stands, and construct and maintain county access roads on county-administered forest lands.	Minn. Stat. §89.72	Unrefunded tax paid on fuels used to operate vehicles on forest roads.	Funds are passed-through to counties for administration of programs.
DNR Private Forest Management: (612) 296-5970	Forestry Incentives Program (FIP): activities include thinning, seeding, and planting for reforestation and timber stand improvement on nonindustrial private forest lands.	Minn. Stat. §89.79, 89.01 Public Law 95.313	Annual federal appropriation for FIP Program.	Area foresters provide technical assistance and training.
DNR Regional Wildlife Managers:	Habitat Management on Public Lands: includes maintenance and development of grasslands and woody cover, development of food plots, forest stand development, forest openings development and prescribed burns to improve wildlife habitat on public lands.	Minn. Stat. §97.045 and 84.95	RIM Fund and deer hunting license fees.	Program delivered through county land offices by a cooperative agreement between counties and DNR Wildlife and Forestry Divisions.

Agency Name	Program	Authority	Funding	Program Delivery
<p>DNR Farmland Wildlife Program Leader: (612) 296-3344</p>	<p>Habitat Management on Private Lands: provides cost-sharing assistance to private landowners to develop food plots, woody cover, grasslands, forest openings and regeneration, and prescribed burning to improve wildlife habitat at private land.</p>	<p>Minn. Stat. §97A.125</p>	<p>RIM and pheasant stamp Fund.</p>	<p>Landowners should contact Farmland Wildlife Program leader for information and assistance.</p>
<p>DNR Private Forest Management: (612) 296-5970</p>	<p>Private Forest Management (PFM) Program: promotes forest management on private lands through contacts with landowners and development of forest stewardship management plans, technical assistance in forest practices, marketing assistance, and educational opportunities.</p>	<p>Minn. Stat. §88.79</p>	<p>State General Fund Federal Forest Stewardship funds State Environmental Trust Fund</p>	<p>Area foresters visit private forest properties on request, develop forest stewardship management plans, and provide technical assistance to landowners. Programs implemented in cooperation with local soil and water conservation district offices, private forestry consultants, environmental organizations, and forest industries.</p>
<p>DNR Private Forest Management: (612) 296-5970</p>	<p>Stewardship Incentive Program: provides technical and cost-share assistance to private landowners in managing forests for multiple uses.</p>	<p>Minn. Stat. §89.02, 88.79 Public Law ch. 101</p>	<p>Annual appropriation of federal Stewardship Program Funds.</p>	<p>Area foresters provide technical assistance and training.</p>
<p>DNR Tree Nurseries: (218)652-2385</p>	<p>Tree Sales Program: large scale sale of tree seedlings from state nurseries.</p>	<p>Minn. Stat. §89.35-89.39</p>	<p>Nursery and tree sales programs are self-supporting.</p>	<p>Program is administered through Forestry Division in St. Paul. Trees available through some soil and water conservation districts.</p>
<p>DNR Forest Land Administration: (612) 297-3508</p>	<p>Land Administration Program: includes acquisition, exchange, sale and lease of lands for forestry purposes to protect resources, consolidate ownership patterns, and provide access to other lands.</p>	<p>Minn. Stat. §89.022, 89.032 Minn. Stat. ch. 94</p>	<p>State bonding</p>	<p>DNR forestry field staff are involved in identifying and developing acquisition priorities, recommending sales, leases or exchanges, inspecting leases, and maintaining contacts with other agencies and individuals. The DNR Bureau of Real Estate Management assumes responsibilities for negotiations, appraisals, record keeping, and other services.</p>

CHAPTER THREE

Agency Name	Program	Authority	Funding	Program Delivery
<p>DNR Forest Recreation: (612)297-3508</p>	<p>Forest Recreation Program: maintenance and operation of 46 state forest campgrounds (with nearly 1,000 campsites), 44 day-use areas, and 1,200 miles of recreational trails. Also the development and enforcement of state forest recreation rules.</p>	<p>Minn. Stat. ch. 86A</p>	<p>State General Fund and State bonding</p>	<p>Program is delivered primarily through area forestry offices, with assistance from region and St. Paul staff.</p>
<p>DNR Urban & Community Forestry: (612) 772-7562</p>	<p>Accelerated Community Forestry Assistance Program: provides training to foresters, cities, community leaders, contractors and developers in management and protection of community forests. Also provides technical assistance to local communities and individuals in management, ordinance development, and tree planting and maintenance. Promotes Arbor Day celebrations and interagency coordination activities. Includes Minnesota RELEAF program, Energy Conservation Tree Planting, and Tree City USA Program. The Forestry Division also distributed a Community Forestry Resource Directory.</p>	<p>Minn. Stat. §89.01</p>	<p>State General Fund and federal allocations under the Minnesota RELEAF, America the Beautiful, Tree City USA, and Energy Conservation Tree Planting Programs.</p>	<p>Programs coordinated through the Forestry Division's Urban Forestry Program. Programs and technical assistance to communities and individuals are delivered by local area foresters.</p>
<p>DNR Forest Development: (612)297-3513</p>	<p>State Forest Development: Provides for forest regeneration and timber stand improvement on state forest lands. Activities include site preparation, seeding, planting, thinning, pruning, seedling protection, and development of silvicultural guidelines.</p>	<p>Minn. Stat. §89.002</p>	<p>State General Fund</p>	<p>Program is delivered through area forestry offices with coordination through region and St. Paul staff.</p>

Agency Name	Program	Authority	Funding	Program Delivery
<p>Forest Roads: (218)297-4449 x 240</p>	<p>State Forest Roads: Maintenance and operation of the 2,064 mile state forest road system that provides access to state forest lands for public use and resource management, and to several million acres of federal, county, and private forest lands.</p>	<p>Minn. Stat. §89.001, 89.002, 89.18, 89.71</p>	<p>State bonding (reconstruction, construction and resurfacing). State General Fund and unre-funded tax paid on fuels used to operate vehicles on forest roads (maintenance and operation).</p>	<p>Program is delivered through area offices with coordination from region and St. Paul staff.</p>
<p>DNR Resource Assessment: (218)327-4449 x 222</p>	<p>Forest Resources Assessment: maintenance and analysis of the management-level forest resource inventory for DNR administered lands, and a statewide forest inventory that encompasses all land ownerships. Includes periodic aerial photography/satellite imagery of all or parts of the state to inventory and monitor changes in forest resources.</p>	<p>Minn. Stat. §89.011</p>	<p>State General Fund Federal funding for the FIA/AFIS statewide inventory. Federal project funding such as funding from the National Biological Service for Gap Analysis.</p>	<p>Overall coordination of remote sensing and forest inventories is through the DNR Resource Assessment Office. Field forest inventory work is accomplished through contracts and area foresters.</p>
<p>DNR Forest Health: (218)327-4449 x 241</p>	<p>Forest Ecosystem Health: forest pest population monitoring and evaluation on forest lands in the state, and the development and communication of pest management guidelines to forest land-owners, industry, and other units of government.</p>	<p>Minn. Stat. §89.51 - 89.53</p>	<p>State General Fund</p>	<p>Program is delivered through St. Paul and Regional forestry staff in cooperation with the DNR Resource Assessment office.</p>
<p>DNR Division of Forestry:</p>	<p>Forest Resources Management Act of 1992</p>	<p>Minn. Stat. §89.001-89.012</p>	<p>General Fund</p>	<p>Each regional unit of the Division of Forestry prepares a forest resource plan for the management, protection, development, and production of forest resources. Plans are implemented at the area level.</p>
<p>DNR Division of Forestry</p>	<p>Sustainable Forest Resources Act of 1995</p>	<p>Minn. Stat. ch. 89A</p>	<p>General Fund</p>	<p>The Minnesota Forest Resources Council develops recommendations with respect to forest resource policies and practices that result in sustainable management, use, and protection of forest resources. Guidelines established are implemented in site level practices.</p>

F. MINERAL RESOURCES

The DNR Division of Minerals is responsible for coordinating the state's mineral policy. The division manages more than 12 million acres of state-owned mineral rights, 3 million acres of peat lands, and surface rights for industrial and construction materials on 3 million acres of state land.

Minnesota's iron ore and taconite industry has had a significant impact on the region and state. Iron ore and taconite pellets are currently shipped from ports in Duluth, Two Harbors (Agate Bay), Silver Bay (Beaver Bay), and Schroeder (Taconite Harbor). Total tonnage is approximately 8 million net tons. Although the iron ore and taconite industry is the major mineral industry in the watershed, there are other nonferrous metallic minerals with potential for development, including the base metals such as copper, nickel, platinum group elements, lead, zinc, gold, chromium, cobalt, and titanium. While no minable deposits have been developed, mining activity contributes millions of dollars each year to Minnesota's economy.

Other mineral development includes peat mining and industrial minerals including sand and gravel, and dimension stone.

Current iron ore/taconite mining activities in the near coastal area include the unloading/loading facilities at ports in Duluth, Two Harbors, Silver Bay and Schroeder. North Shore Mining operates a taconite processing facility at Silver Bay, and LTV Steel Mining Company owns and operates a 225-megawatt power plant at Schroeder producing power primarily for its own use in its Hoyt Lakes mining/beneficiating facility. Taconite (crude ore) and/or pellets are shipped by rail from mining operations on the "Iron Range" and loaded on ships with destination points being the steel producing plants in the lower Great Lakes states of Ohio, Indiana and Pennsylvania.

Legislative Policy: *In recognition of the effects of mining upon the environment, it is hereby declared to be the policy of this state to provide for the reclamation of certain lands hereafter subjected to the mining of metallic minerals or peat where such reclamation is necessary, both in the interest of the general welfare and as an exercise of the police power of the state, to control possible adverse environmental effects of mining, to preserve the natural resources, and to encourage the planning of future land utilization, while at the same time promoting the orderly development of mining, the encouragement of good mining practices, and the recognition and identification of the beneficial aspects of mining (Minn. Stat. §93.44).*

Activities Managed: The Mineland Reclamation Policy controls the following activities:

- C Iron Range Trail; establishment; Commissioner's duties
- C Peat mining
- C Permit to mine
- C Penalties for violation

Implementation: The Commissioner of Natural Resources has established Mineland Reclamation Rules (Minn. Rules ch. 6130) to implement Minn. Stat. §93.44 to 93.51 in order to control possible adverse environmental effects of mining, to preserve the natural resources, and to encourage the planning of future land utilization, while at the same time promoting the orderly development of mining, the encouragement of good mining practices, and the recognition and identification of the beneficial aspects of mining.

Taconite and iron ore mining must be conducted on sites that minimize adverse impacts on the environment and the public. Separations between mining areas and adjacent conflicting land uses must be maintained. All sites must incorporate setbacks or separations which are needed to comply with air, water, and noise pollution standards; local land use regulations; and requirements of other appropriate authorities.

Standards and Criteria: The DNR Division of Minerals is responsible for management of state-owned mineral rights for the benefit of the state's citizens through environmental protection and the sale of state mineral leases. Although the division is involved in many initiatives, their primary responsibilities are in the following areas:

Permit to mine: No person shall carry out a mining operation for metallic minerals in Minnesota without first obtaining a permit to mine from the Commissioner of Natural Resources. As part of the application process, environmental setting maps are required which describe bedrock geology, water courses, boundaries of watersheds; details of ground water conditions; natural resource sites as listed in the Minesite Data Manual, V21 - Natural Resource Sites, Minnesota DNR; a forest inventory; a soil inventory; past mining facilities; surface ownership of record; and exclusion, avoidance, and setback areas.

Mineland Reclamation: The guidelines determine criteria for site selection, exclusion and avoidance areas for mining; in-mine disposal issues; buffers and barriers; goals of sloping and landform design; stockpile design and construction; management of runoff; standards for rock, lean ore, and coarse tailing stockpiles; and vegetation requirements.

Sand and Gravel Handbook: The Division has worked with industry and other stakeholders to develop educational information such as "A Handbook for Reclaiming Sand and Gravel Pits in Minnesota," 1992. The purpose of the handbook is to provide technical information to landowners, state agencies, local government and the aggregate industry about reclaiming sand and gravel pits. This document was developed as a result of a recommendation from the Governor's task force on gravel pit reclamation in 1989.

Other permits: Other agencies are responsible for specific permits and regulations applicable to mining operations in Minnesota. The Minnesota Pollution Control Agency requires a national pollutant discharge elimination system permit and the DNR regulates dam safety requirements for the Milepost 7 tailing basin and associated dams near Silver Bay. U.S. Army Corps of Engineers wetlands permits may apply for draining/filling operations. Sand and gravel operations require county/city permits. Refer to Part V, Section C, Air and Water Quality Programs for applicable air and water permits and enforceable regulations.

Authorities:

- C Mineland Reclamation Program - Minn. Stat. §93.44 - 93.51**
- C Mining Reclamation - Minn. Rules ch. 6130 - ferrous currently undergoing amendment**

- C Nonferrous Mining - Minn. Rules ch. 6132**
- C Peatland Reclamation - Minn. Rules ch. 6131**
- C Iron Ore/Taconite Leasing Program - Minn. Stat. §93.14 - 93.28**
- C Metallic Minerals Leasing Program - Minn. Stat. §93.08 - 93.12 and 93.25**
- C Metallic Minerals Leasing Program - Minn. Rules ch. 6125**
- C Peat Leasing Program - Minn. Stat. §92.5.**
- C Exploratory Borer Registration Program - Minn. Stat. ch. 103I**
- C Exploratory Borer Registration Program - Minn. Rules ch. 4727**
- C Industrial Minerals Leasing - Minn. Rules ch. 6125.8000 to 6125.8700
- Minn. Stat. §93.08 - 93.12 and 93.25**

Table 20.

Enforceable Policies/Programs Subject to Federal Consistency
Section F. Mineral Resource Standards

Agency Name	Program	Authority	Funding	Program Delivery
DNR Minerals Division, Hibbing: (218) 262-6767	Mineland Reclamation Program: the DNR regulates various activities related to mining including siting, dust suppression, and ground vibrations from blasting and reclamation to control possible adverse environmental effects of mining, conserve natural resources and encourage the planning of future land utilization.	Minn. Stat. §93.44 - 93.51 Minn. Rules ch. 6130 Minn. Rules ch. 6131 Minn. Rules ch. 6132	General Fund	Mineland reclamation manager in Hibbing provides information and technical assistance in mineland reclamation.
DNR Minerals Division: (612) 296-4807	Iron Ore/Taconite Leasing Program: the Minerals Division administers more than 100 state taconite and iron ore mining leases covering more than 9,000 acres. There are currently seven active taconite mining operations located in the state.	Minn. Stat. §93.14 through 93.28	General Fund	Minerals leasing section supervisor in St. Paul administers taconite mining leases.
DNR Minerals Division: (612) 296-4807	Metallic Minerals Leasing Program: ten different companies currently hold 150 state metallic minerals leases. A variety of exploration activities are conducted under the current leases, which cover more than 65,000 acres in nine counties. Additional state lands are offered for lease at lease sales which are held on an annual basis.	Minn. Stat. §93.08 through 92.12 and 93.25 Minn. Rules 6125.0100 through 6125.0700	General Fund	Minerals leasing section supervisor in St. Paul provides assistance with leases and information on public sales.

Agency Name	Program	Authority	Funding	Program Delivery
<p>DNR Minerals Division: (612) 296-4807</p>	<p>Peat Leasing Program: five different companies currently hold six state peat leases. The removal of peat for commercial purposes occurs on these leased premises which cover 2,540.11 acres in Carlton, St. Louis and Marshall counties.</p>	<p>Minn. Stat. §92.50</p>	<p>General Fund</p>	<p>Contact Minerals leasing section supervisor in St. Paul for information and assistance.</p>
<p>DNR Minerals Division: (612) 296-4807</p>	<p>Exploratory Borer Registration Program: an explorer must register with the DNR 30 days before making an exploratory boring. The explorer must submit a map of boring locations, provide access to drill sites, submit a report of drill hole sealing, and submit certain other data obtained from the exploratory boring.</p>	<p>Minn. Stat. §1031.602 and 1031.605 Minn. Rules ch. 4727</p>	<p>General Fund</p>	<p>Minerals leasing section supervisor in St. Paul provides assistance with registration.</p>

G. ENERGY

1. Energy Facility Siting

a. Minnesota Power Plant Siting Act

Legislative Policy: *The legislature hereby declares it to be the policy of the state to locate large electric power facilities in an orderly manner compatible with environmental preservation and efficient use of resources. In accordance with this policy, the Board shall choose locations that minimize adverse human and environmental impact while insuring continuing electric power system reliability and integrity and ensuring that electric energy needs are met and fulfilled in an orderly and timely fashion.*

Activities Managed: The Minnesota Power Plant Siting Act controls the following activities:

- C Environmental review
- C Designation of sites and routes; procedures; considerations; emergency certification; exemption
- C Public hearings; inventory
- C Facility licensing, state permits
- C Improvement of sites and routes
- C Enforcement, penalties

Implementation: Under the act, the Minnesota Environmental Quality Board (MEQB) has authority to provide for energy facility site and transmission line route selection. “Large electric power facilities” for the purposes of energy facility siting means large electric power generating equipment and associated facilities with a capacity of 50,000 kilowatts or more and high voltage transmission lines capable of operation at a nominal voltage of 200 kilovolts or more as defined in Minn. Stat. §116C.52, Subdivision 4, 5.

Standards and Criteria:

Designation of sites and routes: A utility must apply to the MEQB for designation of a specific site for a certain size and type of facility. The application must include at least two proposed sites. The procedure for designation of transmission line routes involves having the utility apply for a permit for the construction of a high voltage transmission line. This application must also contain at least two proposed routes.

Emergency certification: Any utility whose electric power system requires the immediate construction of a large electric power generating plant or high voltage transmission line may make application to the MEQB for emergency certification. A public hearing to determine if an emergency exists, will be held within 90 days of the application.

Considerations in designating sites and routes: The MEQB will evaluate research and investigations relating to the effects on land, water and air resources of electric power facilities and high voltage lines including: the effects of water and air discharges and electric fields on public health and

welfare, vegetation, animals, materials and aesthetic values. Some large power plants require certification of need from Public Utilities Commission (PUC)(See Minn. Stat. ch. 216B).

Exemption of certain routes: A utility may apply to the MEQB to exempt the construction of any proposed high voltage transmission line from siting requirements. If the MEQB determines that the proposed high voltage line will not create significant human or environmental impact, it may exempt the proposed transmission line, but the utility must comply with any applicable state rule and any applicable zoning, building and land use rules, regulations and ordinances of any regional, county or local government in which the route is proposed.

Exemption of certain sites: A utility may apply to the MEQB to exempt the proposed construction of a facility from siting requirements. If the MEQB determines that the proposed plant has an electric power production capacity less than 80 megawatts and the proposed site will not have a significant human and environmental impact, the MEQB may exempt the plant from the requirements of §116C.51 to 116C.69.

Public Hearings/Participation: The MEQB will hold an annual public hearing and hold at least one public hearing in each county where a site or route is being considered for designation. The Board may appoint one or more advisory task forces to assist it in carrying out its duties.

Inventory: An initial inventory of large electric facilities was generated in the late 1970s. The MEQB has a continuing responsibility to evaluate, update, and publish this inventory.

Facility Licensing, State Permits: Utilities are required to obtain state permits that may be required to construct and operate large electric facilities and high voltage lines.

Improvement of sites and route: Utilities may construct or improve their site or route for up to four years after their initial site certification. Following the four-year period, the utility must show the MEQB that the site or route continues to meet the permit conditions.

Enforcement, Penalties: Any person who violates §116C.51 to 116C.69 is guilty of a misdemeanor for the first offense and a gross misdemeanor for the second and subsequent offense. Each day of violation constitutes a separate offense. The provisions of §116C.51 to 116C.69 may be enforced by injunction, action to compel performance, or other action in the district court of the county where the violation takes place. The court may impose a civil penalty of not more than \$10,000 for each violation.

Authorities:

- C Minnesota Power Plant Siting Act - Minn. Stat. §116C.51 - 116C.69**
- C Power Plant Siting - Minn. Rules ch. 4400**

b. Pipelines

Legislative Policy: The Environmental Quality Board shall adopt rules governing the routing of pipelines.

Activities Managed: Chapter 116I - (Pipelines) controls the following activities:

- C Routing of certain pipelines
- C Pipeline proposal information book
- C Public meetings
- C Protection of public facilities and cultivated agricultural land

Implementation: The Minnesota Environmental Quality Board (MEQB) has authority to provide for routing of pipelines. "Pipelines" for the purposes of energy facility siting means any pipe with a nominal diameter of six inches or more that is designed to transport hazardous liquids, but does not include pipe designed to transport a hazardous liquid by gravity; pipe designed to transport or store a hazardous liquid within a refining, storage or manufacturing facility; or pipe designed to be operated at a pressure of more than 275 pounds per square inch and to carry gas as defined in Minn. Stat. §116I.015, Subdivision 1 (1), (2).

Standards and Criteria:

Routing of certain pipelines: A pipeline constructor must apply to the MEQB for a routing permit which designates a specific route for the pipeline. MEQB rules governing the routing of pipelines include:

- C Requiring the pipeline constructor to submit one preferred route for the pipeline and evidence of consideration of alternatives;
- C Providing for notice of proposed pipeline routes to local units of government and to owners and lessees of property along the routes being considered;
- C Providing for public hearings on proposed pipeline routes;
- C Providing criteria that the MEQB will use in determining pipeline routes including: existence of populated areas, consideration of local government land use laws, and the impact of the proposed pipeline on the natural environment;
- C Allow the MEQB to provide an exemption from the process in the event of an emergency or if the MEQB determines that the proposed pipeline will not have a significant impact on humans or the environment; and
- C Requiring that the pipeline constructor, to the extent possible, restore the area affected by the pipeline to a natural condition.

Pipeline proposal information book: The pipeline constructor is required by the MEQB to submit an information book containing:

- C A description of the pipeline proposed for construction including the proposed route, types of commodities to be carried, size of the line and construction and operational characteristics;
- C An explanation of the steps which must be taken to acquire right-of-way for the pipeline and the rights and alternatives of the landowner;

- C An explanation of the legal requirements that must be met in constructing the pipeline;
- C An explanation of the county inspection procedure and instructions for contacting the inspector in the event of noncompliance with legal requirements.

Public meetings: Within 60 days of notification, the county board of each county in which the pipeline route is proposed must hold a public meeting which provides information concerning:

- C The pipeline route, size, types of commodities to be carried, and construction and operating characteristics;
- C The legal requirements which must be met in acquiring easements and in constructing and operating the pipeline.

Protection of public facilities and cultivated agricultural land: Pipelines must be buried with a minimum level cover of 4½ feet in all areas where the pipeline crosses the right-of-way of any county, town or municipal street or highway and where the pipeline crosses cultivated agricultural land. Where the pipeline crosses the right-of-way of any drainage ditch, the pipeline must be at least 4½ feet below the authorized depth of the ditch.

Exemption for Interstate Pipelines: Minn. Stat. §116I.05 provides an exemption for certain actions of projects fall under authority of the federal Natural Gas Act.

Authorities:

- C **Pipelines - Minn. Stat. §116I.01 - 116I.11**
- C **Pipeline Routing - Minn. Rules ch. 4415**

2. Utility Crossings of Public Lands and Waters

Legislative Policy: *The Commissioner of Natural Resources shall promulgate rules containing standards and criteria governing the sale of licenses permitting the passage of utilities over public lands and waters. The rules shall include provisions to insure that all projects for which licenses are sold will have a minimum adverse impact on the environment.*

Activities Managed: Licenses to cross both over and under public land are granted by the Commissioner of Natural Resources. Passage may be allowed over, under, or across any part of any school, university, internal improvement, swamp, tax-forfeited or other public land or public water. Allowed crossings may include telephone, telegraph, and electric power lines, cables or conduits, underground or otherwise, or mains or pipelines for gas, liquids, or solids in suspension.

Implementation: The Commissioner of Natural Resources has established rules (Minn. Rules ch. 6135) concerning utility crossings over public lands and waters under DNR and county

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administration (tax-forfeited lands). These guidelines set fees, standards, and criteria for minimizing the environmental impact of utility crossings. It is essential to regulate crossings of public lands and waters to provide maximum protection and preservation of the natural environment and to minimize any adverse effects which may result from proposed crossings.

The DNR Bureau of Real Estate Management administers the state's Utility Crossing License Program. Each type of crossing, public land or public water, has a unique application which must be submitted in quadruplicate. The applicant must follow the specific standards in Minn. Rules ch. 6135 relating to the route design, construction, and right-of-way maintenance of the proposed utility crossing.

Standards and Criteria:

Summarizing Minn. Rules §6135.1100 Standards for Route Design:

- C With regard to topography: avoid steep slopes, scenic intrusions and creating tunnel vistas.
- C With regard to vegetation: avoid wetlands, and run along fringes of forests.
- C With regard to soil: avoid soils susceptible to erosion, plastic soils subject to slippage, areas with high water tables.
- C With regard to crossing of public waters: avoid streams, or if not possible, cross at the narrowest places; avoid lakes or cross under the water.
- C With regard to special use areas (Scientific and Natural Areas): avoid or go underground; follow existing public facilities such as roads and utilities.

Section 6135.1200 Standards for Structure Design:

- C Primary consideration shall be given to underground and underwater placement in order to minimize visual impact.
- C If overhead placement is necessary, the crossing shall be hidden from view as much as practicable.

Authorities:

- C **Utility Companies, Permit to Cross State-Owned Lands - Minn. Stat. §84.415**
- C **Utility Crossings of Public Lands and Waters - Minn. Rules 6135.0100 to 6135.1800**

Table 21.

Enforceable Policies/Programs Subject to Federal Consistency
G. Energy Standards

Agency Name	Program	Authority	Funding	Program Delivery
EQB	Minnesota Power Plant Siting Act	Minn. Stat. ch. 116C	General Fund Site and application fees	The EQB issues certificates and permits for utility facility construction, routes, and sites. A utility makes application to the board.
EQB	Pipeline Routing	Minn. Stat. ch. 116I	General Fund and pipeline permit fees.	A person(s) proposing construction of a pipeline must submit an application to the EQB.
DNR Bureau of Real Estate Management:	Utility Crossing of Public Land and Waters	Minn. Stat. §84.415 Minn. Rules 6135.0100 to 6135.1800	General Fund	Utility line license application is submitted and issued by the Bureau of Real Estate Management. A \$40.00 fee is required. The standards and criteria deal with route and structure design, construction methods, safety, and right-of-way maintenance.

H. ENVIRONMENTAL REVIEW

1. Minnesota Environmental Rights Act (MERA)

The Minnesota Environmental Rights Act, Minn. Stat. ch. 116B.03, provides for any person residing in the state to maintain a civil action in the district court for declaratory or equitable relief in the name of the State of Minnesota against any person, for the protection of the air, water, land, or other natural resources located within the state, whether privately or publicly owned, from pollution, impairment, or destruction. Where the subject of the action is conduct governed by an environmental quality standard, limitation, rule, order, license, stipulation agreement, or permit promulgated or issued by the MPCA, DNR, Department of Health, or Department of Agriculture, the person taking the action must show evidence that the action violates or is likely to violate the environmental quality standard, limitation, rule, order, license, stipulation agreement, or permit.

Legislative Policy: The legislature finds and declares that each person is entitled by right to the protection, preservation, and enhancement of air, water, land, and other natural resources located within the state and that each person has the responsibility to contribute to the protection, preservation, and enhancement thereof. The legislature further declares its policy to create and maintain within the state conditions under which human beings and nature can exist in productive harmony in order that present and future generations may enjoy clean air and water, productive land, and other natural resources with which this state has been endowed. Accordingly, it is in the public interest to provide an adequate civil remedy to protect air, water, land and other natural resources located within the state from pollution, impairment, or destruction (Environmental Rights, Purpose - Minn. Stat. §116B.01 Purpose).

Minnesota Environmental Quality Board (MEQB): The environmental review responsibilities of state agencies are defined by the Minnesota Environmental Quality Board (EQB), which was created in 1973 in recognition that “problems related to the environment often involve the responsibilities of several state agencies and that solutions to environmental problems require the interaction and coordination of the agencies” (Minn. Stat. Ch. 116C). The board is the State of Minnesota's principle forum for discussing environmental issues that do not fit in one of the state's other environmental agencies. The current 16 member board is composed of a chairperson and five citizen members appointed by the Governor; the Commissioners of the state departments of Agriculture, Health, Natural Resources, Public Services, Transportation, and Pollution Control Agency; and the Directors of the Office of Strategic and Long Range Planning (Minnesota Planning) and the Office of Environmental Assistance (formerly the Office of Waste Management); Department of Trade and Economic Development (DTED) and the chair of the Board of Water and Soil Resources.

The MEQB provides the public with an accessible forum for debating and discussing the environmental policies and decisions of state government; it provides a mechanism for coordinating the actions of major state agencies and the impact of their decisions on the environment; and it provides the Governor and the legislature with a tool for working on environmental issues that have not been assigned to other state agencies.

Ongoing activities of the Board established in a statute and supported by staff include: administration and implementation of environmental review, power plant siting and transmission line routing, pipeline routing, critical areas, genetic engineering regulation, water planning, and high-level radioactive waste monitoring programs.

2. Minnesota Environmental Policy Act (MEPA)

The purposes of Laws 1973, Chapter 412, are (a) to declare a state policy that will encourage productive and enjoyable harmony between human beings and their environment; (b) to promote efforts that will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of human beings; and (c) to enrich the understanding of the ecological systems and natural resources important to the state and to the nation.

Authorization for the state Environmental Review Program is found in MEPA (Minn. Stat. §116D.04 and 116D.045). MEPA provides further direction concerning protection of natural resources in Minn. Stat. §116D.04, subd. 6, which relates significant environmental impacts disclosed through the Environmental Review Program to permitting and approval decisions. No state action can be allowed or permitted if it is likely to cause pollution, impairment, or destruction of the air, water, land or other natural resources if there is a prudent and feasible alternative. Economic considerations alone cannot be used to justify a decision.

In addition, MEPA directs state agencies to:

- C Use a systematic, interdisciplinary approach to ensure the integrated use of the natural and social sciences and the environmental arts in planning and in decision making which may have an impact on the environment.
- C Identify and develop methods and procedures to ensure that environmental amenities and values, whether quantified or not, will be given at least equal consideration with economic and technical considerations in decision making.
- C Study, develop, and describe appropriate alternatives to recommended courses of action for any proposal which involves unresolved conflicts concerning alternative uses of available resources.
- C Make available to federal and state government agencies, counties, municipalities, institutions and individuals, information useful in restoring, maintaining, and enhancing the quality of the environment, and in meeting the policies of the state set forth throughout the Environmental Policy Act.
- C Initiate the gathering and utilization of ecological information in the planning and development of resource oriented projects.

Legislative Policy: *Where there is potential for significant environmental effects resulting from any major governmental action, the action shall be preceded by a detailed environmental impact*

statement by the responsible governmental unit. The environmental impact statement shall be an analytical rather than an encyclopedic document which describes the proposed action in detail, analyzes its significant environmental impacts, discusses appropriate alternatives to the proposed action and their impacts, and explores methods by which adverse environmental impacts of an action could be mitigated. The environmental impact statement shall also analyze those economic, employment and sociological effects that cannot be avoided should the action be implemented. To ensure its use in the decision making process, the environmental impact statement shall be prepared as early as practical in the formulation of an action.

3. Environmental Review Program

The purpose of Minnesota's Environmental Review Program is to avoid and minimize damage to Minnesota's environmental resources caused by public and private development. Administered and implemented by the Minnesota Environmental Quality Board, the program is intended to disclose information concerning potential environmental impacts which are anticipated to result from proposed projects and ways that impact can be avoided or minimized. The information is to be used by decision makers to make sound decisions about the projects. Two documents used in the Environmental Review Program are the Environmental Assessment Worksheet (EAW) and the Environmental Impact Statement (EIS).

Activities Managed:

- C Categories of actions requiring an EAW or EIS
- C Environmental impact statements, costs
- C Citizen petitions

Implementation: Minnesota Environmental Quality Board rules assign responsibility for preparing the Environmental Assessment Worksheet and determining the need for an Environmental Impact Statement to a specific unit of government called the "Responsible Governmental Unit" or "RGU." The RGU is generally the unit with the greatest responsibility for approving or supervising the project. The project proposer is required to supply any data or information requested by the RGU for completion of the document. A 30-day public comment period follows a published notice of availability of the document in the MEQB Monitor, a biweekly publication of the MEQB.

Other types of environmental review include voluntary EAWs and EISs, joint federal/state review, alternative urban areawide review (AUAR), and generic EIS (GEIS). Additional information on the environmental review process can be found in, EAW Guidelines, Guidance and Information for the Preparation of Environmental Assessment Worksheets, Minnesota Environmental Quality Board, June 1990.

Standards and Criteria:

Categories of actions requiring an EAW or EIS: Certain types and sizes of projects are identified as either requiring preparation of an EAW or EIS. These "mandatory categories" are listed in Minn. Rules 4410.4300 (EAW) and Minn. Rules 4410.4400 (EIS) and are also listed in the Guide to the Rules of the Minnesota Environmental Review Program.

Examples that would require an EAW within the coastal area include:

- C Marina development (20,000 sq. ft. of area)
- C Residential and recreational development (dependent on site size or units)
- C Highway projects (new roads, additional lanes)
- C Projects that would affect wetlands and protected waters (size of impact)
- C Stream diversions (watershed greater than 10 sq. miles or designated trout stream)
- C Agriculture and forestry (harvesting and conversion of land)
- C Natural areas (permanent physical encroachment)
- C Historic places (National Register of Historic Places)

A project may also be exempt from environmental review if it meets one of the conditions identified as a standard exemption. These exemptions are also listed in the Guide to the Rules of the Minnesota Environmental Review Program.

Authorities:

- C **Minnesota Environmental Policy Act (MEPA), Minn. Stat. ch. 116D**
- C **Minnesota Environmental Quality Board (EQB), Minn. Stat. ch. 116C**
- C **Environmental Quality, Minn. Rules 4410.0200 to 4410.8000**
- C **Minnesota Environmental Rights Act (MERA), Minn. Stat. ch. 116B**

Table 22.

Enforceable Policies/Programs Subject to Federal Consistency
Section H. Environmental Review Standards

Agency Name	Program	Authority	Funding	Program Delivery
EQB	Environmental Review: proposed major actions are reviewed for their effects on the environment before government approvals or permits are issued. The Environmental Assessment Worksheet is the primary tool used to evaluate the significance of proposed actions.	Minn. Stat. §116D.04 Minn. Rules 4410.0200-4410-8000	Those developing an EIS may charge the project proposer for its cost.	The EQB has rules for determining when and how to prepare an EIS and EAW. The rules list which projects require an EIS or EAW, and also specify the unit of government responsible for carrying it out. The EQB may order a generic EIS to investigate classes of activities and to recommend ways to avoid or minimize effects.
Attorney General	Environmental Rights Acts	Minn. Stat. §116D.03	General Fund	No action may cause the pollution, impairment, or destruction of the air, water, land or other natural resources located within the state.

Table 23. **Other Non-Regulatory Programs Not Subject to Federal Consistency Reviews**
Section H. Environmental Review Standards

Agency Name	Program	Authority	Funding	Program Delivery
EQB	<p>Coordinates Water Planning and Management: the EQB coordinates water management among state agencies. Integrates other planning activity with state strategies.</p>	<p>Minn. Stat. §103A.204, 103A.43, 103B.151 and 116C.04</p>	<p>General Fund</p>	<p>EQB has a Water Resources Committee comprising state agency, university, Legislative Water Commission, metropolitan council and citizens. It developed the <i>Minnesota Water Plan</i>, 1991, and <i>1995-97 Water Policy Report</i>. The Board is required to identify water policy priorities each even-numbered year and review various agencies' reports.</p>
EQB	<p>Ensures Data Compatibility: ensures that monitoring and related data is provided and integrated into the Minnesota land management according to guidelines.</p>	<p>Minn. Stat. §103B.151</p>	<p>State government and local government receiving state funds are required to have compatible data.</p>	<p>LMIC has guidelines for data compatibility. EQB Water Resources Committee oversees certain water-related data.</p>

CHAPTER 4 SPECIAL PROGRAMS AND MANAGEMENT AREAS

Introduction

Section 306(d)(2)(C) of the CZMA requires that each state's coastal program include a description, inventory and designation of areas of particular concern within their coastal area. The following sections address those areas on Minnesota's North Shore of Lake Superior that are of particular concern because of their coastal related values or characteristics, or because they may face pressures which require detailed attention beyond the general planning and regulatory system. These are areas which require special management attention and may include: regulatory or permit requirements applicable only to the area of particular concern, increased intergovernmental coordination, technical assistance, enhanced public expenditures, or additional public services and maintenance to a designated area. In many cases, these special management areas on the North Shore are also areas which have been identified for preservation and/or restoration.

Pursuant to the Coastal Zone Management Program Development and Approval Regulations 15 C.F.R. Parts 923.20 through §923.24, Special Management Areas and Areas of Particular Concern include the following considerations:

- C Areas of unique, scarce, fragile or vulnerable natural habitat: unique or fragile, physical, figuration; historical significance, cultural value or scenic importance (including resources on or determined to be eligible for the National Register of Historic Places).*
- C Areas of high natural productivity or essential habitat for living resources, including fish, wildlife, and endangered species and the various trophic levels in the food web critical to their well being.*
- C Areas of substantial recreational value and/or opportunity.*
- C Areas where developments and facilities are dependent upon the utilization of, or access to, coastal waters.*
- C Areas of unique hydrologic, geologic, or topographic significance for industrial or commercial development or for dredge spoil disposal.*
- C Areas or urban concentration where shoreline utilization and water use are highly competitive.*
- C Areas where, if development were permitted, it might be subject to significant hazards due to storms, slides, floods, erosion, and settlement.*
- C Areas needed to protect, maintain or replenish coastal lands or resources including coastal flood plains, aquifers and their recharge areas, estuaries, and beaches.*

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In Minnesota, much has been done to inventory and/or designate areas of particular concern, areas for preservation or restoring shorefront access and protection planning, and shoreline erosion/mitigation planning, in both a site specific as well as on a generic (policy) basis. Minnesota has strong comprehensive authorities, programs and controls applied throughout the coastal area on both the state and local level. The following programs or efforts address the inventory and designation and, in some cases the management strategies, for areas of concern in Minnesota's coastal area of Lake Superior. Special management strategies addressed in many of these programs identify the specific concern and reason for individualizing the management, as well as their priority of use. A number of the programs also provide procedures for the restoration and/or protection of areas for their conservation, recreational, ecological or aesthetic values.

The special programs and management areas in this chapter are not subject to federal consistency unless they are identified or listed in Chapter 3, Management Policies and Authorities (see Appendix H).

This chapter is broken down into four sections. Section A describes **Development/Economic Revitalization Plans** that address development and economic issues. Section B describes **Natural Resource Protection and Management** which includes scientific and natural areas and state wildlife management areas. Section C describes **Recreation and Water Access** that consists of shorefront access and protection planning, harbors/marinas and water access, state parks, and trail systems. Section D describes **Cultural Resource Protection and Management** containing historical works and the Minnesota Historical Society.

A. DEVELOPMENT/ECONOMIC REVITALIZATION PLANS

There are a number of existing plans which were created to identify special management areas along the North Shore of Lake Superior that address development and economic issues. These plans are described below.

1. Highway Transportation

Transportation issues within the Lake Superior watershed are those issues associated with transportation in all forms including waterborne, rail, road, and air. Water borne navigation primarily consists of the shipping of commodities from ports along the shore, as discussed in this chapter in Part A(2), Port Development Plans. Within the coastal area, the most significant transportation issue is the management of Highway 61 (North Shore Highway).

The North Shore Highway from Duluth to the Canadian border has been identified as one of the most scenic roads in the United States since its opening in 1924 and is under consideration for federal Scenic Byways Designation. The approximately 180 mile artery is also significant as it is the primary transportation link from Canada to Duluth, roughly paralleling the shoreline. Often, the lack of alternatives creates conflicts between commuter, commercial, and tourism traffic. The highway is also the focal point for most development in the area.

Increases in land and lake-oriented recreation and development along the shore and inland, necessitated highway improvements to accommodate more traffic and to improve safety conditions for motorists. These highway improvements and roadside management activities play an important role in a motorist's impression of this dynamic natural treasure.

MNDOT has numerous management activities in place to address the significance of Highway 61 among which is the development of a draft Corridor Management Plan (1989), a highway improvement schedule, creation of nationally reknown tunnels, the establishment of local partnerships to assist with highway improvement planning, and the Rest Area Program.

Legislative policy: In order to provide a balanced transportation system, which includes aeronautics, highways, motor carriers, ports, public transit, railroads and pipelines, a Department of Transportation is created. The Department shall be the principal agency of the state for development, implementation, administration, consolidation, and coordination, of state transportation policies, plans, and programs.

Additional enabling legislation and rules provide road authorities in the coastal area to develop roads and plans to address Natural Preservation Routes (Minn. Rules 8820.4010 and Minn. Stat. §162.021).

a. The North Shore Corridor Management Plan

The North Shore of Lake Superior has seen increasing development pressure over the last couple of years. This pressure will likely continue as seasonal homes and tourism remain strong elements of the local economy. A major resource in the development of the North Shore is Highway 61, the major transportation link. This link provides access to homes, businesses, and recreational opportunities and affords visitors the chance to enjoy a scenic treasure. The highway and surrounding corridor are controlling factors for any type of development or human interaction along the North Shore.

The Highway 61 corridor along Lake Superior was chosen in 1994 as one of three roadways in the United States to be part of a federally funded scenic byway case study. The case study was performed by Scenic America, a nonprofit organization under contract with the Federal Highway Administration (FHWA). In addition, the North Shore Management Board (NSMB) applied for and received federal Intermodal Surface Transportation and Efficiency Act (ISTEA) Scenic Byways Program funding to do an additional planning study along the North Shore, with a special focus on the highway corridor.

The North Shore Corridor Management Plan, currently being developed by the North Shore Management Board, provides a comprehensive tool for the efficient management of resources located within the Highway 61 corridor, within the North Shore Management Plan boundary, north of the Duluth city limits. The plan will address cultural, scenic, historic, archeological, natural, recreational, economic, and transportation resources. Goals, strategies, and policies for the management of these resources will be developed and included to ensure sustainability so that future generations will be provided the opportunity to experience the North Shore.

It is likely that the plan will be adopted by member units of government, and where appropriate, provisions incorporated into local zoning ordinances. Recommendations for state or other participants will be handled on an individual basis as appropriate. Phase 1 document has been completed; Phase 2 is currently underway.

The intended result of the North Shore Corridor Management Plan is the designation of Highway 61 as a Scenic Byway under the federal Scenic Byways Program. The designation would mean increased opportunities for tourism, marketing, and positive economic impacts in addition to preservation of scenic and aesthetic values within the corridor.

b. MN DOT Rest Area Program

The Minnesota Department of Transportation operates a statewide system of safety rest areas. Safety rest areas are divided into four classifications representing various levels of service and times of operation. MNDOT's present rest area development program was begun in 1967 when the Federal Highway Administration placed increased emphasis on safety rest area development via interstate and highway beautification funding in recognition of the value and importance of providing rest area services to travelers and traveler safety.

The Site Development Unit, Office of Technical Support, maintains a computerized inventory, by trunk highway and mile post, of all existing MNDOT rest areas. In addition, a listing of local noncommercial, public rest area facilities is also maintained for the designated, noninterstate network of highways. A list of proposed MNDOT, Class I and Class II rest areas are also included in the data base.

This data base permits easy comparison and coordination of existing local rest area services with proposed state and local rest area development as a planning tool to minimize facility duplication. MNDOT district involvement is required to provide updates in local services, identify local planning proposals and partnership opportunities, and initiate departmental programming and funding for construction of needed facilities.

On Highway 61, MNDOT has listed 35 existing and proposed rest areas located between Duluth and the Canadian border. These rest areas range from small pullouts with gravel parking lots and minimal facilities to full service rest areas with heated buildings, paved parking areas, flush toilets, and a host of other travel amenities. Many of the rest stop areas along the North Shore serve as scenic overlooks or provide access to and contain markers indicating historic, cultural, geologic, or site interpretation opportunities.

2. Port Development Plans

Port and harbor development is broken down into two types: commercial/industrial and recreational. The federal U.S. Army Corps of Engineers authorized navigation projects include the harbors of Duluth-Superior, Knife River, Two Harbors (Agate Bay), Beaver Bay (Northshore Mining), Schroeder (Taconite Harbor/LTV), and Grand Marais.

Although all the ports and harbors in the Minnesota coastal area are important to local and regional economies, the Duluth-Superior Harbor is the most significant shipping port in the region. The Duluth-Superior Harbor, “Twin Ports”, is the leading bulk cargo port on the Great Lakes, as well as one of the busiest in the nation. The Twin Ports is the farthest inland seaport in the world; 2,342 miles from the Atlantic Ocean; close to essential resources: grain, iron, ore, stone, and coal. The port occupies roughly 32 square miles and has more than 100 miles of waterfront. The harbor is protected by a natural barrier, a sand and gravel bar more than six miles in length, which is transected by the Duluth Ship Canal and the Superior Entry providing access to Lake Superior. The harbor is situated on the boundary between Minnesota and Wisconsin.

Approximately 40 million tons of bulk cargoes are shipped from the combined ports every season. In some years the total has reached 75 million tons. Approximately 113 docks and terminals at the harbor handle a variety of commodities including coal, grain, limestone, iron ore, petroleum, steel and scrap iron, cement, and general cargo. The channels and the two entries to the Twin Ports are maintained by the U.S. Army Corps of Engineers, Detroit District, which has an area office at Canal Park in Duluth.

The Duluth-Superior Harbor is normally dredged once a year at an average of 150,000 cubic yards between 1980-1994. Channel depths are maintained to a controlling depth of 27 feet or greater, referenced to International Great Lakes Datum (IGLD) 1955. Over a fifteen-year history, approximately 25 percent of the material dredged is classified as “clean,” making it suitable for beach nourishment and other beneficial uses. The balance of the material is classified as “contaminated,” needing a confined placement facility, unless treated. With an existing washing process in place, the material has been suitable for upland unconfined disposal.

During the period from the original harbor project up to present, the Corps dredged disposal methods have included open water placement and the creation of unconfined islands (such as Interstate Island, Hog Island, and Barker’s Island), and the creation of the Erie Pier confined disposal facility (CDF). As the existing Erie Pier CDF reaches its capacity within the next two to three years, the need for new material placement alternatives becomes essential.

In response to the requirements of Minn. Stat. ch. 103G and Minn. Rules 6115.0191, Subpart 5, port development and improvement is subject to a comprehensive port development plan. The Duluth Comprehensive Port Development Plan is applicable to those lands and waters within the municipal limits of the City of Duluth that are in or front upon the St. Louis River and estuary. The plan is a binding agreement on the City of Duluth, the Seaway Port Authority, and the Department of Natural Resources and sets specific procedures for ensuring the preservation of

designated natural areas, disposal of polluted dredged material in designated disposal sites, and conservation of lands suitable for water oriented commercial/industrial development adjacent to the harbor. The Plan is comprehensive because it geographically encompasses the Minnesota portion of the Duluth Harbor and is endorsed by the agencies directly responsible for land use planning and regulation within the harbor and estuary.

The Port Plan consists of specifically designated natural resource protection areas; designated dredged material disposal sites; a mitigation procedure; an inventory of wetlands within the harbor; a map of harbor front maps (lands zoned W-1, Waterfront District) dedicated for harbor dependent land uses; an inventory of mitigation sites; and a memorandum of understanding which specifies the plan goals and objectives, provides an environment of regulatory predictability, and establishes a format for periodic review.

The Duluth Comprehensive Port Plan is a memorandum of understanding (MOU) signed by the City of Duluth, Seaway Port Authority of Duluth, and the DNR. The Port Plan is binding on all three agencies, setting forth specific procedures for ensuring the preservation of designated natural areas, the disposal of dredged material, and the conservation of lands suitable for water oriented commercial/industrial development adjacent to the harbor, and providing a forum for joint discussion and formal comments on land use development issues in and adjacent to the St. Louis River and estuary (see appendix G for MOU).

In guiding land and water use activities within the port, the Port Plan establishes the following goals:

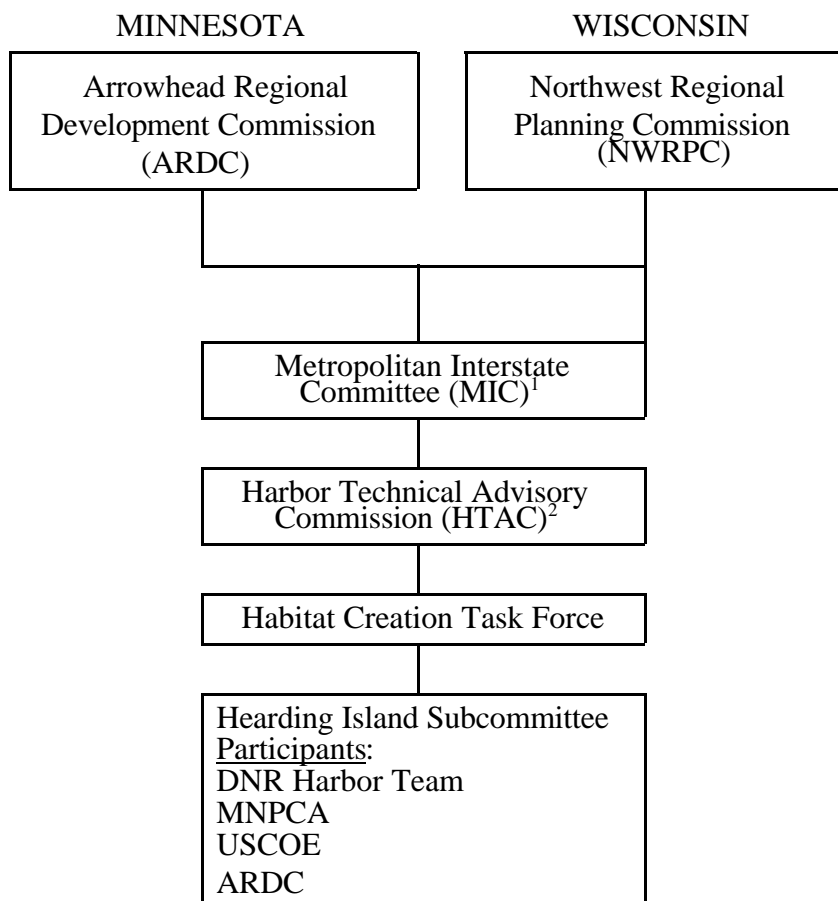
- 1. Specify a site for a future contained disposal and reuse facility in Minnesota waters that all three signatories to the Memorandum of Understanding agreed to.*
- 2. Prolong the useful life of existing contained disposal and reuse facilities by reusing the dredged materials therein.*
- 3. Protect designated Natural Resource Protection Areas through the use of local land use authority and state regulations.*
- 4. Carefully review non-surface water dependent development proposals on harbor front land adjacent to the navigation channel.*
- 5. Any proposal for fill into the St. Louis River and estuary that is sponsored, supported, promoted, and/or authorized by the signatories must be for harbor-related surface water dependent land uses or a specific public purpose and will be subject to an environmental and regulatory permit process.*
- 6. Acknowledge the value of wetlands, fish habitat, and aquatic communities in the estuary and adopt a policy of “no-net-loss” for these valuable habitat areas in the harbor through preservation, mitigation, and enhancement.*

7. *Develop alternatives for disposal of unpolluted dredged materials that shall not threaten adjacent wetlands or other environmentally sensitive areas of the estuary.*
8. *Establish and/or support the existing framework of the Harbor Technical Advisory Committee of the Duluth-Superior Metropolitan Interstate Commission as the designated forum for advice and comment to the signatories on harbor management and development issues.*

The Port Plan consists of designated natural resource protection areas, designated dredged material disposal sites, mitigation procedures, an inventory of wetlands that serve as the baseline for establishing a “no-net-loss” policy for preservation, a map of harbor front lands, an inventory of mitigation sites, and a memorandum of understanding.

The mechanism used to implement the Port Plan is the existing framework of the Harbor Technical Advisory Committee (HTAC) of the Duluth-Superior Metropolitan Interstate Committee (MIC) (see Figure 11). The committee was formed to address issues related to the Duluth-Superior Harbor among which the placement of dredged material is a very high priority. Representatives on the HTAC include local and state agencies from Wisconsin and Minnesota.

Figure 11. Port Plan Implementation Mechanism.



¹ The **MIC** is the official metropolitan planning organization for the Duluth-Superior urbanized area and is responsible for transportation and harbor planning and coordination. The Committee is made up of elected officials from the cities of Duluth, Superior, Proctor and Hermantown; St. Louis and Douglas Counties; and surrounding townships.

² The **HTAC** is made up of representatives of public agencies which have a direct and active management role in the harbor. Groups and people representing marine industry, environmental interests, waterfront neighborhoods, marine unions, recreationists, and general public are notified of meetings. HTAC is an advisory body for MIC. HTAC operates under the guidance of the Comprehensive Port Development Plan developed by DNR, Seaway Port Authority of Duluth, and the City of Duluth.

3. The Duluth Downtown Waterfront Plan

This plan was developed to guide the transformation of Duluth's waterfront from an industrial to tourism orientation. The plan addresses the two miles along Lake Superior and the Duluth Harbor basin between 14th Avenue West and 10th Avenue East. Tourist and other visitor-oriented development is identified as a priority with a strong emphasis on public access and preserving and protecting the scenic, historic, and aesthetic values of the waterfront. The land use plan seeks to encourage economic development with an emphasis on new tourist services and facilities, to provide for local resident requests for more attractive and convenient access to the waterfront, to make more use of the waterfront in the traditionally slow tourism months of November through April, and to encourage building and landscape design programs that reflect Duluth's traditional character and natural environment. The plan recommends rezoning the area to create a special district which allows a mix of residential and retail uses and to serve as the basis for the site plan review of proposed development. Site specific recommendations identify areas for preservation and protection. The plan also outlines the organizational strategy for plan management and implementation.

4. Endion Waterfront Plan and Development Strategy

The Endion Waterfront Plan continues the work implemented in the Downtown Waterfront Plan and addresses the area from 12th Avenue East to the termination of the I-35 freeway at London Road, near 26th Avenue East. The plan for the Endion waterfront is designed to establish a long term master guide that enhances the land use elements and upgrades the character and image of the neighborhood. Recommendations for the Lake Superior shoreland area include maintaining and enhancing the natural landscape quality of the shoreline, including the major rock outcrops; providing an extension of the Lakewalk East Trail along the water's edge; and developing a public open space at the eastern end of the study area. Recommendations for plan implementation include area rezoning, land acquisition and retention, establishment of a Lakewalk extension, stabilization and clean up of shoreline, and trail construction.

5. The West Duluth Plan

The West Duluth Plan is a comprehensive plan for the betterment of West Duluth. The planning boundary addressed in the plan was based on where changes were either taking place or expected to occur in the future. The area consists of most of the land mass below Grand Avenue between the ore docks and the Lake Superior Zoological Gardens. In addition, the triangular shaped area above Grand Avenue between Elinor Street and 59th Avenue West is a part of the plan study area.

The plan addresses neighborhood stabilization through rezoning, rerouting of nonresidential traffic, buffering, residential rehabilitation, street surfacing, and new housing opportunities. Public improvements include an expanded and upgraded Lake Superior Zoological Garden, extension of the Western Waterfront Trail from Fremont to the Irving area, the construction of a new fire hall/branch library building, development of the Oneota "Noise Pocket" area and the Oneota III

area east of 40th Avenue. Public access to the St. Louis River and bay is also addressed to allow West Duluth residents the opportunity to enjoy the natural resource values of the area.

6. Two Harbors Waterfront Development Plan, 1991

In 1991, the City of Two Harbors completed an update of their Waterfront Development Plan, originally prepared in 1978, in order to incorporate changes in development patterns, demographics, the regional and local economies, and opportunities. The plan was driven by the desire to achieve certain desired outcomes including strengthened links between the lake, waterfront, and community, to develop a recognizable image for the city, and to increase tourism/economic opportunities through a well-planned strategy of balanced land use. The plan addresses many issues including public access, marina construction, historic identification and preservation, and recreational trails and walkways. The plan outlines a management strategy for implementation of plan recommendations which specify actions and policies, including zoning ordinance amendment.

7. Grand Marais Comprehensive Plan

The Grand Marais Comprehensive Plan was established to create a framework for public and private decision making affecting the City of Grand Marais. The plan establishes land use districts, goals and policies, and development guidelines within the city. Below are land use areas described in the Grand Marais Comprehensive Plan that may be considered special management areas for the purposes of this program.

The Parks - Recreation/Protected Resources are areas, public and private, with outstanding or unique natural or scenic areas existing relatively free from human influence. They include areas that are archaeologically or historically significant. State parks and other public lands managed for resource conservation or recreation purposes are also included. The protected resource areas in Grand Marais are focused along Lake Superior. The types of uses that are generally compatible with these areas are nonstructural, such as park and recreation areas, hiking trails, and scenic areas. Specific examples are Artist's Point, the Coast Guard Station, Boulder Park, Beartree Park, Sweethearts Bluff, East Bay and harbor shoreline. The protected resource area is not intended to be a location of private enterprise and should remain as relatively free of development, and should be preserved as natural and scenic.

A harbor development area provides for water development and water-related commercial and water dependent, light industrial development that is compatible with the natural environment of Lake Superior. It also provides for reserving open space, harbor and lake views, public access, and the development of a public park system along the harbor. Commercial development along the harbor should be limited, water dependent, and not detrimental to the natural environment.

B. NATURAL RESOURCE PROTECTION AND MANAGEMENT

1. Scientific and Natural Areas Program - SNAs

To ensure preservation of Minnesota's invaluable legacy of land and all its biological diversity, the DNR established a state system of natural areas called the Scientific and Natural Areas Program.

Statement of Policy and Purposes:

- a. The legislature has provided for creation and establishment of Scientific and Natural Areas for the purpose of preserving, protecting and managing lands or waters possessing inherent natural values, including soils, waters or sediments, sites of scientific value, habitats of rare or endangered species of plants and animals, places of historic or prehistoric interest and scenic beauty, and areas uniquely suitable for teaching natural history and conservation.*
- b. The purpose of the rules is to provide for the use and protection of Scientific and Natural Areas for educational and research purposes in such manners and by such means as will leave them conserved for future generations.*
- c. The rules and regulations notwithstanding, the Commissioner of Natural Resources, his agents and employees, those persons operating under contract with the Department of Natural Resources, and law enforcement officers, may take such steps as may be necessary to enforce rules and regulations, and to establish, maintain, manage, and operate Scientific and Natural Areas. The rules and regulations notwithstanding, the Commissioner of Natural Resources also may suspend any one or more of such rules and regulations by written permit to a specific applicant or applicants for scientific or educational purposes. (Minn. Stat. §84.033 - Scientific and Natural Areas)*

The program is managed by the Minnesota DNR, Scientific and Natural Areas Program of the Section of Wildlife. SNAs are proposed, designated, and managed by the Department of Natural Resources with advice from the public through a citizens advisory committee.

State Scientific and Natural Areas are open to the public for nature observation, education and research. However, they are sensitive areas which could be damaged if misused or overused, therefore, activities such as picking flowers, hunting, snowmobiling, camping, and collecting rocks are generally prohibited.

Scientific and Natural Areas established within the Lake Superior watershed include, from south to north:

- C Hemlock Ravine, Carlton County, 50 acres; (late 1970s)
- C Moose Mountain, St. Louis County, 55 acres (1989);
- C Sugarloaf Point, Cook County, 3 and ½ acres (1992);
- C Lutsen Natural Area, Cook County, 720 acres (1991);

- C Butterwort Cliffs, Cook County, 53 acres (1981);
- C Spring Beauty Northern Hardwoods, Cook County, 400 acres, (1988);
- C Hovland Woods, Cook County, 280 acres (1992).

Efforts to establish management plans and/or habitat restoration proposals include:

- C Sugarloaf Point and Adjacent State Owned Lands Management Plan, Sugarloaf Interpretative Center (July 1993);
- C Sugarloaf Cove Habitat Restoration, Minnesota DNR (January 1997);
- C Butterwort Cliffs Management Plan, Minnesota DNR (January 1988);
- C Hemlock Ravine Management Plan, Minnesota DNR (March 1985).

Proposed Scientific and Natural Areas within the coastal boundary from south to north include:

- C Magney Hardwoods, St. Louis County, 400 acres (1986);
- C Iona's Beach, Lake County, 20 acres (1995).

Additional information or a copy of the book, A Guide to Minnesota's Scientific and Natural Areas can be obtained by contacting the Minnesota Department of Natural Resources, Scientific and Natural Areas Program (612) 296-3344 or writing to: DNR, 500 Lafayette Road, St. Paul, MN 55155-4031.

2. State Wildlife Management Areas

The state Wildlife Management Areas (WMA) are acquired and managed for three primary reasons: wildlife production, public hunting, and trapping. The goal of acquiring wildlands is to preserve these unique areas for future generations. These lands belong to the public and are maintained by the DNR Division of Fish & Wildlife for recreational use. The Save Minnesota's Wetlands Program was initiated in 1951. Wildlands acquired and developed under this program were paid for by hunting licenses, a surcharge on the small game license, cigarette tax money administered by the Legislative Commission on Minnesota's Resources (LCMR), state bonds, and Pittman-Robertson federal aid funds (derived from a special tax on sporting arms and ammunition). A list of the WMAs in Minnesota's coastal area is below.

Lake County

- C Caribou Falls WMA, 305 acres
- C Little Marais WMA, 295 acres

Cook County

- C Leveaux WMA, 80 acres

St. Louis County - Duluth Harbor

- C Hearing Island WMA 30 acres
- C Interstate Island WMA 8 acres

3. Sensitivity of Coastal Environments and Wildlife to Spilled Oil, Lake Superior, Vol. 1

Environmental sensitivity maps for Lake Superior were created in a multiagency collaborative effort and include three main components: shoreline habitats, sensitive biological resources, and human-use resources. The Environmental Sensitivity Index ranks shoreline environments as to their relative sensitivity to oil spills, potential biological injury, and ease of cleanup. The key biological resources of the area that are most likely at risk in the event of an oil spill are depicted on the maps. The four categories of biological resources are birds, fish, plants, and mammals. Many different human-use features are depicted on the maps and include those that would either be impacted by an oil spill, would provide access to the cleanup operations, or both. Human-use features include access-sites, airports, aquaculture sites, known archeological sites, boat ramps, campgrounds, Coast Guard stations, commercial fisheries, ferry locations, historical sites, hoists, marinas, national parks, Native American lands, recreational beaches, state parks, water intake sites, and wildlife areas.

The entire atlas product is stored in digital form in a geographic information system as maps and associated databases. The maps are available to state or local agency personnel identified as potential responders to a cleanup operation.

The environmental sensitivity atlas was prepared for NOAA's Hazardous Materials Response and Assessment Division and Ninth Coast Guard District, U.S. Coast Guard, Cleveland, Ohio. Funding was provided by the U.S. Coast Guard. Additional information can be obtained by contacting NOAA at (216)522-7760.

4. Important Habitat Data in the Minnesota Portion of the Lake Superior Basin, 1995

The Important Habitat in the Lake Superior Basin, 1996 Report and accompanying map was prepared by the DNR, Division of Fish and Wildlife, Section of Ecological Services for the Lake Superior Binational Program. It is based on previously existing data. A comprehensive inventory has never been done in the Lake Superior watershed. These sites, therefore, likely represent a subset of the areas of important habitat in the watershed. A systematic and comprehensive ecological inventory is needed in this region.

This report also summarizes a preliminary process to identify and describe known sites or important habitat in the Minnesota portion of the Lake Superior watershed. In A Binational Program to Restore and Protect the Lake Superior Basin (September 1991) the governments agreed to undertake the following actions:

Action: The governments will inventory habitats in the basin.

Action: The governments will continue the habitat reclamation projects currently underway to restore fisheries and wetlands in areas of concern, and in the United States portion of the basin, and other impacted areas, where appropriate.

More than 130 sites and subsites in the Lake Superior watershed have been identified as possessing important habitat features. One megasite, the Lake Superior Highlands ecosystem, covers more than 1.2 million acres and encompasses most of the sites whose ecology is heavily influenced by Lake Superior. This ecosystem has been designated a priority landscape for conservation action by the DNR and the Nature Conservancy. Other sites range from large, complex and heavily developed estuaries (i.e., the St. Louis River estuary) to small, but significant sites, where wood turtles or peregrine falcons nest. Seventy-eight of the sites have been ranked either high or medium priority for conservation action. Remaining sites are ranked lower priority or are unranked.

Information relating to areas of important habitat in Minnesota is abundant and diverse. The interest in identifying and protecting the natural heritage of Minnesota and the Lake Superior Watershed is not new. However, systematic and comprehensive data on the relative quality and quantity of natural habitats in the Lake Superior watershed are lacking. The Minnesota Department of Natural Resources is developing partnerships that will enable the critical process of a comprehensive natural community survey through the County Biological Survey of the Natural Heritage Program.

Other ongoing activities continue to add to the base of information available on the status of habitat in the Lake Superior basin. For example, the County Biological Survey is initiating a pilot study for testing and refining survey techniques in Minnesota's forested landscape. The Natural Resources Research Institute, Center for Water and the Environment (NRRI-CWE) is studying arctic disjunct plant communities. The DNR, USFWS and NRRI-CWE are cooperating to inventory Lake Superior substrate types and lake trout spawning sites.

Our current understanding of habitat in the Lake Superior watershed is based on scattered and fragmented information. Many of the most useful and comprehensive reports on Lake Superior habitat features (e.g., Green and Green 1975, Goodyear et al. 1982, Herdendorf et al. 1981) are either out of print or were never widely distributed. Site Basic Records, a standardized format for recording data about significant sites, are available for a small fraction of the sites. This report summarizes previously existing information as one part of an effort to understand and communicate to others, the status of habitat in the Lake Superior watershed not only in Minnesota, but also in the states of Wisconsin, and Michigan, and the province of Ontario.

For more information about the Lake Superior Binational Program and its habitat projects, contact: Minnesota Department of Natural Resources, 500 Lafayette Road, St. Paul, MN 55155-4020 or call (612)297-1308, fax: (612)297-7272.

5. County Biological Survey

Project Purpose: The Minnesota County Biological Survey (MCBS) began in 1987 in response to the need to assess biological diversity in Minnesota. The goal of the survey is to identify significant natural areas and to collect and interpret data on the distribution and ecology of natural communities, rare plants and rare animals. This information serves as a foundation for the management and conservation of areas of ecological significance.

Procedure: MCBS uses a multi-level survey technique beginning with air photo interpretation followed by air and ground surveys. Data are entered into the Department of Natural Resources Natural Heritage Information System that now includes twenty-two databases, and the computer mapping capabilities of an ARC/INFO geographic information system.

Status: To date, the survey has been completed in 23 counties, and is underway in eleven. Since 1987, more than 6,000 new locations of rare features have been recorded. Survey results are now available in computerized map format for 12 counties. The survey results have significantly contributed to the knowledge of the status and distribution of the state's flora, fauna and natural communities. Eight species of native plants and two species of amphibians not previously documented in Minnesota have been recorded by MCBS.

Cooperators: The survey coordinates with other biodiversity related projects. One example is a cooperative agreement with the Chippewa National Forest to conduct rare species and natural community surveys to enhance the development of an ecological classification system. A cooperative project with the Agassiz Environmental Learning Center in Polk County that provided data for the Polk County Highway Department on roadside locations of the federally threatened prairie fringed orchid (*Platanthera praeclara*) is another example.

Funding: Funding for the MCBS comes primarily through the Minnesota Environment and Natural Resources Trust Fund with lesser amounts from general fund revenues and various cooperative agreements.

Start/Finish Dates: The Minnesota County Biological Survey was initiated in 1987 with projected completion for the entire state by 2015.

Project Contact: Minnesota County Biological Survey Supervisor, Box 7, Lafayette Road, St. Paul, MN 55155, (612) 296-9782.

6. Minnesota Natural Area Register

Lands selected for inclusion on the Minnesota Natural Area Register are representative of Minnesota's original landscape and contain outstanding ecological features such as unique plant communities, rare plant and animal species, and significant geological sites. The Minnesota Natural Area Register recognizes tracts of public land that contain natural features of statewide ecological significance and honors those agencies and individuals that manage those lands to protect and perpetuate the features of interest. The following represent register tracts within the coastal area:

- C Yellow Birch Natural Area, Lake County, 130 acres (1976)
- C Lake Agnes Northern Hardwoods, Cook County, 80 acres (1987)
- C South Fowl Lake Cliff, Cook County, 5 acres (1985)

7. St. Louis River Management Plan

Lake Superior contains about 10 percent of the world's fresh surface water supply. This enormous lake is supplied by direct precipitation and the 366 tributaries which drain its watershed. One of the most important tributaries on the American side of Lake Superior is the St. Louis River. Not only is the St. Louis River estuary home to one of the largest population centers on Lake Superior, but its discharge into Lake Superior is second only to that of Canada's Nipigon River. The St. Louis River drains a region of approximately 3,600 square miles in northeastern Minnesota and northwestern Wisconsin. It has two major tributaries, the Cloquet and Whiteface Rivers.

The St. Louis River Management Plan, approved Feb, 1994, was developed to protect the river system's natural beauty, environment and cleanliness balanced by the recreational opportunities, existing and future developments and land management practices. The need to take immediate action to protect the river from large-scale development became necessary when Minnesota Power decided to sell much of its riparian land holdings, which had been purchased to ensure water levels for its hydroelectric dams.

The Plan recognizes the authority of local units of government to administer this plan through zoning ordinances or land use plans. The plan may provide for: standards and criteria for the wise use; protection and appropriate development of adjacent lands; recreational use of the river and adjacent lands; donation or public purchase of critical lands or interest in land in the public interest; the sound management of public lands along these rivers; strong cooperative planning and management agreements with the Fond du Lac Reservation Business Committee for the wise management and protection of lands within its jurisdiction, and the identification of significant historical and archeological sites along the rivers.

The St. Louis River Board: The St. Louis River Board (SLRB) was formally established as a Joint Powers Board in March of 1991. Membership consists of elected officials from St. Louis, Carlton and Lake counties, 6 representative and 6 alternates representing 52 townships and the Fond du Lac Reservation Business Committee. The purpose of the SLRB is to formulate a comprehensive management plan for the environmental protection and wise use of the St. Louis, Cloquet and Whiteface Rivers, and adjacent lands from their headwaters to the Fond du Lac Dam in St. Louis County. The management responsibility is jointly shared by the counties, townships, cities and Fond du Lac Reservation exercising land use control and jurisdictions within the river corridor.

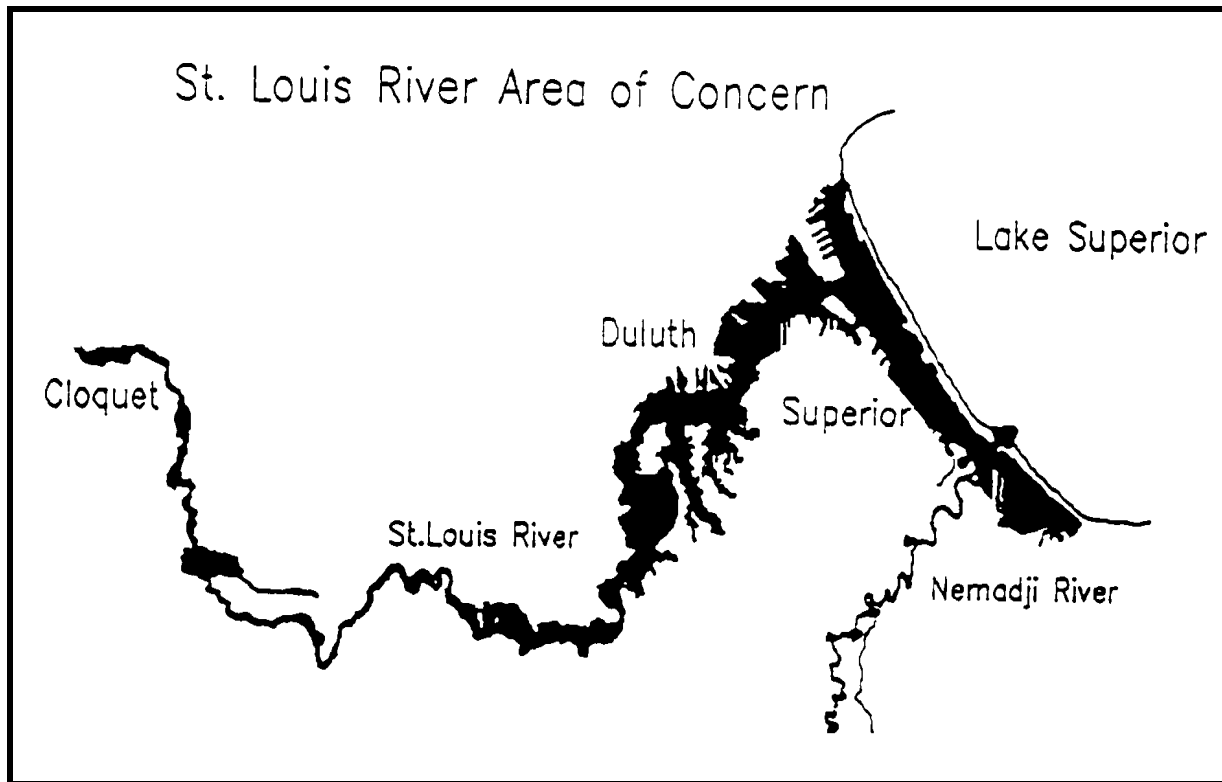
8. The St. Louis River System Remedial Action Plan

The Remedial Action Plan (RAP) process was the result of the International Joint Commission's (IJC) efforts to halt the degradation of the water quality in the Great Lakes. After the signing of the 1978 Great Lakes Water Quality Agreement between Canada and the United States, the IJC identified and designated 43 areas of concern (AOC). The IJC requested that the Minnesota Pollution Control Agency and Wisconsin DNR develop a RAP which identified specific

management strategies to control sources of pollution, abate environmental contamination already present, and restore beneficial uses in the AOC.

Remedial Action Plans (RAPs) were established as one of the principal mechanisms to implement provisions of the 1972 Water Quality Agreement and to address the most severely impacted geographic areas around the Great Lakes basin. The plans embody a comprehensive ecosystem approach and include substantial citizen participation. The St. Louis River system area of concern (AOC) refers to the geographic area being addressed by the RAP, without naming all of the individual regions and waterways it represents. The St. Louis River system RAP primarily focuses on the St. Louis River below Cloquet, including St. Louis Bay, Superior Bay, Allouez Bay, and the lower Nemadji River.

Figure 12. Map of the St. Louis River Area of Concern.



The principal goal of the St. Louis River System Remedial Action Plan Stage I Report, April 1992, is to characterize the environmental condition of the St. Louis River area of concern. The document is essentially a “state of the river” report on the environmental integrity of the St. Louis River and western Lake Superior, synthesizing diverse pieces of information into a composite picture of ecosystem health. The report addresses each of the International Joint Commission’s 14 impaired use categories which serve as indicators of past actions and of the biological, physical, and chemical status of the resource.

The Stage II Report represents detailed recommendations which outline the specific actions necessary to restore and/or protect natural resource values. This report lists the impaired uses and environmental problems in the area of concern, the recommendations developed and actions taken to restore these impaired uses, and future actions that are needed. It discusses the strategy for implementing recommendations and the progress that has been made toward meeting the RAP goals defined in Stage I.

St. Louis River Citizens Action Committee: The St. Louis River Citizens Action Committee (CAC) is a locally responsive nonprofit organization formed to protect and restore the St. Louis River and western Lake Superior. The St. Louis River CAC has a history of working to restore and protect the St. Louis River. As indicated above, originally established in 1989, the predecessor group provided guidance to the Minnesota Pollution Control Agency and Wisconsin Department of Natural Resources on the St. Louis River Remedial Action Plan (RAP). More than 260 people participated in the development and implementation of the plan. Some key actions precipitated by this plan include purchase and preservation of 7,000 acres of riparian lands, Miller Creek storm water protection efforts, and the extension of sewer service to Oliver, Wisconsin. The St. Louis River CAC will continue its role into the future by actively promoting watershed management and sustainable development concepts.

Up to 40 volunteer board members are authorized by the St. Louis River CAC's bylaws. Nominees are selected such that no single interest achieves numerical dominance. Since government plays a critical role in land use and natural resource management, membership is specifically granted for representatives of the MPCA, Wisconsin DNR, Minnesota DNR, and other state, local, and federal units of government.

9. The Nature Conservancy (Minnesota Chapter)

The Minnesota Chapter of the Nature Conservancy, founded in 1958, is a statewide organization with more than 19,000 members. As a conservation organization, the Nature Conservancy protects ecologically significant lands through acquisition, gifts of land, management agreements, conservation easements and voluntary land protection.

a. Efforts in the Lake Superior Highlands

Tettegouche State Park nearly doubled in size through a complex land exchange engineered by the Conservancy. The 2,800 acre Palisade Valley, a unique old-growth forest and wetland complex, has permanent protection within the Lake Superior Highlands ecosystem.

During the summer of 1996, the Conservancy negotiated the acquisition of 3,280 acres of lands in and around the Swamp River watershed in eastern Cook County. This area is a mix of forested tracts containing a variety of mature, late successional and old-growth stands and wetland portions representing the largest marsh in northeastern Minnesota.

b. Susie Island Francis Lee Jaques Memorial Preserve

This island preserve, located offshore near Grand Portage, was acquired by the Conservancy in 1988. Rare communities of plant species including 400 species of lichens thrive on the island which is the largest of 13 small, rocky islands jutting out of Lake Superior.

10. The Trust for Public Land - Midwest Region

The Trust for Public Land (TPL) is a nonprofit corporation which acts in the public interest to acquire property, easements or other interests in land for the purpose of public use and enjoyment.

Efforts in the Lake Superior Highlands: The TPL received Cook County property from Consolidated Paper, Incorporated on June 1, 1989 in a quit claim deed. The TPL approached the Minnesota Department of Natural Resources in the summer of 1989 with an offer to donate portions of this land for natural resource-related activities including development of a portion of the North Shore Trail.

11. Minnesota Land Trust

The Minnesota Land Trust (MLT) is a membership-based, nongovernmental, non-profit organization funded solely through membership dues and donations from individuals, businesses and foundations. The mission of the Minnesota Land Trust is to promote the protection and enhancement of open space including farmland, wetlands, woodlands, bluff land, wildlife habitat and scenic areas in Minnesota.

Minnesota Land Trust conservation easements are legally binding agreements that place perpetual limits on the level of development that can occur on a landowner's property. If land ownership ever changes, the new owners are obligated to abide by the easement terms. With all MLT conservation easements, the terms are adapted to reflect the landowner's personal goals and unique situation.

Efforts in the Lake Superior Highlands: Several conservation easement projects have been completed along the Lake Superior Highlands. In addition, there are several conservation easement projects currently being processed.

a. Completed Projects

- C Hartwell: 20 acres of Lake Superior shoreline near Beaver Bay (conservation easement)
- C Ulland: .5 acre island near East Beaver Bay (fee title in MLT)
- C Dunn: 40 acres on Caribou Lake, north of Lutsen (conservation easement)
- C Grand Marais: 60 acres on Lake Superior in city limits (conservation easement)

b. In Process (All Conservation Easements)

- C 35 acres of Lake Superior shoreline near Silver Bay
- C 65 acres of Lake Superior shoreline near Schroeder
- C 20 acres of Lake Superior shoreline near George Crosby-Manitou State Park
- C 5 wooded acres adjacent to Girl Scout Camp near Duluth (including the creek which drains into Lake Superior)
- C A few other 40+ acre parcels at least 5 miles inland from the lake, in Lake and Cook counties.

C. RECREATION AND WATER ACCESS

1. Shorefront Access and Protection Planning

According to the CZMA, Section 306(d)(2)(G), a state is required to have management programs that include a “definition of the term “beach” and a planning process for the protection of, and access to, public beaches and other public coastal areas of environmental, recreational, historical, aesthetic, ecological, or cultural value.”

Definition of “beach”: The North Shore is considered quite rugged compared to areas along the South Shore of Lake Superior, the other Great Lakes, and other coastal waters of the U.S. and its territories, therefore, the term “beach” has significantly different meaning in Minnesota than in Michigan, Massachusetts, or Florida. Minnesota does not have a definition of “beach” in laws or rules pertaining to land use or protected waters management. Instead, the state relies on the definition of Beds of Protected Waters (all portions of protected waters below the ordinary high water mark) and Ordinary High Watermark (the boundary of protected waters) to manage protection of waters. Along the Lake Superior shoreline, the regulatory jurisdiction of the North Shore Management Plan and local zoning includes the land above the permanent vegetation line. Any activities carried out at or below the permanent vegetation line are regulated by the DNR Waters through Minn. Stat. ch. 103G.

Designation of waters as public (protected) waters and DNR permit protection to ordinary high water mark provides no greater public access or use. See Minn. Statute §103G.205.

Planning Process for Protection and Shorefront Access: Minnesota’s shorefront access programs enable the public many opportunities to enjoy Lake Superior and its shorelines. Programs at the state and local level provide the planning process and mechanisms to ensure that the public will be able to participate in inventorying and identifying priority shorefront access opportunities. The different types of access addressed include boater access, state parks, wayside rests, and trail systems. Although boater access and development of safe harbors has received much attention, efforts are also concentrated on providing the public with access to scenic vistas, historic sites, and the shoreline. The enabling legislation and specific programs that are implemented to provide shorefront access are identified and discussed below in this section.

Enabling Legislation:

Chapter 86A-Outdoor Recreation System, §86A.02 Policy

Subdivision 1. The legislature finds that the unique natural, cultural, and historical resources of Minnesota provide abundant opportunities for outdoor recreation and education, and finds that these opportunities should be made available to all citizens of Minnesota now and in the future.

Subdivision 2. The legislature further finds that the preservation and proper utilization of Minnesota’s outdoor recreational resources is becoming increasingly important to the

health, welfare, and prosperity of the citizens of Minnesota due to the growing demand for outdoor recreational facilities and the spread of development and urbanization in the state.

Subdivision 3. The legislature further finds that the outdoor recreational needs of the people of Minnesota will be best served by the establishment of an outdoor recreational system which will (1) preserve an accurate representation of Minnesota's natural and historical heritage for public understanding and enjoyment and (2) provide an adequate supply of scenic, accessible, and usable lands and waters to accommodate the outdoor recreational needs of Minnesota's citizens.

Subdivision 4. Nothing in Sections 86A.01 or 86A.11 shall be deemed or construed to abolish, repeal or negate any of the ongoing program, approved by law, or the authority or activities of the Commissioner of Natural Resources in improving, maintaining and developing fishing, hunting, or other recreational activities conducted upon the public waters and lands of the state or on private lands in cooperation with the owners thereof, except as the uses of the lands or waters may be in express conflict with the provisions of Sections 86A.01 to 86A.11.

Subdivision 5. The legislature hereby determines that the establishment of an outdoor recreation system will serve these needs and will thus serve a valid public purpose for the people of this state.

Chapter 361-Waters and Watercraft Safety, §361.01 Policy of State

It is the policy of this state, which is blessed with an abundance of water, to promote its full use and enjoyment by all of the people, now and in the future, to promote safety for persons and property in connection with the use of the waters of the state, to promote uniformity of laws relating to such use and to conform with any requirements of the United States relating thereto.

2. Harbors/Marinas and Water Access

Stakeholders in the state have been discussing the needs, benefits and negative impacts of marinas, harbors of refuge, lake access sites, and related recreational boating issues for years. There has generally been agreement between stakeholders on the placement and number of harbors of refuge and boat ramps needed to provide opportunities for recreation in a safe and sustainable manner. Lake Superior is a unique resource in that the shoreline is rugged and provides very little natural safe haven for boaters during storm events. Because of the value citizens place on the natural, undisturbed condition of many shoreline areas, and the need to provide access and protection, conflicts often result. Boater access to Lake Superior and related facilities including parking lots and boat ramps is a high priority in Minnesota. The Safe Harbors Program researched and selected sites for quick removal or safe shelter of boats during storms. These areas are usually on the edge of urban areas, near other marinas, where public access is a possible consideration.

Along Minnesota's Lake Superior shoreline, there are presently nine marinas and operations/facilities. There are six marinas which provide 388 seasonal slips and 27 transient slips. Three of those are outside of Duluth and provide 115 seasonal slips and 27 transient slips. A recreational harbor of refuge at Silver Bay is being completed, and planning for additional harbor of refuge facilities is underway for Two Harbors and Taconite Harbor. The creation of these facilities along Minnesota's North Shore between Knife River and Grand Marais, a distance of about 90 miles will improve opportunities for safe recreational boating on Lake Superior.

A number of planning efforts are underway to develop or expand protected boat accesses, harbors of refuge and other facilities. Boat access and recreational harbors are shown in Table 24 on page 27 in this chapter.

The authorities used to regulate the physical development of recreational harbors, marinas, and lake access facilities are the same as those identified in Coastal Water Management (Part V, Chapter 3, Section B). These include: Minn. Stat. ch. 103G, which requires a protected waters permit for marinas (mooring for boats or watercraft in excess of five watercraft), boat ramps, and excavation or structural encroachment below the ordinary highwater mark; Minn. Stat. ch. 104F, which gives authority to DNR Waters for management of the state's Shoreland Management Program; Minn. Stat. ch. 394, and Minn. Stat. ch. 462, is the authority given to local government units for management of land and water uses through the North Shore Management Plan and local land use ordinances.

North Shore Harbor Plan: At the local level, the NSMB, a joint powers board consisting of county, city, and township government, created to direct development of a North Shore Management Plan (NSMP), has developed the North Shore Harbor Plan. This plan identified the feasibility and locations of nine safe harbors and public accesses on the North Shore of Lake Superior for recreational boating. The North Shore Harbors Plan identified a list of siting criteria for developing harbor facilities and public accesses along Lake Superior. A key consideration for evaluating each location is that harbor development is sensitive to environmental concerns, natural resource areas, and areas of natural or historic interest. Additional analysis of each location has placed a great deal of emphasis on

potential aesthetic and environmental impacts. Strong opposition to locating facilities in sensitive areas were a major factor in determining possible site selection. One of the goals of the plan is to encourage redevelopment and expansion of existing marinas and harbors. A number of surveys were conducted and a steering committee formed to evaluate the need and potential placement of harbors and facilities. The NSMB and the Citizens Advisory Committee continue to provide leadership in implementing the plan. The DNR - Division of Trails and Waterways provided assistance in developing the plan and is also assisting in implementing the plan through technical and financial assistance.

Lake Superior Safe Harbors, Site Planning Process and Assistance Program Instruction

Manual: The NSMB with assistance from the DNR - Division of Trails and Waterways developed the manual in September 1991. This document outlines a site planning process and assistance program through the NSMB and the DNR. Implementation assistance is available to the local units of government which comprise the NSMB, or any other unit of government as approved by the NSMB, for developing specific site plans for the harbors identified and approved in the North Shore Harbors Plan. The relationship between the DNR, NSMB, and the local units of government is a partnership, where DNR provides funding and broad direction based on a legislative mandate but relies on the NSMB and its local constituency to develop local decisions.

State Water Access Site Program: The DNR - Division of Trails & Waterways has the authority to implement the state Water Access Site Program. In keeping with the Outdoor Recreation Act of 1975, the DNR has established goals, policies, and objectives for assuring consistency in the selection and management of water access sites where the DNR has a proprietary interest, but not necessarily in fee ownership of land. In the Lake Superior coastal area, the regional trails and waterways coordinator is responsible for the implementation of the Water Access Program. The primary goal of the program is to establish adequate road access, parking facilities, and a boat launching ramp. Uses such as camping, picnicking, swimming, water skiing, and toilet and trash facilities are developed only when justified and when not in conflict or interfering with the launching of watercraft. The DNR coordinates all activities relating to access priorities, development, acquisition, and management with other units of government as appropriate such as county, city, regional development commission, and MNDOT. The acquisition, development, and maintenance of public water access sites are funded from the budget of the Water Access Program.

Other Legislation:

Minnesota Stat. Ch. 86A, Outdoor Recreation System (Outdoor Recreation Act of 1975), establishes an outdoor recreation system which preserves an accurate representation of Minnesota's natural and historical heritage for public understanding and enjoyment, and provides an adequate supply of scenic, accessible, and usable lands and waters to accommodate the outdoor recreational needs of Minnesota's citizens. State water access sites are established as one component of this outdoor recreation system.

Minnesota Stat. §86A.20, Lake Superior Safe Harbors Program, provides authority to the DNR - Division of Trails and Waterways to acquire, construct, and maintain small craft harbors, channels, and facilities for recreational watercraft. Pursuant to Minn. Stat. §86A.22, counties,

CHAPTER FOUR

townships, and cities on Lake Superior are authorized to enter into agreements with the DNR to accomplish the goals of providing safe watercraft facilities.

Minnesota Stat. §97A.141, Public Water Access Sites, authorizes the DNR to acquire access sites adjacent to public waters and easements and rights-of-way necessary to connect the access sites with public highways.

SPECIAL PROGRAMS AND MANAGEMENT AREAS

Table 24. Boat Access on Lake Superior in Minnesota.

NAME (miles from Duluth)	PUBLIC OR PRIVATE	HARBOR TYPE	SLIPS/ DOCKS	MARINA SERVICE	FEE	IMPROVEMENT/ EXPANSION PLANS
RICE'S POINT (0)	PUBLIC, DNR	OPEN, ST. LOUIS BAY	NONE	NONE	NO	PAVE SECOND LOT
PARK POINT REC. AREA (0)	PUBLIC, CITY OF DULUTH	OPEN, ST. LOUIS BAY	NONE	NONE	NO	NONE
HARBOR COVE MARINA (0)	PRIVATE					
McQUADE ROAD (9)	THIS SITE IS IN THE PLANNING STATE. CONSTRUCTION FUNDING IS BEING SOUGHT.					
KNIFE RIVER (18)	PUBLIC, LAKE CO.	INLAND DREDGED	YES, 95 SLIPS	YES	YES	EXPANDED SLIPS & SERVICES BEING STUDIED
AGATE BAY (TWO HARBORS) (25)	PUBLIC, DNR/TWO HARBORS	BREAKWATER COMMERCIAL SHIPPING	LIMITED, BREAKER MOORING	NONE	NO	SMALL CRAFT HARBOR & MARINA SERVICE BEING STUDIED
BURLINGTON BAY (26)	PUBLIC, DNR	OPEN, BAY	NONE	NONE	NO	NONE
TWIN POINTS RESORT (39)	PUBLIC	CRIBDOCK, PROTECTED ACCESS	FLOATING AND CRIBDOCK	NONE	NO	PROTECTED ACCESS IN PLANNING PROCESS EXPECTED COMPLETION IN SUMMER OF 1999.
RAGNALD SVE (41)	PRIVATE	OPEN	NONE	NONE	YES	NONE
EAST BEAVER BAY (49)	PRIVATE	OPEN	NONE	NONE	YES	NONE
SILVER BAY (50)	PUBLIC, DNR	BREAKWATER	160 UNDER CONSTRUCT ION	NONE	NO LAUNCH YES SERVICES	MARINA SERVICE TO BE ADDED IN 1999.
FENSTAD'S RESORT	PRIVATE	PROTECTED BREAKWATER	LIMITED MOORING	NONE	YES	BREAKWATER REPAIR/ IMPROVEMENTS
TACONITE HARBOR (73)	This site is in the planning and assessment stages of a 2.5 acre harbor with launching facilities by the DNR.					
SCHROEDER TOWN LAUNCH (76)	PUBLIC, SCHROEDER	OPEN	NONE	NONE	NO	NONE
TOFTE MUNICIPAL LAUNCH (79)	PUBLIC, TOFTE	SMALL BREAKWATER	NONE	NONE	NO	SMALL IMPROVEMENTS TO RAMP, DOCK & PARKING WAVE PROTECTION
GRAND MARAIS REC. AREA (106)	PUBLIC, GRAND MARAIS	BREAKWATER	LIMITED	SOME	NO	SOME PROPOSALS TO EXPAND MARINA & HARBOR.
GRAND MARAIS (106)	PUBLIC, DNR/CITY	BREAKWATER	NONE	NONE	NO	INCORPORATE W/ REC. AREA MARINA
HOVLAND TOWN LAUNCH (124)	PUBLIC, HOVLAND	OPEN	NONE	NONE	NO	NONE
HORSESHOE BAY (126)	PUBLIC, DNR	OPEN, BAY	NONE	NONE	NO	
GRAND PORTAGE MARINA (140)	PRIVATE, GRAND PORTAGE BAND	DREDGED INLAND	YES, 22	YES	YES	PROPOSALS TO EXPAND MARINA SERVICES & HARBOR SIZE.
VOYAGEUR'S MARINA (143)	PRIVATE	OPEN, BAY	LIMITED, 6-12 SLIPS	YES	YES	PLANS TO EXPAND SLIPS, BUILD BREAKER, PENDING PERMITS

3. State Parks

The Outdoor Recreation Act (ORA), Minn. Stat. ch. 86A, was authorized to provide organizational direction to the Minnesota State Recreation System. Minnesota state parks are a part of this recreation system. State park staff are primarily responsible for managing three recreational unit classifications: state parks, state recreational areas, and additional parks. Minnesota Stat. ch. 86 provides the authorities, purpose, resource and site qualifications, and administration of the three unit classifications. The mission of the Division of Parks and Recreation is to “work with the people of Minnesota to provide a state park system which preserves and manages Minnesota’s natural, scenic, and cultural resources for present and future generations while providing appropriate recreational and educational opportunities.”

Along the North Shore of Lake Superior there are outstanding recreational, scenic, cultural, and natural resources. The state parks along the shore have some of the highest use rates in the state park system, and are managed to accommodate intense visitor use. Some large portions of parks contain sensitive natural resources and are managed so as not to detract from their natural beauty. There are 15 state parks, including former state waysides, within the Lake Superior area from Jay Cooke State Park along the St. Louis River in Carlton County to Grand Portage State Park along the Pigeon River on the Canadian border (see Part III, page 18). These parks provide overnight facilities, trails, summer recreation, winter recreation, and visitor services (see Figure 4).

State parks are established “to preserve, perpetuate, and interpret natural features that existed in the area of the park prior to settlement and other significant natural, scenic, scientific, or historic features that are present. Management shall seek to maintain a balance among the plant and animal life of the park and to re-establish desirable plants and animals that were formerly indigenous to the park area but are now missing. Programs to interpret the natural features of the park shall be provided. Outdoor recreation activities to utilize the natural features of the park that can be accommodated without material disturbance of the natural features of the park or the introduction of undue artificiality into the natural scene may be permitted. Park use shall be primarily for aesthetic, cultural, and educational purposes, and shall not be designed to accommodate all forms or unlimited volumes of recreational use. Physical development shall be limited to those facilities necessary to complement the natural features and the values being preserved.”

State recreation areas are managed “primarily to provide as broad a selection of opportunities for outdoor recreation as is consistent with maintaining a pleasing natural environment. Scenic, historic, scientific, scarce, or disappearing resources within state recreation areas shall be recommended for authorization as historic sites or designated Scientific and Natural Areas pursuant to §86A.08 to preserve and protect them. Physical development shall enhance and promote the use and enjoyment of the natural recreational resources of the area.”

Park plans have been developed for individual parks in the area by park planning staff pursuant to Minn. Stat. ch. 86A. After a park resource inventory is completed, planning staff recommend a park classification according to the resources present and the ability of those resources to tolerate visitor use. Individual park management plans include:

- | | | | |
|---|-----------------------|---|--------------------|
| C | Gooseberry Falls | C | Cascade River |
| C | Split Rock Lighthouse | C | Judge C. R. Magney |
| C | Tettegouche | C | Grand Portage |
| C | George Crosby Manitou | C | Jay Cooke |
| C | Temperance River | | |

Subunits within state parks in the Lake Superior watershed include state trails, state scientific and natural areas, state water access sites, and state rest areas. The administration of these subunits is coordinated with appropriate state agencies and other DNR disciplines including the Department of Transportation (MNDOT), DNR Trails and Waterways, and the DNR Division of Fish and Wildlife.

Division of Parks and Recreation: The establishment of state parks, state recreation areas, and additional parks is based on meeting the criteria of the resource and site location qualifications listed in Minn. Stat. ch. 86A. The Commissioner of Natural Resources is responsible for the administration of these units.

Enabling Legislation:

Minnesota Stat. §85.011 Confirmation of Creation and Establishment of State Parks, Monuments, Recreation Reserves, Waysides. The legislature of this state has provided for the creation and establishment of state parks, designated monuments, state recreation reserves and state waysides for the purpose of conserving the scenery, natural and historic objects and wildlife and to provide for the enjoyment of the same in such a manner and by such a means as will leave them unimpaired for the enjoyment of future generations.

The establishment of such state parks, designated monuments, state recreation reserves and waysides are hereby confirmed as provided in this Section and §85.012 and 85.013 and they shall remain perpetually dedicated for the use of the people of the state for park purposes.

4. Trail Systems

There are many opportunities for trail use along the North Shore of Lake Superior despite this, there is growing competition from the multiple users groups. Planning and implementation efforts are coordinated in order to create additional linkages with existing trail systems and to provide opportunities for competing uses through the establishment of new systems.

Lake Superior Water Trail: The Lake Superior Water Trail was authorized by the legislature in 1993. The trail follows the Lake Superior shoreline from the St. Louis River in Duluth to the border with Canada. The trail, which is being developed in cooperation with the Lake Superior Water Trail Association, uses existing public lands for designated rest areas. The DNR is authorized to accept donations of land, or easements in land, for the rest areas along the water trail, and may accept money for this purpose from other public or private sources. A pilot project

area, about 40 miles from Two Harbors to the Cook County line has been completed. The trail will eventually be part of the Lake Superior Water Trail encircling all of Lake Superior.

North Shore State Trail (NSST): This trail was authorized by the state legislature in 1975. When completed, it will extend between Duluth and Grand Portage along the North Shore of Lake Superior, a distance of approximately 235 miles. After the completion of a master plan, a 146 mile segment between Duluth and Grand Marais was completed and opened for use in 1984. The trail is used primarily by snowmobilers and hikers, but also by backpackers, horseback riders, hunters, dog sledgers, skiers and mountain bikers. All terrain vehicles (ATVs) are prohibited. The U.S. Forest Service, DNR, Grand Portage Reservation, Cook County, City of Grand Marais, and other stakeholders are currently developing a plan to complete the trail from Grand Marais to the Canadian border.

Superior Hiking Trail: The Superior Hiking Trail, now a national recreation trail, will extend from Duluth to the Canadian border, a trail distance of nearly 300 miles, when completed. Currently 200 miles of trail have been completed. The trail is narrow and rugged, and is designed for hiking only. It links seven North Shore state parks and county or U.S. Forest Service roads. Back country campsites are situated every five to eight miles along much of the trail. The Superior Hiking Trail is not subject to any permit regulations regarding camping. Camp sites are available on a first come first use basis and there is no fee. Within state parks, camping is allowed only in designated campgrounds and normal fees apply. The Superior Hiking Trail Association (SHTA) was formed by volunteers in 1986 to build, promote, and maintain the continuous, long distance footpath along the ridgeline overlooking Lake Superior. SHTA is a nonprofit organization committed to providing low impact, educational, and recreational access to one of the most rugged and scenic areas of the Midwest.

Willard Munger Trail/Carlton-West Duluth Segment: This 14.5 miles trail runs along a ridge from the town of Carlton, along the border of Jay Cooke State Park, through a forest of aspen, birch, maple and pine, to the west end of Duluth. Near Carlton, it passes over an old railroad bridge that crosses the cascades of the St. Louis River. From its height, the trail provides great views of miles of rolling forest and the Duluth Harbor, with its distinctive aerial lift bridge. Although the trail is relatively level, there is a slight (one percent) grade uphill for nine miles from the Duluth end.

Other Hiking Trails:

- | | |
|-----------------------------|--|
| C Border Route Trail | C Oberg and Leveaux Mountains National Recreation Trails |
| C Eagle Mountain Trail | C Grand Portage |
| C Lake Superior Vista Trail | |
| C Mount Rose | |

Other Ski Trails:

- | | |
|------------------------|---------------------------------------|
| C Deer Yard Lake | C North Shore Mountains Ski Beartrack |
| C North Shore Mountain | C Northwoods |

SPECIAL PROGRAMS AND MANAGEMENT AREAS

- C Korkki Nordic
- C Two Harbors
- C Lookout Mountain X/C

- C City of Duluth
- C Pincushion

Other Snowmobile Trails:

- C Moose Run
- C Lutsen
- C Tofte
- C Finland (Sawtooth)
- C Silver Bay (Red Dot)

- C Tomahawk
- C Two Harbors
- C Hermantown
- C City of Duluth

Biking Trails:

- C North Shore Touring

Division of Trails & Waterways: The Minnesota DNR organized the Trails and Waterways Unit in 1979 to meet the growing public demand for trail and water recreation. The unit provides services and information to canoeists, boaters, anglers, snowmobilers, cross country skiers, hikers, bicyclists, horseback riders, and all terrain vehicle users. Specifically, the unit plans, develops, and manages DNR public accesses, canoe routes, state trails and fishing piers. It also administers the Grants-in-Aid Program for cross country skiers and snowmobilers, and all terrain vehicle users.

Table 25.

Shorefront Access Programs

Agency Name	Program	Authority	Funding	Program Delivery
DNR Water Recreation Supervisor: (612) 296-6413	Boat Access Acquisition Program: acquires and develops sites for public boat launching facilities. Sites must be less than 7 acres in size.	Minn. Stat. §86A.05, Subd. 9	Water Recreation Account, including funds from boat license fees, gasoline tax funds, etc.	Area supervisors and St. Paul staff identify appropriate sites and complete activities to acquire and develop the sites. Lakes in the state have been prioritized for public access development, based on size, water quality, and a variety of other factors.
DNR Trail Recreation Supervisor: (612) 296-4782	State Trail Acquisition Program: acquires and develops property for state recreational trails.	Minn. Stat. §85.015 and 86A.05, Subd. 4	State bonding	State Trails Plan prioritizes trail acquisition and development needs. Trail recreation supervisor coordinates implementation of the plan.
DNR Water Recreation Supervisor: (612) 296-6413	Canoe and Boating Routes Program: designates and names canoe and boating routes, develops and maintains camping sites, and coordinates hazard removal on the routes.	Minn. Stat. §85.32	Water Recreation Account	Routes are authorized through river plans, and designated legislatively. Field staff complete site development.
DNR MIS Supervisor (612) 297-7877	Trails and Waterways User Surveys: a variety of user surveys are completed on state trails and waterways to determine levels of use, characteristics of users, etc.	Minn. Stat. ch. 86A	State General Fund	A limited number of surveys are completed as needed and as funding allows. Area and central office staff determine priorities and implement surveys.
DNR Boating Safety Specialist: (612) 296-0905	Boating Safety Programs: enhance boating safety through the removal of hazards, placement of buoys, signage, and information materials.	Minn. Stat. §86B.101	Water Recreation Account and enforcement funding by county governments	Field office staff request assistance and materials as needed.
DNR Water Recreation Supervisor: (612) 296-6413	Cooperative Access Development Program: shares costs of land and recreational site development between state and local government. A variety of approaches are possible.	Minn. Stat. ch. 86A	Water Recreation Account, including funds from boat license fees, gasoline taxes, etc.	Local governments contact Area staff to develop ideas for cooperation. Area staff initiate projects and coordinate development with local governments.
DNR Federal Aid Specialist: (612) 297-4954	Fishing Pier Program: cooperative development of fishing piers on public lands, usually owned by local governments. DNR builds and installs piers and local governments provide land and maintenance.	Minn. Stat. ch. 85	Federal cooperative opportunities for recreational enhancement funds.	Local governments contact regional offices for assistance. Regions rank priorities for development.

SPECIAL PROGRAMS AND MANAGEMENT AREAS

Agency Name	Program	Authority	Funding	Program Delivery
DNR Federal Aid Specialist: (612) 297-4954	State Park Road Account: provides aid to local governments to improve roads that lead to state facilities, such as water access sites. State and local governments share development costs and local governments maintain roads.	Minn. Stat. ch. 85	State highway funds allocated to the DNR for park roads.	Local governments contact the federal aid specialist to apply for funds. The list of requests statewide is prioritized for funding.
DNR Recreation Services Supervisor: (612) 296-6048	Trail Connections Program: provides assistance to develop local trail connections to state recreation trails.	Minn. Stat. §85.015	LCMR funding (time limited)	Local governments contact regional offices for assistance. The regions rank priorities for development.
DNR Trail Recreation Supervisor: (612) 296-4782	Trails Grant-In-Aid Programs: provide assistance to local governments and groups to develop, maintain and operate cross-country ski, snowmobile, and all-terrain vehicle trails.	Minn. Stat. ch. 86A	Funding from snowmobile, ATV, and cross-country ski licenses and state's General Fund.	Local governments and groups contact area offices, who provide assistance in developing trails.
DNR Water Recreation Supervisor: (612) 296-6413	Water Access Development Technical Assistance: staff provides assistance to local governments or groups interested in developing recreational access. Provide specifications and assist with access development, funding and installation.	Minn. Stat. ch. 86A	Water Recreation Account, including boat license fees, gas tax funds, etc.	Local governments and groups request and receive assistance from area office staff.
DNR Public Information Center: (612) 296-6157	Recreation and Trails Information: provides information to governments, agencies and the public on river levels, snow depth, special celebrations, and other information on recreation facilities and trails in the state.	Minn. Stat.	General Fund	Information provided at central office and area offices.

D. CULTURAL RESOURCE PROTECTION AND MANAGEMENT

1. Historical Works

In addition to sites already on the State and/or National Register of Historic Places and those inventoried by the Minnesota Historical Society, there have been other studies conducted which expanded awareness of historical and archaeological sites within Minnesota's coastal area.

Historical, Natural, and Scientific Sites of the Lake Superior North Shore, 1975 by the Arrowhead Regional Development Commission. The historic inventory contained in this report was primarily a recompilation of work previously conducted by John Fritzen, noted area historian and member of the St. Louis County Historical Society. The survey contains 110 identified sites of historic, natural, and/or scientific significance.

Duluth-Superior Harbor Cultural Resources Study, 1975. Initiated when Russell Fridley, Director of the Minnesota Historical Society and State Preservation Officer, suggested to the U.S. Army Corps of Engineers that a study be conducted to evaluate the cultural resources in the Duluth-Superior Harbor. One of the major goals of the study was to locate, inventory, and evaluate the significance of hundreds of historic sites of widely varying types in and around the harbor. Three hundred and thirty sites were classified into 16 categories. Thirteen major sites of significance were identified.

North Shore Corridor Management Plan, 1996. As a part of the Corridor Management planning process, an inventory is being compiled by the North Shore Management Board Citizen Advisory Committee and will include resources of historic, archeological, scenic, and cultural significance, as well as, management strategies to "ensure sustainability so that future generations will be provided the same opportunity to experience firsthand, our North Shore."

2. Organizations and Programs for Resources of State and/or National Significance

a. Minnesota Historical Society

The Minnesota Historical Society was established in 1849 as the territory's first institution. The society's mission statement is to "nurture among people a knowledge of and appreciation for the history of Minnesota. To realize this objective, the society shall collect and preserve the materials and records of human culture relating to Minnesota and Minnesotans, serve as an information center on and for the state, and through research and interpretation, illuminate the human story. It shall counsel and assist organizations, institutions, units of government, and individuals in identifying, preserving, and interpreting the cultural resources of Minnesota."

The Minnesota Historical Society plays a vital role in Minnesota through its outreach and assistance programs. The society counsels 87 county historical societies, 400 historical and genealogical organizations, and 5,000 government agencies. Through the State Historic Preservation Office and Field Services Program, the society also provides technical advice and general assistance to state agencies, cities, and private individuals in their desire to learn, interpret,

and save history. The program trains people to recognize the potential of historic properties, to restore them correctly, and to present historical information through exhibits and interpretation. Preservation of manuscripts, archives, official state documents, and oral histories plus an extensive traveling exhibit program contribute to the society's statewide presence.

b. Minnesota State Historic Preservation Office

The Minnesota Historical Society's State Historic Preservation Office (SHPO) administers several programs to help identify important resources and to create a climate to aid their preservation and restoration. SHPOs were established in each state by the National Historic Preservation Act of 1966. They administer the National Preservation Program directed by the National Park Service and the Advisory Council on Historic Preservation as well as the state preservation initiatives. The SHPO administers various programs which fall into the following two categories:

The History Component includes programs for identifying and evaluating historic properties and registering those finds to be significant. This component focuses preservation efforts by connecting historical patterns with individual properties. The State Historic Preservation Office maintains a continuous survey program, based on a reconnaissance-level building and structure survey of the entire state completed between 1978 and 1988. Currently, the SHPO is conducting indepth studies of properties that the stateside survey identified for further work. Identified properties are entered into a statewide inventory at the SHPO. An inventory of archaeological properties is coordinated with the Office of the State Archaeologist. These inventories also include the results of surveys conducted by local preservation commissions as well as state and federal agencies. To date, more than 41,000 properties comprise this combined inventory.

Once a property has been evaluated as significant, either architecturally or historically, formal recognition of its historic value is accomplished through the process of registration. The National Register of Historic Places, the National Historic Landmarks Program, the State Register (under the stipulations of Minn. Stat. ch. 138), or local registration (Minn. Stat. §471.193) are the primary means of registration.

The Protection Component provides incentives and establishes regulations to encourage appropriate treatment of historic properties. This component involves a wide range of local, state, and federal agencies, as well as the private sector, all of which have the potential to affect historic properties. Protection strategies include review and compliance, tax incentives, grants-in-aid, covenants and letters of agreement, reuse studies, Historic American Buildings Survey/Historic American Engineering Record (HABS/HAER) documentation projects, and technical assistance or other protection strategies.

c. Submerged Cultural Resource Management Program

State and federal laws have determined that the ownership of Minnesota Lake Superior shipwrecks and other submerged cultural resources (remains of wharves, docks, and refuse sites associated with fur trading stations, fishing settlements, lumber and mining camps, and vessel

salvage activities) rest with the State of Minnesota. The Abandoned Shipwreck Act requires that each state develop a Submerged Cultural Resource Management Plan.

The shipwrecks and other submerged cultural resources that lie in Minnesota's Lake Superior waters represent a unique and finite physical aspect of the state's cultural heritage. The State Historic Preservation Office is mandated to direct efforts to protect and manage these resources. The SHPO has drafted a management plan which focuses on conservation. To establish a basis for managing the state's Lake Superior shipwrecks, the SHPO sponsored a comprehensive historical and literature survey. Information provided by the survey supported the development of a national register of historic places multiple property documentation form in 1991. The document identifies historical themes associated with Lake Superior shipwrecks and defines preliminary criteria for establishing the significance of individual vessels. This data is the foundation of Minnesota's Submerged Cultural Resource Management Program. Management activities are directed toward identifying sites for preservation, scientific investigation, education, and recreational use.

d. Office of the State Archaeologist

The state archaeologist (established by Minn. Stat. §138.35) approves licenses to conduct archaeological work on nonfederal public land, reviews development plans of state agencies, and promotes research and preservation of archaeological sites. This office also administers the reburial of human remains in cooperation with the Indian Affairs Council.

e. County and Local Historical Societies

Local Heritage Preservation Commissions (HPCs) are established by local ordinances enacted under state-enabling legislation (Minn. Stat. §471.193). Such an ordinance creates a commission of local residents who recommend local designation of historic properties to the city council or town board and review proposed changes to designated properties. Many commissions also work with other local agencies to create incentive programs for historic properties. Public education strategies for protection/recognition (markers, walking and driving tours, historic festivals, and publications) are also carried out by these commissions.

HPCs may apply to the SHPO to become a certified local government (CLG). Certain specific requirements defined in federal and state regulations must be met to achieve this status. CLG designation qualifies the city, county, or township to apply to the SHPO for federal matching grants for survey and planning work. CLGs also play an expanded role in the process of nominating properties to the national register.

CHAPTER 5

LAND AND WATER USES OF REGIONAL BENEFIT

To provide a fair and equitable management program, Minnesota's Lake Superior Coastal Program must ensure that local land and water regulations do not unreasonably restrict or exclude land or water uses of regional benefit. The state must identify those activities which are determined to be of regional benefit and demonstrate how state legal authority will ensure that these activities are not unreasonably excluded by local government action from locating in the coastal area.

Unreasonable restriction or exclusion of an activity by local government action is that which is arbitrary and capricious. It involves a local decision not based on rational or legal factors and implies an exclusion that is a detriment to the region. Local and county governments within the coastal area have not exhibited any trend toward excluding activities that offer benefits to an area of greater than local concern.

Uses of regional benefit are those land or water uses that:

- C Serve or affect more than a single unit of local government
- C Result in an environmental, economic, social, or cultural benefit, and
- C Have a direct and significant impact on the land or waters within the coastal area

A use must satisfy all three criteria to be considered a use of regional benefit.

Identification of Activities of Regional Benefit

- C Major energy transmission or generating facilities
- C Waste treatment facilities including:
 - Industrial wastewater treatment and disposal
 - Municipal wastewater treatment and disposal
 - Sewage collection lines
- C Water supply facilities including:
 - Reservoirs and groundwater pumping stations
 - Water distribution and transition lines
 - Water treatment facilities
- C Transportation facilities including:
 - State and federal highways
 - Railroads
 - Airports
 - Ports and navigational channels
- C Public recreation facilities of a regional or statewide significance including:
 - State parks
 - State trails
- C Natural and cultural resources including:
 - State wildlife management areas (WMA)
 - Scientific and natural areas (SNA)

Management Authority: In general, the activities identified as being of regional benefit are under direct state and/or federal management, which preclude the unreasonable restriction or exclusion of the use of regional benefit by local regulation. This does not mean, however, that local concerns are not sought and addressed. Each state agency administers a review process or other mechanism to assure consideration of all interests in the exercise of its authorities related to the regional use.

CHAPTER 6

FEDERAL COORDINATION AND THE NATIONAL INTEREST

State agencies in Minnesota have a history of strong and positive working relationships with federal agencies. Together they have coordinated agreements regarding natural and cultural resource concerns. Coordination with the Environmental Protection Agency regarding air and water quality certification, with the U.S. Army Corps of Engineers regarding wetland permits, harbor dredging and related activities and with the U.S. Forest Service that address protected waters concerns are examples of agreements whose purpose is to satisfy resource needs through mutual cooperation and process simplification. Through Minnesota's Lake Superior Coastal Program, the relationships between state, local, and federal agencies can be further strengthened through early coordination of projects and by reducing redundancy through permit and process simplification.

Considered by states as one of the key benefits of the national Coastal Management Program, the Coastal Zone Management Act federal consistency provision requires actions of federal agencies to be consistent to the maximum extent practicable with the enforceable policies of approved state management programs. This requirement will encourage federal agencies to seek input early in the planning of activities that affect any land or water use or natural resource of the coastal area.

This chapter is divided into sections. Section A describes **Federal-State Consultation** during program development and implementation. Section B describes the **Consideration of the National Interest** which includes identification and management of those facilities and resources of national interest. Section C describes the **Federal Consistency Procedures**.

A. FEDERAL-STATE CONSULTATION

1. During Program Development

Notification to and consultation with relevant federal agencies occurred early in the process of developing a coastal management program in Minnesota. Notices were sent on February 26, 1996, to federal agencies announcing Minnesota's intent to develop a Coastal Management Program (see Appendix E-1). Included with this notice was a reply form asking agencies to indicate the level of information desired regarding program development and the level of program and document review desired. Mailing list updates were also requested. A scoping meeting scheduled for federal agencies was also announced in this notice.

A second letter announcing the April 30, 1996, scoping meeting was sent on April 5, 1996. Included with this mailing was a survey form requesting input concerning activities and resources of national interest and benefit and review of federal activities, permits and licenses, and assistance programs conducted within the Lake Superior watershed. National interest statements related to federal consistency are included in Appendix E, page 3.

The scoping meeting on April 30, 1996, was conducted jointly by staff developing Minnesota's Coastal Management Program and NOAA's Office of Ocean and Coastal Resource Management (OCRM), the federal agency responsible for administration of the program at the national level.

The purpose of the meeting was to review the goals, benefits and conditions of the Coastal Management Program from a national perspective, review development of a Coastal Management Program in Minnesota, and lastly, to explain the requirements of federal consistency, as outlined in the Coastal Zone Management Act.

Throughout the development of the program during 1996 and 1997, federal agencies received regular updates through a newsletter produced by program development staff in Minnesota and, as desired, drafts of the program document.

Federal agencies will also have an opportunity to provide input during draft and final environment review periods.

2. During Program Implementation

Coordination of federal agency activities in and affecting the coastal area will be provided by Minnesota's federal consistency process (see Section C page 6-7) which uses numerous existing and new mechanisms (including MOUs and partnership agreements), the federal consistency process as detailed in the OCRM's federal consistency workbook, periodic 312 reviews and program changes, environmental reviews (NEPA) and informal communication.

The intent of federal consistency is to ensure that federal actions, activities, and permits are consistent with the state's policies and authorities. It is an important mechanism to help resolve conflicts between states and federal agencies. The result of having a federal consistency component in the Coastal Program should lead to and improve: early coordination, consultation, cooperation and consistency with state policies. Therefore, the goal of federal consistency in Minnesota is to improve early coordination where lacking, improve cooperation between federal, state, and local governments when needed, and reduce conflict when possible. The outcome of early coordination will result in timely decision making and more effective and efficient government decisions. It is the intent of the state to review and require federal consistency determinations for federal actions or activities that have been identified as creating conflict or controversy, and affect the state's coastal uses or resources.

The MN Coastal Management Program will review existing and proposed federal actions at the time of federal program approval to determine if those activities are consistent with the state's enforceable policies. This initial review will not require the submittal of consistency determinations by federal agencies, for those activities that MN finds are consistent. For future proposed activities the focus of the consistency process in Minnesota is to develop MOUs or partnership agreements with federal, state, and local agencies. The MOUs or partnership agreements will identify the process for coordination and a tiered approach to decision making. Whenever possible, review and inclusion of voluntary Best Management Practices (BMP) will be considered when developing MOUs with federal agencies. Existing MOUs and partnership agreements are identified in Part VII, Appendix G.

B. CONSIDERATION OF THE NATIONAL INTEREST

Section 306(d)(8) of the CZMA and 15 C.F.R. 923.52 of the Coastal Zone Management Development and Approval Regulations require that states give adequate consideration to the national interest in planning for and management of the coastal zone including the siting of facilities which are of greater than local significance. In addition, section 307(b) of the CZMA requires that the views of federal agencies principally affected by a state's coastal management program be adequately considered during program development.

These requirements establish a reciprocal state-federal relationship in which the state, by providing relevant federal agencies with the opportunity for full participation and by giving full consideration to their interests in Minnesota's Lake Superior coast during program development, can administer the federal consistency requirements of 307(c) and (d) of the CZMA, once Minnesota's Lake Superior Coastal Program is approved. In order to meet these requirements the state's Coastal Management Program must:

- C Describe the national interest in the planning for and siting of facilities considered during program development;
- C Identify the sources relied upon for a description of the national interest;
- C Identify how and where the consideration of the national interest is reflected in Minnesota's Lake Superior Coastal Program; and
- C Describe the process for continued consideration of the national interest in the planning for and siting of facilities during program implementation.

Recognizing the distinct and irreplaceable nature of the nation's coast, Congress declared in Section 302 of the CZMA:

- C There is a national interest in the effective management, beneficial use, protection, and development of the coastal zone.
- C The coastal zone is rich in a variety of natural, commercial, recreational, ecological, industrial, and aesthetic resources of immediate and potential value to the present and future well being of the nation.

Thus, the primary focus for the consideration of the national interest under the National Coastal Management Program is the balance between providing for facilities and activities which are in the national interest and for protecting coastal resources, which are also in the national interest.

1. Identification of Facilities and Resources of National Interest

The facilities of national interest were documented by program development staff with input from federal agencies at local, regional, and national levels in response to a survey sent to each office early in the program development process. Additional review was requested of local, state, and federal agencies following the draft of this information and upon completion of the Draft Environmental Impact Statement. In addition to certain facilities of national interest, various coastal natural resources were identified by the Lake Superior Binational Program and by federal agencies as being of national interest.

Consideration of the national interest during program implementation will be achieved by the review, certification, and approval process described in the federal consistency section of this document (Part V, page 6-7) or through processes outlined in Memorandums of Understanding (list of agreements in Appendix G) that address alternative review processes.

The following types of coastal facilities, activities, and resources are considered by Minnesota to be of national interest:

- C National defense
- C Energy production and transmission
- C Transportation, ports, and navigation
- C Public recreation areas
- C Coastal resources:
 - Threatened wildlife habitats
 - Historical, cultural, and archeological sites
 - Wetlands
 - Coastal Barrier Resource System

2. Management for Facilities and Resources in the National Interest

National Defense

The policies and authorities of particular interest for national defense include those that regulate transportation (ports, roads and highways, airports, railways), public services and facilities (e.g., water supply, waste management), and areas of special concern (e.g. navigation channels).

Energy Production and Transmission

Energy facilities and activities considered to be in the national interest and currently located in the coastal area include: hydroelectric and coal-fired generating plants, energy transmission facilities and activities, transportation of raw materials such as coal and petroleum products. State and local agencies within the coastal area will consider the national interest in energy production and transmission when they plan for energy facilities (new or expanded facilities, new uses, or relicensing) located in or affecting the coastal area. See “Energy Facility Siting” (Chapter 3 Section G) for a more detailed description of this process. Energy production and transportation may be addressed in other state policies or programs found in Chapter 3 including: Floodplain Management Act (Minn. Stat. ch. 103F), Shoreland Management Act (Minn. Stat. ch. 103F),

Protected Waters Program (Minn. Stat. ch. 103G), Groundwater Protection Act (Minn. Stat. ch. 103H), Water Pollution Control Act (Minn. Stat. ch. 115).

Transportation, Ports, and Navigation

Water and highway transportation, ports and other navigation facilities serve national defense, recreation, economic, and other needs along Minnesota's North Shore. The policies and authorities concerning port facilities, transportation, and dredging provide consideration of the national interest in these activities. More detailed descriptions of these processes can be found in Chapter 3 Floodplain Management Act (Minn. Stat. ch. 103F), Shoreland Management Act (Minn. Stat. ch. 103F), Protected Waters Program (Minn. Stat. ch. 103G), Groundwater Protection Act (Minn. Stat. ch. 103H), Water Pollution Control Act (Minn. Stat. ch. 115). Part V, Chapter 4 (A) (1) and (2) identify the highway transportation and port planning programs in the coastal area. In addition, Minn. Stat. ch. 458 identifies the national interest in Water Transportation Facilities; Port Authorities.

Public Recreation Areas

With tourism one of the leading forms of industry within the Coastal Program boundary, considerable interest is given to the area's natural and cultural areas and their recreational use. Areas of regional and national significance are listed under Special Programs and Management Areas in Chapter 4. In addition to regional and national consideration given specific unit management plans, the Minnesota DNR also develops a Statewide Comprehensive Outdoor Recreation Plan (SCORP) which is reviewed every five years. The SCORP must be approved by the U.S. Department of the Interior's National Park Service to receive funding from the Land and Water Conservation Fund. This process includes identification of recreational issues of national interest within the state.

Coastal Resources:

Threatened Wildlife Habitats

Similar to the federal endangered species program, Minnesota monitors and protects, through its own and through federal policies and regulations, species considered by the state or nationally, as endangered or threatened. The DNR, through its Natural Heritage Program, maintains a database of information on these species in the state. Through the Scientific and Natural Areas Program (SNA), areas containing unique elements or are themselves unique on a statewide or national scope, are protected. This program and a list of sites are further described in Chapter 4 - Special Programs and Management Areas.

Historical, Cultural, and Archeological Sites

The coastal area is rich in history. The Minnesota Historical Society as well as other state, county and local agencies address regional and national interests in its preservation, restoration, interpretation and development of historical sites. Listed in Chapter 4, Special Programs and Management Areas, are sites, policies and authorities that pertain to the coastal area.

Wetlands

The issues of diminishing wetlands in Minnesota and nationwide has been addressed at both state and federal levels. Minnesota's policies and authorities, contained in Chapter 3 of this document, address the national interest.

Coastal Barrier Resource System

The Coastal Barrier Resources System, as designated by the U.S. Fish and Wildlife Service and National Flood Insurance Program, protects areas particularly susceptible to wave damage and having significant value for fish and wildlife habitat from structural development. In Minnesota, the undeveloped area along the end of Park Point has been designated as a Coastal Barrier Resource System. This designation has been incorporated into the City of Duluth's floodplain management standards (see Floodplain Management Act, Part V, Chapter 3, page 17).

C. FEDERAL CONSISTENCY PROCEDURES

Federal consistency is a powerful tool available to states that provides a mechanism with which to review and comment on federal actions and effect change on actions which are inconsistent with state policies and authorities.

1. Definition

Federal consistency is the CZMA requirement that federal actions that affect (including reasonably foreseeable effects) any land or water use or natural resource of the coastal area be consistent with the enforceable policies of the state's federally approved coastal management program. Within the Department of Natural Resources, the Waters Coastal Program will take the lead for the state in coordinating review of federal actions to determine if proposed actions will be consistent with the state's Coastal Management Program. An annual summary of federal activities of concern or consistency reviews will be prepared by the Coastal Program Coordinator. At the federal level, OCRM/NOAA oversees the state's use of consistency, acts as an advocate for the state, mediates consistency disputes and NOAA processes appeals to the Secretary of Commerce. The requirements of federal consistency are defined in greater detail in 15 C.F.R. Part 930. Federal actions include:

- C Direct federal actions - Activities and development projects performed by a federal agency or by a contractor for the benefit of a federal agency.
- C Indirect federal actions - Activities not performed by a federal agency, but requiring federal permits or licenses or other forms of federal approval.
- C Federal financial assistance to states and territories and local governments.

The list of federal actions that are subject to consistency review is included at the end of this chapter. The list is a comprehensive list of federal actions that may affect the coastal area and is not an indication of federal agency actions being taken in conflict with state policies or authorities. Federal actions not listed at the end of this chapter will be monitored with the assistance of and consultation with state and local agencies. The list may be revised by the state following consultation with the federal agency and approval by OCRM.

2. Process

a. Consistency for Federal Activities and Development Projects

Federal agency activities are any functions performed by or on behalf of a federal agency in the exercise of its statutory responsibilities, but does not include the granting of a federal license or permit. A federal development project is a federal activity involving the planning, construction, modification, or removal of public works, facilities, or other structures; and the acquisition, utilization, or disposal of land or water resources.

Federal agencies must review proposed actions, whether within or outside the coastal area, affecting any land or water use or natural resource of the coastal area, to determine that they will be carried out in a manner consistent to the maximum extent practicable with the enforceable policies of the state's Coastal Management Plan. Federal actions that are occurring within the coastal area (as described in Part V, Chapter 1) will have the greatest potential for impact to coastal resources, therefore, these activities shall be a priority for inclusion in MOUs or partnership agreements between the federal agency and state. Federal actions or activities occurring outside the coastal area but within the Lake Superior Watershed have the potential for impacting coastal resources. In certain situations, federal actions and activities outside the Lake Superior Watershed have the potential for impacting coastal resources, therefore, the location and magnitude of these actions will be the deciding factor for determining the level of coordination and cooperation needed to comply with state policies and authorities. During program implementation, the Coastal Program will work with federal, state, and local agencies in identifying actions and activities to be incorporated into MOUs and other agreements, either formal or informal. The consistency process helps to maintain the necessary communication and coordination between all levels of government to ensure the wise management of coastal resources.

Where federal and state agencies are already implementing consistency practices such as early coordination and consultation, and where the federal and state activities are being performed consistent with the enforceable policies and authorities of the state, the consistency process or procedure will be described in a Memorandum of Understanding (MOU) or other agreement between the Coastal Program and federal agencies.

Likewise, if an activity that impacts the coastal area is required to comply with an existing process or procedure in order to obtain a state permit, license, or approval, after receiving all of the necessary permits, licenses or approvals, the activity will be considered consistent with the Coastal Program and deemed approved.

Federal Consistency Determinations: Where not already occurring under an MOU, partnership agreement, formal or informal agreement, federal agencies submit to the Coastal Program consistency determinations for all federal activities affecting the coastal area as indicated in the process that follows. A model determination statement in Appendix E, page 6 can be used if desired by a federal agency for notification. Consistency determinations should be submitted as early as practicable during the planning of the activity but at least 90 days before federal approval of the activity. The Coastal Program and the federal agency may agree to extend the notification period beyond 90 days under certain circumstances.

Various networked state agencies are responsible for administration or implementation of the state policy or authority that will potentially be affected by the federal action or activity. These agencies are identified on the Coastal Management Consistency Form in appendix E-7. The state agencies responsible for enforceable policies and authorities are: DNR, PCA, MDA, MHD, BWSR, and EQB. The Coastal Program coordinates its consistency response with these networked state agencies to ensure that all applicable enforceable policies are considered.

In an effort to use existing review procedures already established in Minnesota, the Coastal Program will use whenever applicable and as frequently as possible, the process established under the Environmental Review Program pursuant to Minnesota Statutes, section 116D.04 and 116D.045 and the administrative rules adopted by the Environmental Quality Board: Minnesota Rules, chapter 4410 parts 4410.0200 to 4410.7500. This program requires certain proposed projects to undergo special review procedures prior to obtaining approvals and permits otherwise needed. The program lists in detail three categories for activities that are; exempt from review, require a mandatory Environmental Assessment Worksheet (EAW) or require a mandatory Environmental Impact Statement (EIS). For the purposes of Minnesota's Lake Superior Coastal Program, those activities listed as exempt will be considered approved for federal consistency. Those activities that meet the mandatory EAW thresholds shall require a consistency determination by the federal agencies responsible.

In addition, consistency determinations are required (unless otherwise covered by an MOU or general determination) when it is determined that an activity will have reasonably foreseeable effects and the activity falls between the list of mandatory EAW categories and exemption categories, or is not listed in the Environmental Review Rules.

The mandatory categories (or thresholds) for activities that require a consistency determination and review are described in detail on page 6-18 of this chapter. Some of these categorical approvals for activities that have been reviewed are identified in MOUs shown in Appendix E.

If a federal agency determines that coastal effects are not reasonably foreseeable or believes that a consistency determination is not required for a listed activity under the Environmental Review Program, the agency shall notify the Coastal Program and the appropriate reviewing state agency of its decision as soon as possible, but at least 90 days before final approval of the activity. The notification shall briefly set forth the reasons for the negative determination. The Environmental Review Program is provided by the state as an administrative convenience, thus the Coastal Program is the ultimate decision maker as to whether a federal activity is subject to the requirements of the Environmental Review Program.

As indicated above, alternative review processes may be developed by state and federal agencies regarding state review of federal activities through written Memorandums of Understanding (MOU), general consistency determinations or other similar agreements. These MOUs or agreements may establish and identify thresholds for activities that may impact the coastal area. A list of existing agreements between state and federal agencies in Minnesota are listed in Appendix G, pages 1-2. The activities agreed upon in these MOUs will be reviewed for consistency with the state's Coastal Management Program and where appropriate, will replace the consistency procedures listed below. Revised, updated, or additional MOUs may be developed and included in this document following a public review and a consistency determination as specified below.

If a federal activity meets or exceeds mandatory thresholds provided for in this section, the consistency determination for a federal activity affecting the Minnesota coastal area shall

include:

- C A brief statement indicating whether the proposed activity will be undertaken in a manner consistent to the maximum extent practicable with the enforceable policies of Minnesota's Lake Superior Coastal Program.
- C A detailed description of the proposed activity and associated facilities and their effects on the Minnesota coastal area and,
- C Comprehensive data and information to support the federal agency's consistency statement.

MOU's, general consistency determinations or other similar agreements will be amended and/or developed to address the relevant issues and concerns of federal consistency and Minnesota's Lake Superior Coastal Program. These agreements and understandings shall:

- C Identify the activities to be addressed
- C Establish procedures that are necessary to comply with program requirements or documentation requirements
- C May determine categorical approval under agreed upon conditions
- C May require a determination under certain detailed conditions
- C May identify and provide an opportunity to meet public notice requirements
- C May include activities that are repetitive or without cumulative effects

The level of detail in the consistency determination should be commensurate with the reasonably foreseeable effects of the activity on the coastal area. In the case of an activity that involves more than one federal agency, preparation of a joint consistency determination should be developed.

In this process, if the federal agency and the Coastal Program have agreed that if the activity is covered under an MOU or falls under the exempted category of the Environmental Review Rules (ERR), a determination shall not be required unless the Coastal Program believes that the scope, magnitude and coastal effects warrants a consistency review. If the activity meets or exceeds the thresholds of the Minnesota Environmental Review Program's mandatory EAW category, then a consistency determination must be filed with the Coastal Program.

For projects that are not listed in the Minnesota Environmental Review Program, the federal agency shall submit a determination of consistency to the Coastal Program. The Coastal Program will then coordinate the review process with the appropriate networked state agency (s).

State Response: Upon receipt of the consistency determination, the Coastal Program will coordinate with appropriate networked state agencies for the public notice and comment process and to conduct the consistency review of the proposal. The NEPA process may be used as a part

of the public notice and participation requirements when appropriate by agreement with the federal agencies. Consistency reviews will incorporate the Minnesota Environmental Quality Board's review process as indicated in Part V, Section H, particularly the EQB rules, Minn. Rules 4410.0200 to 4410.8000.

The Coastal Program shall inform the federal agency of its decision regarding the consistency determination within 45 days (or as provided for in 15 C.F.R. Part 930, subpart C) from receipt of the determination and supporting information unless the Coastal Program notifies the federal agency within that time that the state's final response will be delayed and provides the reasons for the delay. Federal agencies shall approve one request for an extension period of 15 days or less. Other extensions shall be negotiated between the parties, but are at the discretion of the federal agency. If no response or request for extension of time is received from the Coastal Program within 45 days (or as provided for in 15 C.F.R. Part 930, subpart C), agreement on the consistency determination may be presumed.

If the state objects to the federal agency's consistency determination, the Coastal Program will notify the federal agency in writing according to the schedule described in the preceding paragraph and a copy will be sent to the Director, OCRM. The objection shall include:

- C The rationale for the disagreement
- C An explanation of how the proposed activity is inconsistent with the enforceable policies and authorities of Minnesota's Lake Superior Coastal Program, and
- C Alternative measures that, if implemented, would make the proposed activity consistent with Minnesota's Lake Superior Coastal Program.

If objection with the consistency determination is based on the lack of necessary information from the federal agency, the response shall describe the type of information needed to determine consistency and the rationale for its need.

If the Coastal Program and appropriate networked state agency(s) finds that an activity that was previously determined to be consistent with the approved program or was previously determined not to be a federal activity affecting any land or water use or natural resource of the coastal area, but now appears to be inconsistent with the approved program, the DNR Waters will promptly notify the appropriate federal agency in writing. Notification shall include supporting information regarding the inconsistency and a proposal recommending remedial action. Mediation regarding the activity and proposed remedial action may be requested by either party (see Chapter 6, Part 3, Mediation).

1. b. Consistency for Activities Requiring a Federal License or Permit

Federal license or permit activities include any authorization, certification, approval or other form of permission that any federal agency is empowered to issue to an applicant. Federal license or permit activities include renewals of and major amendments to federal license and permit activities that are ongoing within or have an effect on the Minnesota coastal area. The list of federal licenses or permits that are likely to affect land and water uses or natural resources in the coastal area are listed at the end of this chapter. In addition, the Coastal Program and appropriate networked state agency(s) will assist permit and license applicants regarding the means for ensuring that the proposed activity will be conducted in a manner consistent with the state's Coastal Management Program. It is the responsibility of both the applicant and the federal permitting agency to be familiar with Minnesota's Lake Superior Coastal Program. To facilitate the process, a Coastal Management Consistency Form (Appendix E, page 7-10) is available for inclusion in federal permit applications. The Coastal Program may also review unlisted activities on a case-by-case basis, pursuant to NOAA regulations (15 C.F.R. Part 930, Subpart D).

Consistency Certifications for Federal Permits: In the cases where a state permit(s) or license(s) and a federal permit or license is required for the same activity, the issuance of the state permit(s) or license(s) will meet the requirement for federal consistency. In such cases, the procedures to obtain the state permit(s) or license(s), including notification and submittal of information on the activity need only be submitted to the appropriate permitting state agency(s). It is understood that when a state permitting agency issues a permit for an activity, it has been determined that the permit complies with the agency's enforceable policies and procedures and will be consistent with Minnesota's Lake Superior Coastal Program. This will eliminate duplication of process and result in more efficient and timely decision making. In the cases where a state license or permit is not required for an activity that requires a federal license or permit, the applicant shall furnish to the federal permitting agency and the Coastal Program a certification statement specifying that the proposed activity complies with and will be conducted in a manner consistent with Minnesota's Lake Superior Coastal Program enforceable policies and authorities. The applicant shall also furnish the necessary data and information as described below.

Information Requirements for Permit Applications: The following information is required for review of permit and license certification:

- C A detailed description of the proposed activity and its associated facilities which is adequate to permit an assessment of their consistency with the relevant enforceable policies and authorities of the Coastal Program.
- C A brief assessment relating the probable effects of the proposal on the coastal area and its associated facilities to the relevant policies and authorities of the coastal management program.

- C A brief set of findings, derived from the assessment, indicating that the proposed activity, its associated facilities, and effects, are all consistent with the relevant enforceable policies and authorities of the coastal management program.
- C A copy of the federal application and all supporting information supplied to the federal agency.

In the majority of cases, information required by the federal permitting agency and provided to the appropriate permitting state agency(s) by public notice and through routine correspondence will usually serve the requirement to furnish the certification and supporting information to the Coastal Program.

Public Notice: Public notices of direct federal activities and applications for federal permits and licenses are coordinated by the Coastal Program through the DNR Regional Environmental Review Log. In addition, by Memorandum of Understanding between the Environmental Quality Board (EQB) and the DNR, copies of all applications and comments received by EQB for the Board's publication, the Monitor, will be forwarded to the Coastal Program for use in determining consistency with the enforceable policies and authorities of the approved coastal program. The Coastal Program will coordinate the notice of application with the appropriate state agency(s). Thus, existing public notice and comment procedures will be used to ensure public participation in the consistency certification review. The appropriate state agency(s) in coordination with the Coastal Program will ensure that additional public participation is provided for, if necessary, including public hearings.

State Review: Within a minimum of 30 days (or as required through existing state regulations) of receipt of the applicant's consistency certification, the appropriate permitting state agency, or the Coastal Program will notify the applicant and the federal agency whether the state concurs with or objects to the consistency certification. Requests for additional information or data beyond that required will not extend the decision date of the review unless agreed to by the applicant and federal agency. If the applicant does not receive the response within 30 days, concurrence by the state shall be conclusively presumed.

If the Coastal Program objects to the applicant's consistency certification within 30 days (or as required through existing state regulations), or the appropriate permitting state agency (s) denies the permit, the objection or permit must describe:

- C How the proposed activity is inconsistent with specific enforceable policies and authorities of Minnesota's Lake Superior Coastal Program and
- C Alternative measures (if they exist), which, if adopted by the applicant, would permit the proposed activity to be conducted in a manner consistent with the enforceable policies and authorities of Minnesota's Lake Superior Coastal Program.

The Coastal Program shall notify the applicant, federal agency, and the Director OCRM of the state's objection. The objection will include a statement informing the applicant of the right of appeal to the Secretary of Commerce pursuant to the procedures described in 15 C.F.R. Part 930, Subpart H.

Where possible, applicants may consolidate related federal license and permit activities affecting the coastal area for the state's review. The Coastal Program and appropriate permitting state agency(s) will review these consolidated applications as a group to minimize duplication of effort and avoid unnecessary delays. An objection to one or more of the license or permit activities submitted for consolidated review does not prevent the applicant from receiving those licenses or permits for activities found to be consistent with the enforceable policies and authorities of the approved Minnesota's Lake Superior Coastal Program.

The federal agency may not approve the federal license or permit unless the Coastal Program issues a concurrence or is conclusively presumed to concur, (or the appropriate permitting state agency issues a permit) or if on appeal by the applicant, the Secretary of Commerce overrides the state's objection finding, that the proposed activity is consistent with the objectives or purposes of the CZMA or is necessary in the interest of national security. An applicant's appeal to the Secretary of Commerce does not affect state permit requirements or denials.

The Coastal Program will request that a federal agency take appropriate remedial action in case of a federal license or permit activity that was:

- C Determined to be consistent with the enforceable policies and authorities of Minnesota's Lake Superior Coastal Program but which the Coastal Program maintains is being conducted in a manner different from that originally proposed, or has coastal effects different from those originally envisioned, and is no longer consistent with the enforceable policies and authorities of Minnesota's Lake Superior Coastal Program, or
- C Determined not to be an activity affecting the coastal area, but which the Coastal Program maintains is being conducted or has coastal effects substantially different from those originally envisioned, and therefore is not consistent with the enforceable policies and authorities of Minnesota's Lake Superior Coastal Program.

The request shall include supporting information and propose recommended action. A copy of the request shall also be provided to the applicant.

Unlisted licenses and permits: Certain federal licenses or permit activities not on the list or occurring outside the coastal area may be reviewed by the Coastal Program and appropriate permitting state agency(s). If it is determined that any of these license or permit activities will have an effect on any land or water use or natural resource of the area within the coastal boundary, the Coastal Program will notify in writing and within 30 days of receipt of the notice of federal application, the respective agencies, applicants, and the Director, OCRM, of the intent of the Coastal Program to initiate state agency review.

The federal agency and the applicant have 15 days from receipt of notification from the Coastal Program to provide comments to the Director, OCRM. The Director, OCRM, will issue a decision and supporting comments within 30 days. If review by the state is disapproved by OCRM, the federal agency may approve the permit or license. If review is approved, the applicant shall amend the federal application by including a consistency certification and supporting documentation. Concurrence on the consistency certification will be conclusively presumed if an objection from the Coastal Program is not received within 30 days of the original federal notice or receipt of the applicant's certification and supporting information, whichever terminates last.

c. Consistency for Federal Assistance to State and Local Governments

All applications by state and local governments or any related public entity such as a special-purpose district, for federal financial assistance for projects affecting Minnesota's coastal area must be consistent with the enforceable policies and authorities of Minnesota's Lake Superior Coastal Program. Federal assistance programs subject to the consistency requirement are listed at the end of this chapter. This list may be modified subject to the provisions of the CZMA. The Coastal Program may also monitor applications for federal assistance in areas outside the coastal boundary but that affect the coastal area.

The Coastal Program will request to be included on the mailing list of appropriate federal agencies who provide financial assistance to state and local agencies who apply for federal funding. The Coastal Program will then review the application for consistency with the enforceable policies and authorities of Minnesota's Lake Superior Coastal Program and either concur or object. During program implementation, MOUs or general consistency determinations will be developed to streamline this process, acting as the federal consistency review, where appropriate.

If, after review of an application for federal financial assistance, the Coastal Program determines the proposed project is inconsistent with the enforceable policies and authorities of Minnesota's Lake Superior Coastal Program, formal objection will be provided to the federal or state agency administering the funding program. The formal objection will describe:

- C How the proposed project is inconsistent with specific enforceable policies and authorities of Minnesota's Lake Superior Coastal Program, and
- C Alternative measures, if they exist, that, if adopted by the applicant agency, would permit the proposed project to be conducted in a manner consistent with the enforceable policies and authorities of Minnesota's Lake Superior Coastal Program.

If the objection by the Coastal Program is based on the failure of the applicant to provide necessary information, the objection must describe the nature of the information requested and the necessity of having such information to determine consistency. The objection should also include a statement informing the applicant agency of the right of appeal to the Secretary of Commerce.

The Coastal Program shall notify the applicant agency, the federal agency, and the Director, OCRM of the objection.

The federal agency may not grant the financial assistance if the Coastal Program determines it to be inconsistent with the enforceable policies and authorities of Minnesota's Lake Superior Coastal Program. If the Coastal Program objects to the application, the federal agency may grant the financial assistance only if the Secretary of Commerce, on appeal by the applicant, overrides the state's objection on the grounds that the proposed activity is consistent with the objectives or purposes of the CZMA or is necessary in the interest of national security.

If the Coastal Program determines that an application for federal assistance for an activity or project outside of the coastal area is subject to the consistency requirement, the Coastal Program and appropriate state agency(s) will immediately notify the applicant agency, the federal agency, and the Director, OCRM.

3. Mediation

Section 307(h) of the CZMA and NOAA's regulations provide for mediation of a serious disagreement between any federal agency and a coastal state in the development and implementation of a management program (15 C.F.R. Part 930, Subpart G).

Conflict Resolution Process

State-local-federal differences should be addressed initially by the parties involved. During implementation of Minnesota's Coastal Program, the focus of Minnesota's Coastal Program will be to develop agreements between federal, state, and local agencies. There already exist examples where federal, state, and local agreements have been developed that identify coordination and conflict resolution mechanisms. One such agreement is the partnership agreement between the USCOE, state, and local agencies (see Appendix G). Where such agreements exist, these will be the mechanism by which conflicts will be resolved. Where agreements for conflict resolution do not exist, the following procedure should be used:

The Coastal Program should attempt to resolve directly with the federal agency disputes regarding:

- C A determination of whether a proposed activity affects the coastal area and therefore is subject to a consistency review; or
- C A determination of the consistency with Minnesota's Lake Superior Coastal Program of a proposed activity affecting the coastal area; or
- C A determination of whether a listed or unlisted federal license or permit activity is subject to consistency review; or
- C A determination that a federal assistance activity is subject to consistency review; or

- C Actual compliance with Minnesota's Lake Superior Coastal Program of an activity previously determined to be consistent.

If a serious disagreement cannot be resolved between the parties concerned, either party may request the informal assistance of the Director, OCRM in resolving the disagreement. The request should be in writing, stating the points of disagreement and reasoning. Copies of the request shall be sent to all parties involved in the disagreement.

If a serious disagreement persists, the Secretary or other head of a relevant federal agency, or the Governor or the Coastal Program and Commissioner of DNR may notify the Secretary of Commerce of the disagreement and request mediation. A copy of the notice shall be sent to the agency with which there is a disagreement, and to the OCRM Director.

Mediation will last as long as the parties agree to participate. Mediation will terminate when:

- C Parties agree to a resolution;
- C One of the parties withdraws from mediation;
- C A resolution is not reached following 15 days of mediation following Secretarial conference efforts and parties do not agree to extend mediation beyond that period; or
- C Other good cause

4. Minnesota's Environmental Review Program and Minnesota's Lake Superior Coastal Program

Minnesota's Environmental Review Program is based on the Minnesota Environmental Policy Act (Minnesota Statutes Chapter 116D) which recognizes that the restoration and maintenance of environmental quality is critically important to our welfare. The act also recognizes that human activity has a profound and often adverse impact on the environment. Minnesota's Lake Superior Coastal Program also shares these concerns and seeks to use these existing mechanisms that have been established in Minnesota law to aid in the administration of the Coastal Program, to eliminate bureaucracy and streamline the process as much as possible. Following is the purpose of the Minnesota Environmental Policy Act:

A first step in achieving a more harmonious relationship between human activity and the environment is understanding the impact which a proposed project will have on the environment. The purpose of parts 4410.0200 to 4410.6500 of Chapter 4410 Environmental Quality Board Environmental Review is to aid in providing that understanding through the preparation and public review of environmental documents.

Environmental documents shall contain information that addresses the significant environmental issues of a proposed action. This information shall be available to governmental units and citizens early in the decision making process.

Environmental documents shall not be used to justify a decision, nor shall indications of adverse environmental effects necessarily require that a project be disapproved. Environmental documents shall be used as guides in issuing, amending and denying permits and carrying out other responsibilities of governmental units to avoid or minimize adverse environmental effects and to restore and enhance environmental quality.

EXEMPTIONS AND MANDATORY EAW CATEGORIES

As a part of the Environmental Review process, a specific list of activities and thresholds has been established to allow applicants to determine the potential environmental effects and determine which process to follow. There are generally three levels that require different types of review: those activities that require and Environmental Assessment Worksheet (EAW), those activities that require and Environmental Impact Statement (EIS) and those activities that are exempt. MLSCP is using the existing the mandatory EAW and exemption categories as benchmarks to assess the effects of activities within the coastal region remaining consistent with the intent to use existing mechanisms where possible and further using existing policies and authorities in the management of the coastal region.

The following is a list of the exemption and mandatory EAW categories from the Minnesota Environmental Review Program, Minnesota Rules, parts 4410.4300, 4410.4400 and 4410.4600. The function of the Environmental Review Program is to avoid and minimize damage to Minnesota's environmental resources caused by public and private actions. The program requires

certain proposed projects to undergo special review procedures prior to obtaining approvals and permits otherwise needed. This list will be used, to the extent it is practicable, by the federal agencies to determine which federal activities required consistency determinations or certifications. Those federal activities that fall at or below the exemption categories will be deemed approved. Those federal activities that meet or exceed the mandatory EAW thresholds require a consistency determination to be submitted to the Coastal Program and will undergo a consistency review. Those federal activities that are not listed in the EAW thresholds, but which have coastal effects also require a consistency determination and will be reviewed by the Coastal Program. Review of any activity the meets or exceeds the mandatory EAW categories will follow the procedures outlined on pages 6-8 through 6-11 (Responsible Governmental Unit-RGU).

Table 26. NUCLEAR FUELS AND NUCLEAR WASTE	
Exemption Categories	Mandatory EAW
None	Subpart 2 A. For construction or expansion of a facility for the storage of high level nuclear waste, the EQB shall be the RGU. B. For construction or expansion of a facility for the storage of low level nuclear waste for one year or longer, the MDH shall be the RGU. C. For expansion of a high level nuclear waste disposal site, the EQB shall be the RGU. D. For expansion of a low level nuclear waste disposal site, the MDH shall be the RGU. E. For expansion of an away-from-reactor facility for temporary storage of spent nuclear fuel, the EQB shall be the RGU. F. For construction or expansion of an on-site pool for temporary storage of spent nuclear fuel, the EQB shall be the RGU.

Table 27. ELECTRIC GENERATING FACILITIES	
Exemption Categories	Mandatory EAW
Subpart 3 Construction of an electric generating plant or combination of plants at a single site with a combined capacity of less than five megawatts.	Subpart 3 For construction of an electric power generating plan and associated facilities designed for or capable of operating at a capacity of 25 megawatts or more, the EQB shall be the RGU.

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Table 28. PETROLEUM REFINERIES	
Exemption Categories	Mandatory EAW
None	<p>Subpart 4 For expansion of an existing petroleum refinery facility that increases its capacity by 10,000 or more barrels per day, the PCA shall be the RGU.</p>

Table 29. FUEL CONVERSION FACILITIES	
Exemption Categories	Mandatory EAW
None	<p>Subpart 5 A. For construction of a facility for the conversion of coal, peat, or biomass sources to gaseous, liquid or solid fuels if that facility has the capacity to utilize 25,000 dry tons or more per year of input, the PCA shall be the RGU. B. For construction or expansion of a facility for the production of alcohol fuels which would have or would increase its capacity by 5,000,000 or more gallons per year of alcohol produced, the PCA shall be the RGU.</p>

Table 30. TRANSMISSION LINES	
Exemption Categories	Mandatory EAW
<p>Subpart 5 Construction of a transmission line with a nominal capacity of 69 kilovolts or less.</p>	<p>Subpart 6 For construction of a transmission line at a new location with a nominal capacity of 70 kilovolts or more with 20 or more miles of its length in Minnesota, the EQB shall be the RGU.</p>

Table 31. PIPELINES	
Exemption Categories	Mandatory EAW
None	<p>Subpart 7</p> <p>A. For routing of a pipeline, greater than six inches in diameter and having more than 0.75 miles of its length in Minnesota, used for the transportation of coal, crude petroleum fuels or oil or their derivatives, the EQB shall be the RGU.</p> <p>B. For the construction of a pipeline for distribution of natural or synthetic gas under a license, permit, right, or franchise that has been granted by the municipality under authority of Minnesota Statutes, Section 216B.36, designed to operate at pressures in excess of 275 pounds per square inch (gauge) with a length greater than: (1) five miles if the pipeline will occupy streets, highways and other public property; or (2) 0.75 miles if the pipeline will occupy private property; the EQB or the municipality is the RGU.</p> <p>C. For construction of a pipeline to transport natural or synthetic gas subject to regulation under the federal Natural Gas Act, the United States, title 15, Section 717, et. seq., designed to operate at pressures in excess of 275 pounds per square inch (gauge) with a length greater than: (1) five miles if the pipeline will be constructed and operated within an existing right-of-way; or (2) 0.75 miles if construction or operation will require new temporary or permanent right-of-way; the EQB is the RGU. This item shall not apply to the extent that the application is expressly preempted by federal law, or under specific circumstances when an actual conflict exists with applicable federal law.</p> <p>D. For construction of a pipeline to convey natural or synthetic gas that is not subject to regulation under the federal Natural Gas Act, United States Code, title 15, Section 717, et. seq.; or to a license, permit, right, or franchise that has been granted by a municipality under authority of Minnesota Statutes, Section 216B.36; designed to operate at pressures in excess of 275 pounds per square inch (gauge) with a length greater than 0.75 miles, the EQB is the RGU.</p>

Table 32. TRANSFER FACILITIES	
Exemption Categories	Mandatory EAW
<p>Subpart 6 Construction of a facility designed for or capable of transferring less than 30 tons of coal per hour or with an annual throughput of less than 50,000 tons of coal from one mode of transportation to a similar or different mode of transportation, or the expansion of an existing facility by these respective amounts.</p>	<p>Subpart 8 A. For construction of a facility designed for or capable of transferring 300 tons or more of coal per hour or with an annual throughput of 500,000 tons of coal from one mode of transportation to a similar or different mode of transportation; or the expansion of an existing facility by these respective amounts, the PCA shall be the RGU. B. For construction of a new facility or the expansion by 50 percent or more of an existing facility for the bulk transfer of hazardous materials with the capacity of 10,000 or more gallons per transfer, if the facility is located in a shoreland area, delineated flood plain, a state or federally designated wild and scenic rivers district, Minnesota River Project Riverbend area, or the Mississippi headwaters area, the PCA shall be the RGU.</p>

Table 33. UNDERGROUND STORAGE	
Exemption Categories	Mandatory EAW
<p>None</p>	<p>Subpart 9 A. For expansion of an underground storage facility for gases or liquids that requires a permit, pursuant to Minnesota Statutes, Section 103I.681, subdivision 1, paragraph (a), the DNR shall be the RGU. B. For expansion of an underground storage facility for gases or liquids using naturally occurring rock materials, that requires a permit pursuant to Minnesota Statutes, Section 103I.681, subdivision 1, paragraph (b), the DNR shall be the RGU.</p>

Table 34. STORAGE FACILITIES	
Exemption Categories	Mandatory EAW
<p>Subpart 7 Construction of a facility designed for or capable of storing less than 750 tons of coal or more, with an annual throughput of less than 12,500 tons of coal, or the expansion of an existing facility by these respective amounts.</p>	<p>Subpart 10 A. For construction of a facility designed for or capable of storing more than 7,500 tons of coal or with an annual throughput of more than 125,000 tons of coal; or the expansion of an existing facility by these respective amounts, the PCA shall be the RGU. B. For construction of a facility on a single site designed for or capable of storing 1,000,000 gallons or more of hazardous materials, the PCA shall be the RGU. C. For construction of a facility designed for or capable of storing on a single site 100,000 gallons or more of liquefied natural gas synthetic gas, or anhydrous ammonia, the PCA shall be the RGU.</p>

Table 35. METALLIC MINERAL MINING AND PROCESSING	
Exemption Categories	Mandatory EAW
<p>Subpart 8 A. General mine site evaluation activities that do not result in a permanent alteration of the environment, including mapping, aerial surveying, visual inspection, geologic field reconnaissance, geophysical studies, and surveying, but excluding exploratory borings. B. Expansion of metallic mineral plant processing facilities that are capable of increasing production by less than ten percent per year, provided the increase is less than 100,000 tons per year in the case of facilities for processing natural iron ore or taconite. C. Scram mining operations.</p>	<p>Subpart 11 A. For mineral deposit evaluation of metallic mineral deposits other than natural iron ore and taconite, the DNR shall be the RGU. B. For expansion of a stockpile, tailings basin, or mine by 320 or more acres, the DNR shall be the RGU. C. For expansion of a metallic mineral plant processing facility that is capable of increasing production by 25 percent per year or more, provided that increase is in excess of 1,000,000 tons per year in the case of facilities for processing natural iron ore or taconite, the DNR shall be the RGU.</p>

Table 36. NONMETALLIC MINERAL MINING	
Exemption Categories	Mandatory EAW
None	<p>Subpart 12</p> <p>A. For development of a facility for the extraction or mining of peat which will result in the excavation of 160 or more acres of land during its existence, the DNR shall be the RGU.</p> <p>B. For development of a facility for the extraction or mining of sand, gravel, stone, or other nonmetallic minerals, other than peat which will excavate 40 or more acres of land to a mean depth of ten feet or more during its existence the local government unit shall be the RGU.</p>

Table 37. PAPER OR PULP PROCESSING MILLS	
Exemption Categories	Mandatory EAW
<p>Subpart 9</p> <p>Expansion of an existing paper or pulp processing facility that will increase its production capacity by less than 10 percent.</p>	<p>Subpart 13</p> <p>For expansion of an existing paper or pulp processing facility that will increase its production capacity by 50 percent or more, the PCA shall be the RGU.</p>

Table 38. INDUSTRIAL, COMMERCIAL AND INSTITUTIONAL FACILITIES

Exemption Categories	Mandatory EAW
<p>Subpart 10</p> <p>A. Construction of a new or expansion of an existing warehousing, light industrial, commercial, or institutional facility of less than the following thresholds, expressed as gross floor space, if no part of the development is within a shoreland area, delineated flood plain, state or federal designated wild and scenic rivers district, the Minnesota River Project Riverbend area, or the Mississippi headwaters area:</p> <p>(1) third or fourth class city or unincorporated area, 50,000 square feet</p> <p>(2) second class city, 75,000 square feet</p> <p>(3) first class city, 100,000 square feet.</p> <p>B. Construction of a warehousing, light industrial, commercial, or institutional facility with less than 4,000 square feet of gross floor space, and with associated parking facilities designed for 20 vehicles or less.</p>	<p>Subpart 14</p> <p>A. For construction of a new or expansion of an existing warehousing or light industrial facility equal to or in excess of the following thresholds, expressed as gross floor space, the local governmental unit shall be the RGU.</p> <p>(1) unincorporated area, 150,000;</p> <p>(2) third of fourth class city, 300,000;</p> <p>(3) second class city, 450,000;</p> <p>(4) first class city, 600,000.</p> <p>B. For construction of a new or expansion of an existing industrial, commercial, or institutional facility, other than a warehousing or light industrial facility, equal to or in excess of the following thresholds, expressed as gross floor space, the local governmental units shall be the RGU. (1) unincorporated area, 100,000 square feet; (2) third or fourth class city, 200,000 square feet; (3) second class city, 300,000 square feet; (4) first class city, 400,000 square feet.</p> <p>C. This subpart applies to any industrial, commercial, or institutional project which includes multiple components in subparts listed in Minnesota Rule 4410.4300, for more than two or more of the components, regardless of whether the project in question meets or exceeds any threshold specified in those subparts. In those cases, the entire project must be compared to the thresholds specified in items A and B to determine the need for an EAW. If the project meets or exceeds the thresholds specified in any other subpart as well as that of item A or B, the RGU must be determined as provided in part 4410.0500, subpart 1.</p> <p>D. This subpart does not apply to projects for which there is a single mandatory category specified in Minnesota Rules 4410.4300 regardless of whether the project in question meets or exceeds any threshold specified in those subparts. In those cases, the need for an EAW must be determined by comparison of the project to the threshold specified in the applicable subpart, and the RGU must be the governmental unit assigned by that subpart.</p>

Table 39. AIR POLLUTION	
Exemption Categories	Mandatory EAW
<p>Subpart 10, Item C Construction of a new parking facility for less than 100 vehicles if the facility is not located in a shoreland area, delineated flood plain, state or federally designated wild and scenic rivers district, the Minnesota River Project Riverbend area, or the Mississippi headwaters area.</p>	<p>Subpart 15 A. For construction of a stationary source facility that generates 100 tons or more per year or modification of a stationary source facility that increases generation by 100 tons or more per year of any single air pollutant after installation of air pollution control equipment, the PCA shall be the RGU. B. For construction of a new parking facility for 2,000 or more vehicles, the PCA shall be the RGU, except that this category does not apply to any parking facility which is part of a project reviewed pursuant to part 4410.4300, subpart 14, 19, 32, or 34, or part 4410.4400, subpart 11, 14, 21, or 22.</p>

Table 40. HAZARDOUS WASTE	
Exemption Categories	Mandatory EAW
<p>None</p>	<p>Subpart 16 A. For construction or expansion of a hazardous waste disposal facility, the PCA shall be the RGU. B. For construction of a hazardous waste processing facility with a capacity of 1,000 or more kilograms per month, the PCA shall be the RGU. C. For expansion of a hazardous waste processing facility that increase its capacity by ten percent or more, the PCA shall be the RGU. D. For construction or expansion of a facility that sells hazardous waste storage services to generators other than the owner and operator of the facility or construction of a facility at which a generator's own hazardous wastes will be stored for a time period in excess of 90 days, if the facility is located in a water-related land use management district, or in an area characterized by soluble bedrock, the PCA shall be the RGU.</p>

Table 41. SOLID WASTE	
Exemption Categories	Mandatory EAW
None	<p>Subpart 17</p> <ul style="list-style-type: none"> A. For construction of a mixed municipal solid waste disposal facility for up to 100,000 cubic yards of waste fill per year, the PCA is the RGU. B. For expansion by 25 percent or more of previous capacity of a mixed municipal solid waste disposal facility for up to 100,000 cubic yards of waste fill per year, the PCA is the RGU. C. For construction or expansion of a mixed municipal solid waste transfer station for 300,000 or more cubic yards per year, the PCA is the RGU. D. For construction or expansion of a mixed municipal solid waste energy recovery facility or incinerator, or the utilization of an existing facility for the combustion of mixed municipal solid waste or refuse-derived fuel, with a capacity of 30 or more tons per day of input, the PCA is the RGU. E. For construction or expansion of a mixed municipal solid waste compost facility or a refuse-derived fuel production facility with a capacity of 50 or more tons per day of input, the PCA is the RGU. F. For expansion by at least ten percent but less than 25 percent of previous capacity of a mixed municipal solid waste disposal facility for 100,000 cubic yards or more of waste fill per year, the PCA is the RGU. G. For construction or expansion of a mixed municipal solid waste energy recovery facility ash landfill receiving ash from an incinerator that burns refuse-derived fuel or mixed municipal solid waste, the PCA is the RGU.

WASTEWATER SYSTEMS	
Exemption Categories	Mandatory EAW
<p>Subpart 11 Construction of a new wastewater treatment facility with a capacity of less than 5,000 gallons per day average wet weather flow or the expansion of an existing wastewater treatment facility by less than 5,000 gallons per day average wet weather flow or the expansion of a sewage collection system by less than 5,000 gallons per day design daily average flow or a sewer line of 1,000 feet or less and eight-inch diameter or less.</p>	<p>Subpart 18</p> <ul style="list-style-type: none"> A. For expansion, modification, or replacement of a municipal sewage collection system resulting in an increase in design average daily flow of any part of that system by 1,000,000 gallons per day or more, the PCA shall be the RGU. B. For expansion or reconstruction of an existing municipal or domestic wastewater treatment facility which results in an increase by 50 percent or more and by at least 50,000 gallons per day of its average wet weather design flow capacity of 50,000 gallons per day or more, the PCA shall be the RGU. C. For expansion or reconstruction of an existing industrial process wastewater treatment facility which increases its design flow capacity by 50 percent or more and by at least 200,000 gallons per day or more, or construction of a new industrial process wastewater treatment facility with a design flow capacity of 200,000 gallons per day or more, 5,000,000 gallons per month or more, or 20,000,000 gallons per year or more, the PCA shall be the RGU. This category does not apply to industrial process wastewater treatment facilities that discharge to a publicly-owned treatment works or to a tailings basin reviewed pursuant to subpart 11, item B.

RESIDENTIAL DEVELOPMENT	
Exemption Categories	Mandatory EAW
<p>Subpart 12</p> <p>A. Construction of a sewered residential development, no part of which is within a shoreland area, delineated flood plain state or federally designated wild and scenic rivers district, the Minnesota River Project Riverbend area, or the Mississippi headwaters area, of:</p> <ol style="list-style-type: none"> 1) less than ten units in an unincorporated area, 2) less than 20 units in a third or fourth class city, 3) less than 40 units in a second class city, or 4) less than 80 units in a first class city. <p>B. Construction of a single residence or multiple residence with four dwelling units of less and accessory appurtenant structures and utilities.</p>	<p>Subpart 19</p> <p>A. 50 or more unattached or 75 or more attached units in an unsewered unincorporated area or 100 unattached units or 150 attached units in a sewered unincorporated area;</p> <p>B. 100 unattached units or 150 attached units in a city that does not meet the conditions of item D;</p> <p>C. 100 unattached units or 150 attached units in a city meeting the conditions of item D if the project is not consistent with the adopted comprehensive plan; or</p> <p>D. 250 unattached units or 375 attached units in a city within the seven-county Twin Cities metropolitan area that has adopted a comprehensive plan under Minnesota Statutes, Section 473.859, or in a city not located within the seven-county Twin Cities metropolitan area that has filed with the EQB chair a certification that it has adopted a comprehensive plan containing the following elements:</p> <ol style="list-style-type: none"> 1) a land use plan designating the existing and proposed location, intensity, and extent of use of land and water for residential, industrial, agricultural, and other public and private purposes; 2) a transportation plan describing, designating, and scheduling the location, extent, function, and capacity of existing and proposed local public and private transportation facilities and services; 3) a sewage collection system policy plan describing, designating, and scheduling the areas to be served by the public system, the existing and planning capacities of the public system, and the standards and conditions under which the installation of private sewage treatment systems will be permitted; 4) a capital improvements plan for public facilities; and 5) an implementation plan describing public programs, fiscal devices, and other actions to be undertaken to implement the comprehensive plan, and a description of official controls addressing the matters of zoning, subdivision, private sewage systems, and a schedule for the implementation of those controls. The EQB chair may specify the form to be used for making a certification under this item.

Table 44. CAMPGROUNDS AND RV PARKS	
Exemption Categories	Mandatory EAW
None	<p>Subpart 20 For construction of a seasonal or permanent recreational development, accessible by vehicle, consisting of 50 or more sites, or the expansion of such a facility by 50 or more sites, the local government unit shall be the RGU.</p>

Table 45. AIRPORT PROJECTS	
Exemption Categories	Mandatory EAW
<p>Subpart 13</p> <p>A. Runway, taxiway, apron, or leading ramp construction or repair work including reconstruction, resurfacing, marking, grooving, fillets, and jet blast facilities, except where the project will create environmental impacts off airport property.</p> <p>B. Installation or upgrading of airfield lighting systems, including beacons and electrical distribution systems.</p> <p>C. Construction or expansion of passenger handling or parking facilities, including pedestrian walkway facilities.</p> <p>D. Grading or removal of obstructions and erosion control projects on airport property, except where the projects will create environmental impacts off airport property.</p>	<p>Subpart 21</p> <p>A. For construction of a paved, new airport runway, the DOT, local governmental unit, or the Metropolitan Airports Commission shall be the RGU.</p> <p>B. For construction of a runway extension that would upgrade an existing runway to permit usage by aircraft over 12,500 pounds that are at least three decibels louder than aircraft currently using the runway, the DOT, local government unit, or the Metropolitan Airports Commission shall be the RGU. The RGU shall be selected according to part 4410.0500, subpart 5.</p>

Table 46. HIGHWAY PROJECTS	
Exemption Categories	Mandatory EAW
<p>Subpart 14</p> <ul style="list-style-type: none"> A. Highway safety improvement projects. B. Installation of traffic control devices, individual noise barriers, bus shelters and bays, loading zones, and access and egress lanes for transit and paratransit vehicles. C. Modernization of an existing roadway or bridge by resurfacing, restoration, or rehabilitation that may involve the acquisition of minimal amounts of right-of-way. D. Roadway landscaping, construction of bicycle and pedestrian lanes, paths, and facilities within existing right-of-way. E. Any stream diversion or channelization within the right-of-way of an existing public roadway associated with bridge or culvert replacement. F. Reconstruction or modification of an existing bridge structure on essentially the same alignment or location that may involve the acquisition or minimal amounts of right-of-way. 	<p>Subpart 22</p> <ul style="list-style-type: none"> A. For construction of a road on a new location over one mile in length that will function as a collector roadway, the DOT or local government unit shall be the RGU. B. For construction of additional travel lanes on an existing road for a length of one or more miles, the DOT or local government unit shall be the RGU. C. For the addition of one or more new interchanges to a completed limited access highway, the DOT or local government unit shall be the RGU.

Table 47. BARGE FLEETING	
Exemption Categories	Mandatory EAW
<p>None</p>	<p>Subpart 23</p> <p>For construction of a new or expansion of an existing barge fleeting facility, the DOT or port authority shall be the RGU.</p>

Table 48. WATER APPROPRIATION AND IMPOUNDMENTS	
Exemption Categories	Mandatory EAW
<p>Subpart 15 A new or additional permanent impoundment of water creating a water surface of less than ten acres.</p>	<p>Subpart 24 A. For a new appropriation for commercial or industrial purposes of either surface water or ground water averaging 30,000,000 gallons per month; or an a new appropriation of either ground water or surface water for irrigation of 540 acres or more in one continuous parcel from one source of water, the DNR shall be the RGU. B. For a new permanent impoundment of water creating additional water surface of 160 or more acres or for an additional permanent impoundment of water creating additional water surface of 160 or more acres, the DNR shall be the RGU. C. For construction of a dam with an upstream drainage area of 50 square miles or more, the DNR shall be the RGU.</p>

Table 49. MARINAS	
Exemption Categories	Mandatory EAW
<p>Subpart 16 Construction of private residential docks for use by four or less boats and utilizing less than 1,500 square feet of water surface.</p>	<p>Subpart 25 For construction or expansion of a marina or harbor that results in a 20,000 or more square foot total or a 20,000 or more square foot increase of water surface area used temporarily or permanently for docks, docking, or maneuvering of watercraft, the local government unit shall be the RGU.</p>

Table 50. STREAMS AND DITCHES	
Exemption Categories	Mandatory EAW
<p>Subpart 17 Routine maintenance or repair of a drainage ditch within the limits of its original construction flow capacity, performed within 20 years of construction of major repair.</p>	<p>Subpart 26 For a diversion, realignment, or channelization of any designated trout stream, or affecting greater than 500 feet of natural watercourse with a total drainage area of ten or more square miles unless exempted by part 4100.4600, subpart 14, item E, or 17, the local government unit shall be the RGU.</p>

Table 51. WETLANDS AND PROTECTED WATERS	
Exemption Categories	Mandatory EAW
None	<p>Subpart 27</p> <p>A. For projects that will change or diminish the course, current, or cross-section of one acre or more of any protected water or protected wetland except for those to be drained without a permit pursuant to Minnesota Statutes, chapter 103G, the local government unit shall be the RGU.</p> <p>B. For projects that will change or diminish the course, current, or cross-section of 40 percent or more or five or more acres of types 3 through 8 wetland of 2.5 acres or more, excluding protected wetlands, if any part of the wetland is within a shoreland area, delineated flood plain, a state or federally designated wild and scenic rivers district, the Minnesota River Project Riverbend area, or the Mississippi headwaters area, the local government unit shall be the RGU.</p>

Table 52. FORESTRY	
Exemption Categories	Mandatory EAW
<p>Subpart 18</p> <p>A. Harvesting of timber for maintenance purposes.</p> <p>B. Public and private forest management practices, other than clear cutting or the application of pesticides, that involve less than 20 acres of land.</p>	<p>Subpart 28</p> <p>A. For harvesting of timber for commercial purposes on public lands within a state park, historical area, wilderness area, scientific and natural area, wild and scenic rivers district, the Minnesota River Project Riverbend area, the Mississippi headwaters area, or critical area that does not have an approved plan under Minnesota Statutes, Section 86A.09 or 116G.07, the DNR shall be the RGU.</p> <p>B. For a clear cutting of 80 or more contiguous acres of forest, any part of which is located within a shoreland area and within 100 feet of the ordinary high water mark of the lake or river, the DNR shall be the RGU.</p>

Table 53. ANIMAL FEEDLOTS	
Exemption Categories	Mandatory EAW
<p>Subpart 19 Construction of an animal feedlot facility of less than 100 animal units or the expansion of an existing facility by less than 100 animal units no part of either of which is located within a shoreland area, delineated flood plain, state or federally designated wild and scenic rivers district, the Minnesota River Project Riverbend area, or the Mississippi headwaters area.</p>	<p>Subpart 29 For the construction of an animal feedlot facility with a capacity of 1,000 animal units or more or the expansion of an existing facility by 1,000 animal units or more or construction of a total confinement animal feedlot facility of 2,000 animal units or more or the expansion of an animal feedlot facility by 2,000 animal units or more if the expansion is a total confinement facility, the PCA shall be the RGU.</p>

Table 54. NATURAL AREAS	
Exemption Categories	Mandatory EAW
<p>None</p>	<p>Subpart 30 For projects resulting in the permanent, physical encroachment on lands within a national park, state park, wilderness area, state lands and waters within the boundaries of the Boundary Waters Canoe Area, scientific and natural area, or state trail corridor when the encroachment is inconsistent with laws applicable to or the management plan prepared for the recreational unit, the DNR or local government unit shall be the RGU.</p>

Table 55. HISTORICAL PLACES	
Exemption Categories	Mandatory EAW
<p>None</p>	<p>Subpart 31 For the destruction, in whole or part, or the moving of a property that is listed on the National Register of Historic Places or State Register of Historic Places, the permitting state agency or local unit of government shall be the RGU, except this does not apply to projects reviewed under Section 106 of the National Historic Preservation Act of 1966, United States Code, title 16, Section 470, or the federal policy on lands, wildlife and waterfowl refuges, and historic sites pursuant to United States Code, title 49, Section 303.</p>

Table 56. MIXED RESIDENTIAL AND INDUSTRIAL-COMMERCIAL PROJECTS	
Exemption Categories	Mandatory EAW
None	<p>Subpart 32 If a project includes both residential and industrial-commercial components, the project must have an EAW prepared if the sum of the quotient obtained by dividing the number of residential units by the applicable residential threshold of subpart 19, plus the quotient obtained by dividing the amount of industrial-commercial gross floor space by the amount of industrial-commercial threshold of subpart 14, equals or exceeds one. The local government unit is the RGU.</p>

Table 57. COMMUNICATIONS TOWERS	
Exemption Categories	Mandatory EAW
None	<p>Subpart 33 For construction of a communications tower equal to or in excess of 500 feet in height, or 300 feet in height within 1,000 feet of any protected water or protected wetland and within two miles of the Mississippi, Minnesota, Red, or St. Croix rivers, or Lake Superior, the local governmental unit is the RGU.</p>

Table 58. SPORTS OR ENTERTAINMENT FACILITIES	
Exemption Categories	Mandatory EAW
None	<p>Subpart 34 For construction of a new sports or entertainment facility designed for or expected to accommodate a peak attendance of 5,000 or more persons, or the expansion of an existing sports or entertainment facility by this amount, the local governmental unit is the RGU.</p>

Table 59. RELEASE OF GENETICALLY ENGINEERED ORGANISMS	
Exemption Categories	Mandatory EAW
None	<p>Subpart 35 For the release of a genetically engineered organism that requires a release permit from the EQB under chapter 4420, the EQB is the RGU. For all other releases of genetically engineered organisms, the RGU is the permitting state agency. This subpart does not apply to the direct medical application of genetically engineered organisms to humans or animals.</p>

Table 60. LAND USE CONVERSION, INCLUDING GOLF COURSES	
Exemption Categories	Mandatory EAW
None	<p>Subpart 36 A. For golf courses, residential development where the lot size is less than five acres, and other projects resulting in the permanent conversion of 80 or more acres of agricultural, native prairie, forest, or naturally vegetated land, the local government unit shall be the RGU, except than this subpart does not apply to agricultural land inside the boundary of the Metropolitan Urban Service established by the Metropolitan Council. B. For projects resulting in the conversion of 640 or more acres of forest or naturally vegetated land to a different open space land use, the local government unit shall be the RGU.</p>

**Federal Activities, Licenses, Permits and Assistance Programs
Subject to Federal Consistency Requirements**

I. Direct Federal Activities and Development Projects

If a direct federal activity is not addressed in an agreement with the state, and the activity meets or exceeds the “mandatory EAW categories”, a federal agency must provide the DNR Waters and appropriate state agency(s) with a consistency determination for any activity affecting any land or water use or natural resources within Minnesota’s coastal boundary. The following list is provided to highlight those activities most likely to affect the coastal area.

Department of Agriculture, Forest Service

- Harvest of timber, reforestation, road and trail building and maintenance, fish and wildlife enhancement, shoreline erosion control/bank stabilization, construction and operation of campgrounds and wilderness access points, construction and maintenance of water access sites, exchange and acquisition of federal land, design and construction of administrative site, and site cleanup under RCRA or CERCLA.

Department of Defense, Army Corps of Engineers

- Dredging, channel improvement, breakwaters, other navigational works, erosion control structures, beach replenishment, dams or flood control works, ice management practices and activities and other projects with the potential to impact coastal lands and waters.
- Land acquisition or disposal for spoil disposal or other purposes.
- Habitat creation (islands, marshes, etc. created by dredge material).
- Selection of disposal sites for dredged material from federal harbors and navigation channels.

Department of Defense, Air Force, Army, and Navy

- Location, design, and acquisition of new or expanded defense installations (active or reserve status including associated housing, transportation or other facilities).
- Plans, procedures and facilities for handling storage use zones.
- Establishment of impact, compatibility or restricted use zones.
- Disposal of defense property.

Department of Energy

- Prohibition orders.

Department of Interior, Bureau of Indian Affairs

- Indian trust (reservation) land acquisitions (25 C.F.R. 151)

- Development of trust lands
 - Realty actions: leases, rights of way
 - Environmental review in compliance with tribal/federal mandates

- Inventorying, monitoring and protection of trust resources
 - (Includes adjudicated ceded territory resources in 1854 Authority)
 - Forest management and sales
 - Fish, wildlife & wild rice habitat management/restoration
 - Integrated Resource Management Plans (IRMPs)
 - Solid and hazardous waste compliance (dump caps, USTs, etc.)
 - Natural Resources Damage Assessments (CERCLA, CWA, OPA 90)

Department of Interior, Fish and Wildlife Service

- Management of Natural Wildlife Refuges; land acquisition.

Department of Interior, National Park Service

- National Park Service unit management; land acquisitions.

- Location, design, and acquisition of new or expanded facilities.

Department of Justice, U.S. Marshals Service

- Disposition of property acquired by the Marshals Service.

Department of Transportation, Coast Guard

- Location and design, construction, or enlargement of Coast Guard stations, bases, and lighthouses.

- Location, placement, or removal of navigation devices which are not part of the routine operations under the Aids to Navigation Program (ATON).

- Expansion, abandonment, designation of anchorages, lighting areas or shipping lanes and ice management practices and activities.

- Ice breaking

- Oil and hazardous material pollution response planning and response activities

Department of Transportation, Federal Aviation Administration

- Location and design, construction, maintenance, and demolition of federal aids to air navigation.

Department of Transportation, Amtrak, Conrail

- Expansions, curtailments, new construction, upgrades or abandonments of railroad facilities or services, in or affecting the state's coastal area.

Department of Transportation, Federal Highway Administration

- Highway construction.

Department of Transportation, Maritime Administration

- Port planning

Environmental Protection Agency

- Activities conducted under the Resource Conservation and Recovery Act (RCRA) of 1976.
- Activities conducted under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980.

Federal Energy Regulatory Commission

- Construction to develop new supplies or to reinforce existing transportation systems

General Services Administration

- Acquisition, location and design of proposed federal government property or buildings, whether leased or owned by the federal government.
- Disposition of federal surplus lands and structures.

Nuclear Regulatory Commission

- The siting, construction and operation of nuclear generating stations, fuel storage, and processing centers pursuant to the Atomic Energy Act of 1954, Title II of the Energy Reorganization Act of 1974.

II. Federal Licenses and Permits

Department of Agriculture, Forest Service

- Road/trail access across federal land to nonfederal land to provide access to nonfederal land or to allow development of state, county or township roads and highways (36 C.F.R. 251.110).
- Minerals or energy development (includes mineral exploration, mine development and operation, gravel extraction and quarry stone extraction) (36 C.F.R. 228).
- Recreational uses (shoreline resorts, shoreline homes) (36 C.F.R. 251.50).
- Special events (36 C.F.R. 251.50).
- Utility corridors (power line and pipelines across federal land) (36 C.F.R. 251.50).
- Protection of archeological resources (36 C.F.R. 296).

Department of Defense, Army Corps of Engineers

- Construction of dams, dikes, or ditches across navigable waters, or obstruction or alteration of navigable waters required under Sections 9 and 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 401, 403).
- Establishment of harbor lines pursuant to Section 11 of the Rivers and Harbors Act of 1899 (33 U.S.C. 404, 405).
- Occupation of seawall, bulkhead, jetty, dike, levee, wharf, pier, or other work built by the U.S. pursuant to Section 14 of the Rivers and Harbors Act of 1899 (33 U.S.C. 408).
- Approval of plans for improvement made at private expense under USACE supervision pursuant to the Rivers and Harbors Act of 1902 (33 U.S.C. 565).
- Disposal of dredged or fill material into the waters of the U.S. pursuant to the Clean Water Act, Section 404 (33 U.S.C. 1344).
- All actions for which permits are required pursuant to Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

Department of Interior, Bureau of Indian Affairs

- Archaeological Resources Protection Act Permits for trust lands (25 C.F.R. 262).

Department of Interior, Fish and Wildlife Service

- Fish and Wildlife coordination (17 U.S.C. 661-667).

- Endangered species permits pursuant to the Endangered Species Act (16 U.S.C. 153 (a)).

Department of Transportation, Coast Guard

- Construction or modification of bridges, causeways, or pipelines over navigable waters pursuant to 49 U.S.C. 1455.
- Hazardous substances and materials (33 U.S.C. 419).
- Marine event permits (46 U.S.C. 454, 33 C.F.R. 100.15).

Department of Transportation, Federal Aviation Administration

- Permits and licenses for construction, operation, or alteration of airports (F.A.R. Part 157).

Environmental Protection Agency

- NPDES permits and other permits for federal installations, sludge runoff and aquaculture permits and all other permits pursuant to §401, 402, 403, 405, and 318 of the federal Water Pollution Control Act of 1972 (33 U.S.C. 1341, 1342, 1343, and 1328).
- Permits pursuant to the Resource Conservation and Recovery Act (RCRA) of 1976.
- Permits pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980.
- Permits pursuant to the underground injection control program under Section 1424 of the Safe Water Drinking Water Act (42 U.S.C. 300 h-c).
- Permits pursuant to the Clean Air Act of 1976 (42 U.S.C. 1857).

Federal Energy Regulatory Commission

- Licenses, renewals, or amendments to licenses for nonfederal hydroelectric projects and primary transmission lines under Section 3(11), 4(e), and 15 of the federal Power Act (16 U.S.C. 796 (11), 797 (11), and (808)).
- Orders for interconnection of electric transmission facilities under Section 202 (b) of the federal Power Act (15 U.S.C. 824 a (b)).
- Certificates for the construction and operation of interstate natural gas pipeline facilities, including both pipelines and terminal facilities under §7 (c) of the Natural Gas Act (15 U.S.C. 717 f (c)).
- Permission and approval for the abandonment of natural gas pipeline facilities under §7 (b) of the Natural Gas Act (15 U.S.C. 717 f (b)).

- Regulation of gas pipelines, and licensing of import and export of natural gas pursuant to the Natural Gas Act (15 U.S.C. 717) and the Energy Reorganization Act of 1974.
- Exemptions from prohibition orders (15 U.S.C. 791).

Nuclear Regulatory Commission

- Licensing and determination of the siting, construction and operation of nuclear generating stations, fuel storage, and processing centers pursuant to the Atomic Energy Act of 1954, Title II of the Energy Reorganization Act of 1974 and the National Environmental Policy Act of 1974.

Surface Transportation Board

- Authority to abandon railway lines (to the extent that the abandonment involves removal of trackage and disposition of right-of-way); authority to construct railroads; authority to construct coal slurry pipelines (49 U.S.C. 10901 @ seq.).

III. Federal Assistance

(NOTE: Numbers refer to the Catalog of federal Domestic Assistance Programs.)

Department of Agriculture

- 10.025 Plant and Animal Disease and Pest Control
- 10.405 Farm Labor Housing Loans and Grants
- 10.411 Rural Housing Site Loans
- 10.414 Resource Conservation and Development Loans
- 10.415 Rural Rental Housing Loans
- 10.418 Water and Waste Disposal Systems for Rural Communities
- 10.419 Watershed Protection and Flood Prevention Loans
- 10.420 Rural Self-Help Housing Technical Assistance
- 10.422 Business and Industrial Loans
- 10.423 Community Facilities Loans
- 10.424 Industrial Development Grants
- 10.433 Rural Housing Preservation Grants
- 10.760 Water and Waste Disposal Systems Loans and Grants
- 10.762 Solid Waste Management Grants
- 10.763 Emergency Community Water Assistance Grants
- 10.764 Resource Conservation and Development Loans
- 10.765 Watershed Protection and Flood Prevention Loans
- 10.766 Community Facilities Loans
- 10.767 Intermediary Relending Program
- 10.768 Business and Industrial Loans
- 10.769 Rural Business Enterprise Grant Program
- 10.850 Rural Electrification Loans and Guarantees
- 10.851 Rural Telephone Loans and Guarantees
- 10.852 Rural Telephone Bank Loans

- 10.854 Rural Economic Development Loan and Grant Program
- 10.901 Resource Conservation and Development
- 10.904 Watershed Protection and Flood Prevention
- 10.906 River Basin Surveys and Investigations

Department of Commerce

- 11.300 Economic Development - Grants and Loans for Public Works and Development Facilities
- 11.302 Economic Development - Support for Planning Organizations
- 11.303 Economic Development - Technical Assistance
- 11.304 Economic Development - Public Works Impact Projects
- 11.305 Economic Development - State and Urban Area Economic Development Planning
- 11.307 Special Economic Development and Adjustment Assistance, Sudden and Severe Economic Dislocation (SSED) and Long-Term Deterioration (LTED)
- 11.405 Anadromous and Great Lakes Fisheries Conservation
- 11.407 Interjurisdictional Fisheries Act of 1986
- 11.417 Sea Grant Support
- 11.419 Coastal Zone Management Program Administration
- 11.420 Coastal Zone Management Estuarine Research Reserves
- 11.427 Fisheries Development and Utilization Research/Development Grants/Coop Agreements
- 11.550 Public Telecommunications Facilities - Construction and Planning

Department of Defense

- 12.101 Beach Erosion Control Projects
- 12.104 Flood Plain Management Services
- 12.105 Protection of Essential Highways, Highway Bridge Approaches, and Public Works
- 12.106 Flood Control Projects
- 12.107 Navigation Projects
- 12.108 Snagging and Clearing for Flood Control
- 12.109 Protection, Clearing and Straightening Channels
- 12.110 Planning Assistance to States
- 12.610 Joint Military/Community Comprehensive Land Use Plans

Department of Housing and Urban Development

- 14.170 Congregate Housing Services Program
- 14.174 Housing Development Grants (HoDAG)
- 14.218 Community Development Block Grants/Entitlement Grants
- 14.219 Community Development Block Grants/Small Cities Grants

Department of the Interior

- 15.600 Anadromous Fish Conservation
- 15.605 Sport Fish Restoration
- 15.611 Wildlife Restoration
- 15.612 Endangered Species Conservation

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- 15.614 North American Wetlands Conservation
- 15.616 Clean Vessel Act
- 15.904 Historic Preservation Fund Grants-In-Aid
- 15.910 National Natural Landmarks Program
- 15.916 Outdoor Recreation - Acquisition, Development and Planning

Department of Transportation

- 20.005 Boating Safety Financial Assistance
- 20.106 Airport Improvement Program
- 20.205 Highway Planning and Construction (Including Intermodal Surface Transportation Efficiency Act Programs)
- 20.219 Symms National Recreation Trails Fund Act - Grants for Motorized and Non-motorized Trails
- 20.308 Local Rail Service Assistance Program
- 20.500 Urban Mass Transportation Capital Improvement Grants
- 20.509 Public Transportation for Nonurbanized Areas
- 20.801 Development and Promotion of Ports and Intermodal Transportation
- 20.998 Transportation Improvement Program

General Services Administration

- 39.002 Disposal of Federal Surplus Real Property

National Foundation of the Arts and the Humanities

- 45.007 Promotion of the Arts - State Programs
- 45.023 Promotion of the Arts - Local Programs

Department of Veteran Affairs

- 64.005 Grants to States for Construction of State Home Facilities

Environmental Protection Agency

- 66.001 Air Pollution Control Program Support
- 66.419 Water Pollution Control - State and Interstate Program Support
- 66.432 State Public Water System Supervision
- 66.433 State Underground Water Source Protection
- 66.435 Water Pollution Control - Lake Restoration Cooperative Agreements
- 66.438 Construction Management Assistance
- 66.454 Water Quality Management Planning
- 66.456 National Estuary Program
- 66.458 Capitalization Grants for State Revolving Funds
- 66.500 Environmental Protection - Consolidated Research
- 66.501 Air Pollution Control Research
- 66.502 Pesticides Control Research
- 66.504 Solid Waste Disposal Research
- 66.505 Water Pollution Control - Research, Development, and Demonstration
- 66.506 Safe Drinking Water Research and Demonstration

- 66.507 Toxic Substances Research
- 66.600 Environmental Protection Consolidated Grants - Program Support
- 66.700 Pesticides Enforcement Program
- 66.701 Toxic Substances Compliance Monitoring Cooperative Agreements
- 66.702 Asbestos Hazards Abatement (Schools) Assistance
- 66.801 Hazardous Waste Management State Program Support
- 66.802 Hazardous Substance Response Trust Fund
- 66.804 State Underground Storage Tanks Program
- 66.805 Underground Storage Tank Trust Fund
- 66.807 Superfund Innovative Technology Evaluation Program (SITE)
- 66.808 Hazardous Waste; Integrated Training and Technical Assistance - Interstate

Department of Energy

- 81.041 State Energy Conservation
- 81.049 Basic Energy Sciences, High Energy or Nuclear Physics, Magnetic Fusion Energy, Health and Environmental Research, Program Analysis and Field Operations Management

Federal Emergency Management Agency

- 83.503 Civil Defense - State and Local Emergency Management Assistance
- 83.513 State and Local Warning and Communication Systems
- 83.516 Disaster Assistance

Table 61. **Summary of Federal Consistency Provisions**

	Direct Federal Actions & Development Projects	Federal License or Permit Activities	Federal Assistance to State and Local Governments
CZMA Section 307	(c)(1) & (2)	(c)(3)(A)	(d)
Activity subject to review, if it...	Affects any land or water use or natural resource of the coastal zone	Affects any land or water use or natural resource of the coastal zone	Affects any land or water use or natural resource of the coastal zone
Consistency requirement	Consistent to the maximum extent practicable with state CMP	Consistent with state CMP	Consistent with state CMP
Who decides?	Federal agency	State CMP and networked state agency(s)	State CMP and networked state agency(s)
Time limit	45 days, plus 15 day extension	30 days; state may extend	30 days state may extend
Impact of State Objection	Federal agency may proceed. Must cite legal authority as to why it must proceed despite inconsistency	Federal agency may not issue permit, license, or other approval	Federal agency may not grant assistance
Administrative conflict resolution	Mediation by the Secretary of Commerce (voluntary, non-binding)	Appeal to the Secretary to override state objection	Appeal to the Secretary to override state objection