



## 2023 Changes to Minn. Stat. 103G

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- Relationship between groundwater and surface water appropriations
- Enhanced Enforcement Authority
- Fees
- Tribal Notification

Subd. 9c.**Ecosystem harm.**"Ecosystem harm" means to change the biological community and ecology in a manner that results in loss of ecological structure or function.

Subd. 13b.**Negative impact to surface waters.**"Negative impact to surface waters" means a change in hydrology sufficient to cause aquatic ecosystem harm or alter riparian uses long term.

Subd. 15i.**Sustainable diversion limit.**"Sustainable diversion limit" means a maximum amount of water that can be removed directly or indirectly from a surface water body in a defined geographic area on a monthly or annual basis without causing a negative impact to the surface water body.

Subd. 2. **Relationship to surface water resources.** Groundwater appropriations ~~that will have negative impacts to surface waters are subject to applicable provisions in section 103G.285~~ may be authorized only if they avoid known negative impacts to surface waters. If the commissioner determines that groundwater appropriations are having a negative impact to surface waters, the commissioner may use a sustainable diversion limit or other relevant method, tools, or information to implement measures so that groundwater appropriations do not negatively impact the surface waters.

Subd. 3. **Protecting groundwater supplies.** The commissioner may establish water appropriation limits to protect groundwater resources. When establishing water appropriation limits to protect groundwater resources, the commissioner must consider the sustainability of the groundwater resource, including the current and projected water levels, cumulative withdrawal rates from the resource on a monthly or annual basis, water quality, whether the use protects ecosystems, and the ability of future generations to meet their own needs. The commissioner may consult with the commissioners of health, agriculture, and the Pollution Control Agency and other state entities when determining the impacts on water quality and quantity.

## ORDERS AND INVESTIGATIONS.

The commissioner has the following powers and duties when acting pursuant to the enforcement provisions of this chapter:

(1) to adopt, issue, reissue, modify, deny, revoke, enter into, or enforce reasonable orders, schedules of compliance, and stipulation agreements;

(2) to issue notices of violation;

(3) to require a person holding a permit issued under this chapter or otherwise impacting the public waters of the state without a permit issued under this chapter to:

(i) make reports;

(ii) install, use, and maintain monitoring equipment or methods;

(iii) perform tests according to methods, at locations, at intervals, and in a manner as the commissioner prescribes; and

(iv) provide other information as the commissioner may reasonably require; and

(4) to conduct investigations; issue notices, public and otherwise; and order hearings as the commissioner deems necessary or advisable to discharge duties under this chapter, including but not limited to issuing permits and authorizing an employee or agent appointed by the commissioner to conduct the investigations and other authorities cited in this section.

## **DUTY OF CANDOR.**

(a) A person must not knowingly:

(1) make a false statement of fact or fail to correct a false statement of material fact regarding any matter pertaining to this chapter; 210.21

(2) fail to disclose information that the person knows is necessary for the commissioner to make an informed decision under this chapter; or 210.23

(3) offer information that the person knows to be false.

(b) If a person has offered material information to the commissioner and the person comes to know the information is false, the person must take reasonable remedial measures to provide the accurate information. 210.26 210.27 210.19 210.20 210.22 210.24 210.25

## **Administrative Penalty Orders**

- Non-prescriptive penalty amounts and increased maximum from \$20,000 to \$40,000
- Removes penalty forgiveness for repeat or serious violations
- Removes limitations for civil penalties
- Adds injunctions and actions to compel performance



A surcharge of ~~\$30~~ \$50 per million gallons in addition to the fee prescribed in paragraph (a) shall be applied to the volume of water used in each of the months of May, June, July, and August, and September that exceeds the volume of water used in January for municipal water use, irrigation of golf courses, and landscape irrigation. The surcharge for municipalities with more than one permit shall be determined based on the total appropriations from all permits that supply a common distribution system.

The fee to apply for a permit to appropriate water, in addition to any fee under paragraph (b), is \$150. The application fee for a permit to construct or repair a dam that is subject to a dam safety inspection, to work in public waters, or to divert waters for mining must be at least ~~\$300~~ \$1,200, but not more than ~~\$3,000~~ \$12,000. The fee for a notification to request authorization to conduct a project under a general permit is ~~\$100~~ \$400.

Recommendation of federally recognized Indian Tribes.

(c) If the proposed activity for which the permit is requested is within the boundaries of a reservation or Tribal community of a federally recognized Indian Tribe in Minnesota, the federally recognized Indian Tribe may:

(1) submit recommendations to the commissioner within 30 days of receiving the application; or

(2) request Tribal consultation according to section 10.65 within 30 days of receiving the application.

(d) If Tribal consultation is requested under paragraph (c), clause (2), a permit application is not complete until after the consultation occurs or 90 days after the request for consultation is made, whichever is sooner.

# Thank You!

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