

MINNESOTA STATUTES AND RULES RELATING TO FLOOD RISK MANAGEMENT PROJECTS

103A.201 REGULATORY POLICY.

Subdivision 1. Policy.

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

- (1) subject to existing rights, public waters are subject to the control of the state;
- (2) the state, to the extent provided by law, shall control the appropriation and use of waters of the state; and
- (3) the state shall control and supervise activity that changes or will change the course, current, or cross section of public waters, including the construction, reconstruction, repair, removal, abandonment, alteration, or the transfer of ownership of dams, reservoirs, control structures, and waterway obstructions in public waters.

103A.207 FLOODPLAIN MANAGEMENT POLICY.

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

(b) It is the policy of this state:

- (1) not to prohibit but to guide development of the floodplains consistent with legislative findings;
- (2) to provide state coordination and assistance to local governmental units in floodplain management;
- (3) to encourage local governmental units to adopt, enforce, and administer sound floodplain management ordinances; and
- (4) to provide the commissioner of natural resources with authority necessary to carry out a floodplain management program for the state and to coordinate federal, state, and local floodplain management activities in this state.

103F.105 FLOODPLAIN MANAGEMENT POLICY.

(a) The legislature finds:

- (1) a large portion of the state's land resources is subject to recurrent flooding by overflow of streams and other watercourses causing loss of life and property, disruption of commerce and governmental services, unsanitary conditions, and interruption of transportation and communications, all of which are detrimental to the health, safety, welfare, and property of the occupants of flooded lands and the people of this state; and

(2) the public interest necessitates sound land use development as land is a limited and irreplaceable resource, and the floodplains of this state are a land resource to be developed in a manner which will result in minimum loss of life and threat to health, and reduction of private and public economic loss caused by flooding.

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

(c) It is the policy of this state:

(1) not to prohibit but to guide development of the floodplains consistent with legislative findings;

(2) to provide state coordination and assistance to local governmental units in floodplain management;

(3) to encourage local governmental units to adopt, enforce and administer sound floodplain management ordinances;

(4) to provide the commissioner of natural resources with authority necessary to carry out a floodplain management program for the state and to coordinate federal, state, and local floodplain management activities in this state; and

(5) to provide incentives for communities to participate in the national flood insurance program and for citizens of Minnesota to take actions such as purchasing and maintaining flood insurance to reduce future flood damage to private property.

103G.245 WORK IN PUBLIC WATERS.

Subdivision 1. Permit requirement.

Except as provided in subdivisions 2, 11, and 12, the state, a political subdivision of the state, a public or private corporation, or a person must have a public-waters-work permit to:

(1) construct, reconstruct, remove, abandon, transfer ownership of, or make any change in a reservoir, dam, or waterway obstruction on public waters; or

(2) change or diminish the course, current, or cross section of public waters, entirely or partially within the state, by any means, including filling, excavating, or placing of materials in or on the beds of public waters.

Subd. 6. Conformance with water and related land resource management plans.

A public-waters-work permit may not be issued under this section if the project does not conform to state, regional, and local water and related land resources management plans.

Subd. 7. Effect on environment and mitigation.(a) A public-waters-work permit may be issued only if the project will involve a minimum encroachment, change, or damage to the environment, particularly the ecology of the waterway.

(b) If a major change in the resource is justified, public-waters-work permits must include provisions to compensate for the detrimental aspects of the change.

Subd. 9. Project affecting floodwaters.

(a) A public-waters-work permit for a project affecting floodwaters may be granted only if:

(1) the area covered by the public-waters-work permit is governed by a floodplain management ordinance approved by the commissioner; and

(2) the conduct authorized by the public-waters-work permit is consistent with the floodplain management ordinance, if the commissioner has determined that enough information is available for the adoption of a floodplain ordinance.

(b) A public-waters-work permit involving the control of floodwaters by structural means, such as dams, dikes, levees, and channel improvements, may be granted only after the commissioner has considered all other flood damage reduction alternatives. In developing a policy on placing emergency levees along the banks of public waters under emergency flood conditions, the commissioner shall consult and cooperate with the office of emergency services.

103G.315 DENIAL AND ISSUANCE OF PERMITS.

Subdivision 1. Commissioner's general authority.

The commissioner may deny issuing permits and issue permits with or without conditions.

Subd. 2. Findings of fact.

The commissioner shall make findings of fact on issues necessary for determination of the applications considered. Orders made by the commissioner must be based upon findings of fact made on substantial evidence. The commissioner may have investigations made. The facts disclosed by investigation must be put in evidence at the hearing.

Subd. 3. Issuance of permit.

If the commissioner concludes that the plans of the applicant are reasonable, practical, and will adequately protect public safety and promote the public welfare, the commissioner shall grant the permit.

116D.04 ENVIRONMENTAL IMPACT STATEMENTS

Subd. 6. Prohibitions.

No state action significantly affecting the quality of the environment shall be allowed, nor shall any permit for natural resources management and development be granted, where such action or permit has caused or is likely to cause pollution, impairment, or destruction of the air, water, land or other natural resources located within the state, so long as there is a feasible and prudent alternative consistent with the reasonable requirements of the public health, safety, and welfare and the state's paramount concern for the protection of its air,

water, land and other natural resources from pollution, impairment, or destruction. Economic considerations alone shall not justify such conduct.

MINNESOTA RULES

6115.0150 PURPOSE AND STATUTORY AUTHORITY.

The purpose of parts [6115.0150](#) to [6115.0280](#) is to provide for the orderly and consistent review of permit applications in order to conserve and utilize the water resources of the state in the best interest of its people. In deciding whether to issue permits, the department is guided by the policies and requirements declared in Minnesota Statutes, sections [103A.201](#), [103A.208](#), [103F.101](#), [103F.105](#), [103F.205](#), [103F.351](#), [103G.297](#), [103G.305](#), and [116D.04](#).

The proposed development must also be consistent with the goals and objectives of applicable federal, state, and local environmental quality programs and policies, including but not limited to shoreland management, floodplain management, water surface use management, boat and water safety, wild and scenic rivers management, water quality management, recreational or wilderness management, critical areas management, scientific and natural areas management, and protected species management.

6115.0410 NEW DAMS OR ENLARGEMENTS.

Subp. 8. Permit standards.

Approval or denial shall be 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 commissioner shall furnish information and recommendations to local governments for present and future land use controls to minimize risks to downstream areas.

The commissioner shall determine if the proposal is adequate with respect to:

A. For Class I, a showing of lack of other suitable feasible and practical alternative sites, and economic hardship which would have a major adverse effect on population and socioeconomic base of the area affected.

6115.0190 Filling , 6115.0210 Structures

Both of these rule sections have language that states: the proposed project represents the minimal impact solution to a specific need with respect to all other reasonable alternatives;

Findings of Fact and Decision are at: <http://www.dnr.state.mn.us/waters/fm-flood-risk.html>

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