

# Chapter 4

# Regulation of Water Quality

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This chapter explains how federal and state water quality rules affect water quality management decisions. References to applicable regulations are also provided.

Municipalities and WMOs are encouraged to adapt this manual by inserting their own requirements following federal and state regulations. This will allow the manual to be a stand-alone document suited to the varying needs of each community.

## **Federal Regulations**

Federal regulations regarding surface water management date back to the 1956 Federal Water Pollution Control Act. In 1972, amendments to this Act were passed by Congress; collectively these amendments became known as the Clean Water Act (CWA), which was to be administered by the U.S. Environmental Protection Agency (EPA). The National Pollutant Discharge Elimination System (NPDES) regulations were originally part of the CWA, then further developed in the CWA amendments of 1987.

Early efforts at water pollution prevention focused on reducing pollutants emanating from industrial facilities and municipal wastewater treatment plants. Over time, however, it became evident that more diffuse (“nonpoint”) sources of water pollution were significantly affecting water quality. In 1990, the EPA promulgated rules establishing Phase I of the NPDES stormwater program. Among other pollutant discharges, the Phase I program addresses discharges from large (greater than 5 acres) construction sites. As of 2003, Phase II NPDES permits will be required for construction activities that disturb one to five acres. (See [www.epa.gov/owm/sw/phase2/final.htm](http://www.epa.gov/owm/sw/phase2/final.htm))

The NPDES permitting system is one of the principal means by which federal laws come to bear on local watershed decision-making. The federal government has given states the responsibility for administering NPDES permit applications. The states also administer such federal water quality programs as the Clean Watershed Partnership grants program established under Section 319 of the CWA.

CWA Section 404 ([www.epa.gov/OWOW/wetlands/regs/sec404.html](http://www.epa.gov/OWOW/wetlands/regs/sec404.html)) addresses local activities that impinge on wetlands. Section 404 permits are granted by the U.S. Army Corps of Engineers.

## **State Participation**

### **Administration of Federal Programs**

The state, through the Minnesota Pollution Control Agency (MPCA), administers the federal NPDES permitting program on behalf of the federal government. The MPCA’s NPDES permitting program is detailed at [www.pca.state.mn.us/water/stormwater.html](http://www.pca.state.mn.us/water/stormwater.html).

The MPCA also administers the federal the Clean Watershed Partnership grants program on behalf of the EPA (see [www.pca.state.mn.us/water/cwpartner.html](http://www.pca.state.mn.us/water/cwpartner.html)). It has an advisory role in the Corps of Engineers’ Section 404 wetland permitting process.

### **Minnesota Water Quality Law**

State laws and rules guiding water quality management operate in tandem with federal regulations. Minnesota regulations aim to protect all waters from significant degradation via point- and nonpoint-source pollutants and wetland alterations, to maintain existing water uses aquatic and wetland habitats, and the level of water quality

necessary to protect these uses. The intent of the state is to protect and maintain surface waters in a condition which allows for the maintenance of all existing beneficial uses. The water body's physical, chemical, and biological qualities determine its condition.

The main body of Minnesota state water law is found within the 10 chapters of state statutes 103A to 103G (see [www.revisor.leg.state.mn.us/stats/103A.html](http://www.revisor.leg.state.mn.us/stats/103A.html)). These statutes regulate activities that may affect surface water and wetlands in the state.

Some of Minnesota's authority is retained within state agencies. The Minnesota Department of Natural Resources (DNR), for example, carries out the Protected Waters Permit Program controlling activities affecting certain lakes, watercourses and wetlands in Minnesota. Some activities often requiring permits under the program include draining, filling, dredging, channelizing, and placement of culverts.

However, much of the state's regulatory authority is delegated to local entities – counties, cities, and WMOs. Minnesota statutes provide a mandate for the creation of WMOs and give those entities authority to create and enforce rules to regulate, conserve, and control the use of water resources. The Board of Soil and Water Resources (BWSR) plays a key role in overseeing these local efforts on behalf of the state.

The BWSR administers Minnesota's Metropolitan Surface Water Management Act, which calls for the metropolitan cities and WMOs to establish (and conduct periodic revisions of) local Surface Water Management Plans.

Minnesota has also authorized the formation of Soil and Water Conservation Districts (SWCDs, usually based on county lines) that work to encourage sound watershed management. The SWCD's primary function is to offer technical and financial assistance in conservation efforts. SWCDs operate in close association with both federal agencies (for example, the U.S. Department of Agriculture's Natural Resources Conservation Service), and with Minnesota's BWSR.

Paralleling wetland preservation efforts by the federal government, the state legislature passed the Minnesota Wetland Conservation Act (WCA) in 1991. The BWSR administers Minnesota's WCA, evaluating permit applications for activities that affect wetlands. A concise and helpful summary of state and federal wetland regulatory issues can be found at [www.greatplains.org/resource/1998/wetregmn/wetregmn.htm#wetland](http://www.greatplains.org/resource/1998/wetregmn/wetregmn.htm#wetland).

Further information regarding BWSR and its management of state water quality programs may be found on the web at [www.bwsr.state.mn.us](http://www.bwsr.state.mn.us).

## **The Role of Local Agencies**

Where they exist, WMOs govern surface water management through rules established as part of their Surface Water Management Plans. In most cases, cities also have their own water management plans, which must be approved by the local WMO. If necessary, BWSR helps resolve any conflicts between the municipal and WMO plans.

In the Twin Cities metropolitan area, the Metropolitan Council is also charged with overseeing water management and improvement efforts, and has developed its own regional water quality management plan. The Environmental Services (ES) division of the council reviews municipal and WMO water management plans for consistency with the regional plan.

Local municipalities and WMOs also play a role in the administration of the state's WCA and they may have their own ordinances governing activities in and around wetlands.

When planning a development or redevelopment project, it is best to contact a representative of the local municipality or WMO early in the process. These representatives can provide information on applicable watershed regulations and permits required before construction can proceed. In addition, local administrators may be able to assist in the selection of BMPs that make the most sense for a particular site.

A locator map at the Minnesota Association of Watershed Districts website is helpful in determining if a particular location has an established watershed district: <http://www.mnwatershed.org/whereis.htm>.