

PART IV
REGULATORY AND DEVELOPMENT FUNCTIONS OF COUNTIES

CHAPTER 16: ENVIRONMENTAL REGULATIONS

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1. Environmental regulations

Environmental matters are increasingly important to local government. One purpose of this chapter is to briefly outline the more significant provisions of the laws relating to environmental protection, and to point out the opportunities counties have to help protect the environment.

Because of the relationship between environmental quality and community development, many portions of the previous chapters—especially those relating to land use controls—are important to keep in mind when considering how a county can best implement the new environmental laws and promote the quality of life in a community.

Minn. Stat. §§ 14.05 to 14.091.

Many environmental programs are mandated by state law and rules. There is a process for a local government to petition a state agency for the amendment or repeal of a rule, including a hearing process with an administrative law judge if the agency does not agree with the petition. A county can also challenge a state agency attempt to enforce policies without going through rulemaking.

This chapter will discuss the following topics:

I. Environmental Grants and Loans

II. Environmental Rights Act

III. MPCA Water Quality Programs

IV. Environmental Quality Board

V. Protection of State Waters

VI. Safe Drinking Water Act

VII. Pipeline Safety

VIII. Pesticide Regulation

IX. Phosphorus Fertilizers

XI. Conservation Easements

I. Environmental Grants and Loans

MPCA grants and loans.
Contact MPCA office at
651-296-6300 or 800-
657-3864

Only a few environmental grants are mentioned in this chapter. The Minnesota Pollution Control Agency has various opportunities available for receiving grants and other financial assistance for environmental projects in Minnesota. (See the website for a list of current qualifying projects or call the MPCA office.)

Contact the [Legislative-Citizen Commission on Minnesota Resources](#), 100 Constitution Avenue, Room 65, St. Paul, MN 55155-1201 (651) 296-2406.

[Office of Management and Budget Services, Department of Natural Resources](#), 500 Lafayette Road, Box 10, St. Paul, MN 55155-4010, (651) 296-0565 or (888) 657-3843.

The [U.S. EPA](#).

For more information contact USDA [Rural Development State Office](#) Phone: 651-602-7800.

Another source of financial assistance for natural resources funding is the Legislative Citizen-Commission on Minnesota Resources, which makes expenditures from the Environment and Natural Resources Trust Fund and the Minnesota Futures Trust Fund.

The Minnesota Department of Natural Resources (DNR) has almost 50 financial assistance programs in a number of general areas. The DNR's Financial Assistance Directory is available on the DNR web site or it can be ordered by contacting the DNR.

The U.S. Environmental Protection Agency (EPA) has many different grant, loan, and fellowship programs. See the full list on the EPA web site.

The United States Department of Agriculture Rural Development program funds community facilities and water and sewer projects.

II. Environmental Rights Act

[Minn. Stat. ch. 116B.](#)

[Minn. Stat. § 116B.03.](#)

[Minn. Stat. § 116B.02, subd. 2.](#)

Freeborn County by Tuveson v. Bryson, 309 Minn. 178, 243 N.W.2d 316 (1976).

[Minn. Stat. § 116B.03, subd. 1.](#)

County of Dakota v. City of Lakeville, 559 N.W.2d 716 (Minn. Ct. App. 1997).

The Minnesota Environmental Rights Act (MERA) permits suits against alleged polluters, including local government units. MERA creates a cause of action to protect, preserve, and enhance natural resources of this state. The Act defines "natural resources" as including all mineral, animal, botanical, air, water, land, timber, soil, quietude, recreational, and historical resources. Scenic and esthetic resources shall also be considered natural resources when owned by any governmental unit or agency.

The law prohibits actions if the governing body or person is acting under any environmental quality standard, limitation, regulation, rule, order, license, stipulation agreement or permit issued by the Pollution Control Agency, the Department of Natural Resources, the Department of Health, or the Department of Agriculture.

Any person or political subdivision, including a county, may bring a suit under this law. The burden of proof is on the person or body bringing the suit. The defendant may show there is no feasible and prudent alternative, and that the alleged conduct is consistent and reasonably necessary for promotion of the public health, safety, and welfare in light of the state's concern for the protection of the environment. Economic considerations alone are not a defense.

The person bringing an action under the Act must publish notice of their action within 21 days after commencing the action; otherwise the action will be dismissed.

State by Schallerr v. County of Blue Earth, 563 N.W.2d 260 (Minn. 1997).

In order to enjoin a project under the act, the petitioner must clearly demonstrate the proposed activity is likely to adversely affect the environment.

Minn. Stat. § 116B.04.

This law also allows citizens, public and private corporations, and governmental units to challenge environmental quality standards on the basis that the standard does not adequately protect the environment. In such actions, the court must send the question to the agency that sets the standard.

State ex rel. Fort Snelling State Park Ass'n v. Minneapolis Park & Recreation Bd., 673 N.W.2d 169 (Minn. Ct. App. 2003).

MERA protects an open space that is a part of a designated historic site when the open space independently and in connection with the remainder of the site constitutes a historical resource. An action to protect a historical resource under the Minnesota Environmental Rights Act is not precluded by administrative consultations and mediations conducted pursuant to the Minnesota or National Historic Sites acts.

III. MPCA Water Quality Programs

The Minnesota Pollution Control Agency (MPCA) has several responsibilities in the area of water quality control. The MPCA establishes water quality standards, writes regulations, and issues orders to discontinue disposing of industrial wastes into the waters of the state.

In re Cities of Annandale and Maple Lake NPDES/SDS Permit Issuance for Discharge of Treated Wastewater, 731 N.W.2d 502 (Minn. 2007)

For a complete list of all if its programs visit the [Minnesota Pollution Control Agency](#).

The MPCA also reviews and approves plans and issues permits for construction and operation of sewage and waste disposal facilities, investigates reports of pollution, enforces state pollution control laws and agency rules and regulations, and administers certain grant provisions of the federal Water Pollution Control Act. Citizens may also challenge the MPCA's issuance of wastewater treatment plant permits in relation to the federal Clean Water Act. The MPCA cooperates with city, county, state, and federal agencies concerned with water pollution problems.

A. Water pollution control financial assistance

Minn. Stat. §§ 116.16 to 116.1.

For more information on financial assistance, visit the [MPCA web site](#).

The MPCA, in conjunction with the Minnesota Public Facilities Financing Authority, administers a system of federal and state loans and grants for wastewater treatment works construction projects, including central treatment plants and innovative and alternate systems, such as individual systems serving one or more homes or businesses. Counties should contact the Public Facilities Authority for additional information on financial assistance programs.

B. Subsurface sewage treatment systems

[Minn. Stat. § 115.55 subd. 2](#)

[Minn. R. ch. 7082](#) (administrative requirements).

[Minn. R. ch. 7080](#) (ISTS).
[Minn. R. ch. 7081](#) (MSTS).

[Minn. Stat. § 115.55 subd. 5](#)

[Minn. Stat. § 115.55 subd. 5a](#)

[Minn. R. 7082.0100](#).
[Minn. Stat. § 115.55 subd. 7](#)

[Minn. R. 7082.0040](#).

For more information, visit the [MPCA web site](#)

All counties in Minnesota were required to adopt ordinances implementing the subsurface sewage treatment system (SSTS) rules of the MPCA by Jan. 1, 1999. The rules were amended in February 2008, and new county ordinances must be adopted by Feb. 4, 2010.

The MPCA rules set technical requirements for Individual Subsurface Sewage Treatment Systems (ISTS) with flows up to 5,000 gallons per day and Midsized Subsurface Sewage Treatment Systems (MSTS) with flows up to 10,000 gallons per day. Systems larger than 10,000 gallons per day—called Large Subsurface Sewage Treatment Systems (LSTS)—are overseen by the MPCA, rather than the county.

Counties must inspect all new construction or replacement of systems to determine compliance with agency rules and local ordinances. If the inspector finds one or more of the following conditions:

- sewage discharge to surface water;
- sewage discharge to ground surface;
- sewage backup;
- a seepage pit, drywell, cesspool, or leaching pit;
- failure to provide sufficient groundwater protection;
- any other situation with the potential to immediately and adversely affect or threaten public health or safety; or
- the system does not comply with local ordinances,

then the system constitutes an imminent threat to public health and must be repaired, upgraded, replaced, or discontinued.

Counties can adopt ordinances regulating these systems that are more than the rules. They may also adopt ordinance that are less restrictive, but they must demonstrate that they adequately protect public health and the environment. When adopting ordinances, counties must submit a list of differences between their ordinance and the MPCA rules.

Counties must submit annual reports to the commissioner of the Pollution Control Agency by February 1 each year. Requirements are detailed in [Minn. R. 7082.0040, subp. 5](#).

C. Clean water partnership program

[Minn. Stat. §§ 103F.701 to 103F.761.](#)

The Legislature has established a clean water partnership program administered by the MPCA. The partnership conducts an assessment of state waters polluted by non-point sources, and of those that have a high potential for water pollution from non-point sources. Non-point sources are land management or land use activities that contribute or may contribute to ground and surface water pollution as a result of runoff, seepage, or percolation, and do not have a single, identifiable source point.

Once an assessment is complete, the MPCA will provide financial and technical assistance to local units of government for projects that provide for protection and improvement of ground and surface waters.

[Minn. Stat. § 103F.731.](#)

To qualify for assistance, a county must have completed a comprehensive water plan, a surface water management plan, a watershed management plan or another local plan which provides an inventory of existing physical and hydrologic information on the area, and must generally identify water quality problems and goals. General local plans are not eligible.

IV. Environmental Quality Board

[Minn. Stat. §§ 116C.01-.08](#)

Information about the EQB and its programs may be obtained from the [Environmental Quality Board](#), 658 Cedar St., Room 300, St. Paul, MN 55155, (651) 297-1257.

The Environmental Quality Board brings together five citizens and the heads of 10 state agencies to play a vital role in Minnesota's environment and development. The board develops policy, creates long-range plans, and reviews proposed projects that would significantly influence Minnesota's environment. The EQB's powers and duties focus on coordinating the various activities of state departments concerning the environment. In addition, the EQB administers several substantive programs of interest to counties.

D. Environmental review

[Minn. Stat. §§ 116D.01 to 116D.11.](#)

[Minn. R. ch. 4410.](#)

Minnesota has adopted a comprehensive and detailed environmental review program to determine the significant environmental effects of private and governmental actions. The idea behind the program is that with documents that identify the environmental consequences of a proposed development, decision-makers can incorporate environmental protection into the proposed development. The law prohibits the issuance of permits or development prior to completion of necessary documents.

[Minn. Stat. § 116D.04](#)

[Minn. R. 4410.0500](#)

Different governmental units are responsible for conducting the environmental review depending on the project. The designated local government or state agency is the responsible governmental unit (RGU). In some cases, the EQB determines the RGU.

Minn. Stat. § 116D.04, subd. 2a(d), Minn. R. 4410.1000.

Minn. R. 4410.1200

Minn. Stat. § 116D.04.

Environmental Assessment Worksheet

EAW Guidelines
Preparing Environmental Assessment Worksheets

Minn. R. 4410.2300.

Projects that need no governmental approval or small projects meeting state-adopted criteria are exempt from the environmental review process. For most projects that receive environmental review, the responsible governmental unit begins the process by preparing an environmental assessment worksheet (EAW). Depending on the size, type, and location of a project, preparation and review of the worksheet is either mandatory, specifically exempt, or left to the discretion of the governmental unit. If the responsible unit determines a project has significant environmental impact, an environmental impact statement (EIS) is necessary. The RGU prepares the statement.

The statement must contain certain information, including the environmental, economic, employment, and sociological impacts for the proposed project, and each major alternative the statement identifies. The rules provide for a process to narrow these issues to those that are relevant and significant.

Minn. R. 4410.1100.

Twenty-five citizens may petition the EQB to designate a responsible governmental unit for conducting an environmental review of a project. If that unit determines an environmental assessment worksheet or impact statement is not necessary, the citizens may appeal to district court.

Minn. R. 4410.3600.

Counties may request EQB approval of projects that undergo environmental review under other governmental processes. In some cases, a local government can adopt an EQB model ordinance as an alternative to some of the regular environmental review criteria and procedures.

Minn. R. 4410.2100.

The responsible governmental unit may assess an applicant, proposing a private project, the reasonable costs of preparing and distributing the EAW or the EIS. The applicant must pay the assessment directly to the RGU.

Minn. R. 4410.6500.

E. Environmental permits coordination

Minn. Stat. §§ 116C.22 to 116C.34.

The commissioner of the Department of Employment and Economic Development directs the Bureau of Business Licenses to act as the coordination unit to implement and administer the provisions of the Minnesota Environmental Coordination Procedures Act. Any entity proposing a project that may require more than one state permit may submit a master application to the coordination unit requesting, prior to the initial construction or operation of a project, all state permits necessary for construction and operation of the project.

[Minn. Stat. § 116C.31, subd.1.](#) The coordinating unit cannot process master applications unless it receives a certification from the governmental units that have jurisdiction over the location of the proposed project that the project is in compliance with all local zoning ordinances, subdivision regulations, and environmental regulations, and that the environmental impact statement is complete or not necessary. If the governmental unit has required an EIS, a copy of the completed statement must be attached to the local governmental unit's certification. After issuing a certification, a county may not rescind it.

[Minn. Stat. § 116C.31, subd. 2.](#) A ruling by a local governmental unit denying an application for certification cannot be appealed. The denial, however, would not preclude the applicant from filing a permit application under any other available statute or procedure.

[Minn. Stat. § 116C.34, subd.3.](#) The county auditor of each county must post, in a conspicuous place in his or her office, the telephone number of the Bureau of Business Licenses and the permit information center for the applicable regional development commission. The county auditor must post copies of any master applications, permit applications, and any information any permit information center publishes that he or she receives.

F. Critical areas

[Minn. Stat. §§ 116G.01 to 116G.14.](#)
[Minn. R. 4410.8200.](#) The EQB must prepare criteria for the selection of areas of critical concern, recommend areas to the governor for critical area designation, and review local plans and regulations affecting those areas.

[Minn. Stat. § 116G.05.](#) "Critical areas" are those areas that would be significantly affected by existing or proposed major government development, that serve a substantial number of people beyond the vicinity of the development, and that tend to generate substantial development or urbanization. Critical areas are also areas having a significant impact on historical, natural, scientific, or cultural resources of regional or statewide importance.

[Minn. Stat. § 116G.07, subd. 1.](#) Within 30 days after receiving notification of designation of an area within its boundaries, a local unit must submit existing plans and regulations affecting the area to the appropriate regional development commission or to the EQB if there is no regional commission. If no plans or regulations exist, the local unit must, within six months, adopt plans and regulations to protect the area. Or, the local unit may request the regional commission prepare plans for the local unit within the same timeframe.

[Minn. Stat. § 116G.07, subd.2.](#) Regional commissions have 45 days to review proposed plans, make recommendations, and give them to the EQB. The EQB, in turn, has 45 days to review and approve them, or return them to the local unit or the commission for modification. If the EQB returns the plans for modification, the local unit or the commission has 60 days to revise and resubmit them. Plans and regulations are not effective until the EQB issues its order.

[Minn. Stat. § 116G.09](#)

If the local unit fails to adopt an approved plan within one year after designation of the area, the EQB must adopt a plan for the unit and specify the extent that the plan would supersede local ordinances. The local unit can still adopt its own regulations in the future.

[Minn. Stat. § 116G.10, subd.2.](#)

Designation of an area suspends the power of local units to grant development permits

V. Protection of State Waters

[Minn. Stat. § 103B.101.](#)

The 2007 legislature enacted laws giving the Board of Water and Soil Resources (BWSR) broad authority to issue administrative penalty orders of up to \$10,000 for violations of laws relating to soil and water conservation districts, watershed districts, drainage, protection of water resources, and state waters. BWSR is currently developing processes to work with cities and counties to use this new tool.

G. Shoreland development

[Minn. Stat. §§ 103F.201 to 103F.225.](#)

[Minn. R. ch. 6120.](#)

See the [Minnesota Shoreland Management Resource Guide](#).

The commissioner of the Department of Natural Resources (DNR) has set model standards and criteria for the subdivision, use, and development of shoreland, including criteria applicable to county shoreland development. Counties with shoreland must submit ordinances, rules or regulations that affect shoreland development and use to the Minnesota Department of Natural Resources.

[Minn. R. 6120.3100.](#)

Development of shorelands of public waters must be controlled by means of land use zoning districts compatible with criteria established in [Minn. R. 6120.3100](#), and by permit procedures for building construction, installation of sewage treatment systems, and grading and filling.

[Minn. R. 6120.3900.](#)

Zoning criteria are specified in [Minn. R. 6120.3300](#). These criteria include:

[Minn. R. 6120.3300.](#)

- residential lot size standards;

[Minn. R. 6120.3300.](#)

- placement and height of structures and facilities on lots;

[Minn. R. 6120.3300.](#)

- shoreland alterations;

[Minn. R. 6120.3300.](#)

- placement and design of roads, driveways, and parking areas;

[Minn. R. 6120.3300.](#)

- agricultural use, forest management, and extractive use standards;

[Minn. R. 6120.3300.](#)

- standards for commercial, industrial, public, and semipublic uses; and

[Minn. R. 6120.3300.](#)

- storm water management standards.

[Minn. R. 6120.3400.](#)

- On-site sewage treatment systems must be set back from the ordinary high water level as specified in [Minn. R. 6120.3400](#).

Minn. R. 6120.3500.

- Each lot created through subdivision must be suitable in its natural state for the proposed use with minimal alteration.

H. Clean water legacy act

Minn. Stat. § 446A.075.

Minnesota Public
Facilities Authorities

The Clean Water Legacy Act creates a Small Community Wastewater program awarding loans and, in some situations, grants to governmental units to replace failing or inadequate individual septic systems. The 2007 legislature added some money for technical assistance grants to analyze possible solutions to problems from noncompliant individual sewage treatment systems. Technical assistance grant funds of up to \$40,000 may be used to:

- contract with a licensed individual sewage treatment system professional for a preliminary analysis of the feasibility of installing new systems; and/or
- contract for services from the University of Minnesota Extension Service to advise the county on the feasibility of possible wastewater treatment alternatives and help develop the technical, managerial, and financial capacity necessary to build, operate, and maintain individual wastewater treatment systems.

I. Flood plain management and the national insurance program

Minn. Stat. §§ 130F.101 to 130F.161.

Minn. R. ch. 6120.

Minn. Stat. § 103F.121.

All local government units (including cities and counties) must prepare or amend local flood management ordinances within six months after receiving notice from the DNR commissioner that the necessary technical information is available. The ordinances must conform to state law and must be approved by the DNR. If a local unit fails to adopt an ordinance, the DNR commissioner can adopt one for the unit.

Minn. Stat. § 103F.165.

The Act provides for state participation in the national flood insurance program, including mandatory county participation. All counties with areas subject to recurring flooding must participate in this flood insurance program, which involves adopting flood plain management ordinances.

Minn. Stat. § 103F.155.

When a local unit constructs emergency flood protection measures, it must submit a plan to the DNR outlining their use as part of a future comprehensive flood emergency plan. Plans are due within 120 days after construction. All plans are subject to DNR review and approval.

J. Wetlands

Minn. Stat. § 103G.005, subd. 19.

Wetlands are defined by law as areas that have a predominance of hydric soils, and are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, or periodically support, hydrophytic vegetation typically adapted for life in saturated soils and support this vegetation under normal circumstances.

[Minn. Stat. § 103G.2243](#) Counties may develop comprehensive wetland protection and management plans.

[Minn. Stat. § 103G.005, subd. 10e.](#) No draining, filling or altering is permitted unless authorized by a local government unit (LGU). The LGU may be a county (outside the metropolitan area), city, town (within the metropolitan area), or soil and water conservation district. In many cases, the LGU will designate a soil and water conservation district to assist in administration of the law.

[Minn. R. 8420.0225.](#)
[Minn. Stat. § 15.99.](#)
[Minn. Stat. § 103G.2242, subd. 9.](#) In some areas, counties may decide the boundary or type of a wetland. A landowner applies for the determination and provides all of the necessary documentation. Counties may seek assistance from a technical evaluation panel; they may also delegate the authority to make wetland boundary or type determinations to designated staff, or establish other procedures they consider appropriate. The decision must be made within 60 days.

[Minn. Stat. § 103G.222.](#)
[Minn. Stat. § 103G.2242.](#)
[Minn. Stat. § 103G.2243.](#)
[Minn. Stat. § 103G.222.](#)
For more information on wetland banking, visit the [BWSR web site](#). Wetlands may not be drained or filled unless replaced by restoring or creating wetland areas of at least equal public value under a replacement plan, or a protection and management plan, approved by the Board of Water and Soil Resources. A replacement plan may include a wetland banking program to replace wetlands lost due to local government road construction. In addition, stormwater ponds that are created primarily to fulfill stormwater management or water quality treatment requirements may not be used to satisfy wetland replacement requirements unless the design includes pretreatment of runoff and the pond functions as a wetland.

K. Wild and scenic rivers

[Minn. Stat. §§ 103F.301 to 103F.345.](#)
[Minn. R. ch. 6105.](#) The DNR commissioner administers the state system of scenic and wild rivers. All or any segment of a river and its adjacent lands that possess outstanding scenic, recreational, natural, historical, scientific or similar values are eligible for inclusion within the state system.

Within six months after designation, each local government containing a portion of the designated area must adopt or amend its local ordinances and land use district maps to comply with the state standards and the management plan. If the local unit fails to comply, the DNR must adopt necessary ordinances, maps or amendments as in the case of shoreland development. The DNR will assist local units in preparing, implementing, and enforcing local ordinances.

L. Water surface use and lake improvement

[Minn. Stat. § 86B.205 subd. 5.](#)
[Minn. R. ch. 6110.](#) Counties have authority to improve and regulate the use of a body of water. This includes development of plans to eliminate lake pollution; regulation of beaches, docks, and marinas; and regulating watercraft.

Minn. Stat. § 103F.801.
A.G. Op. 1007 (June 11, 1975).
Minn. Stat. §§ 462.351 to 462.365.

County boards may exercise lake improvement and water surface use regulation powers over lakes even if a lake is completely within two cities. Cities continue to regulate the use of any shoreland within their boundaries under their land use control authority.

VI. Safe Drinking Water Act

Minn. Stat. §§ 144.381 to 144.387.

For more information, visit the [Minnesota Department of Health](#).

[U.S. EPA](#).

[Minnesota Rural Water Association](#).

The Minnesota Department of Health has implemented the federal Safe Drinking Water Act and has set standards for safe drinking water that apply to all public water systems. A public water system is a system providing piped water for human consumption that contains a minimum of 15 service connections for 15 living units, or serves an average of 25 persons daily for 60 days of the year. The health department will: approve the site design, construction, and alteration of public supplies; inspect the facilities and records of the public water supply; contract with local boards of health for routine surveys, inspections, and testing of the public water supply quality; and develop an emergency plan to protect the public when a decline in water quality or quantity creates a serious health risk.

Minn. R. ch. 4720.

The health department has set rules to implement the federal act, including the granting of variances and exemptions from federal requirements. Recent federal amendments have increased the testing requirements for public water supplies.

Minn. Stat. ch. 103I, especially § 103I.101.

Minn. R. 4720.5100 to 4720.5590.

Minn. Stat. § 103I.111.

The Department of Health regulates the drilling of wells and borings. The department administers a public water supply wellhead protection plan that requires counties to adopt ordinances to reduce the chance of contaminants entering public water supplies. County ordinances in this area must be consistent with, and as restrictive, as standards in state law or rule. Ordinances of cities within the county must be consistent, and as restrictive, as ordinances adopted by the county board. County ordinances in this area are also subject to review by the commissioner of the Department of Public Health.

VII. Pipeline Safety

Minn. Stat. ch. 116I

Minn. R. 7560.0100 to 7560.0150; Minn. R. 7560.0225 to 7560.0800

Minn. Stat. ch. 299J

Visit the [Minnesota Fire Marshall Division, Office of Pipeline Safety](#) web site for more information.

The state, through the Minnesota Office of Pipeline Safety, regulates pipeline routing, excavations, and safety. Under the public right-of-way mapping rule, counties must maintain maps, diagrams or other records of underground facilities, install a locating wire or other marking on underground facilities and locate the portion of the service lateral within the public right-of-way. County right-of-way ordinances should reflect the requirements of these new rules.

[Minn. R. ch. 7852.](#)

The Public Utilities Commission is responsible for adopting rules regulating pipeline routing. The state routing permit system supersedes and pre-empts all zoning, building or land use rules, regulations or ordinances adopted by local governments.

[Minn. Stat. ch. 216D.](#)

Visit the [Gopher State One Call](#) website for more information.

The one-call excavation notice system addresses excavations that disturb the soil at a depth of 18 inches or more. Counties that issue permits for excavations must display an excavator and operator notice. Counties must provide the notice and a copy of the state law requiring notification prior to any excavation. Counties that issue permits for excavation are not liable for the actions of an excavator who fails to comply with state law.

[Minn. Stat. § 299J.05\(b\).](#)

[Minn. R. 7535.0100 to 7535.0500.](#)

Counties that have pipelines within their borders must adopt a pipeline setback ordinance that meets or exceeds the minimum standards of a model ordinance established by the commissioner of Public Safety. The commissioner must approve the county ordinance. If the county has not adopted an approved ordinance, the state ordinance will apply.

Pipeline operators must provide detailed maps of pipeline locations to the state, the county recorder, and the director of emergency services or sheriff of every county affected by their pipelines.

[Minn. Stat. § 299J.10.](#)

A county that has a pipeline within its jurisdiction must also prepare a pipeline release emergency response plan. The county must consult with the pipeline owner or operator when preparing the plan. The state prescribes rules for the content of the plan. The plan must be reviewed annually and amended to reflect changes in the operation of the pipeline or other matters related to pipeline safety.

VIII. Pesticide Regulation

[Minn. Stat. ch. 18B.](#)

[Minn. R. 1505.0830 to 1505.1290.](#)

[Minn. Stat. § 18B.065.](#)

[Minn. Stat. § 18B.02.](#)

Visit the [Minnesota Department of Agriculture](#) for more information.

Minnesota has a series of statutes regulating pesticides. State laws pre-empt local ordinances that prohibit or regulate the registration, labeling, distribution, sale, handling, use, application or disposal of pesticides. Effective July, 2008, the Department of Agriculture must make pesticide disposal sites available in each county for both agricultural and residential pesticide waste. They preserve local responsibilities for zoning, fire codes or hazardous waste disposal.

IX. Phosphorus Fertilizers

[Minn. Stat. § 18C.60.](#)
[Minn. Stat. § 18C.110.](#)

State law bans phosphorus in almost all lawn fertilizer. These restrictions however, do not apply to agricultural use. Exceptions also exist for golf courses, new sod or seed on lawns, or soil-tested lawns showing a need for additional phosphorus. Counties may not have more restrictive ordinances unless the ordinance was adopted before Aug. 1, 2002.

X. Solid Waste

[Minn. Stat. § 400.02](#)
[Minn. Stat. § 400.07](#)

Counties outside the metropolitan area may conduct solid waste management programs. Counties should cooperate with the Pollution Control Agency in the planning, development, and implementation of resource recovery systems.

[Minn. Stat. §§ 400.16 - 400.161](#)

Counties may ordinance establish rules, regulations, and standards for solid waste, sewage sludge management, land pollution, and hazardous waste. Based on these ordinances, they may issue permits or licenses for solid waste facilities and hazardous waste generation.

[Minn. Stat. § 400.08 subd. 2](#)

A county may establish and determine the boundaries of its solid waste management service areas. Within the service area, the county board may impose service charges for solid waste management services and/or levy a tax on property in the area.

[Minn. Stat. § 400.11](#)
[Minn. Stat. §§ 400.09 - 400.101](#)

Counties may levy taxes upon all taxable property within the county if it is in anticipation of need for future solid waste management. In addition to charges and taxes, counties may also issue bonds for solid waste management purposes. All of these revenues must be credited to a solid waste management fund.

[Minn. Stat. § 400.13](#)

[Minn. Stat. § 400.06](#)

All counties shall provide for the periodic inspection of mixed municipal solid waste facilities and mixed municipal solid waste management property and facilities located and being operated within their boundaries. All inspectors provided or used by the county under this section must be certified in accordance with [Minn. Stat. § 116.41](#)

XI. Conservation Easements

[Minn. Stat. ch. 84C](#)
 (conservation easements).
[Minn. Stat. § 475.52.](#)

Counties may enter into conservation easements and issue debt obligations to acquire development rights in the form of conservation easements.

CASES

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