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within the designated boundaries of a wild, scenic or recreational river area shall be transferred to any other person or entity if such transfer would be inconsistent with such plan.

[1973 c 271 s 8]

104.39 Federal-state relations

Nothing in sections 104.31 to 104.40 shall preclude a river in the Minnesota wild and scenic rivers system from becoming a part of the federal wild and scenic rivers system as established in the wild and scenic rivers act, Public Law 90-542; 16 United States Code Section 1271 et seq., as amended. The commissioner is authorized to seek, alone or in conjunction with other governmental authorities, financial and technical assistance from the federal government and to enter into written cooperative agreements for the joint administration of a Minnesota river in the federal wild and scenic rivers system.

[1973 c 271 s 9]

104.40 Conflict with other laws

Each river in the wild and scenic rivers system shall be subject to the provisions of sections 104.31 to 104.40, provided that in case of conflict with some other law of this state the more protective provision shall apply.

[1973 c 271 s 10]

CHAPTER 105. DIVISION OF WATERS, SOIL AND MINERALS

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WATER RESOURCES, CONSERVATION

105.37 Definitions

[For text of subds. 1 to 4, see M.S.1971]

Subd. 5. "Appropriating" includes but is not limited to "taking", regardless of the use to which the water is put.

[1973 c 315 s 1]

Subd. 6. "Beneficial public purpose", in relation to waters of the state, includes but is not limited to any or all of the following purposes:

- (a) Water supply for municipal, industrial, agricultural, or other purposes;
- (b) Recharge of underground water strata;
- (c) Retention of water to prevent or reduce downstream flooding, thereby minimizing erosion and resultant property damage;
- (d) Entrapment and retention of nutrients and other materials which impair the quality of natural resources;
- (e) Recreational activities such as swimming, boating, fishing, and hunting;
- (f) Public navigation other than for recreational purposes;

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(g) Wildlife habitat such as fish spawning and rearing areas, waterfowl nesting and feeding areas, and areas for the rearing, feeding, and protection of other wildlife;

(h) Areas designated as scientific and natural areas pursuant to section 84.033.

[1973 c 315 s 2]

Subd. 7. "Waters of the state" means any waters, surface or underground, except those surface waters which are not confined but are spread and diffused over the land. "Waters of the state" includes all boundary and inland waters.

[1973 c 315 s 3]

Subd. 8. "Abandon" means to give up the use and maintenance of the described structures or improvements to realty and to surrender the same to deterioration, without reference to any intent to surrender or relinquish title to or possessory interest in the real property constituting the site of the structures or improvements. "Abandoned" and "abandonment" have meanings consistent with this definition of "abandon".

[1973 c 344 s 1]

105.38 Declaration of policy

In order to conserve and utilize the water resources of the state in the best interests of the people of the state, and for the purpose of promoting the public health, safety and welfare, it is hereby declared to be the policy of the state:

(1) Subject to existing rights all waters of the state which serve a beneficial public purpose are public waters subject to the control of the state. The public character of water shall not be determined exclusively by the proprietorship of the underlying, overlying, or surrounding land or on whether it is a body or stream of water which was navigable in fact or susceptible of being used as a highway for commerce at the time this state was admitted to the union. This section is not intended to affect determination of the ownership of the beds of lakes or streams.

(2) The state, to the extent provided by law from time to time, shall control the appropriation and use of surface and underground waters of the state.

(3) The state shall control and supervise, so far as practicable, any activity which changes or which will change the course, current, or cross-section of public waters, including but not limited to the construction, reconstruction, repair, removal, abandonment, the making of any other change, or the transfer of ownership of dams, reservoirs, control structures, and waterway obstructions in any of the public waters of the state.

[1973 c 315 s 4; 1973 c 344 s 2]

105.39 Authority and power of commissioner

[For text of subds. 1 to 5, see M.S.1971]

Subd. 6. **Statewide water information system.** The commissioner in cooperation with other state agencies, including the Minnesota geologic survey, shall establish and maintain a statewide system to gather, process, and disseminate information on the availability, distribution, quality, and use of waters of the state. Each local, regional, and state governmental unit, its officers and employees shall cooperate with the commissioner in accomplishing the purpose of this subdivision.

[1973 c 315 s 5]

105.405 Water supply management

Subdivision 1. The commissioner shall develop and manage water resources to assure a supply adequate to meet long range seasonal requirements for domestic, municipal, industrial, agricultural, fish and wildlife, recreation-

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al, power, navigation, and quality control purposes from surface or ground water sources, or from a combination of these.

Subd. 2. No permit authorized by sections 105.37 to 105.55 nor any plan for which the commissioner's approval is required or permitted, involving a diversion of any waters of the state, surface or underground, to a place outside of this state shall be granted or approved until after a determination by the commissioner that the water remaining in this state will be adequate to meet the state's water resources needs during the specified life of the diversion project.

[1973 c 412 s 11]

105.41 Appropriation and use of waters

Subdivision 1. It shall be unlawful for the state, any person, partnership, or association, private or public corporation, county, municipality, or other political subdivision of the state to appropriate or use any waters of the state, surface or underground, without the written permit of the commissioner, previously obtained upon written application therefor to the commissioner. The commissioner may give such permit subject to such conditions as he may find advisable or necessary in the public interest. Nothing in this section shall be construed to apply to the use of water for domestic purposes serving less than 25 persons.

Subd. 2. It shall be unlawful for the owner of any installation for appropriating or using surface or underground water to increase the pumping capacity or make any major modification in such installation without the written permit of the commissioner previously obtained upon written application therefor to the commissioner.

The owner or person in charge of every installation for appropriating or using surface or underground water, whether or not under permit, shall file with the commissioner at such time as the commissioner determines necessary to the statewide water information system, a statement of the location thereof, its capacity, the purpose or purposes for which it is used, and such additional information that the commissioner may require, on forms provided by the commissioner.

Subd. 3. The commissioner may examine any installation which appropriates or uses surface or underground water, and the owner of such installation shall supply such information concerning such installation as the commissioner may require.

Subd. 4. It shall be unlawful for the state, any person, partnership, or association, private or public corporation, county, municipality, or other political subdivision of the state to appropriate or use any waters of the state, surface or underground, without measuring and keeping a record of the quantity of water used or appropriated as herein provided. Each installation for appropriating or using water shall be equipped with a device or employ a method to measure the quantity of water appropriated with reasonable accuracy. The commissioner's determination of the method to be used for measuring water quantity shall be based upon the quantity of water appropriated or used, the source of water, the method of appropriating or using water, and any other facts supplied to the commissioner.

Subd. 5. Records of the amount of water appropriated or used shall be recorded for each such installation and such readings and the total amount of water appropriated shall be reported annually to the commissioner of natural resources on or before February 15 of the following year upon forms to be supplied by the commissioner.

For the purpose of improving the state's water use data collection and dissemination system, there is established an annual water appropriation processing fee of \$5 for each water appropriation permit in force at any time during the year. The fee is payable regardless of the amount of water appropriated during the year. The fee shall be paid at the time of making the annual

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report required by this section. Failure to pay the fee is sufficient cause for revoking a permit. No fee may be imposed on any state agency, as defined in section 16.011, or federal governmental agency holding a water appropriation permit.

[1973 c 211 s 2; 1973 c 315 s 6]

105.42 Permits; work in public waters

Subdivision 1. It shall be unlawful for the state, any person, partnership, association, private or public corporation, county, municipality or other political subdivision of the state, to construct, reconstruct, remove, abandon, transfer ownership, or make any change in any reservoir, dam or waterway obstruction on any public water; or in any manner, to change or diminish the course, current or cross-section of any public waters, wholly or partly within the state, by any means, including but not limited to, filling, excavating, or placing of any materials in or on the beds of public waters, without a written permit from the commissioner previously obtained. Application for such permit shall be in writing to the commissioner on forms prescribed by him.

This section does not apply to any public drainage system lawfully established under the provisions of chapter 106 which does not substantially affect any natural watercourse or any lake basin which serves a beneficial public purpose.

The commissioner, subject to the approval of the county board, shall have power to grant permits under such terms and conditions as he shall prescribe, to establish, construct, maintain and control wharfs, docks, piers, levees, breakwaters, basins, canals and hangars in or adjacent to public waters of the state except within the corporate limits of cities or villages.

Subd. 2. Nothing in this section shall prevent the owner of any dam, reservoir, control structure, or waterway obstruction from instituting repairs which are immediately necessary in case of emergency. However, the owner shall notify the commissioner at once of the emergency and of the emergency repairs being instituted and, as soon as practicable, shall apply for a permit for the emergency repairs and any necessary permanent repairs. Nothing in this section shall apply to routine maintenance, not affecting the safety of the structures.

In case of an emergency where the commissioner declares that repairs or remedial action is immediately necessary to safeguard life and property, the repairs shall be started immediately by the owner.

Subd. 3. The owner of any dam, reservoir, control structure, or waterway obstruction constructed before a permit was required by law shall maintain and operate all such dams, reservoirs, control structures, and waterway obstructions in a manner approved by the commissioner and in accordance with any rules and regulations promulgated by the commissioner in the manner prescribed by Chapter 15.

[1973 c 315 s 7; 1973 c 344 s 3]

105.43 Application for establishment of lake levels

Application for authority to establish and maintain levels on any public water and applications to establish the natural ordinary high water level of any body of public water may be made to the commissioner by any public body or authority or by a majority of the riparian owners thereon; or, for the purpose of conserving or utilizing the water resources of the state, the commissioner may initiate proceedings therefor.

[1973 c 315 s 8]

105.44 Procedure upon application

Subdivision 1. **Permit.** Each application for a permit required by sections 105.37 to 105.55 shall be accompanied by maps, plans, and specifications describing the proposed appropriation and use of waters, or the changes, addi-

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tions, repairs or abandonment proposed to be made, or the public water affected, and such other data as the commissioner may require. This data may include but not be limited to a statement of the effect the actions proposed in the permit application will have on the environment, such as: (a) changes in water and related land resources which are anticipated; (b) unavoidable but anticipated detrimental effects; (c) alternatives to the actions proposed in the permit. If the proposed activity, for which the permit is requested, is within a city, village, town, or borough, or is within or affects a watershed district, a copy of the application together with maps, plans and specifications shall be served on the secretary of the board of managers of the district and on the chief executive officer of the city, village, town, or borough. Proof of such service shall be included with the application and filed with the commissioner.

[1973 c 315 s 9]

[For text of subd. 2, see M.S.1971]

Subd. 3. Waiver of hearing. The commissioner in his discretion may waive hearing on any application and make his order granting or refusing such application. In such case, if any application be granted, with or without conditions, or be refused, the applicant, the managers of the watershed district, or the chief executive officer of the city, village, town, or borough may within 30 days after mailed notice thereof file with the commissioner a demand for hearing on the application. The application shall thereupon be fully heard on notice as hereinafter provided, and determined the same as though no previous order had been made. If no demand for hearing be made, the order shall become final at the expiration of 30 days after mailed notice thereof to the applicant, managers of the watershed district, or the chief executive officer of the city, village, town, or borough and no appeal of the order may be taken to the district court.

[1973 c 315 s 10]

[For text of subd. 4, see M.S. 1971]

Subd. 5. Notice. The notice of hearing on any application shall recite the date, place and time fixed by the commissioner for the public hearing thereon and shall show the waters affected, the levels sought to be established or any control structures proposed. The notice shall be published by the commissioner at the expense of the applicant or, if the proceeding is initiated by the commissioner in the absence of an applicant, at the expense of the commissioner, once each week for two successive weeks prior to the day of hearing in a legal newspaper published in the county in which a part or all of the affected waters are located. Notice shall also be mailed by the commissioner to the county auditor and the chief executive official of any municipality or watershed district affected.

[1973 c 315 s 11]

Subd. 6. Hearing. The hearings shall be public and shall be conducted by the commissioner or a referee appointed by him. All affected persons shall have an opportunity to be heard. All testimony shall be taken under oath and the right of cross-examination shall be accorded. The commissioner shall provide a stenographer to take testimony and a record of the testimony and all proceedings at the hearing shall be taken and preserved. The commissioner shall not be bound by judicial rules of evidence or of pleading and procedure. Except where a public hearing is demanded by a public authority which is not the applicant, the applicant shall pay the following: (1) Costs of the stenographic record and transcript, (2) Rental expenses, if any, of the place of hearing, (3) Costs of publication of orders made by the commissioner.

Where the public hearing is demanded by a public authority which is not the applicant, the public authority making the demand shall pay the costs and expenses listed above. An applicant filing a demand for a public hearing shall execute and file a corporate surety bond or equivalent security to the state of Minnesota, to be approved by the commissioner, and in an amount

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and form fixed by the commissioner. The bond or security shall be conditioned for the payment of all costs and expenses of the public hearing if the commissioner's action taken pursuant to subdivision 2 is affirmed without modification. No bond or security is required of a public authority which demands a public hearing. The commissioner, in his discretion, may waive the requirement for a bond or other security.

[1973 c 315 s 12]

[For text of subs. 7 to 9, see M.S.1971]

Subd. 10. Permit fees. Each application for a permit authorized by sections 105.37 to 105.64, shall be accompanied by a permit application fee in the amount of \$15 to defray the costs of receiving, recording, and processing the application.

The commissioner may charge an additional field inspection fee of not less than \$25 for each permit applied for under sections 105.37 to 105.64. The commissioner shall establish pursuant to rules and regulations adopted in the manner provided by chapter 15, a schedule for field inspection fees which shall include actual costs related to field inspection such as investigations of the area affected by the proposed activity, analysis of the proposed activity, consultant services, and subsequent monitoring, if any, of the activity authorized by the permit.

Except as provided below, the commissioner may not issue a permit until all fees required by this section relating to the issuance of a permit have been paid. The time limits prescribed by section 105.44, subdivision 4, do not apply to an application for which the appropriate fee has not been paid. Field inspection fees relating to monitoring of an activity authorized by a permit may be charged and collected as necessary at any time after the issuance of the permit. No permit application or field inspection fee may be refunded for any reason, even if the application is denied or withdrawn. No permit application or field inspection fee may be imposed on any state agency, as defined in section 16.011, or federal governmental agency applying for a permit.

[1973 c 211 s 3]

105.45 Permits and orders of commissioner; notice

The commissioner shall make findings of fact upon all issues necessary for determination of the applications heard by him. All orders made by the commissioner shall be based upon findings of fact made on substantial evidence. He may cause investigations to be made, and in such event the facts disclosed thereby shall be put in evidence at the hearing or any adjournment thereof.

If the commissioner concludes that the plans of the applicant are reasonable, practical, and will adequately protect public safety and promote the public welfare, he shall grant the permit, and, if that be in issue, fix the control levels of public waters accordingly. In all other cases the commissioner shall reject the application or he may require such modification of the plan as he deems proper to protect the public interest. In all permit applications the applicant has the burden of proving that the proposed project is reasonable, practical, and will adequately protect public safety and promote the public welfare.

In granting a permit the commissioner may include therein such terms and reservations with respect to the amount and manner of such use or appropriation or method of construction or operation of controls as appears reasonably necessary for the safety and welfare of the people of the state.

Notice of all orders made after hearing shall be given by publication of the order once each week for two successive weeks in a legal newspaper in the county where the hearing was held, and by mailing copies of the order to all parties who entered an appearance at such hearing.

The commissioner shall make his order pursuant to hearing within 60 days after the completion of the hearing.

[1973 c 315 s 13]

105.461 Orders to restore

As a part of any order granting or denying a permit, whether or not a hearing has been held, the commissioner may order the applicant to take any action necessary to restore the public waters or beds thereof to the condition existing before unlawful activities, if any, were undertaken by the applicant. This restoration may include, but not be limited to, filling beds unlawfully dredged, removing fill unlawfully placed, or restoring water unlawfully appropriated.

[1973 c 315 s 14]

105.462 Investigations; orders without a permit application

When the commissioner determines that the public interest so requires, he may investigate on his own motion any activities being conducted in relation to public waters without a permit as required by sections 105.37 to 105.55. With or without a public hearing the commissioner may make findings and issue orders as otherwise may be issued pursuant to sections 105.37 to 105.55. A copy of his findings and order shall be served upon the person to whom the order is issued.

[1973 c 315 s 15]

105.463 Contractor's responsibility

It is unlawful for any agent, servant, or employee of another to undertake work for which a permit is required pursuant to section 98.48, subdivision 9, chapter 105, or section 106.021, unless a copy of the permit authorizing such work is posted on or near the premises upon which such work is conducted. The violation of this section constitutes a separate and independent offense from any other provided by sections 105.37 to 105.55.

[1973 c 315 s 16]

105.47 Appeals

Except where otherwise prohibited, any party in interest may appeal from any determination of the commissioner to the district court of the county in which the project is wholly or partly located, at any time within 30 days after notice of the commissioner's order. Notice by publication shall be sufficient.

The appellant shall serve the notice of appeal on the commissioner and on the attorney for any adverse party who appears of record in the proceeding. The notice of appeal with proof of service thereof shall be filed with the clerk of the court to which such appeal is taken within five days after the service thereof; thereupon the district court shall have jurisdiction over the appeal. The notice of appeal shall set forth the order appealed from and the grounds upon which the appeal is taken.

When an appeal is taken from any order of the commissioner under the provisions of sections 105.37 to 105.55, the commissioner shall forthwith cause to be made a certified transcript of all proceedings had and of all pleadings, exhibits and files and all testimony taken or offered before him upon which said order is based, and shall file the same with the clerk of the district court where the appeal is pending.

Upon such appeal being perfected, it may be brought on for trial as other civil actions, and shall then be tried by the court without a jury, and determined upon the record. At such trial the findings of fact made by the commissioner shall be prima facie evidence of the matters therein stated, and his orders shall be deemed prima facie reasonable. If the court shall determine that the order appealed from is lawful and reasonable, it shall be affirmed. If the court finds that the order appealed from is unjust, unreasonable, or not supported by the evidence, it shall make such order to take the place of the order appealed from as is justified by the record before it.

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Any person aggrieved may appeal to the supreme court from the judgment of the district court made therein as in a civil action, except that the appeal must be taken within 30 days from date of the entry of such judgment.

The pendency of any such appeal shall not stay the operation of the order of the commissioner, but the district court or the supreme court in their discretion may suspend the operation of the commissioner's order pending a determination of the appeal; provided the appellant shall file an appropriate bond approved by the court conditioned that he shall answer for all damages caused by the delay in the enforcement of the commissioner's order.

[1973 c 315 s 17]

105.475 Stream maintenance program

Subdivision 1. Findings. In recognition of recurrent problems created by debris and rubble accumulation in streams in Minnesota, the legislature finds that the removal of debris and rubble for the purpose of cleaning up stream beds and floodplains of streams is of benefit to the public health, safety, and welfare.

Subd. 2. Establishment; commissioner's duties. In furtherance of the finding set forth in subdivision 1, the commissioner of natural resources shall establish and supervise a stream maintenance program which shall include grants in aid to participating counties. Money granted by the commissioner shall be apportioned according to the relative severity of the maintenance problem, the date of application for the grant, and the availability of funds. In no case may the amount granted to a county by the commissioner exceed 75 percent of the total cost of a stream maintenance project. The stream maintenance work shall be performed by the county or under county supervision. The commissioner may grant money for the following work: Cutting and removal of brush and dead or down trees, and removal of large rocks and other debris such as concrete, asphalt, or scrap material. No money may be granted for excavation or filling or for work performed before an application is filed.

Subd. 3. Application. A county desiring to participate in the stream maintenance program shall complete and submit to the commissioner an application for the proposed work on forms provided by the commissioner. Unless waived by the commissioner, the county shall submit the following information with its application:

(a) A map of the county showing the stream for which maintenance is desired, and the specific reaches of the stream to be maintained;

(b) Photographs showing the nature and extent of the maintenance problem;

(c) A resolution by the county board of commissioners requesting participation in the program and agreeing to provide at least 25 percent of the cost of the maintenance project.

Subd. 4. Contract. Upon approving a stream maintenance project, the commissioner shall contract with the county for performance of work necessary to the stream maintenance project. The contract may provide that the county share of the cost of the project may be paid in the form of services provided by the county.

Subd. 5. County matching funds. Any county may appropriate from its general revenue fund sufficient funds to match the grants in aid authorized in this section.

[1973 c 434 s 1]

105.482 Dams; repair, reconstruction; grants

Subdivision 1. Purpose. The public health, safety, and welfare is promoted by the orderly repair and restoration of dams serving the public interest.

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In furtherance of this objective, it is the purpose of this section to facilitate the repair and restoration of dams owned by the state and local governmental units.

Subd. 2. Definition. For the purposes of this section, the term "local governmental unit" means a county, city, village, or borough, or two or more of these units acting jointly.

Subd. 3. Commissioner's duties. From money appropriated for the following purposes from time to time, the commissioner of natural resources may repair or reconstruct state owned dams and may grant aid to local governmental units to repair or reconstruct dams owned by local governmental units. No grant to a local governmental unit shall exceed the amount contributed to the project by the local governmental unit from funds raised locally exclusive of federal grants.

Subd. 4. Procedures. The commissioner shall repair or reconstruct a state owned dam or make a grant to a local governmental unit only after making an investigation of the dam. A local governmental unit desiring a grant for the repair or reconstruction of a dam shall apply for the grant on forms supplied by the commissioner. The commissioner shall consider all relevant factors, including but not limited to the following in determining whether to repair or reconstruct a state owned dam or to make a grant to a local governmental unit: (a) the age and type of construction of the dam; (b) the use of the dam for water supply, flood control, navigation, recreation, wildlife management, scenic, or other purpose related to public health, safety, and welfare; (c) the consequences of abandonment, removal, or alteration of the dam; (d) prospective future uses of the dam; and (e) the relative importance of the dam to the statewide water resource program. Upon his own initiative or at the request of a governmental unit applying for a grant, the commissioner may hold a public hearing on the proposed repair or reconstruction in the manner provided in section 105.44, after giving the same notice as required for such a hearing. If the hearing is held at the request of a governmental unit, the costs of publishing notice and of taking and preparing the stenographic record shall be paid by the governmental unit. To receive a grant the local governmental unit shall enter into an agreement with the commissioner giving assurance that the governmental unit will operate and maintain the dam in a safe condition for the benefit of the public and shall agree to such other conditions as the commissioner deems reasonable.

Subd. 5. Limitations. If the cost of repair or reconstruction of a state owned dam or a grant to a local governmental unit is less than \$25,000, the commissioner may direct that the state owned dam be repaired or reconstructed or that a grant be made to repair or reconstruct a dam owned by a local governmental unit without the approval of the state executive council. If the cost of repair or reconstruction of a state owned dam, or a grant to a local governmental unit is \$25,000 or more but less than \$50,000, the expenditure shall be made only with the approval of the state executive council. If the cost of repair or reconstruction of a state owned dam or a grant to a local governmental unit is \$50,000 or more, the commissioner may recommend the project to the legislature for its consideration and action, except in the following emergency situations. With the approval of the executive council, the commissioner may direct that a state owned dam be repaired or reconstructed or a grant be made to a local governmental unit where he determines that an emergency condition exists and that there is danger that life will be lost or that substantial property losses will be suffered if such action is not promptly taken.

Subd. 6. Commissioner's order to repair or reconstruct a dam. If for any reason a local governmental unit fails to repair or remove a dam when ordered to do so by the commissioner pursuant to section 105.52, the commissioner may repair or remove the dam. In so doing the commissioner shall proceed as follows. After a hearing as provided in section 105.44, on the

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failure of the local governmental unit to repair or remove the dam, the commissioner shall make findings relating to the matter, specifying the failure of the local governmental unit to act, and shall by order assume and possess the powers of the legislative authority of the local governmental unit in regard to the repair or removal of dams. Thereafter the commissioner has the same powers, insofar as applicable to the repair or removal of dams, as the commissioner of administration and pollution control agency have in the construction, installation, maintenance, or operation of a municipal disposal system, or part thereof, or issuing bonds and levying taxes therefor, pursuant to section 115.48.

[1973 c 344 s 4]

105.485 Regulation of Shoreland development

[For text of subd. 1, see M.S.1971]

Subd. 2. Definitions. For the purposes of this section the terms defined in this section have the meanings given them: (a) "Shoreland" means land located within the following distances from the ordinary high water elevation of public waters: (1) Land within 1,000 feet from the normal high watermark of a lake, pond, or flowage; and (2) land within 300 feet of a river or stream or the landward side of flood plain delineated by ordinance on such a river or stream, whichever is greater. (b) "Unincorporated area" means the area outside a city, village, or borough. (c) "Municipality" means a city, village, or borough.

[1973 c 379 s 1]

Subd. 3. Commissioner's duties. Before April 1, 1974, the commissioner of natural resources shall promulgate, in the manner provided in chapter 15, model standards and criteria, other than a model ordinance, for the subdivision, use, and development of shoreland in municipalities, which standards and criteria shall include but not be limited to those listed below in regard to unincorporated areas. Before July 1, 1970, the commissioner of natural resources shall promulgate, in the manner provided in chapter 15, model standards and criteria for the subdivision, use, and development of shoreland in unincorporated areas, including but not limited to the following: (a) The area of a lot and length of water frontage suitable for a building site; (b) the placement of structures in relation to shorelines and roads; (c) the placement and construction of sanitary and waste disposal facilities; (d) designation of types of land uses; (e) changes in bottom contours of adjacent public waters; (f) preservation of natural shorelands through the restriction of land uses; (g) variances from the minimum standards and criteria; and (h) a model ordinance. The following agencies shall provide such information and advice as may be necessary to the preparation of the rules and regulations, or amendments thereto: The state departments of agriculture, economic development, and health; the state planning agency; the pollution control agency; the state soil and water conservation commission; and the Minnesota historical society. In addition to other requirements of chapter 15, the model standards and ordinance promulgated pursuant to this section, or amendments thereto, shall not be filed with the secretary of state unless approved by the executive officer of the state board of health and the director of the pollution control agency.

[1973 c 379 s 2]

[For text of subds. 4 and 5, see M.S.1971]

Subd. 6. Municipal shoreland management. Before April 1, 1974, each municipality having shoreland within its corporate limits shall submit to the commissioner, for his review, any ordinances, rules, or regulations affecting the use and development of its shorelands. The commissioner shall review the ordinances, rules, or regulations and determine whether they are in substantial compliance with municipal shoreland management standards and criteria promulgated pursuant to subdivision 3. In making his review the commissioner also shall consider any feature unique to the municipal shoreland

in question, including but not limited to the characteristics of the waters which may be affected by development, storm sewer facilities, and sanitary and waste disposal facilities in existence at the time of the commissioner's review. If the commissioner determines that the ordinances, rules, or regulations of a municipality do not substantially comply with the state standards and criteria for municipal shoreland management, he shall so notify the municipality and shall indicate to the municipality the changes which are necessary to bring the ordinances, rules, or regulations into substantial compliance with state standards and criteria. Within one year after receiving this notice from the commissioner, the municipality shall make the changes necessary to bring the ordinances, rules, or regulations into substantial compliance with state standards and criteria. If a municipality has no ordinance, rule, or regulation affecting the use and development of shoreland on April 1, 1974, it shall adopt such an ordinance, rule, or regulation complying with state standards and criteria for municipal shoreland management, before July 1, 1975. If (a) a municipality has no ordinance, rule, or regulation affecting the use and development of shoreland on April 1, 1974, and fails to adopt such an ordinance by July 1, 1975, or if (b) the corporate boundaries of the municipality are expanded to include shorelands not previously included within the municipal boundaries and the municipality fails to adopt such an ordinance within one year after including the shorelands within its municipal boundaries, or if (c) the commissioner determines that a municipal shoreland management ordinance does not substantially comply with the state standards and criteria for municipal shoreland management and that the municipality has failed to make the necessary changes within one year after receiving notice of noncompliance, the commissioner may adopt an ordinance, rules, or regulations for the municipality in the following manner. The commissioner shall hold at least one public hearing on the proposed ordinance, rules, or regulations in the manner provided in section 462.357, after giving notice as provided in section 462.357. The ordinance, rules, or regulations are effective for the municipality on the date and in accordance with such regulations relating to compliance as the commissioner shall prescribe. The ordinance shall be enforced as provided in section 462.362. The penalties provided in section 462.362 apply to violations of the ordinances, rules, or regulations adopted for the municipality by the commissioner. The costs incurred by the commissioner in adopting the ordinances, rules, or regulations for the municipality shall be paid by the municipality and collected from the municipality in the same manner as such costs are paid by a county and collected from a county pursuant to subdivision 5; and any tax levied to pay the costs shall be levied in excess of any limitation as to rate or amount, but shall not cause the amount of other taxes which are subject to any limitation to be reduced in any amount whatsoever.

Subd. 7. Municipal use of land other than shoreland. Municipal planning and land use controls for land other than shoreland in the vicinity of shoreland shall be, to the maximum extent practical, compatible with planning and land use controls for shoreland adopted pursuant to subdivision 6.

[1973 c 379 s 3]

Subd. 8. Extent of authority of municipality. Nothing in Laws 1973, Chapter 379 shall be construed to prohibit a municipality from adopting and enforcing ordinances, rules, or regulations affecting the use and development of shoreland which are more restrictive than the state standards and criteria.

[1973 c 379 s 5]

105.51 Wells; control, reports by drillers

Subdivision 1. For the conservation of the underground water supplies of the state, the commissioner is authorized to require the owners of wells, especially flowing artesian wells, to prevent waste.

[1973 c 315 s 18]

[For text of subs. 2 and 3, see M.S.1971]

105.52 DIVISION OF WATERS, SOIL AND MINERALS

105.52 Examination and repair of dams and reservoirs

Upon complaint or upon his own initiative, the commissioner is authorized to examine any reservoir, dam, control structure, or waterway obstruction. If the commissioner determines that additional engineering investigations are necessary in order to determine the safety of the dam, reservoir, control structure, or waterway obstruction and the nature and extent of the necessary repairs or alterations, he shall notify the owner thereof to cause such investigations to be made at the owner's expense and filed with the commissioner for his use in determining the condition of the structures and the need for the repair, alteration or removal thereof. If the commissioner determines that such reservoir, dam, control structure, or waterway obstruction is unsafe or needs repair or alteration, he shall notify the owner thereof to repair, alter, or remove the same as the exigencies of the case may require, and shall issue an order to that effect in the same manner and subject to the same conditions as if the owner had made application for permit for the said repairs, alterations, or removal. The engineering investigations or the work of repair, alteration, or removal shall be commenced and completed within such reasonable time as may be prescribed by the commissioner.

[1973 c 344 s 5]

105.54 [Repealed, 1973 c 315 s 20]

105.541 Penalties

Whoever does any of the following is guilty of a misdemeanor:

(1) Undertakes or procures another to undertake an alteration in the course, current, or cross-section of public waters or appropriates waters of the state without a permit from the commissioner previously obtained regardless of whether the commissioner would have granted a permit had an application been filed;

(2) Undertakes or procures another to undertake an alteration in the course, current, or cross-section of public waters or appropriates waters of the state in violation or in excess of authority granted pursuant to a permit duly issued by the commissioner, regardless of whether an application had been filed for permission to perform the act involved, or whether the act involved would have been permitted had a proper application been filed;

(3) Undertakes or procures another to undertake an alteration in the course, current, or cross-section of public waters or appropriates waters of the state after a permit to undertake such project has been denied by the commissioner;

(4) Violates any other provision of chapter 105.

[1973 c 315 s 19]

CHAPTER 106. DRAINAGE

Sec.		Sec.	
106.021	Powers of county boards and of district courts.	106.121	Engineer's survey.
106.081	Preliminary survey and report.	106.131	Authority of commissioner; commissioner's report.
106.091	Filing engineer's report; authority of director.	106.201	Order establishing.
106.101	Preliminary hearing.	106.221	Contract and bond.
		106.631	Appeals.

106.021 Powers of county boards and of district courts

Subdivision 1. Generally. The county boards of the several counties, and the district courts are authorized to make all necessary orders for and cause to be constructed and maintained public drainage systems; to deepen, widen, straighten, or change the channel or bed of any waterway following the general direction thereof, and when practical, terminating therein; to extend the same into or through any municipality for the purpose of securing a suit-