

CHAPTER 105

DIVISION OF WATERS, SOILS AND MINERALS

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105.401 WATER PLANNING BOARD.

Subdivision 1. **Membership, officers, staff.** There is created in the executive branch of the state government a water planning board. The members of the board are: (1) the commissioner of natural resources; (2) the commissioner of health; (3) the director of the pollution control agency; (4) the commissioner of agriculture; (5) the chairman of the state soil and water conservation board, or their designees; and (6) three citizen members with experience in and knowledge of water management issues appointed by the governor. The citizen members shall not be considered public officers of the state for the purposes of section 112.37, subdivision 1. The governor shall appoint the chairperson of the board to serve at the pleasure of the governor for a four year term coterminous with the term of the governor. The chairperson shall not be a representative of the state agencies listed, but shall be the ninth member of the board and also shall represent the governor on the federal-state river basin commissions. The membership term and compensation of the citizen members shall be as provided by section 15.0575. The board shall supersede and replace the Minnesota water resources council created by executive order of the governor.

The board shall keep a record of its official actions, and may perform such acts, hold such public hearings, and promulgate such rules and regulations as may be necessary for the discharge of its duties and the exercise of its functions.

[For text of subd 2, see M.S.1982]

History: 1983 c 305 s 14

105.405 WATER SUPPLY MANAGEMENT.

[For text of subd 1, see M.S.1982]

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 and after approval by the legislature.

History: 1983 c 301 s 107

105.41 APPROPRIATION AND USE OF WATERS.

[For text of subds 1 to 4, see M.S.1982]

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.

The records shall be submitted with an annual water appropriation processing fee in the amount established in accordance with the following schedule of fees for each water appropriation permit in force at any time during the year: (a) irrigation permits, \$10 for each permitted 40 acres or portion thereof; (b) for nonirrigation permits, \$5 for each ten million gallons or portion thereof permitted each year, but not to exceed a total fee of \$250 per permit. The fee is payable regardless of the amount of water appropriated during the year. 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.

[For text of subd 6, see M.S.1982]

History: 1983 c 301 s 108

105.44 PROCEDURE UPON APPLICATION.

[For text of subds 1 to 9, see M.S.1982]

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 \$30 to defray the costs of receiving, recording, and processing the application. The commissioner may charge an additional permit application fee in excess of the fee specified above, in accordance with a schedule of fees adopted by rules promulgated in the manner provided by section 16A.128, which fee schedule shall be based upon the project's costs and the complexity of the permit applied for.

For projects requiring a mandatory environmental assessment pursuant to chapter 116D 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 adopted in the manner provided by section 16A.128, 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 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.

History: 1983 c 301 s 109

105.462 INVESTIGATIONS; ORDERS WITHOUT A PERMIT APPLICATION.

When the commissioner determines that the public interest requires it, 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. If the commissioner issues his findings and order without a hearing, the person to whom the order is issued may file with the commissioner a demand for a hearing, together with the bond required by section 105.44, subdivision 6, within 30 days after being served with a copy of the commissioner's order. The matter shall be heard in the same manner and pursuant to the same laws as an application is heard following a demand made under section 105.44, subdivision 3, insofar as applicable. If no demand for hearing is made by the person to whom the order is issued under this section, or if that person demands a hearing but fails to file the required bond, the commissioner's order becomes final at the expiration of 30 days after the person is served with the order and no appeal of the order may be taken.

History: 1983 c 247 s 43

105.71 WATER RESOURCES BOARD.

[For text of subds 1 and 1a, see M.S.1982]

Subd. 2. The state board may employ such technical and professional personnel and such other agents and employees, permanent or temporary, as it may require, and shall determine their qualifications and duties. Compensation of employees shall be determined pursuant to chapter 43A. It shall have authority to prescribe the powers and duties of its officers and employees.

Upon request of the board for the purpose of carrying out any of its functions, the supervising officer of any state agency, or any state institution of learning, shall, insofar as it may be possible under available appropriations, and having due regard to the needs of the agency to which the request is directed, assign or detail to the state board from the staff or personnel of the agency or institution of learning, and make such special reports, surveys or studies as the state board may request.

[For text of subd 3, see M.S.1982]

History: 1983 c 299 s 19