103G.297 DIVERTING OR DRAINING WATER FOR MINING.

Subdivision 1. **Authority to issue permits.** The commissioner may issue water-use permits for the diversion, drainage, control, or use of waters of the state for mining iron ore, taconite, copper, copper-nickel, or nickel as provided in this section.

Subd. 2. **Application.** (a) An owner of the iron ore, taconite, copper, copper-nickel, or nickel deposits or the owner of the right to mine the deposits must apply to the commissioner for a permit in the form prescribed by the commissioner.

(b) Except as otherwise provided in this section, the application and the proceedings related to the application and to a permit issued are governed by the applicable provisions of this chapter.

Subd. 3. **Grant.** The permit may be granted only if the commissioner determines that:

(1) the proposed drainage, diversion, control, or use of waters will be necessary for the mining of substantial deposits of iron ore, taconite, copper, copper-nickel, or nickel, and that another feasible and economical method of mining is not reasonably available;

(2) the proposed drainage, diversion, control, or use of waters will not substantially impair the interests of the public in lands or waters or the substantial beneficial public use of lands or waters except as expressly authorized in the permit and will not endanger public health or safety; and

(3) the proposed mining operations will be in the public interest and the resulting public benefits warrant the proposed drainage, diversion, or control of waters.

Subd. 4. **Operation.** If the operations authorized by a permit may affect public or private property not owned by the permittee, before proceeding with the operations the permittee must:

(1) acquire all rights or easements necessary for the operation;

(2) pay or give security for the payment of damages to the property that may result from the operations; and

(3) give evidence of compliance with this subdivision as the commissioner may require.

Subd. 5. **Liability of state.** The state and its officers, agents, or employees do not incur liability on account of the issuance of a permit or on account of any act or omission of the permittee, or the permittee's agents or employees, under or in connection with the permit.

Subd. 6. **Permit period.** (a) Notwithstanding other limitations prescribed by law, a permit must be granted for a term the commissioner finds reasonable and necessary for the completion of the proposed mining operations, and the commissioner may prescribe a time in the permit for the commencement or completion of operations or construction under the permit or the exercise of the rights granted by the permit.

(b) The commissioner may extend the original term of the permit or the time allowed for the performance of its conditions for good cause shown upon application of the permittee.

Subd. 7. **Permit conditions.** In a permit, the commissioner may prescribe conditions the commissioner finds necessary and practicable for restoring the waters to their former condition after completion of the mining operations or after expiration or cancellation of the permit. The commissioner may also prescribe other conditions necessary to protect the public health, safety, and welfare, and may require the permittee

to furnish a bond to the state in an appropriate form and amount as security for compliance with the conditions of the permit and applicable law.

Subd. 8. **Modifying or canceling permit.** (a) A permit issued under this section is irrevocable for the term of the permit and for any extension of the term except:

(1) the permit may be modified or canceled by the commissioner at the request or with the consent of the permittee upon conditions the commissioner finds necessary to protect the public interest;

(2) subject to appeal as provided for water-use permits, the commissioner may modify or cancel a permit as provided in paragraph (b) if:

(i) the permittee or its employees or agents breach the permit's terms or conditions or violate pertinent law; or

(ii) the commissioner finds the modification or cancellation necessary to protect the public health or safety, or to protect the public interests in lands or waters against substantial injury resulting in any manner or to any extent not expressly authorized by the permit, or to prevent substantial injury to persons or property resulting in any manner or to any extent not so authorized; or

(3) the commissioner immediately suspends operations under a permit by written order to the permittee if necessary in an emergency, to protect the public health or safety or to protect public interests in lands or waters against imminent danger of substantial injury in any manner or to any extent not expressly authorized by the permit, or to protect persons or property against the danger, and may require the permittee to take any measures necessary to prevent or remedy the injury.

(b) The commissioner may modify or cancel the permit upon at least 30 days' written notice to the permittee, stating the grounds of the proposed modification or cancellation and giving the permittee an opportunity to be heard.

(c) An order under paragraph (a), clause (3), may not remain in effect for more than 30 days from the date of the order without giving the permittee at least ten days' written notice of the order and an opportunity to be heard relating to the order.

Subd. 9. **Effect on other law.** This section does not amend, supersede, or repeal any existing law, but is supplementary to it.

History: *1990 c 391 art 7 s 33*