

6115.0280 ALTERATIONS OF PUBLIC WATERS FOR MINING.

Subpart 1. **Goals.** It is the goal of the department to ensure that alterations of public waters for mining or reclamation of mining areas will minimize adverse environmental effects, preserve water resources to the maximum extent feasible and practical, and encourage the planning of future land and water utilization while at the same time promoting the orderly development of mining and the use of sound mining practices.

Subp. 2. **Scope.** Mining activities which may involve alterations of public waters include the mining of metallic minerals including but not limited to iron ore, taconite, copper, copper-nickel, nickel, cobalt, and gold; and the mining of nonmetallic minerals including but not limited to sand and gravel, stone, clay, marl, oil, gas, and coal; and the mining of peat.

Subp. 3. **Permits required for alterations of public waters.** Permits are required for any alterations of public waters to facilitate mining of iron ore, taconite, copper, copper-nickel, or nickel minerals or reclamation of mining areas provided that:

A. permits to mine are obtained when required by Minnesota Statutes, sections 93.44 to 93.51; and

B. permits for alterations in public waters shall be granted according to Minnesota Statutes, section 103G.297. Applications for permits for alterations in public waters shall include an analysis showing why underground mining without drainage, diversion, or control of public waters is not feasible or economical.

Subp. 4. **Permit required for mining of certain minerals and peat.** Permits are required for mining of nonmetallic minerals, peat, and other metallic minerals not regulated in Minnesota Statutes, section 103G.297, or reclamation of mining areas and shall be granted if the applicant provides evidence that:

A. there is no other feasible and practical location for the proposed mining activity;

B. there is no other feasible or economical method to mine except by draining, diverting, or controlling the public waters;

C. the proposed alteration of public waters is necessary and no other feasible and economical method for it is reasonably available;

D. the proposed alteration of public waters will not substantially impair the interests of the public in lands or waters or the substantial beneficial public use thereof, except as expressly authorized in the permit, and will not endanger public health or safety;

E. the proposed mining operations will be in the public interest and that the public benefits resulting from it will be sufficient to warrant the proposed alteration of public waters;

F. the activities represent the minimal impact solution with respect to watershed modifications, watercourse diversions or changes, drainage, runoff and seepage management, and avoidance of major adverse changes in the ecosystem of public waters having substantial public value;

G. whenever public watercourses must be diverted or changed to facilitate mining, the design and construction of the diversion or change shall provide for:

(1) maintenance of adequate flows and levels in order to protect instream flows and prevent downstream flooding;

(2) measures to prevent bank erosion and sedimentation in order to protect water quality; and

(3) details on the location, relocation, and utilization of the watercourse after cessation of mining;

H. whenever public waterbasins and public water wetlands are allowed to be drained to facilitate mining, and such drainage is justified and legally permitted, compensation for the loss of the basin is provided for by either:

(1) immediate replacement of the public waterbasins and public water wetlands with waters of equal or greater value; or

(2) submission of acceptable plans for the eventual replacement of the public waterbasins and public water wetlands with waters of equal or greater value upon cessation of mining activities; and

I. whenever a water impoundment is necessary and justified to facilitate mining, the design, construction, operation, and maintenance of the impoundment structure shall:

(1) meet the applicable requirements of parts 6115.0300 to 6115.0520 pertaining to dam safety;

(2) provide hydrologic and hydraulic measures to ensure that any public waters downstream of the impoundment area are adequately protected with respect to maintenance of water quantity and quality and prevention of flooding; and

(3) include plans detailing the disposition and utilization of the impoundment area after cessation of mining activities.

Subp. 5. **Compensatory measures for detrimental aspects of mining.** Whenever metallic, nonmetallic, and peat mining activities in the beds of public waters will result in detrimental effects on the physical and biological character of public waters, measures to compensate for the detrimental aspects shall be required in the permit conditions.

Statutory Authority: *MS s 103G.315; 105.415*

History: *8 SR 533; 25 SR 143; 27 SR 529*

Published Electronically: *June 11, 2008*