Laws of Minnesota 2015 Special Session Chapter 4

Sec. 137. FEDERAL CLEAN WATER ACT SECTION 404 PERMIT PROGRAM FEASIBILITY STUDY.

(a) The Board of Water and Soil Resources and the commissioner of natural resources shall study the feasibility of the state assuming administration of the section 404 permit program of the federal Clean Water Act. The United States Army Corps of Engineers, St. Paul District; and the United States Environmental Protection Agency shall be consulted with during the development of the study. The study shall identify:

(1) the federal requirements for state assumption of the 404 program;

(2) the potential extent of assumption, including those waters that would remain under the jurisdiction of the United States Army Corps of Engineers due to the prohibition of 404 assumption in certain waters as defined in section 404(g)(1) of the federal Clean Water Act;

(3) differences in waters regulated under Minnesota laws compared to waters of the United States, including complications and potential solutions to address the current uncertainties relating to determining waters of the United States;

(4) measures to ensure the protection of aquatic resources consistent with the Clean Water Act, Wetland Conservation Act, and the public waters program administered by the Department of Natural Resources;

(5) changes to existing state law, including changes to current implementation structure and processes, that would need to occur to allow for state assumption of the 404 program;

(6) new agency responsibilities for implementing federal requirements and procedures that would become the obligation of the state under assumption, including the staff and resources needed for implementation;

(7) the estimated costs and savings that would accrue to affected units of government;

(8) the effect on application review and approval processes and time frames;

(9) alternatives to assumption that would also achieve the goals of regulatory simplification, efficiency, and reduced permitting times;

(10) options for financing any additional costs of implementation; and

(11) other information as determined by the board and commissioner.

(b) The board and commissioner shall involve stakeholders in the development of the plan of study consistent with Minnesota Statutes, section 103B.101, subdivision 16 (*see Sec. 73, below)*.

(c) By January 15, 2017, the board and commissioner must report the study to the legislative policy and finance committees and divisions with jurisdiction over environment and natural resources.