

455B.265 Permits for diversion, storage, and withdrawal — fees authorized.

1. In its consideration of applications for permits, the department shall give priority in processing to persons in the order that the applications are received, except where the application of this processing priority system prevents the prompt approval of routine applications or where the public health, safety, or welfare will be threatened by delay. If the department determines after investigation that the diversion, storage, or withdrawal is consistent with the principles and policies of beneficial use and ensuring conservation, the department shall grant a permit. An application for a permit shall be approved or denied within ninety days from the date that the department receives the complete application. A renewal permit shall be approved or denied by the department within thirty days from the date that the department receives a complete application for renewal. If the applicant requests an extension of the time allotted, the department may approve the request to allow the applicant more time to submit additional information to resolve a contested or complex application. Regardless of the request in the application, and subject to appeal, the director or the department may determine the duration and frequency of withdrawal and the quantity of water to be diverted, stored, or withdrawn pursuant to the permit. Each permit granted after July 1, 1986, shall include conditions requiring routine conservation practices, and requiring implementation of emergency conservation measures after notification by the department.

2. If an application is received by July 1, 1986, the department shall grant a permit for the continuation of a beneficial use of water that was a nonregulated use prior to July 1, 1985, and now requires a permit pursuant to section 455B.268. However, the permit is subject to conditions requiring routine and emergency conservation measures and to modification or cancellation under section 455B.271. Applications received after July 1, 1986 for those uses shall be determined pursuant to subsection 1.

3. Permits shall be granted for a period of ten years; however, permits for withdrawal of water may be granted for less than ten years if geological data on the capacity of the aquifer and the rate of its recharge are indeterminate, and permits for the storage of water may be granted for the life of the structure unless revoked by the department. A permit granted shall remain as an appurtenance of the land described in the permit through the date specified in the permit and any extension of the permit or until an earlier date when the permit or its extension is canceled under section 455B.271. Upon application for a permit prior to the termination date specified in the permit, a permit may be renewed by the department for a period of ten years.

4. Permits for aquifer storage and recovery shall be granted for a period of twenty years or the life of the project, whichever is less, unless revoked by the department. The department shall adopt rules pursuant to chapter 17A relating to information an applicant for a permit shall submit to the department. At a minimum, the information shall include engineering, investigation, and evaluation information requisite to assure protection of the groundwater resource, and assurances that an aquifer storage and recovery site shall not unreasonably restrict other uses of the aquifer. Upon application and prior to the termination date specified in the original permit or a subsequent renewal permit, a renewal permit may be issued by the department for an additional period of twenty years. The department shall not authorize withdrawals of treated water from an aquifer storage and recovery site by anyone other than the permittee during the period of the original permit and each subsequent renewal permit. Treated water injected into an aquifer covered by a permit issued pursuant to this subsection is the property of the permittee.

5. Prior to the issuance of a new permit or modification of a permit under this section to a community public water supply, the department shall publish a notice of recommendation to grant a permit. The notice shall include a brief summary of the proposed permit and shall be published in a newspaper of general circulation within the county of the proposed water source as provided in section 618.3. If the newspaper of general circulation is not the newspaper of the nearest locality to the proposed water source that publishes a newspaper, the notice shall also be published in the newspaper of the nearest locality to the proposed water source that publishes a newspaper and the department may charge the applicant for the expenses associated with publishing the notice in the second newspaper.

6. The department may charge a fee to a person who has been granted a permit pursuant

to this section or is required to have a permit pursuant to section 455B.268. The commission shall adopt by rule the fee amounts.

a. The amount of a fee shall be based on the department's reasonable cost of reviewing applications, issuing permits, ensuring compliance with the terms of the permits, and resolving water interference complaints. The commission shall calculate the fees to produce total revenues of not more than five hundred thousand dollars for each fiscal year, commencing with the fiscal year beginning July 1, 2009, and ending June 30, 2010.

b. Fees collected pursuant to this subsection shall be credited to the water use permit fund created in section 455B.265A.

c. The commission shall annually review the amount of moneys generated by the fees, the balance in the water use permit fund, and the anticipated expenses for the succeeding fiscal year.

d. Fees paid pursuant to this section shall not be subject to sales or services taxes.

e. The department shall not require an applicant to pay both an annual fee and an application fee when submitting an application for a water use permit.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §455A.20; 82 Acts, ch 1199, §19, 96]

C83, §455B.265

83 Acts, ch 137, §12; 85 Acts, ch 7, §5; 86 Acts, ch 1245, §1899A, 1899B; 90 Acts, ch 1094, §1; 98 Acts, ch 1043, §3; 2005 Acts, ch 51, §1; 2008 Acts, ch 1163, §2; 2013 Acts, ch 59, §3

Referred to in §423.3, 455B.265A, 455B.271, 455B.281

[T] Subsection 1 amended