

SENATE
STATE OF MINNESOTA
EIGHTY-SEVENTH LEGISLATURE **S.F. No. 1567**

(SENATE AUTHORS: INGEBRIGTSEN, Gimse, Gazelka, Carlson and Miller)

DATE	D-PG	OFFICIAL STATUS
01/26/2012	3646	Introduction and first reading Referred to Environment and Natural Resources
02/02/2012	3683a	Comm report: To pass as amended and re-refer to Jobs and Economic Growth
02/15/2012	3809a	Comm report: To pass as amended and re-refer to Finance
03/01/2012	3993a	Comm report: To pass as amended
	4068	Second reading
03/08/2012	4248a	Special Order: Amended
	4253	Third reading Passed
03/23/2012	4797	Returned from House with amendment
	4798	Senate not concur, conference committee of 5 requested
	5141	Senate conferees Ingebrigtsen; Gazelka; Carlson; Pederson; Stumpf
03/27/2012	5157	House conferees Fabian; Hancock; McNamara; Torkelson; Dill
03/29/2012		Conference committee report Senate adopted CC report and repassed bill Third reading House adopted SCC report and repassed bill

A bill for an act

relating to environment; providing for permitting efficiency; modifying environmental review requirements; modifying requirements for water supply plans; modifying terms for certain permits; appropriating money; amending Minnesota Statutes 2010, sections 41A.10, subdivision 1; 84.027, by adding a subdivision; 103G.291, subdivisions 3, 4; 115.03, by adding a subdivision; 116.07, subdivision 4a, by adding a subdivision; 116D.04, by adding a subdivision; 116J.03, by adding subdivisions; 116J.035, by adding a subdivision; Minnesota Statutes 2011 Supplement, sections 84.027, subdivision 14a; 116.03, subdivision 2b; 116D.04, subdivision 2a; repealing Minnesota Statutes 2010, section 103G.291, subdivision 4.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

ARTICLE 1

PERMITTING

Section 1. Minnesota Statutes 2011 Supplement, section 84.027, subdivision 14a, is amended to read:

Subd. 14a. **Permitting efficiency.** (a) It is the goal of the state that environmental and resource management permits be issued or denied within 150 days of the submission of a ~~substantially completed~~ permit application. The commissioner of natural resources shall establish management systems designed to achieve the goal.

(b) The commissioner shall prepare semiannual permitting efficiency reports that include statistics on meeting the goal in paragraph (a). The reports are due February 1 and August 1 each year. For permit applications that have not met the goal, the report must state the reasons for not meeting the goal, ~~steps that will be taken to complete action on the application, and the expected timeline.~~ In stating the reasons for not meeting the goal, the commissioner shall separately identify delays caused by the responsiveness of

2.1 the proposer, lack of staff, scientific or technical disagreements, or the level of public
2.2 engagement. The report must specify the number of days from initial submission of the
2.3 application to the day of determination that the application is complete. The report for
2.4 August 1 each year must aggregate the data for the year and assess whether program
2.5 or system changes are necessary to achieve the goal. The report must be posted on the
2.6 department's Web site and submitted to the governor and the chairs and ranking minority
2.7 members of the house of representatives and senate committees having jurisdiction over
2.8 natural resources policy and finance.

2.9 (c) The commissioner shall allow electronic submission of environmental review
2.10 and permit documents to the department.

2.11 (d) Beginning July 1, 2011, within 30 business days of application for a permit
2.12 subject to paragraph (a), the commissioner of natural resources shall notify the project
2.13 proposer, in writing, of ~~whether or not the permit application is complete enough for~~
2.14 ~~processing. If the permit is incomplete, the commissioner must identify where any~~
2.15 ~~deficiencies exist and advise the applicant on how they can be remedied. A resubmittal of~~
2.16 ~~the application begins a new 30-day review period. If the commissioner fails to notify the~~
2.17 ~~project proposer of completeness within 30 business days, the application is deemed to be~~
2.18 ~~substantially complete and subject to the 150-day permitting review period in paragraph~~
2.19 ~~(a) from the date it was submitted.~~ This paragraph does not apply to an application for a
2.20 permit that is subject to a grant or loan agreement under chapter 446A.

2.21 Sec. 2. Minnesota Statutes 2010, section 84.027, is amended by adding a subdivision
2.22 to read:

2.23 Subd. 14b. Irrevocability or suspensions of permits. If, by July 1 of an
2.24 odd-numbered year, a biennial appropriation law has not been enacted for the department
2.25 to fund programs to protect the air, water, and land resources of the state, until the biennial
2.26 appropriation law is enacted, permits granted may not be terminated or suspended for the
2.27 term of the permits, nor shall they expire or not be renewed without the consent of the
2.28 permittee, except for breach or nonperformance of any condition of the permit by the
2.29 permittee that is an imminent threat to impair or destroy the environment or injure the
2.30 health, safety, or welfare of the citizens of the state.

2.31 Sec. 3. Minnesota Statutes 2010, section 103G.291, subdivision 3, is amended to read:

2.32 Subd. 3. **Water supply plans; demand reduction.** (a) Every public water supplier
2.33 serving more than 1,000 people must submit a water supply plan to the commissioner
2.34 for approval by January 1, 1996. In accordance with guidelines developed by the

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3.1 commissioner, the plan must address projected demands, adequacy of the water supply
3.2 system and planned improvements, existing and future water sources, natural resource
3.3 impacts or limitations, emergency preparedness, water conservation, supply and demand
3.4 reduction measures, and allocation priorities that are consistent with section 103G.261.
3.5 Public water suppliers must update their plan and, upon notification, submit it to the
3.6 commissioner for approval every ten years.

3.7 (b) The water supply plan in paragraph (a) is required for all communities in the
3.8 metropolitan area, as defined in section 473.121, with a municipal water supply system
3.9 and is a required element of the local comprehensive plan required under section 473.859.
3.10 Water supply plans or updates submitted after December 31, 2008, must be consistent
3.11 with the metropolitan area master water supply plan required under section 473.1565,
3.12 subdivision 1, paragraph (a), clause (2).

3.13 (c) Public water suppliers serving more than 1,000 people must ~~employ~~ encourage
3.14 water conservation by employing water use demand reduction measures, ~~including a~~
3.15 ~~conservation rate structure~~, as defined in subdivision 4, paragraph (a), ~~unless exempted~~
3.16 ~~under subdivision 4, paragraph (c)~~, before requesting approval from the commissioner
3.17 of health under section 144.383, paragraph (a), to construct a public water supply well
3.18 or requesting an increase in the authorized volume of appropriation. ~~Demand reduction~~
3.19 ~~measures must include evaluation of conservation rate structures and a public education~~
3.20 ~~program that may include a toilet and showerhead retrofit program.~~ The commissioner
3.21 of natural resources and the water supplier shall use a collaborative process to achieve
3.22 demand reduction measures as a part of a water supply plan review process.

3.23 (d) Public water suppliers serving more than 1,000 people must submit records
3.24 that indicate the number of connections and amount of use by customer category and
3.25 volume of water unaccounted for with the annual report of water use required under
3.26 section 103G.281, subdivision 3.

3.27 (e) For the purposes of this section, "public water supplier" means an entity
3.28 that owns, manages, or operates a public water supply, as defined in section 144.382,
3.29 subdivision 4.

3.30 Sec. 4. Minnesota Statutes 2010, section 103G.291, subdivision 4, is amended to read:

3.31 Subd. 4. ~~Conservation rate structure required~~ **Demand reduction measures.**

3.32 (a) For the purposes of this section, "demand reduction measures" means measures that
3.33 reduce water demand, water losses, peak water demands, and nonessential water uses.

3.34 Demand reduction measures must include a conservation rate structure, or a uniform rate
3.35 structure with a conservation program that achieves demand reduction. A "conservation

4.1 rate structure" means a rate structure that encourages conservation and may include
4.2 increasing block rates, seasonal rates, time of use rates, individualized goal rates, or excess
4.3 use rates. If a conservation rate is applied to multi-family dwellings, the rate structure
4.4 must consider each residential unit as an individual user ~~in multiple-family dwellings.~~

4.5 (b) To encourage conservation, a public water supplier serving more than 1,000
4.6 people ~~in the metropolitan area, as defined in section 473.121, subdivision 2, shall use~~
4.7 ~~a conservation rate structure by January 1, 2010. All remaining public water suppliers~~
4.8 ~~serving more than 1,000 people shall use a conservation rate structure~~ must implement
4.9 demand reduction measures by January 1, ~~2013~~ 2015.

4.10 (c) ~~A public water supplier without the proper measuring equipment to track the~~
4.11 ~~amount of water used by its users, as of July 1, 2008, is exempt from this subdivision and~~
4.12 ~~the conservation rate structure requirement under subdivision 3, paragraph (c).~~

4.13 Sec. 5. Minnesota Statutes 2010, section 115.03, is amended by adding a subdivision to
4.14 read:

4.15 Subd. 8b. **Permit duration; state disposal system permits; animal feeding**
4.16 **operations.** State disposal system permits that are issued without a national pollutant
4.17 discharge elimination system permit to animal feeding operations shall be issued for a
4.18 term of ten years.

4.19 **EFFECTIVE DATE.** This section is effective the day following final enactment.

4.20 Sec. 6. Minnesota Statutes 2011 Supplement, section 116.03, subdivision 2b, is
4.21 amended to read:

4.22 Subd. 2b. **Permitting efficiency.** (a) It is the goal of the state that environmental and
4.23 resource management permits be issued or denied within 150 days of the submission of a
4.24 ~~substantially completed~~ permit application. The commissioner of the Pollution Control
4.25 Agency shall establish management systems designed to achieve the goal.

4.26 (b) The commissioner shall prepare semiannual permitting efficiency reports that
4.27 include statistics on meeting the goal in paragraph (a). The reports are due February 1
4.28 and August 1 each year. For permit applications that have not met the goal, the report
4.29 must state the reasons for not meeting the goal, ~~steps that will be taken to complete action~~
4.30 ~~on the application, and the expected timeline.~~ In stating the reasons for not meeting the
4.31 goal, the commissioner shall separately identify delays caused by the responsiveness of
4.32 the proposer, lack of staff, scientific or technical disagreements, or the level of public
4.33 engagement. The report must specify the number of days from initial submission of the
4.34 application to the day of determination that the application is complete. The report for

5.1 August 1 each year must aggregate the data for the year and assess whether program
5.2 or system changes are necessary to achieve the goal. The report must be posted on the
5.3 agency's Web site and submitted to the governor and the chairs and ranking minority
5.4 members of the house of representatives and senate committees having jurisdiction over
5.5 environment policy and finance.

5.6 (c) The commissioner shall allow electronic submission of environmental review
5.7 and permit documents to the agency.

5.8 (d) Beginning July 1, 2011, within 30 business days of application for a permit
5.9 subject to paragraph (a), the commissioner of the Pollution Control Agency shall notify the
5.10 project proposer, in writing, of ~~whether or not the permit application is complete enough~~
5.11 ~~for processing. If the permit is incomplete, the commissioner must identify where any~~
5.12 ~~deficiencies exist and advise the applicant on how they can be remedied. A resubmittal of~~
5.13 ~~the application begins a new 30-day review period. If the commissioner fails to notify the~~
5.14 ~~project proposer of completeness within 30 business days, the application is deemed to be~~
5.15 ~~substantially complete and subject to the 150-day permitting review period in paragraph~~
5.16 ~~(a) from the date it was submitted.~~ This paragraph does not apply to an application for a
5.17 permit that is subject to a grant or loan agreement under chapter 446A.

5.18 (e) For purposes of this subdivision, "permit applicant professional" means an
5.19 individual not employed by the Pollution Control Agency, who:

5.20 (1) has a professional license issued by the state of Minnesota in the subject area
5.21 of the permit;

5.22 (2) has at least ten years of experience preparing applications for environmental
5.23 permits issued by the agency; and

5.24 (3) abides by the duty of candor in agency rules and complies with chapter 326.

5.25 (f) Upon the agency's request, applicants relying on a permit applicant professional
5.26 must participate in a meeting with the agency before submitting an application:

5.27 (1) during the preapplication meeting, the applicant must submit at least the
5.28 following:

5.29 (i) project description, including, but not limited to, scope of work, primary
5.30 emissions points, discharge outfalls, and water intake points;

5.31 (ii) location of the project, including county, municipality, and location on the site;

5.32 (iii) business schedule for project completion; and

5.33 (iv) other information related to the project requested by the agency; and

5.34 (2) during the preapplication meeting, the agency shall provide for the applicant at
5.35 least the following:

5.36 (i) an overview of the permit review program;

6.1 (ii) a determination of which specific application or applications will be necessary
6.2 to complete the project;

6.3 (iii) a statement notifying the applicant if the specific permit being sought requires a
6.4 mandatory public hearing or comment period;

6.5 (iv) a review of the timetable established in the permit review program for the
6.6 specific permit being sought; and

6.7 (v) a determination of what information must be included in the application,
6.8 including a description of any required modeling or testing.

6.9 (g) The applicant may select a permit applicant professional to undertake the
6.10 preparation and review of the permit application.

6.11 (h) A permit application submitted by a permit applicant professional shall be
6.12 deemed complete and approved. The agency shall, within 30 days of receipt of an
6.13 application, return to the applicant and submitting permit applicant professional any
6.14 application the agency deems contrary to statute or rule, specifying the deficiencies of
6.15 the application.

6.16 (i) Nothing in this section shall be construed to modify:

6.17 (1) any requirement of law that is necessary to retain federal delegation to or
6.18 assumption by the state; or

6.19 (2) the authority to implement a federal law or program.

6.20 (j) If, by July 1 of an odd-numbered year, a biennial appropriation law has not been
6.21 enacted for the agency to fund programs to protect the air, water, and land resources of
6.22 the state, until the biennial appropriation law is enacted, permits granted may not be
6.23 terminated or suspended for the term of the permits, nor shall they expire or not be
6.24 renewed without the consent of the permittee, except for breach or nonperformance of any
6.25 condition of the permit by the permittee that is an imminent threat to impair or destroy the
6.26 environment or injure the health, safety, or welfare of the citizens of the state.

6.27 Sec. 7. Minnesota Statutes 2010, section 116.07, subdivision 4a, is amended to read:

6.28 Subd. 4a. **Permits.** (a) The Pollution Control Agency may issue, continue in
6.29 effect or deny permits, under such conditions as it may prescribe for the prevention of
6.30 pollution, for the emission of air contaminants, or for the installation or operation of
6.31 any emission facility, air contaminant treatment facility, treatment facility, potential air
6.32 contaminant storage facility, or storage facility, or any part thereof, or for the sources
6.33 or emissions of noise pollution.

6.34 The Pollution Control Agency may also issue, continue in effect or deny permits,
6.35 under such conditions as it may prescribe for the prevention of pollution, for the storage,

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7.1 collection, transportation, processing, or disposal of waste, or for the installation or
7.2 operation of any system or facility, or any part thereof, related to the storage, collection,
7.3 transportation, processing, or disposal of waste.

7.4 The agency may not issue a permit to a facility without analyzing and considering
7.5 the cumulative levels and effects of past and current environmental pollution from all
7.6 sources on the environment and residents of the geographic area within which the facility's
7.7 emissions are likely to be deposited, provided that the facility is located in a community in
7.8 a city of the first class in Hennepin County that meets all of the following conditions:

7.9 (1) is within a half mile of a site designated by the federal government as an EPA
7.10 superfund site due to residential arsenic contamination;

7.11 (2) a majority of the population are low-income persons of color and American
7.12 Indians;

7.13 (3) a disproportionate percent of the children have childhood lead poisoning, asthma,
7.14 or other environmentally related health problems;

7.15 (4) is located in a city that has experienced numerous air quality alert days of
7.16 dangerous air quality for sensitive populations between February 2007 and February
7.17 2008; and

7.18 (5) is located near the junctions of several heavily trafficked state and county
7.19 highways and two one-way streets which carry both truck and auto traffic.

7.20 The Pollution Control Agency may revoke or modify any permit issued under this
7.21 subdivision and section 116.081 whenever it is necessary, in the opinion of the agency, to
7.22 prevent or abate pollution.

7.23 (b) The Pollution Control Agency has the authority for approval over the siting,
7.24 expansion, or operation of a solid waste facility with regard to environmental issues.
7.25 However, the agency's issuance of a permit does not release the permittee from any
7.26 liability, penalty, or duty imposed by any applicable county ordinances. Nothing in this
7.27 chapter precludes, or shall be construed to preclude, a county from enforcing land use
7.28 controls, regulations, and ordinances existing at the time of the permit application and
7.29 adopted pursuant to sections 366.10 to 366.181, 394.21 to 394.37, or 462.351 to 462.365,
7.30 with regard to the siting, expansion, or operation of a solid waste facility.

7.31 (c) Except as prohibited by federal law, a person may commence construction,
7.32 reconstruction, replacement, or modification of any facility prior to the issuance of a
7.33 construction permit.

7.34 Sec. 8. Minnesota Statutes 2010, section 116.07, is amended by adding a subdivision to
7.35 read:

8.1 Subd. 7e. **Manure digester permits.** Except for areas within the metropolitan area,
8.2 as defined in section 473.121, subdivision 2, or within cities of the first or second class,
8.3 an air emission permit is not required for a manure digester and associated electrical
8.4 generation equipment that process manure from the farm or provide for backup power for
8.5 the farm.

8.6 Sec. 9. Minnesota Statutes 2010, section 116J.03, is amended by adding a subdivision
8.7 to read:

8.8 Subd. 1a. **Agency.** "Agency" means:

8.9 (1) a state department, commission, board, or other agency of the state however
8.10 titled; or

8.11 (2) a local governmental unit or instrumentality, only when that unit or
8.12 instrumentality is acting within existing legal authority to grant or deny a permit that
8.13 otherwise would be granted or denied by a state agency.

8.14 Sec. 10. Minnesota Statutes 2010, section 116J.03, is amended by adding a subdivision
8.15 to read:

8.16 Subd. 4. **Local governmental unit.** "Local governmental unit" means a county,
8.17 city, town, or special district with legal authority to issue a permit.

8.18 Sec. 11. Minnesota Statutes 2010, section 116J.03, is amended by adding a subdivision
8.19 to read:

8.20 Subd. 6. **Person.** "Person" means an individual; an association or partnership; or
8.21 a cooperative, municipal, public, or private corporation, including, but not limited to, a
8.22 state agency and a county.

8.23 Sec. 12. Minnesota Statutes 2010, section 116J.03, is amended by adding a subdivision
8.24 to read:

8.25 Subd. 7. **Project.** "Project" means a new activity or an expansion of or addition to
8.26 an existing activity, which is fixed in location and for which permits are required from
8.27 an agency prior to construction or operation, including, but not limited to, industrial and
8.28 commercial operations and developments.

8.29 Sec. 13. Minnesota Statutes 2010, section 116J.035, is amended by adding a
8.30 subdivision to read:

9.1 Subd. 8. Environmental permits coordinator. (a) The Department of Employment
9.2 and Economic Development shall, through their multiagency collaboration called
9.3 "Minnesota Business First Stop," ensure the coordination, implementation, and
9.4 administration of state and federal permits, including:

9.5 (1) establishing a mechanism in state government that will coordinate administrative
9.6 decision-making procedures and related quasijudicial and judicial review pertaining to
9.7 permits related to the state's air, land, and water resources;

9.8 (2) providing better coordination and understanding between federal, state, and local
9.9 governmental units in the administration of the various programs relating to air, water,
9.10 and land resources;

9.11 (3) identifying all existing federal, state, and local permits and other approvals;
9.12 compliance schedules; or other programs that pertain to the use of natural resources and
9.13 protection of the environment; and

9.14 (4) recommending legislative or administrative modifications to existing permit
9.15 programs to increase their efficiency and utility.

9.16 (b) A person proposing a project may apply to the environmental permits coordinator
9.17 for assistance in obtaining necessary state permits and other approvals. Upon request, the
9.18 environmental permits coordinator shall provide the requesting person:

9.19 (1) a list of all necessary federal, state, and local permits and other approvals for
9.20 the project;

9.21 (2) a plan that will coordinate federal, state, and local administrative decision-making
9.22 practices, including monitoring; analysis and reporting; public comments and hearings;
9.23 and issuances of permits and approvals;

9.24 (3) a timeline for the issuance of all federal, state, and local permits and other
9.25 approvals required for the project to coordinate the execution of any memorandum of
9.26 understanding between the person proposing a project and any federal, state, or local
9.27 agency;

9.28 (4) coordinate all federal, state, or local public comment periods and hearings;

9.29 (5) coordinate the publication and public notice of all draft permits and draft
9.30 environmental assessment worksheet or impact statement; and

9.31 (6) other assistance necessary to obtain final approval and issuance of all federal,
9.32 state, and local permits and other approvals required for the project.

9.33 (c) Notwithstanding section 16A.1283, as necessary, the environmental permits
9.34 coordinator shall establish a fee schedule to assess the project proposer for reasonable
9.35 costs that the department incurs in coordinating the implementation and administration of
9.36 state permits and the proposer shall pay the assessed costs to the environmental permits

10.1 coordinator. Money received by the environmental permits coordinator must be credited
10.2 to an account in the special revenue fund and is appropriated to the commissioner to cover
10.3 the assessed costs incurred by the department under this subdivision.

10.4 (d) The coordination of the implementation and administration of state permits is not
10.5 governmental action under section 116D.04.

10.6 Sec. 14. **REPEALER.**

10.7 Minnesota Statutes 2010, section 103G.291, subdivision 4, is repealed.

10.8 **ARTICLE 2**

10.9 **ENVIRONMENTAL REVIEW**

10.10 Section 1. Minnesota Statutes 2010, section 41A.10, subdivision 1, is amended to read:

10.11 Subdivision 1. **Definitions.** For the purposes of this section and section 103F.518,
10.12 the terms defined in this subdivision have the meanings given them.

10.13 (a) "Cellulosic biofuel" means transportation fuel derived from cellulosic materials.

10.14 (b) "Cellulosic material" means an agricultural or wood feedstock primarily
10.15 comprised of cellulose, hemicellulose, or lignin or a combination of those ingredients
10.16 grown on agricultural lands or harvested on timber lands.

10.17 (c) "Agricultural land" means land used for horticultural, row, close grown, pasture,
10.18 and hayland crops; growing nursery stocks; animal feedlots; farm yards; associated
10.19 building sites; and public and private drainage systems and field roads located on any of
10.20 that land.

10.21 (d) "Cellulosic biofuel facility" means a facility at which cellulosic biofuel is
10.22 produced.

10.23 (e) "Perennial crops" means agriculturally produced plants that have a life cycle of at
10.24 least three years at the location where the plants are being cultivated.

10.25 (f) "Perennial cropping system" means an agricultural production system that
10.26 utilizes a perennial crop.

10.27 (g) "Native species" means a plant species which was present in a defined area of
10.28 Minnesota prior to European settlement (circa 1850). A defined area may be an ecological
10.29 classification province. Wild-type varieties therefore are regional or local ecotypes that
10.30 have not undergone a selection process.

10.31 (h) "Diverse native prairie" means a prairie planted from a mix of local Minnesota
10.32 native prairie species. A selection from all available native prairie species may be made so
10.33 as to match species appropriate to local site conditions.

10.34 (i) "Commissioner" means the commissioner of agriculture.

11.1 Sec. 2. Minnesota Statutes 2011 Supplement, section 116D.04, subdivision 2a, is
11.2 amended to read:

11.3 Subd. 2a. **When prepared.** Where there is potential for significant environmental
11.4 effects resulting from any major governmental action, the action shall be preceded by a
11.5 detailed environmental impact statement prepared by the responsible governmental unit.
11.6 The environmental impact statement shall be an analytical rather than an encyclopedic
11.7 document which describes the proposed action in detail, analyzes its significant
11.8 environmental impacts, discusses appropriate alternatives to the proposed action and
11.9 their impacts, and explores methods by which adverse environmental impacts of an
11.10 action could be mitigated. The environmental impact statement shall also analyze those
11.11 economic, employment and sociological effects that cannot be avoided should the action
11.12 be implemented. To ensure its use in the decision-making process, the environmental
11.13 impact statement shall be prepared as early as practical in the formulation of an action.
11.14 No mandatory environmental impact statement may be required for an ethanol plant, as
11.15 defined in section 41A.09, subdivision 2a, paragraph (b), a biobutanol facility, as defined
11.16 in section 41A.105, subdivision 1a, clause (1), or a cellulosic biofuel facility, as defined
11.17 in section 41A.10, subdivision 1, paragraph (d), that produces less than 125,000,000
11.18 gallons of ethanol, biobutanol, or cellulosic biofuel annually and is located outside of the
11.19 seven-county metropolitan area.

11.20 (a) The board shall by rule establish categories of actions for which environmental
11.21 impact statements and for which environmental assessment worksheets shall be prepared
11.22 as well as categories of actions for which no environmental review is required under this
11.23 section. A mandatory environmental assessment worksheet shall not be required for the
11.24 expansion of an ethanol plant, as defined in section 41A.09, subdivision 2a, paragraph
11.25 (b), or the conversion of an ethanol plant to a biobutanol facility or the expansion of a
11.26 biobutanol facility as defined in section 41A.105, subdivision 1a, based on the capacity
11.27 of the expanded or converted facility to produce alcohol fuel, but must be required if
11.28 the ethanol plant or biobutanol facility meets or exceeds thresholds of other categories
11.29 of actions for which environmental assessment worksheets must be prepared. The
11.30 responsible governmental unit for an ethanol plant or biobutanol facility project for which
11.31 an environmental assessment worksheet is prepared shall be the state agency with the
11.32 greatest responsibility for supervising or approving the project as a whole.

11.33 (b) The responsible governmental unit shall promptly publish notice of the
11.34 completion of an environmental assessment worksheet in a manner to be determined by
11.35 the board and shall provide copies of the environmental assessment worksheet to the board
11.36 and its member agencies. Comments on the need for an environmental impact statement

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12.1 may be submitted to the responsible governmental unit during a 30-day period following
12.2 publication of the notice that an environmental assessment worksheet has been completed.
12.3 The responsible governmental unit's decision on the need for an environmental impact
12.4 statement shall be based on the environmental assessment worksheet and the comments
12.5 received during the comment period, and shall be made within 15 days after the close of
12.6 the comment period. The board's chair may extend the 15-day period by not more than 15
12.7 additional days upon the request of the responsible governmental unit.

12.8 (c) An environmental assessment worksheet shall also be prepared for a proposed
12.9 action whenever material evidence accompanying a petition by not less than 100
12.10 individuals who reside or own property in the state, submitted before the proposed
12.11 project has received final approval by the appropriate governmental units, demonstrates
12.12 that, because of the nature or location of a proposed action, there may be potential for
12.13 significant environmental effects. Petitions requesting the preparation of an environmental
12.14 assessment worksheet shall be submitted to the board. The chair of the board shall
12.15 determine the appropriate responsible governmental unit and forward the petition to it.
12.16 A decision on the need for an environmental assessment worksheet shall be made by
12.17 the responsible governmental unit within 15 days after the petition is received by the
12.18 responsible governmental unit. The board's chair may extend the 15-day period by not
12.19 more than 15 additional days upon request of the responsible governmental unit.

12.20 (d) Except in an environmentally sensitive location where Minnesota Rules, part
12.21 4410.4300, subpart 29, item B, applies, the proposed action is exempt from environmental
12.22 review under this chapter and rules of the board, if:

12.23 (1) the proposed action is:

12.24 (i) an animal feedlot facility with a capacity of less than 1,000 animal units; or

12.25 (ii) an expansion of an existing animal feedlot facility with a total cumulative
12.26 capacity of less than 1,000 animal units;

12.27 (2) the application for the animal feedlot facility includes a written commitment by
12.28 the proposer to design, construct, and operate the facility in full compliance with Pollution
12.29 Control Agency feedlot rules; and

12.30 (3) the county board holds a public meeting for citizen input at least ten business
12.31 days prior to the Pollution Control Agency or county issuing a feedlot permit for the
12.32 animal feedlot facility unless another public meeting for citizen input has been held with
12.33 regard to the feedlot facility to be permitted. The exemption in this paragraph is in
12.34 addition to other exemptions provided under other law and rules of the board.

12.35 (e) The board may, prior to final approval of a proposed project, require preparation
12.36 of an environmental assessment worksheet by a responsible governmental unit selected

13.1 by the board for any action where environmental review under this section has not been
13.2 specifically provided for by rule or otherwise initiated.

13.3 (f) An early and open process shall be utilized to limit the scope of the environmental
13.4 impact statement to a discussion of those impacts, which, because of the nature or location
13.5 of the project, have the potential for significant environmental effects. The same process
13.6 shall be utilized to determine the form, content and level of detail of the statement as well
13.7 as the alternatives which are appropriate for consideration in the statement. In addition,
13.8 the permits which will be required for the proposed action shall be identified during the
13.9 scoping process. Further, the process shall identify those permits for which information
13.10 will be developed concurrently with the environmental impact statement. The board
13.11 shall provide in its rules for the expeditious completion of the scoping process. The
13.12 determinations reached in the process shall be incorporated into the order requiring the
13.13 preparation of an environmental impact statement.

13.14 (g) The responsible governmental unit shall, to the extent practicable, avoid
13.15 duplication and ensure coordination between state and federal environmental review
13.16 and between environmental review and environmental permitting. Whenever practical,
13.17 information needed by a governmental unit for making final decisions on permits or
13.18 other actions required for a proposed project shall be developed in conjunction with
13.19 the preparation of an environmental impact statement. When an environmental impact
13.20 statement is prepared for a project requiring multiple permits for which two or more
13.21 agencies' decision processes include either mandatory or discretionary hearings before
13.22 a hearing officer prior to the agencies' decision on the permit, the agencies may,
13.23 notwithstanding any law or rule to the contrary, conduct such hearings in a single
13.24 consolidated hearing process if requested by the proposer. All agencies having jurisdiction
13.25 over a permit that is included in the consolidated hearing shall participate. The responsible
13.26 governmental unit shall establish appropriate procedures for the consolidated hearing
13.27 process, including procedures to ensure that the consolidated hearing process is consistent
13.28 with the applicable requirements for each permit regarding the rights and duties of parties
13.29 to the hearing, and shall utilize the earliest applicable hearing procedure to initiate the
13.30 hearing. The procedures of section 116C.28, subdivision 2, shall apply to the consolidated
13.31 hearing.

13.32 (h) An environmental impact statement shall be prepared and its adequacy
13.33 determined within 280 days after notice of its preparation unless the time is extended by
13.34 consent of the parties or by the governor for good cause. The responsible governmental
13.35 unit shall determine the adequacy of an environmental impact statement, unless within 60
13.36 days after notice is published that an environmental impact statement will be prepared,

14.1 the board chooses to determine the adequacy of an environmental impact statement. If an
14.2 environmental impact statement is found to be inadequate, the responsible governmental
14.3 unit shall have 60 days to prepare an adequate environmental impact statement.

14.4 (i) The proposer of a specific action may include in the information submitted to the
14.5 responsible governmental unit a preliminary draft environmental impact statement under
14.6 this section on that action for review, modification, and determination of completeness and
14.7 adequacy by the responsible governmental unit. A preliminary draft environmental impact
14.8 statement prepared by the project proposer and submitted to the responsible governmental
14.9 unit shall identify or include as an appendix all studies and other sources of information
14.10 used to substantiate the analysis contained in the preliminary draft environmental impact
14.11 statement. The responsible governmental unit shall require additional studies, if needed,
14.12 and obtain from the project proposer all additional studies and information necessary for
14.13 the responsible governmental unit to perform its responsibility to review, modify, and
14.14 determine the completeness and adequacy of the environmental impact statement.

14.15 Sec. 3. Minnesota Statutes 2010, section 116D.04, is amended by adding a subdivision
14.16 to read:

14.17 Subd. 5b. **Review of environmental assessment worksheets and impact**
14.18 **statements.** By December 1, 2012, and each year thereafter, the Environmental Quality
14.19 Board, Pollution Control Agency, Department of Natural Resources, and Department of
14.20 Transportation, after consultation with political subdivisions, shall submit to the governor
14.21 and the chairs and ranking minority members of the house of representatives and senate
14.22 committees having jurisdiction over environment and natural resources a list of categories
14.23 of mandatory environmental assessment worksheets or mandatory environmental impact
14.24 statements for which the agency or a political subdivision is designated as the responsible
14.25 government unit, and for each worksheet or statement, a document including:

14.26 (1) intended outcomes of the specific worksheet or statement;

14.27 (2) the cost to state and local government and the private sector; and

14.28 (3) an explanation of what information provided in the mandatory worksheet or
14.29 statement within each category is not included in or provided for in an existing permit or
14.30 other federal, state, or local law.

14.31 Sec. 4. **PILOT PROGRAM FOR ALTERNATIVE FORM OF**
14.32 **ENVIRONMENTAL REVIEW.**

14.33 (a) The commissioner of the Pollution Control Agency and the commissioner
14.34 of natural resources may jointly conduct a pilot program for an alternative form of

15.1 environmental review as specified in this section. This pilot program is in addition to the
15.2 alternate forms of environmental review that are authorized under Minnesota Statutes,
15.3 section 116D.04, subdivision 4a. Minnesota Rules, part 4410.3600, does not apply to the
15.4 pilot program authorized in this section.

15.5 (b) The commissioners may select up to three projects to be processed under the
15.6 pilot program. The environmental review work for each project must commence before
15.7 January 1, 2014, to remain eligible for proceeding under this program.

15.8 (c) The pilot program procedures are as follows:

15.9 (1) an environmental assessment worksheet is not required;

15.10 (2) a scoping document must be prepared that identifies the issues to be analyzed,
15.11 the alternatives to be considered, and the studies to be undertaken. The scoping
15.12 document results must be published at the same time as the notice of preparation of the
15.13 environmental impact statement;

15.14 (3) any person may submit written comments within 20 days of publication of
15.15 the notice for preparation of the environmental impact statement. The responsible
15.16 governmental unit must consider modifying the scope of the project based on the
15.17 comments;

15.18 (4) the environmental impact statement must be an analytical, rather than an
15.19 encyclopedic, document that describes the proposed action in detail, analyzes the
15.20 action's significant environmental impacts, discusses appropriate alternatives to the
15.21 proposed action and the alternatives' impacts, and explores methods by which adverse
15.22 environmental impacts of an action could be mitigated. The environmental impact
15.23 statement must also analyze those economic, employment, and sociological effects that
15.24 cannot be avoided should the action be implemented;

15.25 (5) if an impact analysis is needed for permitting, the impact analysis may be
15.26 summarized for inclusion in the draft environmental impact statement rather than the full
15.27 modeling and analysis being contained within the draft environmental impact statement.
15.28 An impact analysis must identify the regulatory requirements, types of impact, and
15.29 mitigation methods; and

15.30 (6) the responsible governmental unit must follow the procedural notice requirements
15.31 for a draft environmental impact statement, final environmental impact statement, and
15.32 notice of determination of adequacy for an environmental impact statement.

15.33 (d) A project proposed to be processed under the pilot program must meet all of the
15.34 following criteria:

15.35 (1) the project meets or exceeds the threshold of a project requiring a mandatory
15.36 environmental impact statement;

- 16.1 (2) if a combustion source is part of the project, natural gas is the only fuel;
16.2 (3) the project does not have any known projected drawdown effect on private wells;
16.3 (4) Class I air modeling demonstrates that the project will not cause adverse
16.4 impacts; and
16.5 (5) the project is subject to Code of Federal Regulations, title 40, section 52.21, and
16.6 the reviews required for a PSD (prevention of significant deterioration) permit, including
16.7 control technology, ambient air, and Class I area impact analysis.
- 16.8 (e) A project may not be processed under the pilot program if the project:
16.9 (1) requires a federal environmental impact statement;
16.10 (2) is for mining metallic minerals by open pit or underground methods or is a new
16.11 facility for processing metallic minerals mined by open pit or underground methods;
16.12 (3) is for mining nonferrous metallic minerals or is a new facility for processing
16.13 nonferrous metallic minerals;
16.14 (4) is located in a karst area; or
16.15 (5) would result in a direct discharge of process water to surface water.
- 16.16 (f) For the selected projects, the responsible governmental unit must prepare the
16.17 environmental impact statement according to this section. Notwithstanding Minnesota
16.18 Statutes, section 116D.04, subdivision 2a, paragraph (i), the proposers of the specific
16.19 project selected for the pilot program may not prepare or submit a preliminary draft
16.20 environmental impact statement.
- 16.21 (g) The proposers are subject to the assessment of reasonable costs as provided
16.22 in Minnesota Statutes, section 116D.045.
- 16.23 (h) By January 15, 2016, the commissioners shall report to the Environmental
16.24 Quality Board on the outcomes of the pilot program and include any recommendations for
16.25 statute or rule changes.
- 16.26 **EFFECTIVE DATE.** This section is effective the day following final enactment.

APPENDIX
Article locations in S1567-4

ARTICLE 1	PERMITTING	Page.Ln 1.13
ARTICLE 2	ENVIRONMENTAL REVIEW	Page.Ln 10.8

103G.291 PUBLIC WATER SUPPLY PLANS; APPROPRIATION DURING DEFICIENCY.

Subd. 4. **Conservation rate structure required.** (a) For the purposes of this section, "conservation rate structure" means a rate structure that encourages conservation and may include increasing block rates, seasonal rates, time of use rates, individualized goal rates, or excess use rates. The rate structure must consider each residential unit as an individual user in multiple-family dwellings.

(b) To encourage conservation, a public water supplier serving more than 1,000 people in the metropolitan area, as defined in section 473.121, subdivision 2, shall use a conservation rate structure by January 1, 2010. All remaining public water suppliers serving more than 1,000 people shall use a conservation rate structure by January 1, 2013.

(c) A public water supplier without the proper measuring equipment to track the amount of water used by its users, as of July 1, 2008, is exempt from this subdivision and the conservation rate structure requirement under subdivision 3, paragraph (c).