

A bill for an act

relating to state government; providing for certain permitting efficiency;
modifying environmental review provisions; amending Minnesota Statutes 2008,
sections 17.03, by adding a subdivision; 84.027, by adding a subdivision; 116.03,
by adding a subdivision; 116D.04, subdivisions 2a, 10, by adding a subdivision.

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

Section 1. Minnesota Statutes 2008, section 17.03, is amended by adding a subdivision
to read:

Subd. 11a. **Permitting efficiency goal and report.** (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 completed permit application. The commissioner of agriculture 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 the
proposer, lack of staff, or scientific or technical disagreements or caused by the level of
public engagement. The report must specify the number of days from initial submission of
the application to the day of determination that the application is complete. The report
for the final quarter of the fiscal year must aggregate the data for the year and assess
whether program or system changes are necessary to achieve the goal. The report must
be posted on the department Web site and submitted to the governor and the chairs of

2.1 the house of representatives and senate committees having jurisdiction over agriculture
2.2 policy and finance.

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

2.5 Sec. 2. Minnesota Statutes 2008, section 84.027, is amended by adding a subdivision
2.6 to read:

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

2.11 (b) The commissioner shall prepare semiannual permitting efficiency reports that
2.12 include statistics on meeting the goal in paragraph (a). The reports are due February 1 and
2.13 August 1 each year. For permit applications that have not met the goal, the report must
2.14 state the reasons for not meeting the goal, steps that will be taken to complete action on
2.15 the application, and the expected timeline. In stating the reasons for not meeting the goal,
2.16 the commissioner shall separately identify delays caused by the responsiveness of the
2.17 proposer, lack of staff, or scientific or technical disagreements or caused by the level of
2.18 public engagement. The report must specify the number of days from initial submission of
2.19 the application to the day of determination that the application is complete. The report
2.20 for the final quarter of the fiscal year must aggregate the data for the year and assess
2.21 whether program or system changes are necessary to achieve the goal. The report must be
2.22 posted on the department Web site and submitted to the governor and the chairs of the
2.23 house of representatives and senate committees having jurisdiction over natural resources
2.24 policy and finance.

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

2.27 Sec. 3. Minnesota Statutes 2008, section 116.03, is amended by adding a subdivision to
2.28 read:

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

2.33 (b) The commissioner shall prepare semiannual permitting efficiency reports that
2.34 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 the proposer, lack of staff, or scientific or technical disagreements or caused by the level of public engagement. The report must specify the number of days from initial submission of the application to the day of determination that the application is complete. The report for the final quarter of the fiscal year must aggregate the data for the year and assess whether program or system changes are necessary to achieve the goal. The report must be posted on the agency Web site and submitted to the governor and the chairs of the house of representatives and senate committees having jurisdiction over environment policy and finance.

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

Sec. 4. Minnesota Statutes 2008, section 116D.04, subdivision 2a, is amended to read:

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

(a) The board shall by rule establish categories of actions for which environmental impact statements and for which environmental assessment worksheets shall be prepared as well as categories of actions for which no environmental review is required under this section.

(b) The responsible governmental unit shall promptly publish notice of the completion of an environmental assessment worksheet in a manner to be determined by the board and shall provide copies of the environmental assessment worksheet to the board and its member agencies. Comments on the need for an environmental impact statement may be submitted to the responsible governmental unit during a 30 day period following publication of the notice that an environmental assessment worksheet has been completed. The responsible governmental unit's decision on the need for an environmental impact statement shall be based on the environmental assessment worksheet and the comments received during the comment period, and shall be made within 15 days after the close of the comment period. The board's chair may extend the 15 day period by not more than 15 additional days upon the request of the responsible governmental unit.

(c) An environmental assessment worksheet shall also be prepared for a proposed action whenever material evidence accompanying a petition by not less than 25 individuals, submitted before the proposed project has received final approval by the appropriate governmental units, demonstrates that, because of the nature or location of a proposed action, there may be potential for significant environmental effects. Petitions requesting the preparation of an environmental assessment worksheet shall be submitted to the board. The chair of the board shall determine the appropriate responsible governmental unit and forward the petition to it. A decision on the need for an environmental assessment worksheet shall be made by the responsible governmental unit within 15 days after the petition is received by the responsible governmental unit. The board's chair may extend the 15 day period by not more than 15 additional days upon request of the responsible governmental unit.

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

(1) the proposed action is:

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

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

(3) the county board holds a public meeting for citizen input at least ten business days prior to the Pollution Control Agency or county issuing a feedlot permit for the animal feedlot facility unless another public meeting for citizen input has been held with

regard to the feedlot facility to be permitted. The exemption in this paragraph is in addition to other exemptions provided under other law and rules of the board.

(e) The board may, prior to final approval of a proposed project, require preparation of an environmental assessment worksheet by a responsible governmental unit selected by the board for any action where environmental review under this section has not been specifically provided for by rule or otherwise initiated.

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

(g) The responsible governmental unit shall, to the extent practicable, avoid duplication and ensure coordination between state and federal environmental review and between environmental review and environmental permitting. Whenever practical, information needed by a governmental unit for making final decisions on permits or other actions required for a proposed project shall be developed in conjunction with the preparation of an environmental impact statement.

(h) An environmental impact statement shall be prepared and its adequacy determined within 280 days after notice of its preparation unless the time is extended by consent of the parties or by the governor for good cause. The responsible governmental unit shall determine the adequacy of an environmental impact statement, unless within 60 days after notice is published that an environmental impact statement will be prepared, the board chooses to determine the adequacy of an environmental impact statement. If an environmental impact statement is found to be inadequate, the responsible governmental unit shall have 60 days to prepare an adequate environmental impact statement.

Sec. 5. Minnesota Statutes 2008, section 116D.04, subdivision 10, is amended to read:

Subd. 10. **Review.** Decisions on the need for an environmental assessment worksheet, the need for an environmental impact statement and the adequacy of an environmental impact statement may be reviewed by ~~a declaratory judgment action in~~

~~the district court of the county wherein the proposed action, or any part thereof, would be undertaken~~ the Court of Appeals. Judicial review under this section shall be initiated within 30 days after the governmental unit makes the decision, and a bond may be required under section 562.02 unless at the time of hearing on the application for the bond the plaintiff has shown that the claim has sufficient possibility of success on the merits to sustain the burden required for the issuance of a temporary restraining order. Nothing in this section shall be construed to alter the requirements for a temporary restraining order or a preliminary injunction pursuant to the Minnesota Rules of Civil Procedure for district courts. The board may initiate judicial review of decisions referred to herein and may intervene as of right in any proceeding brought under this subdivision.

Sec. 6. Minnesota Statutes 2008, section 116D.04, is amended by adding a subdivision to read:

Subd. 14. Customized environmental assessment worksheet forms. State agencies that are responsible governmental units and the board shall periodically review mandatory environmental assessment worksheet categories under rules adopted under this section, and other project types that are frequently subject to environmental review, and develop customized environmental assessment worksheet forms for the category or project type. The forms must include specific questions that focus on key environmental issues for the category or project type. The board shall develop the forms for categories and project types where a state agency is not a responsible governmental unit. In assessing categories and project types and developing forms, the board shall seek the input of governmental units that are frequently responsible for the preparation of a worksheet for the particular category or project type. State agencies and the board shall also seek input from the general public on the development of customized forms.