

SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION

S.F. No. 2324

(SENATE AUTHORS: HAUSCHILD)

DATE	D-PG	OFFICIAL STATUS
03/01/2023	1199	Introduction and first reading Referred to Environment, Climate, and Legacy See HF2310

1.1

A bill for an act

1.2

relating to environment; providing for coordinated plans to complete environmental

1.3

review and other state agency actions; requiring reports; proposing coding for new

1.4

law in Minnesota Statutes, chapters 84; 116.

1.5

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

1.6

Section 1. **[84.0265] ENVIRONMENTAL REVIEW AND PERMITTING;**

1.7

COORDINATED PROJECT PLANS.

1.8

Subdivision 1. **Definitions.** In this section, the following terms have the meanings given:

1.9

(1) "commissioner" means the commissioner of natural resources;

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(2) "coordinated project plan" or "plan" means a plan to ensure that any required

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environmental review and other required state agency actions are completed efficiently by

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coordinating and establishing deadlines for all necessary state agency actions;

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(3) "eligible project" means:

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(i) a project that requires an environmental assessment worksheet or an environmental

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impact statement under chapter 116D; or

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(ii) a license, permit, certificate, certification, approval, compliance schedule, or other

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authorization for which approval includes considerations to protect land, air, or water

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resources and that:

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(A) must be obtained from the commissioner before constructing or operating a facility

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in the state; or

(B) will have a significant impact on regulatory requirements for constructing or operating a facility; and

(4) "state agency" means an office, board, commission, authority, department, or other agency of the executive branch of state government.

Subd. 2. State policy. It is the goal of the state to maximize the coordination, effectiveness, transparency, and accountability of environmental review, environmental permitting, and other critical regulatory actions for facilities in Minnesota.

Subd. 3. Early communication; identifying issues. (a) To the extent practicable, the commissioner must establish and provide an expeditious process for a person requesting or planning to request a coordinated project plan to confer with the commissioner, other state agencies, and federal, Tribal, and local agencies and to obtain from those agencies information about:

(1) the availability of any information and tools, including preapplication toolkits, to facilitate early planning efforts;

(2) key issues of concern to each agency and to the public; and

(3) issues that must be addressed before an environmental review, permit action, or other required action by a state agency can be completed.

(b) The commissioner and other state agencies must identify, as early as practicable, any issues of concern regarding the potential environmental impacts related to an eligible project, including any issues that could substantially delay or prevent a state agency from completing agency decisions.

Subd. 4. Plan preparation; participating agencies. (a) A person who submits an application for an eligible project to the commissioner may request that the commissioner prepare a coordinated project plan to complete any required environmental review and other agency actions for the eligible project. A plan may be incorporated into a memorandum of understanding with other state and federal agencies and Tribes.

(b) Within 60 days of receiving a request under paragraph (a), the commissioner must prepare a coordinated project plan in consultation with the requestor and other state agencies identified under paragraph (c).

(c) Any state agency that has environmental review, permitting, or other regulatory authority over the eligible project or that intends to comment on environmental review or an application for the eligible project must participate in developing a coordinated project plan.

3.1 Subd. 5. **Plan contents; synchronization; updates.** (a) A coordinated project plan must
3.2 include:

3.3 (1) a list of all state agencies with environmental review, permitting, or other regulatory
3.4 authority over the eligible project and an explanation of each agency's specific role and
3.5 responsibilities for actions under the coordinated project plan;

3.6 (2) plans and a schedule for any public and Tribal outreach and coordination; and

3.7 (3) a comprehensive schedule of deadlines by which all environmental reviews, permits,
3.8 and other state agency actions, including those at the federal level to the extent practicable,
3.9 must be completed. The deadlines established under this clause must include intermediate
3.10 and final completion deadlines for actions by each state agency and must be consistent with
3.11 subdivision 6.

3.12 (b) To the extent practicable under applicable law, the commissioner and participating
3.13 state agencies must synchronize state environmental review, permitting, and decision
3.14 processes listed in the coordinated project plan with any federal, local, or Tribal agency
3.15 responsible for conducting a review or authorization related to an eligible project to ensure
3.16 timely and efficient completion of environmental reviews and state agency decisions. To
3.17 the extent practicable, any synchronization plan must be included in a memorandum of
3.18 understanding with affected agencies.

3.19 (c) The commissioner must update a coordinated project plan quarterly.

3.20 Subd. 6. **Required deadlines.** (a) Deadlines established in a coordinated project plan
3.21 must comply with this subdivision.

3.22 (b) When an environmental assessment worksheet is prepared for an eligible project for
3.23 which an environmental impact statement is not mandatory under Minnesota Rules, chapter
3.24 4410, the decision on the need for an environmental impact statement must be made as
3.25 expeditiously as possible but no later than 18 months after the environmental assessment
3.26 worksheet is submitted.

3.27 (c) When an environmental impact statement is prepared for an eligible project, the
3.28 decision on the adequacy of the final environmental impact statement must be made as
3.29 expeditiously as possible but no later than three years after the data for the environmental
3.30 assessment worksheet is submitted.

3.31 (d) If the commissioner includes plan deadlines that are inconsistent with paragraphs
3.32 (b) and (c), then within 30 days of finalizing the plan, the commissioner must report to the
3.33 chairs and ranking minority members of the legislative committees and divisions with

jurisdiction over natural resources policy to explain how deadlines were established and why the deadlines under paragraphs (b) and (c) are not attainable. The anticipated time required to obtain a federal permit or decision may not serve as the sole basis for a decision to deviate from the deadlines under paragraphs (b) and (c).

Subd. 7. **Deadline compliance; modification.** (a) A state agency that participates in developing a coordinated project plan must comply with deadlines established in the plan. If a participating state agency fails to meet a deadline established in a coordinated project plan or anticipates failing to meet a deadline, the state agency must immediately notify the commissioner to explain the reason for the failure or anticipated failure and to propose a date for a modified deadline.

(b) The commissioner may modify a deadline established in a coordinated project plan only if:

(1) the commissioner or state agency provides the person that requested the plan with a written justification for the modification; and

(2) the commissioner and the state agency, after consultation with the person that requested the plan, mutually agree on a different deadline.

(c) If the combined modifications to one or more deadlines established in a coordinated project plan extend the initially anticipated final decision date for an eligible project application by more than 20 percent, then within 30 days of the last modification, the commissioner must report to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over natural resources policy to explain the reason the modifications are necessary. For purposes of calculating the percentage of time that modifications have extended the anticipated final decision date, modifications made necessary by reasons wholly outside the control of state agencies must not be considered.

Subd. 8. **Annual report.** The commissioner must annually submit to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over natural resources policy a report on progress toward required actions described in a coordinated project plan until the required actions are completed or the requestor withdraws the plan request.

Subd. 9. **Relation to other law.** Nothing in this section is to be construed to require an act that conflicts with applicable federal law. Nothing in this section affects the specific statutory obligations of a state agency to comply with criteria or standards of environmental quality.

5.1 Sec. 2. **[116.035] ENVIRONMENTAL REVIEW AND PERMITTING;**
5.2 **COORDINATED PROJECT PLANS.**

5.3 Subdivision 1. **Definitions.** In this section, the following terms have the meanings given:

5.4 (1) "commissioner" means the commissioner of the Pollution Control Agency;

5.5 (2) "coordinated project plan" or "plan" means a plan to ensure that any required
5.6 environmental review and other required state agency actions are completed efficiently by
5.7 coordinating and establishing deadlines for all necessary state agency actions;

5.8 (3) "eligible project" means:

5.9 (i) a project that requires an environmental assessment worksheet or an environmental
5.10 impact statement under chapter 116D; or

5.11 (ii) a license, permit, certificate, certification, approval, compliance schedule, or other
5.12 authorization for which approval includes considerations to protect land, air, or water
5.13 resources and that:

5.14 (A) must be obtained from the commissioner before constructing or operating a facility
5.15 in the state; or

5.16 (B) will have a significant impact on regulatory requirements for constructing or operating
5.17 a facility; and

5.18 (4) "state agency" means an office, board, commission, authority, department, or other
5.19 agency of the executive branch of state government.

5.20 Subd. 2. **State policy.** It is the goal of the state to maximize the coordination,
5.21 effectiveness, transparency, and accountability of environmental review, environmental
5.22 permitting, and other critical regulatory actions for facilities in Minnesota.

5.23 Subd. 3. **Early communication; identifying issues.** (a) To the extent practicable, the
5.24 commissioner must establish and provide an expeditious process for a person requesting or
5.25 planning to request a coordinated project plan to confer with the commissioner, other state
5.26 agencies, and federal, Tribal, and local agencies and to obtain from those agencies
5.27 information about:

5.28 (1) the availability of any information and tools, including preapplication toolkits, to
5.29 facilitate early planning efforts;

5.30 (2) key issues of concern to each agency and to the public; and

6.1 (3) issues that must be addressed before an environmental review, permit action, or other
6.2 required action by a state agency can be completed.

6.3 (b) The commissioner and other state agencies must identify, as early as practicable,
6.4 any issues of concern regarding the potential environmental impacts related to an eligible
6.5 project, including any issues that could substantially delay or prevent a state agency from
6.6 completing agency decisions.

6.7 Subd. 4. **Plan preparation; participating agencies.** (a) A person who submits an
6.8 application for an eligible project to the commissioner may request that the commissioner
6.9 prepare a coordinated project plan to complete any required environmental review and other
6.10 agency actions for the eligible project. A plan may be incorporated into a memorandum of
6.11 understanding with other state and federal agencies and Tribes.

6.12 (b) Within 60 days of receiving a request under paragraph (a), the commissioner must
6.13 prepare a coordinated project plan in consultation with the requestor and other state agencies
6.14 identified under paragraph (c).

6.15 (c) Any state agency that has environmental review, permitting, or other regulatory
6.16 authority over the eligible project or that intends to comment on environmental review or
6.17 an application for the eligible project must participate in developing a coordinated project
6.18 plan.

6.19 Subd. 5. **Plan contents; synchronization; updates.** (a) A coordinated project plan must
6.20 include:

6.21 (1) a list of all state agencies with environmental review, permitting, or other regulatory
6.22 authority over the eligible project and an explanation of each agency's specific role and
6.23 responsibilities for actions under the coordinated project plan;

6.24 (2) plans and a schedule for any public and Tribal outreach and coordination; and

6.25 (3) a comprehensive schedule of deadlines by which all environmental reviews, permits,
6.26 and other state agency actions, including those at the federal level to the extent practicable,
6.27 must be completed. The deadlines established under this clause must include intermediate
6.28 and final completion deadlines for actions by each state agency and must be consistent with
6.29 subdivision 6.

6.30 (b) To the extent practicable under applicable law, the commissioner and participating
6.31 state agencies must synchronize state environmental review, permitting, and decision
6.32 processes listed in the coordinated project plan with any federal, local, or Tribal agency
6.33 responsible for conducting a review or authorization related to an eligible project to ensure

timely and efficient completion of environmental reviews and state agency decisions. To the extent practicable, any synchronization plan must be included in a memorandum of understanding with affected agencies.

(c) The commissioner must update a coordinated project plan quarterly.

Subd. 6. Required deadlines. (a) Deadlines established in a coordinated project plan must comply with this subdivision.

(b) When an environmental assessment worksheet is prepared for an eligible project for which an environmental impact statement is not mandatory under Minnesota Rules, chapter 4410, the decision on the need for an environmental impact statement must be made as expeditiously as possible but no later than 18 months after the environmental assessment worksheet is submitted.

(c) When an environmental impact statement is prepared for an eligible project, the decision on the adequacy of the final environmental impact statement must be made as expeditiously as possible but no later than three years after the data for the environmental assessment worksheet is submitted.

(d) If the commissioner includes plan deadlines that are inconsistent with paragraphs (b) and (c), then within 30 days of finalizing the plan, the commissioner must report to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over natural resources policy to explain how deadlines were established and why the deadlines under paragraphs (b) and (c) are not attainable. The anticipated time required to obtain a federal permit or decision may not serve as the sole basis for a decision to deviate from the deadlines under paragraphs (b) and (c).

Subd. 7. Deadline compliance; modification. (a) A state agency that participates in developing a coordinated project plan must comply with deadlines established in the plan. If a participating state agency fails to meet a deadline established in a coordinated project plan or anticipates failing to meet a deadline, the state agency must immediately notify the commissioner to explain the reason for the failure or anticipated failure and to propose a date for a modified deadline.

(b) The commissioner may modify a deadline established in a coordinated project plan only if:

(1) the commissioner or state agency provides the person that requested the plan with a written justification for the modification; and

8.1 (2) the commissioner and the state agency, after consultation with the person that
8.2 requested the plan, mutually agree on a different deadline.

8.3 (c) If the combined modifications to one or more deadlines established in a coordinated
8.4 project plan extend the initially anticipated final decision date for an eligible project
8.5 application by more than 20 percent, then within 30 days of the last modification, the
8.6 commissioner must report to the chairs and ranking minority members of the legislative
8.7 committees and divisions with jurisdiction over natural resources policy to explain the
8.8 reason the modifications are necessary. For purposes of calculating the percentage of time
8.9 that modifications have extended the anticipated final decision date, modifications made
8.10 necessary by reasons wholly outside the control of state agencies must not be considered.

8.11 Subd. 8. **Annual report.** The commissioner must annually submit to the chairs and
8.12 ranking minority members of the legislative committees and divisions with jurisdiction over
8.13 natural resources policy a report on progress toward required actions described in a
8.14 coordinated project plan until the required actions are completed or the requestor withdraws
8.15 the plan request.

8.16 Subd. 9. **Relation to other law.** Nothing in this section is to be construed to require an
8.17 act that conflicts with applicable federal law. Nothing in this section affects the specific
8.18 statutory obligations of a state agency to comply with criteria or standards of environmental
8.19 quality.