

CHAPTER 150—S.F.No. 1567

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; 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.035, by adding a subdivision; Minnesota Statutes 2011 Supplement, sections 84.027, subdivision 14a; 116.03, subdivision 2b; 116D.04, subdivision 2a.

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 the proposer, lack of staff, scientific or technical disagreements, or 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 August 1 each 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's Web site and submitted to the governor and the chairs and ranking minority members of the house of representatives and senate committees having jurisdiction over natural resources policy and finance.

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

(d) Beginning July 1, 2011, within 30 business days of application for a permit subject to paragraph (a), the commissioner of natural resources shall notify the project proposer, in writing, ~~of whether or not the permit application is complete enough for processing. If the permit is incomplete, the commissioner must identify where whether~~

~~the application is complete or incomplete. If the commissioner determines that an application is incomplete, the notice to the applicant must enumerate all deficiencies exist, citing specific provisions of the applicable rules and statutes, and advise the applicant on how they the deficiencies can be remedied. A resubmittal of the application begins a new 30-day review period. If the commissioner fails to notify the project proposer of completeness within 30 business days, the application is deemed to be substantially complete and subject to the 150-day permitting review period in paragraph (a) from the date it was submitted. This paragraph does not apply to an application for a permit that is subject to a grant or loan agreement under chapter 446A.~~

Sec. 2. Minnesota Statutes 2010, section 103G.291, subdivision 3, is amended to read:

Subd. 3. **Water supply plans; demand reduction.** (a) Every public water supplier serving more than 1,000 people must submit a water supply plan to the commissioner for approval by January 1, 1996. In accordance with guidelines developed by the commissioner, the plan must address projected demands, adequacy of the water supply system and planned improvements, existing and future water sources, natural resource impacts or limitations, emergency preparedness, water conservation, supply and demand reduction measures, and allocation priorities that are consistent with section 103G.261. Public water suppliers must update their plan and, upon notification, submit it to the commissioner for approval every ten years.

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

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

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

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

Sec. 3. Minnesota Statutes 2010, section 103G.291, subdivision 4, is amended to read:

Subd. 4. ~~Conservation rate structure required~~ Demand reduction measures.
(a) For the purposes of this section, "demand reduction measures" means measures that

reduce water demand, water losses, peak water demands, and nonessential water uses. Demand reduction measures must include a conservation rate structure, or a uniform rate structure with a conservation program that achieves demand reduction. A "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. If a conservation rate is applied to multifamily dwellings, 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~~ must implement demand reduction measures by January 1, 2013 2015.

~~(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).~~

Sec. 4. Minnesota Statutes 2010, section 115.03, is amended by adding a subdivision to read:

Subd. 8b. **Permit duration; state disposal system permits; feedlots.** State disposal system permits that are issued without a national pollutant discharge elimination system permit to feedlots shall be issued for a term of ten years. A feedlot with a permit under this subdivision is required to be in compliance with agency rules. A facility or operation change may require a permit modification if required under agency rules.

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

Sec. 5. Minnesota Statutes 2011 Supplement, section 116.03, subdivision 2b, is amended to read:

Subd. 2b. **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 the Pollution Control Agency 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, scientific or technical disagreements, or 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 August 1 each 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's Web site and submitted to the governor and the chairs and ranking minority members 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.

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

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

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

(2) has at least ten years of experience in the subject area of the permit; and

(3) abides by the duty of candor applicable to employees of the Pollution Control Agency under agency rules and complies with all applicable requirements under chapter 326.

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

(1) at least two weeks prior to the preapplication meeting, the applicant must submit at least the following:

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

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

(iii) business schedule for project completion; and

(iv) other information requested by the agency at least four weeks prior to the scheduled meeting; and

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

(i) an overview of the permit review program;

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

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

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

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

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

(h) If a preapplication meeting was held, the agency shall, within seven business days of receipt of an application, notify the applicant and submitting permit professional that the application is complete or is denied, specifying the deficiencies of the application.

(i) Upon receipt of notice that the application is complete, the permit professional shall submit to the agency a timetable for submitting a draft permit. The permit professional shall submit a draft permit on or before the date provided in the timetable. Within 60 days after the close of the public comment period, the commissioner shall notify the applicant whether the permit can be issued.

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

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

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

(k) The permit application and draft permit shall identify or include as an appendix all studies and other sources of information used to substantiate the analysis contained in the permit application and draft permit. The commissioner shall request additional studies, if needed, and the project proposer shall submit all additional studies and information necessary for the commissioner to perform the commissioner's responsibility to review, modify, and determine the completeness of the application and approve the draft permit.

Sec. 6. Minnesota Statutes 2010, section 116.07, subdivision 4a, is amended to read:

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

The Pollution Control Agency may also issue, continue in effect or deny permits, under such conditions as it may prescribe for the prevention of pollution, for the storage, collection, transportation, processing, or disposal of waste, or for the installation or operation of any system or facility, or any part thereof, related to the storage, collection, transportation, processing, or disposal of waste.

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

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

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

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

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

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

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

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

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

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

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

Sec. 8. Minnesota Statutes 2010, section 116J.035, is amended by adding a subdivision to read:

Subd. 8. **Minnesota Business First Stop.** (a) The commissioner of employment and economic development shall, through the multiagency collaboration called "Minnesota Business First Stop," ensure the coordination, implementation, and administration of state permits, including:

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

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

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

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

(b) A person proposing a project may apply to Minnesota Business First Stop for assistance in obtaining necessary state permits and other approvals. Upon request, the commissioner shall to the extent practicable:

(1) provide a list of all federal, state, and local permits and other required approvals for the project;

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

(3) provide a timeline for the issuance of all federal, state, and local permits and other approvals required for the project;

(4) coordinate the execution of any memorandum of understanding between the person proposing a project and any federal, state, or local agency;

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

(6) provide other assistance requested to facilitate final approval and issuance of all federal, state, and local permits and other approvals required for the project.

(c) Notwithstanding section 16A.1283, as necessary, the commissioner may negotiate a schedule to assess the project proposer for reasonable costs that any state agency incurs in coordinating the implementation and administration of state permits, and the proposer shall pay the assessed costs to the commissioner. Money received by the environmental permits coordinator must be credited to an account in the special revenue fund and is appropriated to the commissioner to cover the assessed costs incurred.

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

ARTICLE 2

ENVIRONMENTAL REVIEW

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

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

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

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

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

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

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

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

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

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

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

Sec. 2. Minnesota Statutes 2011 Supplement, 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. A mandatory environmental assessment worksheet shall not be required for the expansion of an ethanol plant, as defined in section 41A.09, subdivision 2a, paragraph (b), or the conversion of an ethanol plant to a biobutanol facility or the expansion of a biobutanol facility as defined in section 41A.105, subdivision 1a, based on the capacity of the expanded or converted facility to produce alcohol fuel, but must be required if the ethanol plant or biobutanol facility meets or exceeds thresholds of other categories of actions for which environmental assessment worksheets must be prepared. The responsible governmental unit for an ethanol plant or biobutanol facility project for which an environmental assessment worksheet is prepared shall be the state agency with the greatest responsibility for supervising or approving the project as a whole.

A mandatory environmental impact statement shall not be required for a facility or plant located outside the seven-county metropolitan area that produces less than 125,000,000 gallons of ethanol, biobutanol, or cellulosic biofuel annually, if the facility

or plant is: an ethanol plant, as defined in section 41A.09, subdivision 2a, paragraph (b); a biobutanol facility, as defined in section 41A.105, subdivision 1a, clause (1); or a cellulosic biofuel facility, as defined in section 41A.10, subdivision 1, paragraph (d).

(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 100 individuals who reside or own property in the state, 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. When an environmental impact statement is prepared for a project requiring multiple permits for which two or more agencies' decision processes include either mandatory or discretionary hearings before a hearing officer prior to the agencies' decision on the permit, the agencies may, notwithstanding any law or rule to the contrary, conduct the hearings in a single consolidated hearing process if requested by the proposer. All agencies having jurisdiction over a permit that is included in the consolidated hearing shall participate. The responsible governmental unit shall establish appropriate procedures for the consolidated hearing process, including procedures to ensure that the consolidated hearing process is consistent with the applicable requirements for each permit regarding the rights and duties of parties to the hearing, and shall utilize the earliest applicable hearing procedure to initiate the hearing. The procedures of section 116C.28, subdivision 2, apply to the consolidated hearing.

(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.

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

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

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

(1) intended historical purposes of the category;

(2) whether projects that fall within the category are also subject to local, state, or federal permits; and

(3) an analysis of whether the mandatory category should be modified, eliminated, or unchanged based on its relationship to existing permits or other federal, state, or local laws or ordinances.

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

(a) The commissioner of the Pollution Control Agency and the commissioner of natural resources may jointly conduct a pilot program for an alternative form of environmental review as specified in this section. This pilot program is in addition to the alternate forms of environmental review that are authorized under Minnesota Statutes, section 116D.04, subdivision 4a. Minnesota Rules, part 4410.3600, does not apply to the pilot program authorized in this section.

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

(c) The pilot program procedures are as follows:

(1) an environmental assessment worksheet is not required;

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

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

(4) the pilot program impact statement must be an analytical, rather than an encyclopedic, document that describes the proposed action in detail, analyzes the action's significant environmental impacts, discusses appropriate alternatives to the proposed action and the alternatives' impacts, and explores methods by which adverse environmental impacts of an action could be mitigated. The pilot program impact

statement must also analyze those economic, employment, and sociological effects that cannot be avoided should the action be implemented;

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

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

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

(1) the project meets or exceeds the threshold of a project requiring a mandatory environmental impact statement, or the project proposer and the responsible governmental unit agree to prepare a pilot program impact statement;

(2) if a combustion source, other than an internal combustion engine, is part of the project, natural gas is the only fuel that may supply the burners;

(3) the project does not have any known projected drawdown effect on private wells;

(4) Class I air modeling demonstrates that the project will not cause adverse impacts; and

(5) the project is subject to Code of Federal Regulations, title 40, section 52.21, and the reviews required for a PSD (prevention of significant deterioration) permit, including control technology, ambient air, and Class I area impact analysis.

(e) A project may not be processed under the pilot program if the project:

(1) requires a federal environmental impact statement;

(2) is for mining metallic minerals by open pit or underground methods or is a new facility for processing metallic minerals mined by open pit or underground methods;

(3) is for mining nonferrous metallic minerals or is a new facility for processing nonferrous metallic minerals;

(4) combusts solid waste or hazardous waste;

(5) is located in a karst area; or

(6) would result in a direct discharge of process water to surface water.

(f) For the selected projects, the responsible governmental unit must prepare the pilot program impact statement according to this section. Notwithstanding Minnesota Statutes, section 116D.04, subdivision 2a, paragraph (i), the proposers of the specific project selected for the pilot program may not prepare or submit a preliminary draft pilot program impact statement.

(g) Minnesota Statutes, sections 116D.04, subdivisions 2b and 10, and 116D.045, apply to the pilot program under this section.

(h) By January 15, 2016, the commissioners shall report to the Environmental Quality Board on the outcomes of the pilot program and include any recommendations for statute or rule changes.

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

Presented to the governor March 29, 2012

Signed by the governor April 2, 2012, 12:32 p.m.