A bill for an act

relating to environment; providing for permitting efficiency; modifying environmental review requirements; amending Minnesota Statutes 2010, sections 84.027, by adding a subdivision; 115.07; 116.03, by adding a subdivision; 116.07, subdivision 2; 116D.04, subdivisions 3a, 10; 116D.045, subdivisions 1, 3.

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

Section 1. Minnesota Statutes 2010, section 84.027, is amended by adding a subdivision 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 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 due on August 1 must aggregate the data for the preceding fiscal 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 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.

Sec. 2. Minnesota Statutes 2010, section 115.07, is amended to read:

115.07 VIOLATIONS AND PROHIBITIONS.

Subdivision 1. **Obtain permit.** (a) Except as provided in paragraph (b), it ~~shall be~~ is unlawful for any person to construct, install, or operate a disposal system, or any part thereof, until plans ~~therefor shall~~ and specifications for the disposal system have been submitted to the agency, unless the agency ~~shall have waived the~~ waives submission ~~thereof to it~~ of the plans and specifications and a written permit ~~therefor shall have been~~ for the disposal system is granted by the agency.

(b) If a person who discharges a pollutant into the waters of the state is required by statute or rule to obtain a national pollutant discharge elimination system permit or a state disposal system permit, the person may construct or install, prior to issuance of the permit, at the person's own risk, a disposal system or any part thereof, unless the action taken is:

(1) prohibited by federal law or regulation;

(2) by a municipality constructing a wastewater system with a design capacity of 0.2 million gallons per day or less;

(3) subject to environmental review under Minnesota Rules, chapter 4410, and prohibited from commencing construction until that process is completed;

(4) receiving funding under Minnesota Rules, chapter 7077;

(5) required to obtain a construction storm water permit under Minnesota Rules, part 7090.2010; or

(6) required to be permitted as a subsurface sewage treatment system under Minnesota Rules, part 7081.0040, subpart 1, item B or C.

The person is prohibited from operating such a system or discharging pollutants into the waters of the state until a written permit for the discharge is granted by the agency and until plans and specifications for the disposal system have been approved, unless the agency waives the submission of plans and specifications.

(c) For disposal systems operated on streams with extreme seasonal flows, the agency must allow seasonal permit limits based on a fixed or variable effluent limit when the municipality operating the disposal system requests them and is in compliance with agency water quality standards.

Subd. 3. **Permission for extension.** (a) Except as provided in paragraph (b), it ~~shall be~~ is unlawful for any person to make any change in, addition to, or extension of any existing disposal system or point source, or part thereof, to effect any facility expansion, production increase, or process modification which results in new or increased discharges of pollutants, or to operate such system or point source, or part thereof as so changed, added to, or extended until plans and specifications therefor shall have been submitted to the agency, unless the agency ~~shall have waived the~~ waives submission ~~thereof to it~~ of the plans and specifications and a written permit ~~therefor shall have been~~ for the change, addition, or extension is granted by the agency.

(b) If a person who discharges a pollutant into the waters of the state is required by statute or rule to obtain a national pollutant discharge elimination system permit or a state disposal system permit, the person may, prior to issuance of the permit, at the person's own risk, act to change, add to, or extend an existing disposal system or point source, or part thereof, unless the action taken is:

(1) prohibited by federal law or regulation;

(2) by a municipality constructing a wastewater system with a design capacity of 0.2 million gallons per day or less;

(3) subject to environmental review under Minnesota Rules, chapter 4410, and prohibited from commencing construction until that process is completed;

(4) receiving funding under Minnesota Rules, chapter 7077;

(5) required to obtain a construction storm water permit under Minnesota Rules, part 7090.2010; or

(6) required to be permitted as a subsurface sewage treatment system under Minnesota Rules, part 7081.0040, subpart 1, item B or C.

The person is prohibited from operating such a change, addition, or extension to an existing disposal system or discharging pollutants into the waters of the state until a written permit for the additional or increased discharge is granted by the agency and until plans and specifications for the disposal system have been approved, unless the agency waives the submission of plans and specifications.

Sec. 3. Minnesota Statutes 2010, section 116.03, is amended by adding a subdivision 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 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 due on August 1 must aggregate the data for the preceding fiscal 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 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 2010, section 116.07, subdivision 2, is amended to read:

Subd. 2. **Adoption of standards.** (a) The Pollution Control Agency shall improve air quality by promoting, in the most practicable way possible, the use of energy sources and waste disposal methods which produce or emit the least air contaminants consistent with the agency's overall goal of reducing all forms of pollution. The agency shall also adopt standards of air quality, including maximum allowable standards of emission of air contaminants from motor vehicles, recognizing that due to variable factors, no single standard of purity of air is applicable to all areas of the state. In adopting standards the Pollution Control Agency shall give due recognition to the fact that the quantity or characteristics of air contaminants or the duration of their presence in the atmosphere, which may cause air pollution in one area of the state, may cause less or not cause any air pollution in another area of the state, and it shall take into consideration in this connection such factors, including others which it may deem proper, as existing physical conditions, zoning classifications, topography, prevailing wind directions and velocities, and the fact that a standard of air quality which may be proper as to an essentially residential area of the state, may not be proper as to a highly developed industrial area of the state. Such standards of air quality shall be premised upon scientific knowledge of causes as well as effects based on technically substantiated criteria and commonly accepted practices. No

local government unit shall set standards of air quality which are more stringent than those set by the Pollution Control Agency.

(b) The Pollution Control Agency shall promote solid waste disposal control by encouraging the updating of collection systems, elimination of open dumps, and improvements in incinerator practices. The agency shall also adopt standards for the control of the collection, transportation, storage, processing, and disposal of solid waste and sewage sludge for the prevention and abatement of water, air, and land pollution, recognizing that due to variable factors, no single standard of control is applicable to all areas of the state. In adopting standards, the Pollution Control Agency shall give due recognition to the fact that elements of control which may be reasonable and proper in densely populated areas of the state may be unreasonable and improper in sparsely populated or remote areas of the state, and it shall take into consideration in this connection such factors, including others which it may deem proper, as existing physical conditions, topography, soils and geology, climate, transportation, and land use. Such standards of control shall be premised on technical criteria and commonly accepted practices.

(c) The Pollution Control Agency shall also adopt standards describing the maximum levels of noise in terms of sound pressure level which may occur in the outdoor atmosphere, recognizing that due to variable factors no single standard of sound pressure is applicable to all areas of the state. Such standards shall give due consideration to such factors as the intensity of noises, the types of noises, the frequency with which noises recur, the time period for which noises continue, the times of day during which noises occur, and such other factors as could affect the extent to which noises may be injurious to human health or welfare, animal or plant life, or property, or could interfere unreasonably with the enjoyment of life or property. In adopting standards, the Pollution Control Agency shall give due recognition to the fact that the quantity or characteristics of noise or the duration of its presence in the outdoor atmosphere, which may cause noise pollution in one area of the state, may cause less or not cause any noise pollution in another area of the state, and it shall take into consideration in this connection such factors, including others which it may deem proper, as existing physical conditions, zoning classifications, topography, meteorological conditions and the fact that a standard which may be proper in an essentially residential area of the state, may not be proper as to a highly developed industrial area of the state. Such noise standards shall be premised upon scientific knowledge as well as effects based on technically substantiated criteria and commonly accepted practices. No local governing unit shall set standards describing the maximum levels of sound pressure which are more stringent than those set by the Pollution Control Agency.

(d) The Pollution Control Agency shall adopt standards for the identification of hazardous waste and for the management, identification, labeling, classification, storage, collection, transportation, processing, and disposal of hazardous waste, recognizing that due to variable factors, a single standard of hazardous waste control may not be applicable to all areas of the state. In adopting standards, the Pollution Control Agency shall recognize that elements of control which may be reasonable and proper in densely populated areas of the state may be unreasonable and improper in sparsely populated or remote areas of the state. The agency shall consider existing physical conditions, topography, soils, and geology, climate, transportation and land use. Standards of hazardous waste control shall be premised on technical knowledge, and commonly accepted practices. Hazardous waste generator licenses may be issued for a term not to exceed five years. No local government unit shall set standards of hazardous waste control which are in conflict or inconsistent with those set by the Pollution Control Agency.

(e) A person who generates less than 100 kilograms of hazardous waste per month is exempt from the following agency hazardous waste rules:

(1) rules relating to transportation, manifesting, storage, and labeling for photographic fixer and x-ray negative wastes that are hazardous solely because of silver content; and

(2) any rule requiring the generator to send to the agency or commissioner a copy of each manifest for the transportation of hazardous waste for off-site treatment, storage, or disposal, except that counties within the metropolitan area may require generators to provide manifests.

Nothing in this paragraph exempts the generator from the agency's rules relating to on-site accumulation or outdoor storage. A political subdivision or other local unit of government may not adopt management requirements that are more restrictive than this paragraph.

(f) In any rulemaking proceeding under chapter 14 to adopt standards for air quality, solid waste, or hazardous waste under this chapter, or standards for water quality under chapter 115, that are more stringent than any similar federal standard adopted under the Clean Air Act, United States Code, title 42, section 7412(b)(2); the Clean Water Act, United States Code, title 33, sections 1312(a) and 1313(c)(4); or the Resource Conservation and Recovery Act, United States Code, title 42, section 6921(b)(1), the statement of need and reasonableness must include documentation that the federal standard does not provide adequate protection for public health and the environment and a comparison of the proposed standard with standards in border states and states within Environmental Protection Agency Region 5.

Sec. 5. Minnesota Statutes 2010, section 116D.04, subdivision 3a, is amended to read:

Subd. 3a. **Final decisions.** Within ~~90~~ 30 days after final approval of an environmental impact statement, final decisions shall be made by the appropriate governmental units on those permits which were identified as required and for which information was developed concurrently with the preparation of the environmental impact statement, except that, for a permit request subject to section 15.99, a final decision must be made within 60 days after final approval of an environmental impact statement. Provided, however, that the ~~90-day~~ 30-day period may be extended where a longer period is required by federal law or state statute or is consented to by the permit applicant. The permit decision shall include the reasons for the decision, including any conditions under which the permit is issued, together with a final order granting or denying the permit.

Sec. 6. Minnesota Statutes 2010, 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. 7. Minnesota Statutes 2010, section 116D.045, subdivision 1, is amended to read:

Subdivision 1. **Assessment.** The board shall by rule adopt procedures to authorize the proposer of a specific action to prepare a draft environmental impact statement of that action required pursuant to section 116D.04 for submission to and review, modification, and determination of completeness and adequacy by the responsible governmental unit or assess the proposer of a specific action for reasonable costs of preparing, reviewing, and distributing ~~an~~ the environmental impact statement ~~on that action required pursuant to section 116D.04~~. Such costs shall be determined by the responsible governmental unit pursuant to the rules promulgated by the board.

Sec. 8. Minnesota Statutes 2010, section 116D.045, subdivision 3, is amended to read:

Subd. 3. **Use of assessment.** As necessary, the responsible governmental unit shall assess the project proposer for reasonable costs that the responsible governmental unit incurs in preparing, reviewing, and distributing the environmental impact statement and the proposer shall pay the assessed cost to the responsible governmental unit. Money received under this subdivision by a responsible governmental unit may be retained by the unit for the same purposes. Money received by a state agency must be credited to a special account and is appropriated to the agency to cover the assessed costs incurred.

Sec. 9. **RULE AMENDMENT.**

The commissioner of the Pollution Control Agency shall amend Minnesota Rules, part 7001.0030, to comply with the amendments made under section 2. The commissioner may use the good cause exemption under Minnesota Statutes, section 14.388, subdivision 1, clause (3), to adopt the amendment under this section, and Minnesota Statutes, section 14.386, does not apply except as provided under Minnesota Statutes, section 14.388.