

House Research Act Summary

CHAPTER: 150

SESSION: 2012 Regular Session

TOPIC: Environmental Permitting and Review

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Analyst: Janelle Taylor

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Article 1: Permitting

Overview

This article makes a number of changes regarding environmental permitting, including: modifying provisions from last session that established environmental permitting goals; establishing a ten-year term for certain animal feedlot state disposal system permits; providing a process for the use of "permit professionals;" and requiring the commissioner of employment and economic development to ensure the coordination of state permits through Minnesota Business First Stop. It also modifies conservation rate structure requirements applicable to public water suppliers.

- 1** **Permitting efficiency.** Amends § 84.027, subd. 14a. Modifies a law passed last session establishing permitting goals and reporting requirements for the Department of Natural Resources (DNR) by: modifying the goal so that permits are issued or denied within 150 days of submission of an application (rather than submission of a "substantially complete" application); requiring the commissioner to notify an applicant whether a permit application is complete or not; removing provisions establishing a new 30-day review period when an application is resubmitted; and removing a requirement that biannual reports issued by the department include steps that will be taken to meet expected timelines and complete permit reviews.
- 2** **Water supply plans; demand reduction.** Amends § 103G.291, subd. 3. Eliminates a 2008 law that required a public water supplier to employ a conservation rate structure before requesting approval for construction of a new well or a water appropriation permit increase and instead requires the use of demand reduction measures. Requires the DNR and water suppliers to use a collaborative process to achieve demand reduction measures.
- 3** **Demand reduction measures.** Amends § 103G.291, subd. 4. Establishes a definition of "demand reduction measures" for purposes of the previous and this section. Removes a requirement that

public water suppliers serving more than 1,000 people adopt a conservation rate structure and instead requires implementation of demand reduction measures and extends the timeframe to comply by two years (until 2015). (The conservation rate structure requirement, passed in 2008, went into effect January 1, 2010, for water suppliers in the metropolitan area and was scheduled to take effect January 1, 2013, for all remaining water suppliers).

- 4 Permit duration; state disposal system permits; feedlots.** Adds § 115.03, subd. 8b. States that state disposal system permits issued without national pollutant discharge elimination system permits for feedlots shall have a term of ten years (currently they are issued for five-year terms).
- 5 Permitting efficiency.** Amends § 116.03, subd. 2b. Modifies a law passed last session establishing permitting goals and reporting requirements for the Pollution Control Agency (PCA) by: modifying the goal so that permits are issued or denied within 150 days of submission of an application (rather than submission of a "substantially complete" application); requiring the commissioner to notify an applicant whether a permit application is complete or not; removing provisions establishing a new 30-day review period when an application is resubmitted; and removing a requirement that biannual reports issued by the agency include steps that will be taken to meet expected timelines and complete permit reviews.
- Establishes new provisions allowing permit applicants to hire "permit professionals" to assist with the permitting process. Requires applicants using a permit professional to meet with the PCA upon the agency's request and requires the agency and applicant to provide certain information and materials. Requires the commissioner, if a pre-application meeting was held, to notify the applicant and applicant professional that the application is complete or is denied within seven business days. Requires the permit professional to submit a timetable for submitting the draft permit after notification that the application is complete and requires the commissioner to notify the applicant 60 days following the close of the public comment and hearing period whether the permit can be issued. Requires submittal of all studies and sources of information and allows the commissioner to request additional studies.
- 6 Permits.** Amends § 116.07, subd. 4a. Allows a person to commence construction, reconstruction, replacement, or modification of any facility prior to the issuance of a construction permit unless prohibited by federal law.
- 7 Minnesota Business First Stop.** Adds § 116J.035, subd. 8. Requires the commissioner of employment and economic development, through the multiagency collaboration called "Minnesota Business First Stop," to coordinate the implementation and administration of state permits. Allows a person to apply to Minnesota Business First Stop for assistance in obtaining permits. Allows the commissioner to negotiate a schedule to assess project proposers for the costs incurred by state agencies in coordinating the implementation and administration of state permits, requires funds to be deposited in an account in the special revenue fund and appropriates the funds to the commissioner.

Article 2: Environmental Review

Overview

This article requires review of existing mandatory environmental impact statement (EIS) and environmental assessment worksheet (EAW) categories; expands definitions related to cellulosic biofuels to fuel derived from wood; and provides exemptions from mandatory EIS requirements for certain biobutanol and cellulosic biofuel facilities; and establishes an environmental review pilot program.

- 1 Definitions.** Amends § 41A.10, subd. 1. Adds "wood" feedstock to the definition of cellulosic

materials.

- 2 **When prepared.** Amends § 116D.04, subd. 2a. Exempts biobutanol and cellulosic facilities producing less than 125,000,000 gallons of fuel annually located outside the metropolitan area from mandatory EIS requirements (this is currently allowed for ethanol plants meeting the same thresholds). Allows state agencies to hold a consolidated hearing on projects that require permits from more than one agency.
- 3 **Review of environmental assessment worksheets and environmental impact statements. Adds § 116D.04, subd. 5b.** Requires the Environmental Quality Board (EQB), the PCA, the DNR, and the Department of Transportation to review and submit to the legislature and governor a list of mandatory EAW or EIS categories that they are responsible for that includes the intended historical purposes of the category, whether projects in a category are also subject to other permits, and an analysis of the category, including whether or not it should be modified, eliminated, or left as is. Requires the report to be submitted by December 1, 2012, and every five years thereafter.
- 4 **Pilot program for alternative form of environmental review.** Allows the PCA and DNR to jointly conduct a pilot program for an alternative form of environmental review. Allows the commissioners to select up to three projects for the program and establishes procedure and eligibility requirements for the program.