

Chapter: 42

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Overview

This is the initial omnibus environment and natural resources act for the 2017 legislative session.

Governor Mark Dayton vetoed this act on May 12, 2017.

This act contains the fiscal year 2018 and 2019 budget appropriations for the Pollution Control Agency (PCA), Department of Natural Resources (DNR), the Board of Water and Soil Resources (BWSR), and other entities. It also contains a number of statutory and other changes related to the environment and natural resources.

Article 1: Environment and Natural Resources Appropriations

Overview

This article contains the fiscal year 2018 and 2019 appropriations for the PCA, DNR, BWSR, metropolitan area regional parks, Conservation Corps Minnesota, the Minnesota Zoo, the Science Museum, the school trust lands director, and Explore Minnesota Tourism.

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- 1** **Environment and natural resources appropriations.** Technical.
- 2** **Pollution Control Agency.** Appropriates \$96,036,000 in fiscal year 2018 and \$91,666,000 in fiscal year 2019 to the PCA.

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- 3 Natural Resources.** Appropriates \$273,360,000 in fiscal year 2018 and \$270,668,000 in fiscal year 2019 to the DNR.
- 4 Board of Water and Soil Resources.** Appropriates \$13,829,000 in fiscal year 2018 and \$13,529,000 in fiscal year 2019 to BWSR.
- 5 Metropolitan Council.** Appropriates \$8,540,000 in fiscal years 2018 and 2019 to the Metropolitan Council for metropolitan area regional parks.
- 6 Conservation Corps Minnesota.** Appropriates \$945,000 in fiscal years 2018 and 2019 for Conservation Corps Minnesota.
- 7 Zoological Board.** Appropriates \$8,610,000 in fiscal years 2018 and 2019 to the Minnesota Zoo.
- 8 Science Museum of Minnesota.** Appropriates \$1,079,000 in fiscal years 2018 and 2019 to the Science Museum of Minnesota.
- 9 Administration.** Appropriates \$800,000 in fiscal year 2018 and \$300,000 in fiscal year 2019 to the commissioner of administration for the school trust lands director.
- 10 Explore Minnesota Tourism.** Appropriates \$15,148,000 in fiscal year 2018 and \$14,248,000 in fiscal year 2019 to Explore Minnesota Tourism.
- 11 Revenue.** Appropriates \$2,300,000 in fiscal year 2019 to the Department of Revenue for riparian protection aid payments under a new program established in the act.
- 12 Administration.** Amends Laws 2016, ch. 189, art. 3, § 6. Extends the availability of a previous appropriation for the school trust lands director.

Article 2: Environment and Natural Resources Statutory Changes**Overview**

This article contains a number of statutory and other provisions related to the environment and natural resources.

- 1 Legal counsel.** Adds § 84.01, subd. 6. Allows the DNR to appoint attorneys or outside counsel to represent the department in certain title and mineral interest forfeiture actions.
- 2 Permitting efficiency; public notice.** Amends § 84.027, subd. 14a. Requires the DNR to provide an individual tier 2 permit applicant with a schedule for issuing the permit upon request and, when public notice of a tier 2 draft permit is required, publish the notice within 150 days of receiving the completed application. Requires the DNR to provide a copy of the draft permit, upon request, to the applicant and consider comments from the applicant prior to publishing the public notice.
- 3 Expediting costs; reimbursement.** Amends § 84.027, subd. 14b. Modifies provisions of the DNR's expedited permit review process available to permit applicants willing to pay to expedite the permitting process by expanding it to include the entire permitting process and requiring the DNR to provide cost estimates for the expedited process. Also requires the

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DNR and applicant to enter into a written agreement that includes recourse the applicant may take if the DNR fails to comply with the schedule and identify the staff assigned to work on the permit. States that the permit must not be issued until all fees are paid and that the DNR must refund any unobligated balance from the fees paid.

- 4 **Irrevocability, suspensions, or expirations of permits; environmental review.** Adds § 84.027, subd. 14c. Prohibits permits issued by the DNR from being terminated (except under certain conditions) in the event a bill appropriating money to the DNR for environmental review or permitting activities of the DNR is not passed (government shutdown). Also requires environmental review and permitting work on applications received prior to a shutdown to continue.
- 5 **Unadopted rules.** Adds § 84.0274, subd. 14d. Prohibits the commissioner of the DNR from seeking to implement in a permit or enforce a penalty based upon a department policy, guideline, bulletin, criterion, manual standard, interpretive statement or similar pronouncement if it has not gone through the rulemaking process. States that the commissioner has the burden of proving an action is not prohibited under existing provisions allowing the challenge of such items as unadopted rules.
- 6 **Exemptions.** Amends § 84.788, subd. 2. Exempts a person using a trail that is on the boundary of another state or country from licensing/registration requirements provided there are reciprocal agreements in place.
- 7 **Prohibitions on youthful operators.** Amends § 84.793, subd. 1. States that those six years of age but less than 16 year of age must possess a valid off-highway motorcycle (OHM) safety certificate in order to operate on public lands or waters.
- 8 **Grant-in-aid applications; review period.** Amends § 84.8031. Requires the DNR to provide an applicant denied an off-road vehicle grant-in-aid application a written explanation for the denial.
- 9 **Application, issuance, issuing fee.** Amends § 84.82, subd. 2. Increases the fees that may be charged by registrars or the DNR for issuing snowmobile registrations to \$4.50 for renewal, duplicates, and replacements, and \$7 for new registrations or registration transfers. The current fee is \$2.
- 10 **Program established.** Amends § 84.925, subd. 1. Requires a parent or guardian of a six through 10 year old to be present at the hands-on training portion of the ATV safety training program.
- 11 **Prohibitions on youthful operators.** Amends § 84.9256, subd. 1. Increases the maximum engine size for ATVs that children 10 and 11 may ride on public lands and waters to 110cc for class 1 ATVs that have straddle-style seating or 170cc for class 1 ATVs with side-by-side style seating. Requires those under the age of 16 to be able to reach and control the steering wheel and foot controls of side-by-side style ATVs.
- 12 **Helmets and seat belts required.** Amends § 84.9256, subd. 2. Requires all persons under the age of 18 to wear a seat belt when riding in an ATV if one has been provided by the manufacturer.
- 13 **Standards.** Amends § 84.946, subd. 2. Adds projects to remove life safety hazards, including building code violations and structural defects, to the list of projects eligible for the

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DNR's natural resource asset preservation and replacement (NRAPR) program typically funded with bond funds.

- 14 **Priorities; report.** Adds § 84.946, subd. 4. Requires the commissioner to establish priorities for NRAPR projects and submit a report to the commissioner of management and budget by January 15 each year listing projects that have been paid for with money from NRAPR appropriations.
- 15 **Training and mentoring.** Amends § 84.992, subd. 3. Modifies the DNR's Minnesota Naturalist Corps program to allow "an interpretive" naturalist be a mentor to corps members (current law requires a state park naturalist).
- 16 **Uniform pin.** Amends § 84.992, subd. 4. Requires uniforms worn by Minnesota Naturalist Corps members to have a pin (rather than a patch, which is required under current law) that has the name of the corps and that the program is funded by the legacy amendment.
- 17 **Eligibility.** Amends § 84.992, subd. 5. Restricts eligibility of the Minnesota Naturalist Corps program to participants in an approved college internship program (current law allows those with a postsecondary degree to enroll) and expands the fields of study to include cultural history and interpretation.
- 18 **Corp member status.** Amends § 84.992, subd. 6. Exempts all Minnesota Naturalist Corps members from eligibility for unemployment benefits.
- 19 **Bait harvest from infested waters.** Amends § 84D.03, subd. 3. Prohibits bait intended for sale from being held in infested water unless authorized under a permit.
- 20 **Commercial fishing and turtle, frog, and crayfish harvesting restrictions in infested and noninfested waters.** Amends § 84D.03, subd. 4. Requires commercial fishing equipment used in infested waters to be tagged and used only in water bodies specified in the permit or license. Allows a permit to authorize DNR staff to remove tags after the gear is decontaminated. Under existing law, the equipment must be tagged and is not allowed to be used in any other waters.
- 21 **Classes.** Amends § 84D.04, subd. 1. Allows the commissioner to classify subspecies, genotypes, cultivars, hybrids, or genera of nonnative species as invasive species.
- 22 **Prohibited activities.** Amends § 84D.05, subd. 1. Allows a person to transport prohibited invasive species from riparian property to a legal disposal site at least 100 feet from any surface water, ditch or seasonally flooded land if being transported in a garbage truck.
- 23 **Lake Minnetonka pilot study.** Amends § 84D.108, subd. 2a. Expands and extends until December 1, 2019, a pilot project allowing service providers (dock installers, etc.) to return zebra mussel infested equipment back to Lake Minnetonka under a permit from the DNR.
- 24 **Gull Lake pilot study.** Adds § 84D.108, subd. 2b. Establishes a pilot project allowing the DNR to expand the Lake Minnetonka pilot study mentioned in the previous section to Gull Lake.
- 25 **Cross Lake pilot study.** Adds § 84D.108, subd. 2c. Establishes a pilot project allowing the DNR to expand the Lake Minnetonka pilot study mentioned in a previous section to Cross Lake.

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- 26 Permit for invasive carp.** Adds § 84D.11, subd. 1a. Temporarily (until December 31, 2021) allows the DNR to issue a permit to its divisions to tag bighead, black, grass or silver carp for research or control and release them back into the waterbody they came from under the permit.
- 27 Fort Ridgely Golf Course; golf carts.** Adds § 85.0507. Allows the DNR to authorize the use of golf carts at the Fort Ridgely Golf Course under a contract, concession agreement, or lease.
- 28 Authority to establish.** Amends § 85.052, subd. 1. Clarifies and updates the types of facilities the DNR manages and provides a definition of “lodging.”
- 29 Free permit; military personnel.** Amends § 85.053, subd. 8. Requires the issuance of free annual state park permits to active military personnel, their dependents, and to recipients of a Purple Heart medal. Current law allows for a free one-day permit and only to those who are in active military service and are stationed outside Minnesota.
- 30 Free permit; disabled veterans.** Amends § 85.053, subd. 10. Requires the issuance of a free annual state park permit to a veteran with any level of service-connected disability. Current law requires the issuance of a free permit only to veterans who have a total and permanent service-connected disability.
- 31 Fort Ridgely Golf Course.** Adds § 85.054, subd. 19. Allows the DNR to waive the state park permit fee for those using the golf course at Fort Ridgely State Park under a contract, concession agreement, or lease if the contract, concession agreement, or lease payment is set, in part, to compensate the state park system for the loss in state park fees.
- 32 Fees.** Amends § 85.055, subd. 1. Increases state park permit fees, including a \$10 increase (to \$35) in the annual park permit fee and a \$2 increase (to \$7) in the daily permit fee.
- 33 Receipts, appropriation.** Amends § 85.22, subd. 2a. Expands the receipts collected by the DNR that are to be deposited in the state parks working capital account.
- 34 Designation.** Amends § 85.32, subd. 1. Adds to the list of state water trails.
- 35 Special use permits; fees.** Adds § 85.47. Clarifies that certain special use permit fees collected by the DNR are to be deposited in the natural resources fund.
- 36 Exemptions.** Amends § 86B.301, subd. 2. Exempts a watercraft owned by a resident from another state that does not require the watercraft to be licensed from watercraft licensing requirements.
- 37 General requirements.** Amends § 86B.313, subd. 1. Technical to conform with federal personal floatation (life jacket) requirements.
- 38 Allocation of funding.** Amends § 86B.701, subd. 3. Allows the DNR to reimburse expenses under certain watercraft safety grants if the expenditures are made on or after January 1, of the fiscal year the grant is made.
- 39 Prescribed burn.** Amends § 88.01, subd. 28. Modifies the definition of “prescribed burn” for purposes of certain forestry provisions. The modification was recommended by the DNR in a prescribed burning report required last session.

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- 40** **Auxiliary forest contracts; supplemental agreements.** Amends § 88.523. Removes a requirement that the attorney general approve auxiliary forest contracts.
- 41** **Purchase agreements and penalties.** Amends § 89.39. Removes a requirement that the attorney general approve certain agreements for using DNR supplied planting stock on private land.
- 42** **Affiliate.** Adds § 90.01, subd. 1a. Defines “affiliate” for purposes of certain forestry provisions.
- 43** **Permit holder.** Amends § 90.01, subd. 8. Modifies the definition of “permit holder” to accommodate the addition of “affiliate” (defined in the previous section).
- 44** **Responsible bidder.** Amends § 90.01 12. Modifies the definition of “responsible bidder” to add an affiliate for purposes of certain forestry provisions.
- 45** **Trespass on state lands.** Amends § 90.041, subd. 2. Removes a requirement that the DNR notify the attorney general about settled claims for casual or involuntary trespasses on state lands or timber.
- 46** **Supervision of sales; bond.** Amends § 90.051. States that a DNR employee delegated to supervise state timber appraisals must be bonded in a form prescribed by the commissioner (not the attorney general as required currently).
- 47** **Sale list and notice.** Amends § 90.101, subd. 2. Allows the DNR to post notice of timber sales on the internet rather than requiring them to be published in the newspaper as required under current law.
- 48** **Auction sale procedure.** Amends § 90.14. States that a purchaser of state timber must use a form prescribed by the commissioner (not the attorney general as required currently) for purposes of purchasing a permit based on estimated appraised volume of timber.
- 49** **Purchaser registration.** Amends § 90.145, subd. 2. Technical related to the addition of “affiliate” for purposes of timber provisions.
- 50** **Issuance; expiration.** Amends § 90.151, subd.1. States that DNR must use a form prescribed by the commissioner (not the attorney general as required currently) for purposes of issuing timber permits.
- 51** **Securing timber permits with cutting blocks.** Amends § 90.162. States that a purchaser of state timber must use a form prescribed by the commissioner (not the attorney general as required currently) for purposes of securing timber permits with cutting blocks.
- 52** **Scaling agreement; weight measurement services; fees.** Amends § 90.252. States that certain agreements between the state and timber sale permittees or purchasers of cut products must be in a form prescribed by the commissioner (not the attorney general as required currently).
- 53** **Lease requirements.** Amends § 93.25, subd. 2. Prohibits the DNR from terminating a mining lease for failure to meet production requirements until the 36th year of the lease.

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- 54 Administration and enforcement.** Amends § 93.47, subd. 4. Allows the DNR to allocate surplus wetland credits approved under a permit to mine on or after July 1, 1991, that are not otherwise deposited in a state wetland bank.
- 55 Commissioner’s review; hearing.** Amends § 93.481, subd. 2. Modifies provisions allowing the DNR’s decisions on permits to mine to be challenged to accommodate the new contested case procedures established in the next section.
- 56 Contested case.** Adds § 93.483.
- Subd. 1. Petition for contested case hearing.** Allows a person owning property adjacent to a proposed mining operation or a federal, state or local government having responsibilities identified in the application for a permit to mine to petition the DNR for a contested case hearing. The petition must be filed within 30 days of the application being deemed complete and filed.
- Subd. 2. Petition contents.** Lists the information required to be included in a petition for a contested case hearing.
- Subd. 3. Commissioner’s decision to hold hearing.** Specifies when the commissioner may grant a petition to hold a contested case hearing.
- Subd. 4. Hearing upon demand of applicant.** Allows an applicant denied an application to file a demand for a contested case.
- Subd. 5. Scope of hearing.** Requires the scope of a contested case hearing to be identified by the commissioner and allows the commissioner to develop a proposed permit or permit conditions to inform the contested case. States that the final decision of the commissioner to grant or deny an application following a contested case constitutes a final order for purposes of appeals under the next section.
- Subd. 6. Consistency with administrative rules.** Requires the commissioner to construe the administrative procedures under existing rules for the issuance and appeal of permits to mine and, when conflicts with this section arise, this section controls.
- 57 Appeal.** Amends § 93.50. Modifies a provision governing the appeal of certain DNR decisions related to mining by limiting the appeal to “final” orders, rulings, and decisions and providing that the appeal would be filed with the Court of Appeals, rather than through a contested case proceeding.
- 58 Approval by commissioner.** Amends § 94.343, subd. 9. Allows the DNR to use title insurance when exchanging class A land and allows the commissioner (not the attorney general as provided under current law) to require landowners to submit an abstract of title and file an affidavit.
- 59 Approval of county attorney.** Amends § 94.344, subd. 9. Requires class B land exchange title opinions of county attorneys to be approved by the commissioner instead of the attorney general as currently required.
- 60 Portable shelter.** Adds § 97A.015, subd. 35a. Defines “portable shelter” as a fish house, dark house, or other shelter set on the ice of state waters that collapses, folds, or is

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disassembled for transportation for purposes of licensing requirements and other provisions under the game and fish laws.

- 61** **Protected wild animals.** Adds § 97A.015, subd. 39. Adds bats, snakes, salamanders, lizards and any species listed as endangered, threatened, or of special concern in Minnesota Rules to the definition of “protected wild animals.”
- 62** **Rough fish.** Amends § 97A.015, subd. 43. Exempts rough fish that are listed as endangered, threatened, or of special concern in Minnesota Rules from the definition of “rough fish.”
- 63** **Small game.** Amends § 97A.015, subd. 45. Adds short-tailed and long-tailed weasels to the definition of “small game.”
- 64** **Unprotected birds.** Amends § 97A.015, subd. 52. Removes blackbirds and magpies from the definition of “unprotected birds.”
- 65** **Unprotected wild animals.** Amends § 97A.015, subd. 53. Modifies the definition of “unprotected wild animal” by removing weasels (added to the definition of small game in a previous section) and animals listed as endangered, threatened, or of special concern, and limiting gophers to only plains pocket gophers.
- 66** **Reciprocal agreements on violations.** Amends § 97A.045, subd. 10. Removes the requirement that the attorney general approve certain reciprocal agreements with game and fish authorities in other states and the federal government.
- 67** **Receipts.** Amends § 97A.055, subd. 2. Technical.
- 68** **Deer, bear, and lifetime licenses.** Amends § 97A.075, subd. 1. Removes a requirement that 50 cents from each deer license be deposited in the wolf management and monitoring account beginning July 1, of the year following the year the wolf is delisted under the federal Endangered Species Act.
- 69** **Portable stands.** Amends § 97A.137, subd. 5. Allows a person to leave up to two portable stands in a wildlife management area (WMA) overnight provided it has certain identification information on it.
- 70** **Duty of peace officers.** Amends § 97A.201, subd. 2. Removes county attorneys from a provision requiring them to enforce all game and fish laws (the next section clarifies their role).
- 71** **Prosecuting authority.** Adds § 97A.201, subd. 3. States that county attorneys are the primary prosecuting authority for violations of game and fish laws and other laws under the purview of the DNR. States that prosecution includes civil forfeiture actions.
- 72** **Proceeds of sale.** Amends § 97A.225, subd. 8. Specifies that 70 percent of the net proceeds from the sale of certain forfeited motor vehicles and boats shall be deposited in the game and fish fund and the remaining 30 percent is forwarded to the prosecuting authority for deposit in its operating fund or similar fund for prosecutorial purposes.
- 73** **Misdemeanor.** Amends § 97A.301, subd. 1. Clarifies when misdemeanor penalties for violations of the state’s game and fish laws apply.
- 74** **Gross overlimits of wild animals; penalty.** Amends § 97A.338. States that the gross misdemeanor penalty applicable for certain game and fish law violations where the

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restitution value of the wild animals involved is over \$1,000, does not apply to threatened or endangered wild animals unless more than one animal is taken, possessed, or transported in violation of the game and fish laws.

- 75** **Seizure.** Amends § 97A.420, subd. 1. Lowers the threshold (from \$5,000 to \$1,000) when a person's game and fish license may be seized.
- 76** **Issuance after conviction; gross overlimits.** Amends § 97A.421, subd. 2a. Prohibits a person from obtaining a game or fish license or taking a wild animal for ten years following a game and fish law violation when the restitution value of the wild animals involved is \$2,000 or more. States that violations of game and fish laws involving a threatened or endangered wild animal do not result in license revocations unless more than one animal is taken.
- 77** **Angling and spearing; disabled residents.** Amends § 97A.441, subd. 1. Allows a person receiving aid under the federal Rail Road Retirement Act of 1974 or a former employee of the U.S. Postal Service receiving certain disability pay to obtain a free angling and spearing license.
- 78** **Scopes.** Amends § 97B.031, subd. 6. Allows anyone to use a scope on a muzzleloader during the muzzleloader deer hunting season. Currently, only a person 60 years of age or older or a person with a visual impairment with a special permit issued by the DNR may do so.
- 79** **Rules limiting use of lead shot prohibited.** Adds § 97B.032. Prohibits the DNR from adopting rules that would restrict the use of lead shot effective the day following final enactment.
- 80** **Clothing requirements; blaze orange or blaze pink.** Amends § 97B.071. Allows blaze pink to be worn when hunting deer and certain small game (current law requires blaze orange).
- 81** **Commissioner may limit number of bear hunters.** Amends § 97B.405. Requires the DNR, if limiting the number of bear hunting permits in an area, to reserve one bear hunting permit and give preference for that permit to a resident of a Minnesota veterans home.
- 82** **Bear-hunting outfitters.** Amends § 97B.431. Prohibits the DNR from requiring a person to have first aid or CPR training to be eligible for a bear-hunting outfitter license.
- 83** **Elk management plan.** Amends § 97B.516. Modifies provisions restricting the DNR from managing increasing elk herds to apply only in Kittson, Roseau, Marshall and Beltrami counties.
- 84** **Owners and occupants may take certain animals.** Amends § 97B.655, subd. 1. Adds bats, snakes, salamanders, lizards and weasels to the list of animals that a person may take on land they own or occupy if they are causing damage (these animals were added to the definition of protected animals in a previous section requiring the addition of the animals here to allow owners to continue to take them) and expands the provision to allow a person's agent to also take the animals listed.
- 85** **Lines.** Amends § 97C.315, subd. 1. Allows a person to use two lines when fishing in the open-water season (except during a catch and release season) if the person purchases a

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second-line endorsement for \$5. Requires 50 percent of the revenue from the endorsement to be spent on walleye stocking.

- 86** **Portable shelters.** Amends § 97C.355, subd. 2a. States that a portable shelter may not be left overnight and a person must remain within 200 feet of the shelter or the shelter must be licensed.
- 87** **Walleye.** Amends § 97C.401, subd. 2. Removes a prohibition on possessing more than one northern pike longer than 30 inches.
- 88** **Minnow retailers.** Amends § 97C.501, subd. 1. Provides an exemption from minnow retailer license requirements for licensed resorts that transport minnows purchased from minnow dealers directly to the resorts provided they keep detailed receipts and provide the receipts for inspection upon request.
- 89** **Permit for transportation; importation.** Amends § 97C.515, subd. 2. Allows golden shiner minnows to be imported into the state by licensed wholesale minnow dealers if the minnows are certified healthy and free of certain illnesses and originate from a biosecure facility that has tested negative for invasive species.
- 90** **Harvesting mussel shells.** Adds § 97C.701, subd. 7. Prohibits a person from harvesting live mussels and allows a person with an angling license (unless not required to have one) to take up to 24 whole shells or 48 shell halves of dead freshwater mussels from waters where angling is allowed. Prohibits the dead mussels taken from being purchased or sold.
- 91** **Authority to issue penalty orders.** Amends § 103B.101, subd. 12a. Removes the administrative penalty order (APO) authority of counties and watershed districts for purposes of enforcing the buffer requirements.
- 92** **Authority.** Amends § 103F.411, subd. 1. States that the model ordinance and rules adopted by the Board of Water and Soil Resources (BWSR) for soil loss serve as a guide to local governments that have adopted a soil loss ordinance (current law states that it should serve as a guide to local governments generally).
- 93** **Definitions.** Amends § 103F.48, subd. 1. Modifies the definition of “public waters” for purposes of the buffer law to apply only to waters on the public waters inventory prepared by the Department of Natural Resources (DNR). Makes changes to the definition of “with jurisdiction” to remove reference to BWSR making a determination that the county or watershed district has assumed jurisdiction and instead requiring the board to be notified and makes other changes to the definition to reflect the removal of the APO authority of counties and watershed districts in section 91.
- 94** **Water resources riparian protection requirements on public waters and public drainage systems.** Amends § 103F.48, subd. 3. Modifies buffer requirements by applying the 50-foot average buffer requirement to public waters that have a shoreland classification, and the 16.5-foot buffer to public drainage systems and public waters that do not have a shoreland classification. Allows a local soil and water conservation district (SWCD) to approve alternative riparian water quality practices and allows a landowner to request the SWCD to make a determination of whether a practice would meet the requirements and states that if the landowner makes such a request within 90 days of the date the buffer or alternative practice is required, the landowner cannot be found noncompliant until the

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SWCD has notified the landowner in writing if the practice meets the requirements. Delays the buffer requirements by two years to November 1, 2019 for waters subject to the 50-foot average buffer requirement and November 1, 2020. Requires a person planting buffers or water quality practices to meet the buffer requirements to use only seed mixes that are certified to be free of Palmer amaranth or other noxious weeds and prohibits enforcement of buffer requirements against a landowner when seed is not available.

- 95** **Corrective actions.** Amends § 103F.48, subd. 7. Prohibits enforcement of buffer requirements unless federal or state assistance is available and has been refused by the landowner paying 100 percent of the cost to establish the buffers or other water resource protection measures as well as annual payments or an easement on the land.
- 96** **Constructed management facilities for storm water.** Adds § 103G.005, subd. 8a. Defines “constructed management facilities for storm water” for purposes of water law (the term is used in section 105 for purposes of exempting certain water use from water use permit requirements).
- 97** **Greater than 80 percent area.** Amends § 103G.005, subd. 10b. Applies the greater than 80 percent area definition to wetland bank service areas. Greater than 80 percent areas are areas with more than 80 percent of their presettlement wetland acreage intact.
- 98** **Less than 50 percent area.** Amends § 103G.005, subd. 10h. Applies the less than 50 percent area definition to wetland bank service areas. Less than 50 percent areas are areas that have less than 50 percent of their presettlement wetland acreage intact.
- 99** **Requirements.** Amends § 103G.222, subd. 1. Allows project-specific wetland replacement plans submitted as part of a permit to mine approved on or after July 1, 1991, to include surplus wetland credits to be allocated by the commissioner of natural resources to offset future mining related wetland impacts under any permits to mine held by the permittee, operator, assignee or affiliate. Requires the commissioner to notify the county where a wetland impact under a permit to mine is located and the county where the mitigation site is proposed.
- 100** **Wetland replacement siting.** Amends § 103G.222, subd. 3. Prohibits wetland replacement occurring outside of a greater than 80 percent area from being replaced in a greater than 80 percent area. Removes a requirement that wetlands impacted in less than 50 percent areas be replaced in a less than 50 percent area. Uses wetland service areas rather than counties for purposes of defining areas for wetland replacement. Also allows the approval of wetland replacement sites identified as part of an adequate environmental impact statement (EIS) to be approved for replacement without further modification related to priority order, provided the plan is submitted within one year of the adequacy determination.
- 101** **Calcareous fens.** Amends § 103G.223. Requires the DNR to allow temporary reductions, on a seasonal basis, to groundwater resources under an approved management plan for the appropriation of water that might otherwise impact a calcareous fen which is prohibited under current law.
- 102** **Rules.** Amends § 103G.2242, subd. 1. Requires measures to mitigate impacts on rare natural communities to be considered when making wetland replacement determinations.

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- 103** **Evaluation.** Amends § 103G.2242, subd. 2. Requires a member of the Technical Evaluation Panel (a panel of technical professionals from BWSR, local soil and water conservation districts, DNR, and local government charged with providing wetland determinations and other technical recommendations) to disclose, in writing, any financial interests in wetland banks or management responsibilities selling credits from publically owned wetland banks.
- 104** **Authority; orders.** Amends § 103G.2372, subd. 1. Requires the restoration orders recorded on deeds under existing authority to be removed if a court has ruled that there has not been a violation of the restoration or replacement order and prevents an order from being recorded if the court has ruled that there has not been a violation.
- 105** **Permit required.** Amends § 103G.271, subd. 1. Exempts the following from water use permit requirements: nonconsumptive diversion of surface waters from its natural channel for the production of hydroelectric or hydromechanical power structures in existence before July 1, 1937, or that are regulated by the Federal Energy Regulatory Commission; and use of storm water collected and used to reduce storm water runoff, treat storm water, or sustain groundwater supplies when extracted from constructed management facilities for storm water.
- 106** **Water-use permit processing fee.** Amends § 103G.271, subd. 6. States that the water use permit fee for a facility temporarily diverting water from its natural channel to produce hydroelectric or hydromechanical power may not exceed \$5,000 per year.
- 107** **Fees for past unpermitted appropriations.** Amends § 103G.271, subd. 6a. Allows the DNR to waive payment of fees for past unpermitted water use for a facility temporarily diverting water from its natural channel to produce hydroelectric or hydromechanical power.
- 108** **Transfer of permit.** Amends § 103G.271, subd. 7. Requires the DNR to transfer a water use permit to a new owner if requested.
- 109** **Management plans; economic impacts.** Adds § 103F.271, subd. 8. Requires the DNR to provide certain economic impact estimates when requiring a change in a water appropriation management plan.
- 110** **Applications for groundwater appropriations; preliminary well construction approval.** Amends § 103G.287, subd. 1. Requires the DNR to include the requirements for obtaining a groundwater appropriation permit within preliminary well approval letters. Also requires the DNR to provide applicants denied or issued a groundwater appropriation permit that is reduced from the original request all the information that was used in making the determination on the permit.
- 111** **Groundwater management areas.** Amends § 103G.287, subd. 4. Requires the DNR to provide certain economic impact estimates when making a change to a groundwater management area plan.
- 112** **Stipulation of low-water mark.** Amends § 103G.411. Removes a requirement that the attorney general approve written stipulation agreements between the DNR and riparian owners regarding actions on the location of an ordinary low-water mark.
- 113** **Impaired waters list; public notice and process.** Adds § 114D.25, subd. 6. Requires the PCA to have a 60-day comment period following publication of a draft impaired water list required under the federal Clean Water Act. It also allows the draft to be challenged through

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contested case procedures under the Administrative Procedures Act and identifies criteria the draft may be challenged upon, including the agency's use of data that is more than five years old, the use of data that does not include data from within the last two years, or the use of data that does not reflect recent significant infrastructure investments and pollutant reductions.

- 114** **Review of proposed agency actions of the Pollution Control Agency.** Adds § 115.01. Adds certain proposed actions of the PCA as reviewable by an administrative law judge, including proposed actions related to water quality standards, water related permits (excluding industrial and mining permits), total maximum daily load (TMDL) studies, and rulemaking. Requires an administrative law judge to examine the administrative record without deference to the commissioner of the PCA and independently determine whether the proposed action is based on reliable scientific data and analyses and meets other criteria. Requires the Office of Administrative Hearings to convene an independent review panel under certain conditions and establishes a process for the review.
- 115** **Notice requirements for publicly owned wastewater treatment facilities.** Adds § 115.542. Requires the PCA to provide a permit applicant for a publicly owned wastewater treatment facility with a copy of the draft permit and any fact sheets required at least 30 days prior to distribution and public notice of the permit application and preliminary determination. It also requires the PCA to have a public comment period of at least 60 days for these permits.
- 116** **Definitions.** Amends § 115B.39, subd. 2. Adds a definition for “custodial care” and “priority qualified facility” for purposes of the landfill cleanup program and amends the definition of “qualified facility” to allow additional facilities to be included in the program.
- 117** **Qualified facility not under cleanup order; duties.** Amends § 115B.40, subd. 4. Requires the owner or operator of a newly qualified facility under the previous section to deposit any funds required for proof of financial responsibility that remain after closure, postclosure, and custodial care into the remediation fund.
- 118** **State response at priority qualified facilities.** Adds § 115B.406. Authorizes the PCA to take any environmental response action, make any investigation, or conduct any test to protect public health or the environment. Requires the agency to request the owner of a priority qualified facility to take action to protect public health. Failure to do so may bring a civil suit to compel action and subject the owner to a penalty of up to \$20,000 per day. Any person with information about the priority qualified facility or the owner must supply it to the agency. PCA may recover environmental response and other costs from the owner in a civil action. These costs constitute a lien against the owner's property held in Minnesota.
- 119** **Settlement at priority qualified facility.** Adds § 115B.407. Requires the PCA commissioner to enter into a settlement agreement requested by a non-owner of a priority qualified facility who agrees to waive all claims for response costs against anyone but the owner; provides the agency with information regarding insurance policies it held during the landfill's operations; and enters into an agreement with the commissioner to cooperate with respect to asserting claims under the policies. A party to a settlement agreement is released from liabilities under the Minnesota Environmental Response and Liabilities Act, and held harmless from any liability for state or federal environmental response actions taken at the landfill. The PCA commissioner is to enter into an agreement with the EPA to release a party

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to a settlement agreement for any federal costs incurred at the landfill. A settlement agreement does not indemnify a party against any illegal action with respect to the landfill.

- 120 Acquisition of priority qualified facility.** Adds § 115B.408. Authorizes PCA to acquire fee title acquisition to land by condemnation at a priority qualified facility, after which the PCA will begin remediation. Once response action are completed, the PCA can transfer the land to another state agency or comply with any required federal law pertaining to the land's disposal. Any state agency to which the land is transferred is not liable for damages or cleanup costs under this chapter solely as a result of the acquisition. Any proceeds from disposition of the property must be deposited in the remediation fund.
- 121 Other remedies preserved.** Adds § 115B.409. Prohibits the owner of real property from bringing any legal action to recover for damages, loss or response costs arising from a hazardous substance release. Prohibits interpreting sections 115B.40 to 115B.408 as reflecting a policy regarding the inapplicability of strict liability under state or federal law to any past or future activities of the owner regarding hazardous substances.
- 122 Deposit of proceeds.** Adds § 115B.4091. Provides that all payments to the state under sections 115B.406 to 115B.409 be credited equally to the remediation fund and the closed landfill investment fund.
- 123 General rule.** Amends § 115C.021, subd. 1. Technical related to the next section.
- 124 Heating fuel oil vendor.** Adds § 115C.021, subd. 5. States that a fuel oil vendor is not responsible for a heating fuel oil release at a residential location if the release was caused solely by the failure of a fuel oil tank owned by the homeowner.
- 125 Permitting efficiency.** Amends § 116.03, subd. 2b. Requires the PCA to provide an individual tier 2 permit applicant with a schedule for issuing the permit upon request.
- 126 Draft permits; public notice.** Amends § 116.03, subd. 7. Requires the PCA, when public notice of a draft permit is required for individual tier 2 permits, to publish the public notice within 150 days of receiving the completed application. Requires the PCA to provide a copy of the draft permit to the applicant, upon request, and consider comments from the applicant prior to publishing the public notice.
- 127 Clean Air Act settlement money.** Amends § 116.03, subd. 8. Defines "Clean Air Act Settlement money" to require that the money be spent only as specifically appropriated by law. Requires the commissioner of management and budget to establish a Clean Air Act settlement account in the environmental fund for the settlement money and eliminate the account once all the money has been spent. The provision would apply to the Volkswagen settlement money.
- 128 Permit fees.** Amends § 116.07, subd. 4d. Modifies provisions of the PCA's expedited permit review process available to permit applicants willing to pay to expedite the permitting process by expanding it to include the entire permitting process and requiring the PCA to provide cost estimates for each task and a schedule for completing those tasks. Also requires the PCA and applicant to enter into a written agreement that includes recourse the applicant may take if the PCA fails to comply with the schedule and the staff assigned. States that the permit must not be issued until all fees are paid and that the PCA must refund any unobligated balance from the fees paid.

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- 129 Irrevocability, suspensions, or expirations of permits; environmental review.** Adds § 116.07, subd. 13. Prohibits permits issued by the PCA from being terminated (except under certain conditions) in the event a bill appropriating money to the PCA for environmental review or permitting activities of the agency is not passed (government shutdown). Also requires environmental review and permitting work on applications received prior to a shutdown to continue.
- 130 Unadopted rules.** Adds § 116.07, subd. 14. Prohibits the commissioner of PCA from seeking to implement in a permit or enforce a penalty based upon an agency policy, guideline, bulletin, criterion, manual standard, interpretive statement or similar pronouncement if it has not gone through the rulemaking process. States that the commissioner has the burden of proving an action is not prohibited under existing provisions allowing the challenge of such items as unadopted rules.
- 131 Limitation regarding certain policies, guidelines, and other interpretive statements.** Adds § 116.07, subd. 15. Prohibits the PCA from implementing or enforcing an unadopted rule defined as a “guideline, bulletin, criterion, manual standard, interpretive statement, or similar pronouncement” that meets the definition of a rule but that has not been through the rulemaking process. States that when there is a challenge against the agency under this subdivision, the reviewing entity must independently and without deference to the agency determine whether the agency has violated this subdivision. Requires the PCA to adopt under the rulemaking process any guideline, bulletin, criterion, manual standard, interpretive statement, or similar pronouncement that it incorporates by reference in a rule, statute, or standard.
- 132 New open air swine basins.** Amends § 116.0714. Extends the prohibition against new open-air swine manure lagoons until June 30, 2022 (under current law, the prohibition will expire on June 30, 2017).
- 133 Propane school bus rebate program.** Adds § 116.083. Establishes a rebate program for schools that purchase propane school buses and provides an annual appropriation of \$1,500,000 from the new Clean Air Act settlement account (established under section 127) for the program.
- 134 Membership.** Amends § 116C.03, subd. 2. Modifies the membership of the Environmental Quality Board (EQB) to remove the governor’s representative and expand the citizen membership to eight citizens (one from each congressional district) and requires the citizens to have expertise in environmental review or permitting.
- 135 Jurisdiction.** Amends § 116C.04, subd. 2. Removes certain duties of the EQB pertaining to interdepartmental investigations and environmental coordination.
- 136 When prepared.** Amends § 116D.04, subd. 2a. Requires all agencies having jurisdiction over a permit identified in a draft environmental impact statement (EIS) to accept and begin reviewing permit applications upon publication of the notice of preparation of the EIS.
- 137 Review.** Amends § 116D.04, subd. 10. Modifies a provision allowing a person to petition the Court of Appeals on certain environmental review decisions (need for an environmental assessment worksheet (EAW), need for an EIS, or the adequacy of an EIS) by requiring the petition to be filed within 45 days of the responsible government unit making its decision.

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Under current law, the petition must be filed within 30 days of the party receiving the final decision and order of the responsible government unit.

- 138 Assessment.** Amends § 116D.045, subd. 1. Requires rules to be adopted to allow a project proposer to prepare a draft EIS for submission to the responsible government unit.
- 139 Trail or portage dedication.** Amends § 160.06. Makes provisions dedicating trails and portages between public or navigable waters used for 15 years or more applicable for canoe routes (not state water trails as stated in current law).
- 140 General requirements and procedures.** Amends § 168.1295, subd. 1. Increases the minimum contribution amount required for the state parks and trails license plate from \$50 to \$60.
- 141 Land on or adjacent to public waters.** Amends § 282.018, subd. 1. Allows local governments to sell tracts or parcels of tax-forfeited land within a plat of record bordering on or adjacent to meandered lakes and other public waters in the manner otherwise provided by law for the sale of the lands, if it determines that it is in the public interest to do so.
- 142 Timber sales; land leases and uses.** Amends § 282.04, subd. 1. Allows private sale without public notice of up to 500 cords in appraised volume of state timber. Current law allows this for amounts of timber not exceeding \$3,000 in value.
- 143 Computation of nonhighway use amounts.** Amends § 296A.18, subd. 6a. Changes the date (from June 1 to April 1) that gas tax revenues are transferred to the nonhighway use accounts.
- 144 Merchant bags.** Adds § 471.9998. Prohibits a local government from imposing a ban, fee, or tax on the use of paper, plastic, or reusable bags for packaging any item or good purchased from a merchant, itinerant vendor, or peddler.
- 145 Riparian protection aid.** Adds § 477A.21. Establishes an aid program for watershed districts and counties that have assumed jurisdiction for enforcing buffer requirements. Requires BWSR and DNR to provide certain information to the Department of Revenue (DOR) to use in determining eligibility for and calculating the payments. Provides a formula for calculating the payments based upon the total number of acres of certain agricultural land and the miles of public watercourses and public drainage system ditches. Established minimum and maximum payment amounts that are adjusted depending on funding levels, and only counties assuming jurisdiction for enforcing the buffer requirements (or counties where a watershed district has assumed jurisdiction) are eligible for the payments. States that the aid that would otherwise go to a county or a portion of a county not assuming jurisdiction for enforcing the buffer requirements goes to BWSR. Requires the payments to be made along with other local government aid payments. The payments begin with aids payable in 2017.
- 146 Boathouse leases; Soudan Underground Mine State Park.** Amends Laws 2000, ch. 486, § 4, as amended. Prohibits the DNR from charging more than 50 percent of the average market rate to those with boathouse leases at the Soudan Underground Mine State Park.

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- 147 Rules; silica sand.** Amends Laws 2013, ch. 114, art. 4, § 105. Makes permissive, rather than mandatory, the requirement of the EQB and PCA to adopt rules related to silica sand projects.
- 148 Wild rice water quality standards.** Amends Laws 2015, First Special Session, ch. 4, art. 4, sect. 136. Delays the date that the PCA must adopt rules related to the wild rice water quality standard for sulfate by one year (from January 15, 2018, to January 15, 2019).
- 149 Effective date.** Amends Laws 2016, ch. 189, art. 3, § 26. Delays the effective date for “Sophia’s Law” which established certain carbon monoxide detector requirements for boats and related education and warning label requirements by one year (to May 1, 2018).
- 150 Prescribed burn requirements; report.** Amends Laws 2016, ch. 189, art. 3, § 46. Changes the requirement that the DNR develop criteria for prescribed burns under a general permit to criteria under an open burning permit. The change was recommended by the DNR in a prescribed burning report required last session.
- 151 Demolition debris landfill permitting.** Extends, by five years, existing class I demolition debris landfill facility solid waste permits issued by the PCA that are operating under certain guidance issued in August of 2005.
- 152 Environmental Quality Board membership transition.** Provides staggered appointment of new EQB members to accommodate the change in the membership of the EQB in section 134.
- 153 Sand Dunes State Forest management; plan required.** Prohibits, for two years, further conversion of the land in the Sand Dunes State Forest to oak savanna. Also requires, for two years, that only native prairie seeds to be used, notification of prescribed burns, and other requirements. Requires the DNR to convey an easement to the township, if necessary, for 233rd Avenue.
- 154 Water use permit and data collection; appropriation.** Requires the DNR to issue a water use permit for certain calcareous fens in Pipestone County, subject to certain conditions.
- 155 Hill-Annex Mine State Park Management and Operation Plan.** Requires the DNR to work with the commissioner of the Iron Range Resources and Rehabilitation Board and representatives from area local units of government to create an alternative operating model for local management and operation of the Hill-Annex Mine State Park until mining resumes on the property. Requires the commissioner to submit a report to the legislature by January 15, 2018. Requires the DNR to maintain the same level of service and hours of operation at that park as was done in fiscal year 2016 in fiscal year 2018 and 2019.
- 156 Base budget report.** Requires the DNR and PCA to submit a base budget report to the legislature by October 15, 2018, and specifies the details to be included in the report.
- 157 Rulemaking; minnow licenses.** Requires the DNR to adopt rules to conform with the minnow dealer licensing provisions in section 88 and allows the use of the good cause exemption for these purposes.
- 158 Cancellation of permits.** Cancels water use permits issued before July 1, 2017, for appropriation or use of storm water under certain conditions that are exempted from permit requirements under a new provision in section 105.

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- 159** **Rulemaking; effluent limitation compliance.** Requires the PCA to amend agency rules to exempt certain municipal modifying or constructing a facility to comply with a new or modified effluent limitation from being required to make additional capital investment to comply with new effluent limits adopted after construction begins for at least 16 years. Provides a good cause exemption from rulemaking for these purposes.
- 160** **Disposition of proceeds; St. Louis County environmental trust fund.** Requires the St. Louis County Board to deposit any money received from the sale of tax-forfeited land purchased by the Fond du Lac Band of Lake Superior Chippewa with money appropriated from the outdoor heritage fund in fiscal year 2015, into an environmental trust fund established by the county. Prohibits the principal in that account from being used and requires the interest to be used only for purposes of improving natural resources.
- 161** **Action to obtain access prohibited; Clearwater County.** Prohibits the DNR, until July 1, 2018, from initiating a civil action or otherwise seeking to obtain access to DNR land in Clearwater County from a certain road.
- 162** **Revisor's instruction.** Instructs the Revisor to make certain technical corrections.
- 163** **Repealer.** Repeals: § 84.026, subd. 3 (contracting provisions of the DNR); § 97B.031, subd. 5 (muzzleloader disability permit no longer needed due to section 78); § 97C.701, subd. 1a and subd. 6; § 97C.705; § 97C.711 (provisions related to harvesting mussels no longer needed due to a new provision in section 90); § 116C.04, subd. 3 and subd. 4 (duties of the EQB); and Minnesota Rules parts 6258.0100; 6258.0200; 6258.0300; 6258.0400; 6258.0500; 6258.0600; 6258.0700, subparts 1, 4, and 5; 6258.0800; and 6258.0900 (rules related to harvesting mussels no longer needed due to the new provision in section 90).