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Overview

This bill makes a number of changes to environmental permitting and review provisions and eliminates the Environmental Quality Board (EQB) and reassigns its duties.

Article 1

Overview

This article contains a number of provisions impacting the environmental permitting processes of the Department of Natural Resources (DNR) and the Pollution Control Agency (PCA) as well as other provisions.

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- 1 **Permitting efficiency; public notice.** Amends § 84.027, subd. 14a. Requires the DNR to provide a permit applicant with a schedule for issuing the permit and, when public notice of a 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 to the applicant and consider comments from the applicant prior to publishing the public notice.
- 2 **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 each task and a schedule for completing those tasks. Also requires the DNR and applicant to enter into a written agreement that

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includes recourse the applicant may take if the DNR fails to comply with the schedule and the names of the staff assigned and the terms of their preferential 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.

- 3 **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.
- 4 **Unadopted rules.** Adds § 84.0274, subd. 14d. Prohibits the DNR from 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. Requires the DNR to go through the rulemaking process to amend a guideline, bulletin, criterion, manual standard, interpretive statement, or similar pronouncement the department incorporates by reference.
- 5 **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.
- 6 **Permitting efficiency.** Amends § 116.03, subd. 2b. Requires the PCA to provide a permit applicant with a schedule for issuing the permit.
- 7 **Draft permits; public notice.** Amends § 116.03, subd. 7. Requires the PCA, when public notice of a draft permit is required, 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 and consider comments from the applicant prior to publishing the public notice.
- 8 **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 names of the staff assigned and the terms of their preferential work on the permit. 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.
- 9 **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.

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- 10 Unadopted rules.** Adds § 116.07, subd. 14. Prohibits the PCA from 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. Requires the PCA to go through the rulemaking process to amend a guideline, bulletin, criterion, manual standard, interpretive statement, or similar pronouncement it incorporates by reference.
- 11 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.
- 12 Final decision.** Amends § 116D.04, subd. 3a. States that wetland replacement sites identified as part of an EIS are deemed approved upon final approval of the EIS.
- 13 Review.** Amends § 116D.04, subd. 10. Modifies a provision allowing to 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 30 days of the responsible government unit making its decision. 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.
- 14 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.

Article 2: Environmental Quality Board

Overview

This article eliminates the Environmental Quality Board (EQB), eliminating some of its duties and reassigning others.

- 1 Powers and duties.** Amends § 3.886, subd. 4. Conforming change.
- 2 Low-level radioactive waste.** Amends § 13.7411, subd. 9. Conforming change.
- 3 Pesticide management plan.** Amends § 18B.045. Eliminates a requirement of the commissioner of agriculture to submit a status report to the EQB on the commissioner’s pesticide management plan.
- 4 Report.** Amends § 18E.06. Conforming change.
- 5 Groundwater policy.** Amends § 103A.204. Reassigns the duty of the EQB to coordinate the state’s groundwater policy to the Clean Water Council and assigns the council the duty of preparing a report on related policy issues.
- 6 Powers and duties.** Amends § 103B.101, subd. 9. Eliminates a requirement of the Board of Water and Soil Resources (BWSR) to cooperate with the EQB when fulfilling its duties to facilitate communication and coordination among state agencies and state and local governments on water and soil resource management.

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- 7** **Coordination of water resource planning.** Amends § 103B.151. Reassigns the duties of the EQB regarding coordination of state water planning to the Clean Water Council and assigns the chair of the Clean Water Council as the governor’s representative on interstate water resource organizations (currently assigned to the chair of the EQB).
- 8** **State review.** Amends § 103B.315, subd. 5. Removes the EQB from the list of entities BWSR must consult with when reviewing local water management plans.
- 9** **Evaluation.** Amends § 103H.151, subd. 4. Requires information collected by the commissioners of agriculture and the PCA on the effectiveness of best management practices to be submitted to the Clean Water Council (rather than the EQB as required currently).
- 10** **Report.** Amends § 103H.175, subd. 3. Eliminates a requirement of the PCA to submit a draft status report to the EQB on the status of groundwater monitoring.
- 11 to 19** **Supplemental review of certain waste facilities; temporary advisory board.** Reassigns the duties regarding supplemental review of certain waste facilities from the EQB to the PCA and modifies the procedures for the review by having the PCA convene a temporary advisory board (rather than the current procedure requiring the EQB to add temporary members to the board).
- 20** **Report to the legislature.** Amends § 115B.20, subd. 6. Removes the EQB from the list of entities the commissioners of agriculture and the PCA must submit a report to on the activities funded with the remediation fund.
- 21** **Violations; penalties.** Amends § 116C.74, subd. 2. Conforming change.
- 22 to 27** **Genetically engineered organisms.** Designates the Department of Agriculture (MDA) as the state coordinating organization for state and federal regulation of genetically engineered organisms (the EQB is currently) and transfers related duties from the EQB to the MDA, except certain provisions related to wild rice which are transferred to the DNR.
- 28 to 31** **Silica sand.** Transfers responsibilities related to silica sand model ordinances, technical assistance and maintenance of a library from the EQB to the DNR.
- 32 to 36** **Environmental review.** Transfers responsibilities related to environmental review (EAW, EIS, etc.) from the EQB to the PCA.
- 37** **Agency review; sale prohibition.** Amends § 116F, subd. 2. Conforming change.
- 38** **Participation by other agency or political subdivision.** Amends § 216B.243, subd. 7. Conforming change.
- 39** **Draft report; public meeting.** Amends § 216C.18, subd. 2. Conforming change.
- 40** **Transfer of authority.** States that the responsibilities of the EQB under chapter 116D (environmental review related statutes) are transferred to the PCA.
- 41** **Revisor’s instruction.** Directs the revisor of statutes to make a number of changes to Minnesota Statutes and Minnesota Rules, including changing “board” to “the commissioner of the Pollution Control Agency” to conform with the transfer of environmental review related responsibilities in the bill from EQB to PCA, renaming the EQB Monitor to the Environmental Quality Monitor, changing “board” to “the commissioner of natural resources” in several sections in chapter 116G which transfers authority for critical area

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related provisions from the EQB to the DNR, and changing “board” to “the commissioner of agriculture” which transfers responsibility for the review of certain eminent domain actions from the EQB to MDA.

- 42** **Repealer.** Repeals various sections related to the EQB and its duties, as follows: § 103A.403 (oversight of the availability of statewide nitrate data); § 103A.43 (reporting on water quality and water quantity assessments); § 103F.614 (review of eminent domain actions); § 103A.403 (oversight of the availability of statewide nitrate data); § 103A.43 (reporting on water quality and water quantity assessments); §§ 116C.02 to 116C.08 (establishment and duties of EQB); §§ 116C.71, subds. 1c and 2a, 116C.721, 116C.722, and 116C.724 (radioactive waste management responsibilities); § 116C.91, subd. 2 (definition of “board” for purposes of genetically engineered organism provisions); and § 116G.03, subd. 2. (definition of “board” for purposes of critical areas)