

**CHAPTER 248--S.F.No. 2454**

*An act relating to natural resources; modifying and repealing certain obsolete laws; providing for certain regulatory efficiencies; amending Minnesota Statutes 2012, sections 13.7411, subdivision 8; 84.025, subdivision 10; 84.028, subdivision 3; 84.081, subdivision 1; 84.781; 88.6435, subdivision 1; 103C.211; 103C.311, subdivision 1; 103C.401, subdivision 1; 103F.135, subdivision 1; 103G.005, subdivisions 9, 9a; 115.06, subdivision 4; 115A.03, by adding a subdivision; 115A.54, subdivision 4; 116.03, subdivision 2b; 116.07, subdivision 4j; repealing Minnesota Statutes 2012, sections 14.04; 84.083, subdivisions 3, 4; 84.163; 84.361; 84.43; 84.44; 84.45; 84.46; 84.47; 84.48; 84.49; 84.50; 84.51; 84.52; 84.521; 84.53; 84.55; 84.965; 85.015, subdivision 3; 103B.701; 103B.702; 103F.131; 103F.155; 103F.378; 103F.381; 103F.383, subdivision 3; 103F.387; 103F.389, subdivisions 1, 2; 103F.391; 115.445; 115B.412, subdivision 10; 116.181; 116.182, subdivision 3a; 116.195, subdivision 5; 116.54; 116.90; 116C.712; 116C.833, subdivision 2; 173.0845; Laws 2013, chapter 114, article 4, section 100.*

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

Section 1. Minnesota Statutes 2012, section 13.7411, subdivision 8, is amended to read:

Subd. 8. **Pollution Control Agency.** ~~(a) Hazardous waste generators.~~ Information provided by hazardous waste generators under section 473.151 and for which confidentiality is claimed is governed by section 116.075, subdivision 2.

~~(b) Tests.~~ Trade secret information made available by applicants for certain projects of the Pollution Control Agency is classified under section 116.54.

Sec. 2. Minnesota Statutes 2012, section 84.025, subdivision 10, is amended to read:

Subd. 10. **Recreational vehicles and boats used for public purposes.** ~~All snowmobiles and outboard motors that are purchased by the commissioner of natural resources must be of the four-stroke engine model, except that the commissioner may purchase models with two-stroke engines if the commissioner determines that they are as environmentally efficient or that four-stroke engines are not practical for the intended natural resource management purpose. The commissioner shall give preference to engine models manufactured in the United States. All all-terrain vehicles purchased by the commissioner must be manufactured in the state of Minnesota.~~

Sec. 3. Minnesota Statutes 2012, section 84.028, subdivision 3, is amended to read:

Subd. 3. **Game warden duties; conservation officers.** The operation of the Game Warden Service in the Division of Game and Fish as constituted before July 1, 1967 is under the direct control and supervision of the commissioner. The name of the personnel in such Game Warden Service is changed to conservation officers. Conservation officers shall continue to have the powers and duties of game wardens as they existed before July 1, 1967 and may be assigned to public relations, conservation instructional activities, and the enforcement of laws relating to resources management which the commissioner shall direct. The commissioner shall create a separate division entitled the Division of Enforcement and Field Service, to be composed of conservation officers and shall appoint a director of the division. The commissioner may

place the director's position in the unclassified service if the position meets the criteria established in section 43A.08, subdivision 1a.

Sec. 4. Minnesota Statutes 2012, section 84.081, subdivision 1, is amended to read:

Subdivision 1. **Directors.** ~~Subject to the commissioner's authority to revise or abolish existing divisions and to establish new divisions, all as prescribed in section 84.083, subdivision 1, The Department of Natural Resources shall be organized with the following into divisions: a Division of Lands and Forestry, a Division of Waters, Soils, and Minerals, a Division of Game and Fish, a Division of Parks and Recreation, and a Division of Enforcement and Field Service~~ subject to the commissioner's authority to revise or abolish existing divisions and to establish new divisions as prescribed under section 84.083, subdivision 1. Each division shall be under the immediate charge of a director, subject to the supervision and control of the commissioner. The commissioner may place a director's position in the unclassified service if the position meets the criteria established in section 43A.08, subdivision 1a. They shall be chosen with regard to knowledge, training, experience, ability in administering the work of their respective divisions, and with consideration given to applicable professional registration.

Sec. 5. Minnesota Statutes 2012, section 84.781, is amended to read:

#### **84.781 USE OF DEPARTMENT RESOURCES.**

The commissioner of natural resources may permit Department of Natural Resources personnel and equipment ~~from the Division of Trails and Waterways~~ to be used to assist local units of government in developing and maintaining off-highway vehicle grant-in-aid trails located on property owned by or under the control of the local unit of government.

Sec. 6. Minnesota Statutes 2012, section 88.6435, subdivision 1, is amended to read:

Subdivision 1. **Permits.** A person may not buy more than 100 pounds of decorative boughs in any calendar year without a bough buyer's permit issued by the commissioner of natural resources. The annual fee for a permit for a resident or nonresident to buy decorative boughs is \$25. ~~The annual fee may be reduced to \$10 if the buyer attends an approved annual workshop or other orientation session for balsam bough harvesters and buyers.~~

Sec. 7. Minnesota Statutes 2012, section 103C.211, is amended to read:

#### **103C.211 CONSOLIDATION AND DIVISION OF DISTRICTS.**

(a) ~~A One or more districts may petition to consolidate two or more districts or to separate a district into two or more districts may be filed with the state board for a consolidation.~~ The petition must be signed by the majority of each board of the affected districts or by at least 100 resident owners within the affected districts. It is not necessary to obtain the consent of fee owners in an established district before districts are consolidated or an existing district is divided. Proceedings provided for petitions to organize a district shall be followed as far as they are applicable. The state board shall prescribe the form for a petition, which shall be as nearly as possible in the form for petitions to organize a district. The state board shall take action on the petition if signed by a majority of the supervisors of each of the affected districts.

(b) ~~The eligible voters within the affected districts may vote in the referendum. The state board may not determine the administrative feasibility of consolidating or separating districts unless a majority of the~~

votes cast in the referendum within each separate district affected, or within each separate area sought to be made a separate district, is in favor of the consolidation or separation.

~~(c) When districts are consolidated or separated, the corporate existence and terms of office of the officers of the old districts expire upon the issuance and recording by the secretary of state of a certificate of organization of the new districts. Upon consolidation, the rights and liabilities of the consolidating districts shall be assumed by the consolidated district. Upon separation, the rights and liabilities of the original district shall be vested in and assumed by the new districts in an equitable proportion determined by the state board. A separation does not affect the term of office for which a supervisor was elected or appointed. The supervisor shall continue to represent the district where the supervisor resides for that full term.~~

(b) The petition must:

(1) describe with particularity the change requested, the territory affected, and the reasons for the change;

(2) illustrate that the change is consistent with the purpose and requirements of sections 103C.201 to 103C.335;

(3) identify the proposed name for the consolidated district;

(4) identify the location of the principal office of the consolidated district;

(5) identify potential changes to supervisor districts;

(6) identify changes in supervisors that would result from the proposed consolidation;

(7) provide a list of nominees for vacant supervisor positions; and

(8) be accompanied by resolutions of support signed by each district board affected by the change.

(c) Upon the filing of a valid petition, the state board shall give notice that the petition has been filed. The notice must:

(1) be made by publication in a legal newspaper in each county affected by the petition;

(2) be made by mail to the auditor of each county affected by the petition;

(3) describe the actions proposed by the petition;

(4) invite written comments on the petition for the consideration by the state board;

(5) state that a person who objects to the actions proposed in the petition may submit a written request for hearing to the state board within 30 days of the last publication of the notice under this paragraph. The request must contain 25 or more signatures from resident owners residing in the affected districts; and

(6) state that if a timely request for hearing is not received, the state board may make a decision on the petition at a future meeting of the state board.

(d) If one or more timely requests for hearing are received, the state board must hold a hearing on the petition.

(e) The state board must establish the proposed consolidation, by order, if the board determines the consolidation promotes public health and welfare and the proposed consolidation would advance the purposes of this chapter.

(f) When districts are consolidated, the corporate existence and terms of office of the officers of the old districts expire upon the issuance and recording by the secretary of state of a certificate of organization of the new district. Upon consolidation, the rights, assets, and liabilities of the consolidating districts shall be assumed by the consolidated district.

(g) If nomination districts are changed, the state board shall appoint supervisors to fill vacancies resulting from the consolidation within 30 days after the action is taken. A majority of the supervisors' terms must expire after the next general election following their appointments and the remaining supervisors' terms must expire after the second general election following their appointments.

(h) No sooner than two years after the date of consolidation, the affected districts may petition the state board to have the action reversed through the same procedure outlined in paragraphs (a) to (f). When a consolidation is reversed, the state board shall order the appointments and distribution or transfer of assets and liabilities.

Sec. 8. Minnesota Statutes 2012, section 103C.311, subdivision 1, is amended to read:

Subdivision 1. **Supervisors elected at large.** (a) The district board shall, with the approval of the state board, divide a district into supervisor districts for purposes of nomination for election. At each election after the division, one or more supervisors shall be nominated from each supervisor district. A supervisor must be a resident of the supervisor district to be elected.

(b) If the boundary of a soil and water conservation district has been substantially changed by a division of the district, the district shall be divided into supervisor districts for nomination purposes.

(c) Except for consolidation under section 103C.211, this subdivision does not disqualify a supervisor during the term for which the supervisor was elected or nominated for election. Supervisors nominated from the supervisor districts shall be included on the ballot for election from the entire area included in the soil and water conservation district.

(d) A certified copy of the minutes or the resolution of the supervisors establishing supervisor districts must be promptly filed by the chair of the district board with the county auditor of the counties where the district is located and with the state board.

Sec. 9. Minnesota Statutes 2012, section 103C.401, subdivision 1, is amended to read:

Subdivision 1. **Powers and duties.** In addition to the powers and duties of the state board provided by other law, the state board shall:

(1) offer to assist the district boards to implement their programs;

(2) keep the district boards of the state informed of the activities and experience of other districts and facilitate cooperation and an interchange of advice and experience among the districts;

(3) coordinate the programs and activities of the districts with appropriate agencies by advice and consultation;

(4) approve or disapprove the plans or programs of districts relating to the use of state funds administered by the state board;

(5) secure the cooperation and assistance of agencies in the work of the districts and develop a program to advise and assist appropriate agencies in obtaining state and federal funds for erosion, sedimentation, flooding, and agriculturally related pollution control programs;

(6) develop and implement a public information program concerning the districts' activities and programs, the problems and preventive practices relating to erosion control, sedimentation, agriculturally related pollution, flood prevention, and the advantages of formation of districts in areas where their organization is desirable;

(7) ~~divide and consolidate districts without a hearing or a referendum to confine districts within county limits, without allowing a district, if feasible and practicable, to contain less than four full or fractional congressional townships;~~

(8) assist the statewide program to inventory and classify the types of soils in the state as determined by the Minnesota Cooperative Soil Survey;

(9) identify research needs and cooperate with other public agencies in research concerning the nature and extent of erosion, sedimentation, flooding and agriculturally related pollution, the amounts and sources of sediment and pollutants delivered to the waters of the state, and long-term soil productivity;

(10) develop structural, land use management practice, and other programs to reduce or prevent soil erosion, sedimentation, flooding, and agriculturally related pollution;

(11) develop a system of priorities to identify the erosion, flooding, sediment, and agriculturally related pollution problem areas that most need control systems;

(12) ensure compliance with statewide programs and policies established by the state board by advice, consultation, and approval of grant agreements with the districts; and

(13) service requests from districts to consolidate districts across county boundaries and facilitate other agreed-to reorganizations of districts with other districts or other local units of government, including making grants, within the limits of available funds, to offset the cost of consolidation or reorganization.

Sec. 10. Minnesota Statutes 2012, section 103F.135, subdivision 1, is amended to read:

Subdivision 1. **Commissioner's duties.** The commissioner shall:

(1) collect and distribute information relating to flooding and floodplain management;

(2) coordinate local, state, and federal floodplain management activities to the greatest extent possible, and encourage the United States Army Corps of Engineers and the United States ~~Soil Conservation Service~~ Department of Agriculture to make their flood control planning data available to local governmental units for planning purposes, to allow adequate local participation in the planning process and in the selection of desirable alternatives;

(3) assist local governmental units in their floodplain management activities; and

(4) do all other things, within lawful authority, that are necessary or desirable to manage the floodplain for beneficial uses compatible with the preservation of the capacity of the floodplain to carry and discharge the regional flood.

Sec. 11. Minnesota Statutes 2012, section 103G.005, subdivision 9, is amended to read:

Subd. 9. **Director.** "Director" means the director of the Division of ~~Waters~~ Ecological and Water Resources of the Department of Natural Resources.

Sec. 12. Minnesota Statutes 2012, section 103G.005, subdivision 9a, is amended to read:

Subd. 9a. **Division.** "Division" means the Division of ~~Waters~~ Ecological and Water Resources of the Department of Natural Resources.

Sec. 13. Minnesota Statutes 2012, section 115.06, subdivision 4, is amended to read:

Subd. 4. **Citizen monitoring of water quality.** (a) The agency may encourage citizen monitoring of ambient water quality for public waters by:

(1) providing technical assistance to citizen and local group water quality monitoring efforts;

(2) integrating citizen monitoring data into water quality assessments and agency programs, provided that the data adheres to agency quality assurance and quality control protocols; and

(3) seeking public and private funds to:

(i) collaboratively develop clear guidelines for water quality monitoring procedures and data management practices for specific data and information uses;

(ii) distribute the guidelines to citizens, local governments, and other interested parties;

(iii) improve and expand water quality monitoring activities carried out by the agency; and

(iv) continue to improve electronic and Web access to water quality data and information about public waters that have been either fully or partially assessed.

(b) This subdivision does not authorize a citizen to enter onto private property for any purpose.

~~(c) By January 15, 2017, and every four years thereafter, the commissioner shall report to the senate and house of representatives committees with jurisdiction over environmental policy and finance on activities under this section.~~

Sec. 14. Minnesota Statutes 2012, section 115A.03, is amended by adding a subdivision to read:

Subd. 25d. **Refuse-derived fuel.** "Refuse-derived fuel" means a product resulting from the processing of mixed municipal solid waste in a manner that reduces the quantity of noncombustible material present in the waste, reduces the size of waste components through shredding or other mechanical means, and produces a fuel suitable for combustion in existing or new solid fuel-fired boilers.

Sec. 15. Minnesota Statutes 2012, section 115A.54, subdivision 4, is amended to read:

Subd. 4. **Termination of obligations; good faith effort.** Notwithstanding the provisions of section 16A.695, the commissioner may terminate the obligations of a grant or loan recipient under this section, if the commissioner finds that the recipient has made a good faith effort to exhaust all options in trying to comply with the terms and conditions of the grant or loan. In lieu of declaring a default on a grant or

a loan under this section, the commissioner may identify additional measures a recipient should take in order to meet the good faith test required for terminating the recipient's obligations under this section. ~~By December 15 of each year, the commissioner shall report to the legislature the defaults and terminations the commissioner has ordered in the previous year, if any. No decision on termination under this section is effective until the end of the legislative session following the commissioner's report.~~

Sec. 16. Minnesota Statutes 2012, section 116.03, subdivision 2b, is amended to read:

Subd. 2b. **Permitting efficiency.** (a) It is the goal of the state that environmental and resource management permits be issued or denied within 150 days of the submission of a permit application. The commissioner of the Pollution Control Agency shall establish management systems designed to achieve the goal.

(b) The commissioner shall prepare ~~semiannual~~ an annual permitting efficiency reports ~~report~~ that ~~include~~ includes statistics on meeting the goal in paragraph (a). ~~The reports are~~ report is 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. In stating the reasons for not meeting the goal, the commissioner shall separately identify delays caused by the responsiveness of the proposer, lack of staff, scientific or technical disagreements, or the level of public engagement. The report must specify the number of days from initial submission of the application to the day of determination that the application is complete. The report ~~for August 1~~ each year must aggregate the data for the year and assess whether program or system changes are necessary to achieve the goal. The report must be posted on the agency's Web site and submitted to the governor and the chairs and ranking minority members of the house of representatives and senate committees having jurisdiction over environment policy and finance.

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

(d) Beginning July 1, 2011, within 30 business days of application for a permit subject to paragraph (a), the commissioner of the Pollution Control Agency shall notify the project proposer, in writing, whether the application is complete or incomplete. If the commissioner determines that an application is incomplete, the notice to the applicant must enumerate all deficiencies, citing specific provisions of the applicable rules and statutes, and advise the applicant on how the deficiencies can be remedied. This paragraph does not apply to an application for a permit that is subject to a grant or loan agreement under chapter 446A.

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

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

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

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

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

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

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

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

(iii) business schedule for project completion; and

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

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

(i) an overview of the permit review program;

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

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

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

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

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

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

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

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

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

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

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

Sec. 17. Minnesota Statutes 2012, section 116.07, subdivision 4j, is amended to read:

Subd. 4j. **Permits; solid waste facilities.** (a) The agency may not issue a permit for new or additional capacity for a mixed municipal solid waste resource recovery or disposal facility as defined in section



115A.03 unless each county using or projected in the permit to use the facility has in place a solid waste management plan approved under section 115A.46 or 473.803 and amended as required by section 115A.96, subdivision 6. The agency shall issue the permit only if the capacity of the facility is consistent with the needs for resource recovery or disposal capacity identified in the approved plan or plans. Consistency must be determined by the Pollution Control Agency. Plans approved before January 1, 1990, need not be revised if the capacity sought in the permit is consistent with the approved plan or plans.

(b) The agency shall require as part of the permit application for a waste incineration facility identification of preliminary plans for ash management and ash leachate treatment or ash utilization. The permit issued by the agency must include requirements for ash management and ash leachate treatment.

~~(c) Within 30 days of receipt by the agency of a permit application for a solid waste facility, the commissioner shall notify the applicant in writing whether the application is complete and if not, what items are needed to make it complete, and shall give an estimate of the time it will take to process the application. Within 180 days of receipt of a completed application, the agency shall approve, disapprove, or delay decision on the application, with reasons for the delay, in writing.~~

Sec. 18. **REVISOR'S INSTRUCTION.**

The revisor of statutes shall delete the range reference "103F.101 to 103F.155" and insert "103F.101 to 103F.151" and delete the range reference "103F.105 to 103F.155" and insert "103F.105 to 103F.151" wherever the range references appear in Minnesota Statutes and Minnesota Rules.

Sec. 19. **REPEALER.**

Minnesota Statutes 2012, sections 14.04; 84.083, subdivisions 3 and 4; 84.163; 84.361; 84.43; 84.44; 84.45; 84.46; 84.47; 84.48; 84.49; 84.50; 84.51; 84.52; 84.521; 84.53; 84.55; 84.965; 85.015, subdivision 3; 103B.701; 103B.702; 103F.131; 103F.155; 103F.378; 103F.381; 103F.383, subdivision 3; 103F.387; 103F.389, subdivisions 1 and 2; 103F.391; 115.445; 115B.412, subdivision 10; 116.181; 116.182, subdivision 3a; 116.195, subdivision 5; 116.54; 116.90; 116C.712; 116C.833, subdivision 2; and 173.0845, and Laws 2013, chapter 114, article 4, section 100, are repealed.

Presented to the governor May 13, 2014

Signed by the governor May 16, 2014, 10:38 a.m.