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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 345

01/26/2015 Authored by Fabian, Baker, Green, Hancock, O'Driscoll and others

The bill was read for the first time and referred to the Committee on Environment and Natural Resources Policy and Finance

1.1 A bill for an act
1.2 relating to environment; modifying permitting efficiency requirements; amending
1.3 Minnesota Statutes 2014, sections 84.027, subdivision 14a; 116.03, subdivision
1.4 2b.

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

1.6 Section 1. Minnesota Statutes 2014, section 84.027, subdivision 14a, is amended to read:

1.7 Subd. 14a. **Permitting efficiency.** (a) It is the goal of the state that environmental
1.8 and resource management permits be issued or denied within ~~90~~ 45 days for Tier 1
1.9 permits or 150 days for Tier 2 permits following submission of a permit application.

1.10 The commissioner of natural resources shall establish management systems designed
1.11 to achieve the goal.

1.12 (b) The commissioner shall prepare an annual permitting efficiency report that
1.13 includes statistics on meeting the goal in paragraph (a) and the criteria for Tier 1 and Tier
1.14 2 by permit categories. The report is due August 1 each year. For permit applications
1.15 that have not met the goal, the report must state the reasons for not meeting the goal. In
1.16 stating the reasons for not meeting the goal, the commissioner shall separately identify
1.17 delays caused by the responsiveness of the proposer, lack of staff, scientific or technical
1.18 disagreements, or the level of public engagement. The report must specify the number
1.19 of days from initial submission of the application to the day of determination that the
1.20 application is complete. The report must aggregate the data for the year and assess
1.21 whether program or system changes are necessary to achieve the goal. The report must
1.22 be posted on the department's Web site and submitted to the governor and the chairs and
1.23 ranking minority members of the house of representatives and senate committees having
1.24 jurisdiction over natural resources policy and finance.

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

2.3 (d) Beginning July 1, 2011, within 30 business days of application for a permit
2.4 subject to paragraph (a), the commissioner of natural resources shall notify the
2.5 project proposer, in writing, whether the application is complete or incomplete. If the
2.6 commissioner determines that an application is incomplete, the notice to the applicant must
2.7 enumerate all deficiencies, citing specific provisions of the applicable rules and statutes,
2.8 and advise the applicant on how the deficiencies can be remedied. If the commissioner
2.9 determines that the application is complete, the notice must confirm the application's Tier
2.10 1 or Tier 2 permit status. This paragraph does not apply to an application for a permit that
2.11 is subject to a grant or loan agreement under chapter 446A.

2.12 Sec. 2. Minnesota Statutes 2014, section 116.03, subdivision 2b, is amended to read:

2.13 Subd. 2b. **Permitting efficiency.** (a) It is the goal of the state that environmental
2.14 and resource management permits be issued or denied within ~~90~~45 days for Tier 1
2.15 permits or 150 days for Tier 2 permits following submission of a permit application.
2.16 The commissioner of the Pollution Control Agency shall establish management systems
2.17 designed to achieve the goal. For the purposes of this section, "Tier 1 permits" are permits
2.18 that do not require individualized actions or public comment periods, and "Tier 2 permits"
2.19 are permits that require individualized actions or public comment periods.

2.20 (b) The commissioner shall prepare an annual permitting efficiency report that
2.21 includes statistics on meeting the goal in paragraph (a) and the criteria for Tier 1 and Tier
2.22 2 by permit categories. The report is due August 1 each year. For permit applications
2.23 that have not met the goal, the report must state the reasons for not meeting the goal. In
2.24 stating the reasons for not meeting the goal, the commissioner shall separately identify
2.25 delays caused by the responsiveness of the proposer, lack of staff, scientific or technical
2.26 disagreements, or the level of public engagement. The report must specify the number
2.27 of days from initial submission of the application to the day of determination that the
2.28 application is complete. The report must aggregate the data for the year and assess
2.29 whether program or system changes are necessary to achieve the goal. The report must
2.30 be posted on the agency's Web site and submitted to the governor and the chairs and
2.31 ranking minority members of the house of representatives and senate committees having
2.32 jurisdiction over environment policy and finance.

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

3.1 (d) Beginning July 1, 2011, within 30 business days of application for a permit
3.2 subject to paragraph (a), the commissioner of the Pollution Control Agency shall notify
3.3 the project proposer, in writing, whether the application is complete or incomplete. If the
3.4 commissioner determines that an application is incomplete, the notice to the applicant must
3.5 enumerate all deficiencies, citing specific provisions of the applicable rules and statutes,
3.6 and advise the applicant on how the deficiencies can be remedied. If the commissioner
3.7 determines that the application is complete, the notice must confirm the application's Tier
3.8 1 or Tier 2 permit status. This paragraph does not apply to an application for a permit that
3.9 is subject to a grant or loan agreement under chapter 446A.

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

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

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

3.15 (3) abides by the duty of candor applicable to employees of the Pollution Control
3.16 Agency under agency rules and complies with all applicable requirements under chapter
3.17 326.

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

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

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

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

3.25 (iii) business schedule for project completion; and

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

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

3.30 (i) an overview of the permit review program;

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

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

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

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

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

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

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

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

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

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

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