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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH
SESSION

HOUSE FILE No. 3106

February 18, 2008

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

1.1 A bill for an act
1.2 relating to environment; providing that environmental impact statements for
1.3 certain expansion of ethanol plants are discretionary; amending Minnesota
1.4 Statutes 2006, section 116D.04, subdivision 2a.

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

1.6 Section 1. Minnesota Statutes 2006, section 116D.04, subdivision 2a, is amended to
1.7 read:

1.8 Subd. 2a. **When prepared.** Where there is potential for significant environmental
1.9 effects resulting from any major governmental action, the action shall be preceded by a
1.10 detailed environmental impact statement prepared by the responsible governmental unit.
1.11 The environmental impact statement shall be an analytical rather than an encyclopedic
1.12 document which describes the proposed action in detail, analyzes its significant
1.13 environmental impacts, discusses appropriate alternatives to the proposed action and
1.14 their impacts, and explores methods by which adverse environmental impacts of an
1.15 action could be mitigated. The environmental impact statement shall also analyze those
1.16 economic, employment and sociological effects that cannot be avoided should the action
1.17 be implemented. To ensure its use in the decision-making process, the environmental
1.18 impact statement shall be prepared as early as practical in the formulation of an action.
1.19 No mandatory environmental impact statement may be required for an ethanol plant,
1.20 as defined in section 41A.09, subdivision 2a, paragraph (b), that is located outside of
1.21 the seven-county metropolitan area and:

1.22 (1) produces less than 125,000,000 gallons of ethanol annually ~~and is located outside~~
1.23 ~~of the seven-county metropolitan area; or~~

2.1 (2) has a permit and expands production by no more than 60,000,000 gallons
2.2 of ethanol annually.

2.3 (a) The board shall by rule establish categories of actions for which environmental
2.4 impact statements and for which environmental assessment worksheets shall be prepared
2.5 as well as categories of actions for which no environmental review is required under
2.6 this section.

2.7 (b) The responsible governmental unit shall promptly publish notice of the
2.8 completion of an environmental assessment worksheet in a manner to be determined by
2.9 the board and shall provide copies of the environmental assessment worksheet to the board
2.10 and its member agencies. Comments on the need for an environmental impact statement
2.11 may be submitted to the responsible governmental unit during a 30 day period following
2.12 publication of the notice that an environmental assessment worksheet has been completed.
2.13 The responsible governmental unit's decision on the need for an environmental impact
2.14 statement shall be based on the environmental assessment worksheet and the comments
2.15 received during the comment period, and shall be made within 15 days after the close of
2.16 the comment period. The board's chair may extend the 15 day period by not more than 15
2.17 additional days upon the request of the responsible governmental unit.

2.18 (c) An environmental assessment worksheet shall also be prepared for a proposed
2.19 action whenever material evidence accompanying a petition by not less than 25
2.20 individuals, submitted before the proposed project has received final approval by the
2.21 appropriate governmental units, demonstrates that, because of the nature or location of a
2.22 proposed action, there may be potential for significant environmental effects. Petitions
2.23 requesting the preparation of an environmental assessment worksheet shall be submitted to
2.24 the board. The chair of the board shall determine the appropriate responsible governmental
2.25 unit and forward the petition to it. A decision on the need for an environmental assessment
2.26 worksheet shall be made by the responsible governmental unit within 15 days after the
2.27 petition is received by the responsible governmental unit. The board's chair may extend
2.28 the 15 day period by not more than 15 additional days upon request of the responsible
2.29 governmental unit.

2.30 (d) Except in an environmentally sensitive location where Minnesota Rules, part
2.31 4410.4300, subpart 29, item B, applies, the proposed action is exempt from environmental
2.32 review under this chapter and rules of the board, if:

2.33 (1) the proposed action is:

2.34 (i) an animal feedlot facility with a capacity of less than 1,000 animal units; or

2.35 (ii) an expansion of an existing animal feedlot facility with a total cumulative
2.36 capacity of less than 1,000 animal units;

3.1 (2) the application for the animal feedlot facility includes a written commitment by
3.2 the proposer to design, construct, and operate the facility in full compliance with Pollution
3.3 Control Agency feedlot rules; and

3.4 (3) the county board holds a public meeting for citizen input at least ten business
3.5 days prior to the Pollution Control Agency or county issuing a feedlot permit for the
3.6 animal feedlot facility unless another public meeting for citizen input has been held with
3.7 regard to the feedlot facility to be permitted. The exemption in this paragraph is in
3.8 addition to other exemptions provided under other law and rules of the board.

3.9 (e) The board may, prior to final approval of a proposed project, require preparation
3.10 of an environmental assessment worksheet by a responsible governmental unit selected
3.11 by the board for any action where environmental review under this section has not been
3.12 specifically provided for by rule or otherwise initiated.

3.13 (f) An early and open process shall be utilized to limit the scope of the environmental
3.14 impact statement to a discussion of those impacts, which, because of the nature or location
3.15 of the project, have the potential for significant environmental effects. The same process
3.16 shall be utilized to determine the form, content and level of detail of the statement as well
3.17 as the alternatives which are appropriate for consideration in the statement. In addition,
3.18 the permits which will be required for the proposed action shall be identified during the
3.19 scoping process. Further, the process shall identify those permits for which information
3.20 will be developed concurrently with the environmental impact statement. The board
3.21 shall provide in its rules for the expeditious completion of the scoping process. The
3.22 determinations reached in the process shall be incorporated into the order requiring the
3.23 preparation of an environmental impact statement.

3.24 (g) Whenever practical, information needed by a governmental unit for making final
3.25 decisions on permits or other actions required for a proposed project shall be developed in
3.26 conjunction with the preparation of an environmental impact statement.

3.27 (h) An environmental impact statement shall be prepared and its adequacy
3.28 determined within 280 days after notice of its preparation unless the time is extended by
3.29 consent of the parties or by the governor for good cause. The responsible governmental
3.30 unit shall determine the adequacy of an environmental impact statement, unless within 60
3.31 days after notice is published that an environmental impact statement will be prepared,
3.32 the board chooses to determine the adequacy of an environmental impact statement. If an
3.33 environmental impact statement is found to be inadequate, the responsible governmental
3.34 unit shall have 60 days to prepare an adequate environmental impact statement.