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State of Minnesota
HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 1291

02/16/2017 Authored by Fabian, Lueck, Green and Heintzeman
The bill was read for the first time and referred to the Committee on Environment and Natural Resources Policy and Finance
03/01/2017 Adoption of Report: Amended and re-referred to the Committee on Civil Law and Data Practices Policy
03/06/2017 Adoption of Report: Re-referred to the Committee on Government Operations and Elections Policy
03/09/2017 Adoption of Report: Re-referred to the Committee on Ways and Means

1.1 A bill for an act

1.2 relating to environment; modifying permitting requirements; providing expedited

1.3 environmental-review billing options; modifying reclamation appeal provisions;

1.4 eliminating Environmental Quality Board and reassigning duties; modifying

1.5 rulemaking requirements; amending Minnesota Statutes 2016, sections 3.886,

1.6 subdivision 4; 13.7411, subdivision 9; 18B.045; 18E.06; 84.027, subdivisions 14a,

1.7 14b, by adding subdivisions; 93.50; 103A.204; 103B.101, subdivision 9; 103B.151;

1.8 103B.315, subdivision 5; 103H.151, subdivision 4; 103H.175, subdivision 3;

1.9 115A.32; 115A.33; 115A.34; 115A.35; 115A.36; 115A.37; 115A.38, subdivisions

1.10 1, 3; 115A.39; 115B.20, subdivision 6; 116.03, subdivision 2b, by adding a

1.11 subdivision; 116.07, subdivision 4d, by adding subdivisions; 116C.74, subdivision

1.12 2; 116C.91, by adding a subdivision; 116C.92; 116C.94; 116C.95; 116C.96;

1.13 116C.97; 116C.99, subdivisions 2, 3; 116C.991; 116C.992; 116D.04, subdivisions

1.14 2a, 3a, 5b, 10, 13, 14; 116D.045, subdivision 1; 116F.06, subdivision 2; 216B.243,

1.15 subdivision 7; 216C.18, subdivision 2; Laws 2015, First Special Session chapter

1.16 4, article 4, section 136; repealing Minnesota Statutes 2016, sections 103A.403;

1.17 103A.43; 103F.614; 116C.02; 116C.03, subdivisions 1, 2, 2a, 3a, 4, 5, 6; 116C.04,

1.18 subdivisions 1, 2, 3, 4, 7, 10, 11; 116C.06; 116C.08; 116C.71, subdivisions 1c,

1.19 2a; 116C.721; 116C.722; 116C.724, subdivisions 2, 3; 116C.91, subdivision 2;

1.20 116G.03, subdivision 2.

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

1.22 **ARTICLE 1**

1.23 **ENVIRONMENTAL REFORMS**

1.24 Section 1. Minnesota Statutes 2016, section 84.027, subdivision 14a, is amended to read:

1.25 Subd. 14a. **Permitting efficiency; public notice.** (a) It is the goal of the state that

1.26 environmental and resource management permits be issued or denied within 90 days for

1.27 Tier 1 permits or 150 days for Tier 2 permits following submission of a permit application.

1.28 The commissioner of natural resources shall establish management systems designed to

1.29 achieve the goal.

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

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

2.16 (d) ~~Beginning July 1, 2011,~~ Within 30 business days of application for a permit subject
2.17 to paragraph (a), the commissioner of natural resources shall notify the ~~project proposer~~
2.18 permit applicant, in writing, whether the application is complete or incomplete. If the
2.19 commissioner determines that an application is incomplete, the notice to the applicant must
2.20 enumerate all deficiencies, citing specific provisions of the applicable rules and statutes,
2.21 and advise the applicant on how the deficiencies can be remedied. If the commissioner
2.22 determines that the application is complete, the notice must confirm the application's Tier
2.23 1 or Tier 2 permit status and provide the permit applicant with a schedule for issuing the
2.24 permit. This paragraph does not apply to an application for a permit that is subject to a grant
2.25 or loan agreement under chapter 446A.

2.26 (e) When public notice of a draft permit is required, the commissioner must issue the
2.27 notice with the draft permit within 150 days of receiving a completed permit application
2.28 unless the permit applicant and the commissioner mutually agree to a different date. Before
2.29 issuing the public notice, the commissioner must provide a copy of the draft permit to the
2.30 permit applicant and consider comments on the draft permit from the permit applicant.

2.31 Sec. 2. Minnesota Statutes 2016, section 84.027, subdivision 14b, is amended to read:

2.32 Subd. 14b. **Expediting costs; reimbursement.** Permit applicants ~~who wish to construct,~~
2.33 ~~reconstruct, modify, or operate a facility~~ needing any permit from the commissioner of
2.34 natural resources to construct, reconstruct, or modify a project or to operate a facility may

3.1 offer to reimburse the department for the reasonable costs of staff time or consultant services
3.2 needed to expedite the preapplication process and permit development process through the
3.3 final decision on the permit, including the analysis of environmental review documents.
3.4 The reimbursement shall be in addition to permit application fees imposed by law. When
3.5 the commissioner determines that additional resources are needed to develop the permit
3.6 application in an expedited manner, and that expediting the development is consistent with
3.7 permitting program priorities, the commissioner may accept the reimbursement. The
3.8 commissioner must give the permit applicant an estimate of costs for the expedited service
3.9 to be incurred by the commissioner. The estimate must include a brief description of the
3.10 tasks to be performed, a schedule for completing the tasks, and the estimated cost for each
3.11 task. The proposer and the commissioner shall enter into a written agreement to cover the
3.12 estimated costs for the expedited service to be incurred by the commissioner and recourse,
3.13 including but not limited to reducing, withholding, or eliminating fees, the permit applicant
3.14 may seek if the department fails to comply with the schedule. The agreement must also
3.15 include the names of staff assigned to the project and terms requiring the assigned staff to
3.16 work preferentially on the project until the permit is issued. The commissioner must not
3.17 issue a permit until the applicant has paid all fees in full. The commissioner must refund
3.18 any unobligated balance of fees paid. Reimbursements accepted by the commissioner are
3.19 appropriated to the commissioner for the purpose of developing the permit or analyzing
3.20 environmental review documents. Reimbursement by a permit applicant shall precede and
3.21 not be contingent upon issuance of a permit; shall not affect the commissioner's decision
3.22 on whether to issue or deny a permit, what conditions are included in a permit, or the
3.23 application of state and federal statutes and rules governing permit determinations; and shall
3.24 not affect final decisions regarding environmental review.

3.25 Sec. 3. Minnesota Statutes 2016, section 84.027, is amended by adding a subdivision to
3.26 read:

3.27 **Subd. 14c. Irrevocability, suspensions, or expiration of permits; environmental**
3.28 **review.** (a) If, by July 1 of an odd-numbered year, legislation has not been enacted to
3.29 appropriate money to the commissioner of natural resources for environmental review and
3.30 permitting activities of the Department of Natural Resources:

3.31 (1) a permit granted by the commissioner may not be terminated or suspended for the
3.32 term of the permit nor shall it expire without the consent of the permittee, except for breach
3.33 or nonperformance of any condition of the permit by the permittee that is an imminent threat
3.34 to impair or destroy the environment or injure the health, safety, or welfare of the citizens
3.35 of the state; and

4.1 (2) environmental review and permit application work on environmental review and
4.2 permits filed before July 1 of that year must not be suspended or terminated.

4.3 (b) Paragraph (a), clause (1), applies until legislation appropriating money to the
4.4 commissioner for the environmental review and permitting activities is enacted.

4.5 Sec. 4. Minnesota Statutes 2016, section 84.027, is amended by adding a subdivision to
4.6 read:

4.7 Subd. 14d. **Unadopted rules.** (a) The commissioner of natural resources must not enforce
4.8 or attempt to enforce an unadopted rule. For the purposes of this subdivision, "unadopted
4.9 rule" means a guideline, bulletin, criterion, manual standard, interpretive statement, or
4.10 similar pronouncement, if the guideline, bulletin, criterion, manual standard, interpretive
4.11 statement, or similar pronouncement meets the definition of a rule as defined under section
4.12 14.02, subdivision 4, but has not been adopted according to the rulemaking process provided
4.13 under chapter 14. If an unadopted rule is challenged under section 14.381, the commissioner
4.14 must overcome a presumption against the unadopted rule.

4.15 (b) If the commissioner incorporates by reference an internal guideline, bulletin, criterion,
4.16 manual standard, interpretive statement, or similar pronouncement into a statute, rule, or
4.17 standard, the commissioner must follow the rulemaking process provided under chapter 14
4.18 to amend or revise any such guideline, bulletin, criterion, manual standard, interpretive
4.19 statement, or similar pronouncement.

4.20 Sec. 5. Minnesota Statutes 2016, section 93.50, is amended to read:

4.21 **93.50 APPEAL.**

4.22 Any person aggrieved by any final order, ruling, or decision of the commissioner may
4.23 appeal seek judicial review of such order, ruling, or decision in the manner provided in
4.24 chapter 14 under sections 14.63 to 14.69.

4.25 Sec. 6. Minnesota Statutes 2016, section 116.03, subdivision 2b, is amended to read:

4.26 Subd. 2b. **Permitting efficiency.** (a) It is the goal of the state that environmental and
4.27 resource management permits be issued or denied within 90 days for Tier 1 permits or 150
4.28 days for Tier 2 permits following submission of a permit application. The commissioner of
4.29 the Pollution Control Agency shall establish management systems designed to achieve the
4.30 goal. For the purposes of this section, "Tier 1 permits" are permits that do not require
4.31 individualized actions or public comment periods, and "Tier 2 permits" are permits that
4.32 require individualized actions or public comment periods.

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

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

5.16 (d) ~~Beginning July 1, 2011,~~ Within 30 business days of application for a permit subject
5.17 to paragraph (a), the commissioner of the Pollution Control Agency shall notify the ~~project~~
5.18 ~~proposer~~ permit applicant, in writing, whether the application is complete or incomplete. If
5.19 the commissioner determines that an application is incomplete, the notice to the applicant
5.20 must enumerate all deficiencies, citing specific provisions of the applicable rules and statutes,
5.21 and advise the applicant on how the deficiencies can be remedied. If the commissioner
5.22 determines that the application is complete, the notice must confirm the application's Tier
5.23 1 or Tier 2 permit status and provide the permit applicant with a schedule for issuing the
5.24 permit. This paragraph does not apply to an application for a permit that is subject to a grant
5.25 or loan agreement under chapter 446A.

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

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

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

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

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

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

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

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

6.6 (iii) business schedule for project completion; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7.11 Sec. 7. Minnesota Statutes 2016, section 116.03, is amended by adding a subdivision to
7.12 read:

7.13 Subd. 7. **Draft permits; public notice.** When public notice of a draft permit is required,
7.14 the commissioner must issue the notice with the draft permit within 150 days of receiving
7.15 a completed permit application unless the permit applicant and the commissioner mutually
7.16 agree to a different date. Before issuing the public notice, the commissioner must provide
7.17 a copy of the draft permit to the permit applicant and consider comments on the draft permit
7.18 from the permit applicant.

7.19 Sec. 8. Minnesota Statutes 2016, section 116.07, subdivision 4d, is amended to read:

7.20 Subd. 4d. **Permit fees.** (a) The agency may collect permit fees in amounts not greater
7.21 than those necessary to cover the reasonable costs of developing, reviewing, and acting
7.22 upon applications for agency permits and implementing and enforcing the conditions of the
7.23 permits pursuant to agency rules. Permit fees shall not include the costs of litigation. The
7.24 fee schedule must reflect reasonable and routine direct and indirect costs associated with
7.25 permitting, implementation, and enforcement. The agency may impose an additional
7.26 enforcement fee to be collected for a period of up to two years to cover the reasonable costs
7.27 of implementing and enforcing the conditions of a permit under the rules of the agency.
7.28 Any money collected under this paragraph shall be deposited in the environmental fund.

7.29 (b) Notwithstanding paragraph (a), the agency shall collect an annual fee from the owner
7.30 or operator of all stationary sources, emission facilities, emissions units, air contaminant
7.31 treatment facilities, treatment facilities, potential air contaminant storage facilities, or storage
7.32 facilities subject to a notification, permit, or license requirement under this chapter,
7.33 subchapters I and V of the federal Clean Air Act, United States Code, title 42, section 7401

8.1 et seq., or rules adopted thereunder. The annual fee shall be used to pay for all direct and
8.2 indirect reasonable costs, including legal costs, required to develop and administer the
8.3 notification, permit, or license program requirements of this chapter, subchapters I and V
8.4 of the federal Clean Air Act, United States Code, title 42, section 7401 et seq., or rules
8.5 adopted thereunder. Those costs include the reasonable costs of reviewing and acting upon
8.6 an application for a permit; implementing and enforcing statutes, rules, and the terms and
8.7 conditions of a permit; emissions, ambient, and deposition monitoring; preparing generally
8.8 applicable regulations; responding to federal guidance; modeling, analyses, and
8.9 demonstrations; preparing inventories and tracking emissions; and providing information
8.10 to the public about these activities.

8.11 (c) The agency shall set fees that:

8.12 (1) will result in the collection, in the aggregate, from the sources listed in paragraph
8.13 (b), of an amount not less than \$25 per ton of each volatile organic compound; pollutant
8.14 regulated under United States Code, title 42, section 7411 or 7412 (section 111 or 112 of
8.15 the federal Clean Air Act); and each pollutant, except carbon monoxide, for which a national
8.16 primary ambient air quality standard has been promulgated;

8.17 (2) may result in the collection, in the aggregate, from the sources listed in paragraph
8.18 (b), of an amount not less than \$25 per ton of each pollutant not listed in clause (1) that is
8.19 regulated under this chapter or air quality rules adopted under this chapter; and

8.20 (3) shall collect, in the aggregate, from the sources listed in paragraph (b), the amount
8.21 needed to match grant funds received by the state under United States Code, title 42, section
8.22 7405 (section 105 of the federal Clean Air Act).

8.23 The agency must not include in the calculation of the aggregate amount to be collected
8.24 under clauses (1) and (2) any amount in excess of 4,000 tons per year of each air pollutant
8.25 from a source. The increase in air permit fees to match federal grant funds shall be a surcharge
8.26 on existing fees. The commissioner may not collect the surcharge after the grant funds
8.27 become unavailable. In addition, the commissioner shall use nonfee funds to the extent
8.28 practical to match the grant funds so that the fee surcharge is minimized.

8.29 (d) To cover the reasonable costs described in paragraph (b), the agency shall provide
8.30 in the rules promulgated under paragraph (c) for an increase in the fee collected in each
8.31 year by the percentage, if any, by which the Consumer Price Index for the most recent
8.32 calendar year ending before the beginning of the year the fee is collected exceeds the
8.33 Consumer Price Index for the calendar year 1989. For purposes of this paragraph the
8.34 Consumer Price Index for any calendar year is the average of the Consumer Price Index for

9.1 all-urban consumers published by the United States Department of Labor, as of the close
9.2 of the 12-month period ending on August 31 of each calendar year. The revision of the
9.3 Consumer Price Index that is most consistent with the Consumer Price Index for calendar
9.4 year 1989 shall be used.

9.5 (e) Any money collected under paragraphs (b) to (d) must be deposited in the
9.6 environmental fund and must be used solely for the activities listed in paragraph (b).

9.7 (f) Permit applicants who wish to construct, reconstruct, or modify a ~~facility~~ project may
9.8 offer to reimburse the agency for the reasonable costs of staff time or consultant services
9.9 needed to expedite the preapplication process and permit development process through the
9.10 final decision on the permit, including the analysis of environmental review documents.

9.11 The reimbursement shall be in addition to permit application fees imposed by law. When
9.12 the agency determines that it needs additional resources to develop the permit application
9.13 in an expedited manner, and that expediting the development is consistent with permitting
9.14 program priorities, the agency may accept the reimbursement. The commissioner must give
9.15 the applicant an estimate of costs to be incurred by the commissioner. The estimate must
9.16 include a brief description of the tasks to be performed, a schedule for completing the tasks,
9.17 and the estimated cost for each task. The applicant and the commissioner shall enter into a
9.18 written agreement to cover the estimated costs to be incurred by the commissioner and
9.19 recourse, including but not limited to reducing or withholding fees, the permit applicant
9.20 may seek if the agency fails to comply with the schedule. The agreement must also include
9.21 the names of staff assigned to the project and terms requiring the assigned staff to work
9.22 preferentially on the project until the permit is issued. The commissioner must not issue a
9.23 permit until the applicant has paid all fees in full. The commissioner must refund any
9.24 unobligated balance of fees paid. Reimbursements accepted by the agency are appropriated
9.25 to the agency for the purpose of developing the permit or analyzing environmental review
9.26 documents. Reimbursement by a permit applicant shall precede and not be contingent upon
9.27 issuance of a permit; shall not affect the agency's decision on whether to issue or deny a
9.28 permit, what conditions are included in a permit, or the application of state and federal
9.29 statutes and rules governing permit determinations; and shall not affect final decisions
9.30 regarding environmental review.

9.31 (g) The fees under this subdivision are exempt from section 16A.1285.

10.1 Sec. 9. Minnesota Statutes 2016, section 116.07, is amended by adding a subdivision to
10.2 read:

10.3 Subd. 13. **Irrevocability, suspensions, or expiration of permits; environmental**
10.4 **review.** If, by July 1 of an odd-numbered year, legislation has not been enacted to appropriate
10.5 money to the commissioner of the Pollution Control Agency for environmental review and
10.6 permitting activities of the agency:

10.7 (1) a permit granted by the commissioner may not be terminated or suspended for the
10.8 term of the permit nor shall it expire without the consent of the permittee, except for breach
10.9 or nonperformance of any condition of the permit by the permittee that is an imminent threat
10.10 to impair or destroy the environment or injure the health, safety, or welfare of the citizens
10.11 of the state; and

10.12 (2) environmental review and permit application work on environmental review and
10.13 permits filed before July 1 of that year must not be suspended or terminated.

10.14 (b) Paragraph (a), clause (1), applies until legislation appropriating money to the
10.15 commissioner for the environmental review and permitting activities is enacted.

10.16 Sec. 10. Minnesota Statutes 2016, section 116.07, is amended by adding a subdivision to
10.17 read:

10.18 Subd. 14. **Unadopted rules.** (a) The commissioner of the Pollution Control Agency
10.19 must not enforce or attempt to enforce an unadopted rule. For the purposes of this subdivision,
10.20 "unadopted rule" means a guideline, bulletin, criterion, manual standard, interpretive
10.21 statement, or similar pronouncement, if the guideline, bulletin, criterion, manual standard,
10.22 interpretive statement, or similar pronouncement meets the definition of a rule as defined
10.23 under section 14.02, subdivision 4, but has not been adopted according to the rulemaking
10.24 process provided under chapter 14. If an unadopted rule is challenged under section 14.381,
10.25 the commissioner must overcome a presumption against the unadopted rule.

10.26 (b) If the commissioner incorporates by reference an internal guideline, bulletin, criterion,
10.27 manual standard, interpretive statement, or similar pronouncement into a statute, rule, or
10.28 standard, the commissioner must follow the rulemaking process provided under chapter 14
10.29 to amend or revise any such guideline, bulletin, criterion, manual standard, interpretive
10.30 statement, or similar pronouncement.

11.1 Sec. 11. Minnesota Statutes 2016, section 116D.04, subdivision 2a, is amended to read:

11.2 Subd. 2a. **When prepared.** (a) Where there is potential for significant environmental
11.3 effects resulting from any major governmental action, the action shall be preceded by a
11.4 detailed environmental impact statement prepared by the responsible governmental unit.
11.5 The environmental impact statement shall be an analytical rather than an encyclopedic
11.6 document which describes the proposed action in detail, analyzes its significant environmental
11.7 impacts, discusses appropriate alternatives to the proposed action and their impacts, and
11.8 explores methods by which adverse environmental impacts of an action could be mitigated.
11.9 The environmental impact statement shall also analyze those economic, employment, and
11.10 sociological effects that cannot be avoided should the action be implemented. To ensure its
11.11 use in the decision-making process, the environmental impact statement shall be prepared
11.12 as early as practical in the formulation of an action.

11.13 ~~(a)~~ (b) The board shall by rule establish categories of actions for which environmental
11.14 impact statements and for which environmental assessment worksheets shall be prepared
11.15 as well as categories of actions for which no environmental review is required under this
11.16 section. A mandatory environmental assessment worksheet ~~shall~~ is not ~~be~~ required for the
11.17 expansion of an ethanol plant, as defined in section 41A.09, subdivision 2a, paragraph (b),
11.18 or the conversion of an ethanol plant to a biobutanol facility or the expansion of a biobutanol
11.19 facility as defined in section 41A.15, subdivision 2d, based on the capacity of the expanded
11.20 or converted facility to produce alcohol fuel, but must be required if the ethanol plant or
11.21 biobutanol facility meets or exceeds thresholds of other categories of actions for which
11.22 environmental assessment worksheets must be prepared. The responsible governmental unit
11.23 for an ethanol plant or biobutanol facility project for which an environmental assessment
11.24 worksheet is prepared ~~shall be~~ is the state agency with the greatest responsibility for
11.25 supervising or approving the project as a whole.

11.26 (c) A mandatory environmental impact statement ~~shall~~ is not ~~be~~ required for a facility
11.27 or plant located outside the seven-county metropolitan area that produces less than
11.28 125,000,000 gallons of ethanol, biobutanol, or cellulosic biofuel annually, or produces less
11.29 than 400,000 tons of chemicals annually, if the facility or plant is: an ethanol plant, as
11.30 defined in section 41A.09, subdivision 2a, paragraph (b); a biobutanol facility, as defined
11.31 in section 41A.15, subdivision 2d; or a cellulosic biofuel facility. A facility or plant that
11.32 only uses a cellulosic feedstock to produce chemical products for use by another facility as
11.33 a feedstock ~~shall~~ is not ~~be~~ considered a fuel conversion facility as used in rules adopted
11.34 under this chapter.

12.1 ~~(b)~~ (d) The responsible governmental unit shall promptly publish notice of the completion
12.2 of an environmental assessment worksheet by publishing the notice in at least one newspaper
12.3 of general circulation in the geographic area where the project is proposed, by posting the
12.4 notice on a Web site that has been designated as the official publication site for publication
12.5 of proceedings, public notices, and summaries of a political subdivision in which the project
12.6 is proposed, or in any other manner determined by the board and shall provide copies of
12.7 the environmental assessment worksheet to the board and its member agencies. Comments
12.8 on the need for an environmental impact statement may be submitted to the responsible
12.9 governmental unit during a 30-day period following publication of the notice that an
12.10 environmental assessment worksheet has been completed. The responsible governmental
12.11 unit's decision on the need for an environmental impact statement shall be based on the
12.12 environmental assessment worksheet and the comments received during the comment period,
12.13 and shall be made within 15 days after the close of the comment period. The board's chair
12.14 may extend the 15-day period by not more than 15 additional days upon the request of the
12.15 responsible governmental unit.

12.16 ~~(e)~~ (e) An environmental assessment worksheet shall also be prepared for a proposed
12.17 action whenever material evidence accompanying a petition by not less than 100 individuals
12.18 who reside or own property in the state, submitted before the proposed project has received
12.19 final approval by the appropriate governmental units, demonstrates that, because of the
12.20 nature or location of a proposed action, there may be potential for significant environmental
12.21 effects. Petitions requesting the preparation of an environmental assessment worksheet shall
12.22 be submitted to the board. The chair of the board shall determine the appropriate responsible
12.23 governmental unit and forward the petition to it. A decision on the need for an environmental
12.24 assessment worksheet shall be made by the responsible governmental unit within 15 days
12.25 after the petition is received by the responsible governmental unit. The board's chair may
12.26 extend the 15-day period by not more than 15 additional days upon request of the responsible
12.27 governmental unit.

12.28 ~~(d)~~ (f) Except in an environmentally sensitive location where Minnesota Rules, part
12.29 4410.4300, subpart 29, item B, applies, the proposed action is exempt from environmental
12.30 review under this chapter and rules of the board, if:

12.31 (1) the proposed action is:

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

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

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

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

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

13.13 ~~(f)~~ (h) An early and open process shall be utilized to limit the scope of the environmental
13.14 impact statement to a discussion of those impacts, ~~which~~ that, because of the nature or
13.15 location of the project, have the potential for significant environmental effects. The same
13.16 process shall be utilized to determine the form, content, and level of detail of the statement
13.17 as well as the alternatives ~~which~~ that are appropriate for consideration in the statement. In
13.18 addition, the permits ~~which~~ that will be required for the proposed action shall be identified
13.19 during the scoping process. Further, the process shall identify those permits for which
13.20 information will be developed concurrently with the environmental impact statement. The
13.21 board shall provide in its rules for the expeditious completion of the scoping process. The
13.22 determinations reached in the process shall be incorporated into the order requiring the
13.23 preparation of an environmental impact statement.

13.24 ~~(g)~~ (i) The responsible governmental unit shall, to the extent practicable, avoid duplication
13.25 and ensure coordination between state and federal environmental review and between
13.26 environmental review and environmental permitting. Whenever practical, information
13.27 needed by a governmental unit for making final decisions on permits or other actions required
13.28 for a proposed project shall be developed in conjunction with the preparation of an
13.29 environmental impact statement. When an environmental impact statement is prepared for
13.30 a project requiring multiple permits for which two or more agencies' decision processes
13.31 include either mandatory or discretionary hearings before a hearing officer ~~prior to~~ before
13.32 the agencies' decision on the permit, the agencies may, notwithstanding any law or rule to
13.33 the contrary, conduct the hearings in a single consolidated hearing process if requested by
13.34 the proposer. All agencies having jurisdiction over a permit that is included in the
13.35 consolidated hearing shall participate. The responsible governmental unit shall establish

14.1 appropriate procedures for the consolidated hearing process, including procedures to ensure
14.2 that the consolidated hearing process is consistent with the applicable requirements for each
14.3 permit regarding the rights and duties of parties to the hearing, and shall utilize the earliest
14.4 applicable hearing procedure to initiate the hearing. All agencies having jurisdiction over
14.5 a permit identified in the draft environmental impact statement must accept and begin
14.6 reviewing any permit application upon publication of the notice of preparation of the
14.7 environmental impact statement.

14.8 ~~(h)~~ (j) An environmental impact statement shall be prepared and its adequacy determined
14.9 within 280 days after notice of its preparation unless the time is extended by consent of the
14.10 parties or by the governor for good cause. The responsible governmental unit shall determine
14.11 the adequacy of an environmental impact statement, unless within 60 days after notice is
14.12 published that an environmental impact statement will be prepared, the board chooses to
14.13 determine the adequacy of an environmental impact statement. If an environmental impact
14.14 statement is found to be inadequate, the responsible governmental unit shall have 60 days
14.15 to prepare an adequate environmental impact statement.

14.16 ~~(i)~~ (k) The proposer of a specific action may include in the information submitted to the
14.17 responsible governmental unit a preliminary draft environmental impact statement under
14.18 this section on that action for review, modification, and determination of completeness and
14.19 adequacy by the responsible governmental unit. A preliminary draft environmental impact
14.20 statement prepared by the project proposer and submitted to the responsible governmental
14.21 unit shall identify or include as an appendix all studies and other sources of information
14.22 used to substantiate the analysis contained in the preliminary draft environmental impact
14.23 statement. The responsible governmental unit shall require additional studies, if needed,
14.24 and obtain from the project proposer all additional studies and information necessary for
14.25 the responsible governmental unit to perform its responsibility to review, modify, and
14.26 determine the completeness and adequacy of the environmental impact statement.

14.27 Sec. 12. Minnesota Statutes 2016, section 116D.04, subdivision 3a, is amended to read:

14.28 Subd. 3a. **Final decisions.** (a) Within 30 days after final approval of an environmental
14.29 impact statement, final decisions shall be made by the appropriate governmental units on
14.30 those permits which were identified as required and for which information was developed
14.31 concurrently with the preparation of the environmental impact statement. Provided, however,
14.32 that the 30-day period may be extended where a longer period is permitted by section 15.99
14.33 or required by federal law or state statute or is consented to by the permit applicant. The

15.1 permit decision shall include the reasons for the decision, including any conditions under
15.2 which the permit is issued, together with a final order granting or denying the permit.

15.3 (b) Wetland-replacement sites identified according to section 103G.222, subdivision 3,
15.4 concurrently with the preparation of an environmental impact statement are deemed approved
15.5 for a replacement plan under section 93.481, 103G.2242, or 103G.2243 upon final approval
15.6 of the environmental impact statement.

15.7 Sec. 13. Minnesota Statutes 2016, section 116D.04, subdivision 10, is amended to read:

15.8 Subd. 10. **Review.** A person aggrieved by a final decision on the need for an
15.9 environmental assessment worksheet, the need for an environmental impact statement, or
15.10 the adequacy of an environmental impact statement is entitled to judicial review of the
15.11 decision under sections 14.63 to 14.68. A petition for a writ of certiorari by an aggrieved
15.12 person for judicial review under sections 14.63 to 14.68 must be filed with the Court of
15.13 Appeals and served on the responsible governmental unit not more than 30 days after the
15.14 ~~party receives the final decision and order of the~~ responsible governmental unit makes its
15.15 decision. Proceedings for review under this section must be instituted by serving a petition
15.16 for a writ of certiorari personally or by certified mail upon the responsible governmental
15.17 unit and by promptly filing the proof of service in the Office of the Clerk of the Appellate
15.18 Courts and the matter will proceed in the manner provided by the Rules of Civil Appellate
15.19 Procedure. A copy of the petition must be provided to the attorney general at the time of
15.20 service. Copies of the writ must be served, personally or by certified mail, upon the
15.21 responsible governmental unit and the project proposer. The filing of the writ of certiorari
15.22 does not stay the enforcement of any other governmental action, provided that the responsible
15.23 governmental unit may stay enforcement or the Court of Appeals may order a stay upon
15.24 terms it deems proper. A bond may be required under section 562.02 unless at the time of
15.25 hearing on the application for the bond the petitioner-relator has shown that the claim is
15.26 likely to succeed on the merits. The board may initiate judicial review of decisions referred
15.27 to herein and the board or a project proposer may intervene as of right in any proceeding
15.28 brought under this subdivision.

15.29 Sec. 14. Minnesota Statutes 2016, section 116D.045, subdivision 1, is amended to read:

15.30 Subdivision 1. **Assessment.** The board ~~shall~~ must by rule adopt procedures to:

15.31 (1) assess the proposer of a specific action for the responsible government unit's
15.32 reasonable costs of preparing, reviewing, and distributing the environmental impact statement.

16.1 The costs ~~shall~~ must be determined by the responsible governmental unit ~~pursuant~~ according
16.2 to the rules ~~promulgated~~ adopted by the board; and

16.3 (2) authorize a proposer of a specific action to prepare a draft environmental impact
16.4 statement for that action for submission to and review, modification, and determination of
16.5 completeness and adequacy by the responsible governmental unit.

16.6 Sec. 15. Laws 2015, First Special Session chapter 4, article 4, section 136, is amended to
16.7 read:

16.8 Sec. 136. **WILD RICE WATER QUALITY STANDARDS.**

16.9 (a) Until the commissioner of the Pollution Control Agency amends rules refining the
16.10 wild rice water quality standard in Minnesota Rules, part 7050.0224, subpart 2, to consider
16.11 all independent research and publicly funded research and to include criteria for identifying
16.12 waters and a list of waters subject to the standard, implementation of the wild rice water
16.13 quality standard in Minnesota Rules, part 7050.0224, subpart 2, shall be limited to the
16.14 following, unless the permittee requests additional conditions:

16.15 (1) when issuing, modifying, or renewing national pollutant discharge elimination system
16.16 (NPDES) or state disposal system (SDS) permits, the agency shall endeavor to protect wild
16.17 rice, and in doing so shall be limited by the following conditions:

16.18 (i) the agency shall not require permittees to expend money for design or implementation
16.19 of sulfate treatment technologies or other forms of sulfate mitigation; and

16.20 (ii) the agency may require sulfate minimization plans in permits; and

16.21 (2) the agency shall not list waters containing natural beds of wild rice as impaired for
16.22 sulfate under section 303(d) of the federal Clean Water Act, United States Code, title 33,
16.23 section 1313, until the rulemaking described in this paragraph takes effect.

16.24 (b) Upon the rule described in paragraph (a) taking effect, the agency may reopen permits
16.25 issued or reissued after the effective date of this section as needed to include numeric permit
16.26 limits based on the wild rice water quality standard.

16.27 (c) The commissioner shall complete the rulemaking described in paragraph (a) by
16.28 January 15, ~~2018~~ 2019.

16.29 **ARTICLE 2**

16.30 **ENVIRONMENTAL QUALITY BOARD**

16.31 Section 1. Minnesota Statutes 2016, section 3.886, subdivision 4, is amended to read:

17.1 Subd. 4. **Powers and duties.** (a) The Legislative Water Commission shall review water
17.2 policy reports and recommendations of the ~~Environmental Quality Board~~, the Board of
17.3 Water and Soil Resources, the Pollution Control Agency, the Department of Natural
17.4 Resources, the Metropolitan Council, and other water-related reports as may be required
17.5 by law or the legislature.

17.6 (b) The commission may conduct public hearings and otherwise secure data and
17.7 comments.

17.8 (c) The commission shall make recommendations as it deems proper to assist the
17.9 legislature in formulating legislation.

17.10 (d) Data or information compiled by the Legislative Water Commission or its
17.11 subcommittees shall be made available to the Legislative-Citizen Commission on Minnesota
17.12 Resources, the Clean Water Council, and standing and interim committees of the legislature
17.13 on request of the chair of the respective commission, council, or committee.

17.14 (e) The commission shall coordinate with the Clean Water Council.

17.15 Sec. 2. Minnesota Statutes 2016, section 13.7411, subdivision 9, is amended to read:

17.16 Subd. 9. ~~Environmental Quality Board~~ **Low-level radioactive waste.** (a) ~~Study data~~
17.17 ~~for radioactive waste disposal.~~ Access to data derived from testing or studies for the
17.18 ~~disposal of radioactive waste is governed by section 116C.724, subdivision 3.~~

17.19 (b) ~~Low-level radioactive waste.~~ Certain data given to the Pollution Control Agency
17.20 by persons who generate, transport, or dispose of low-level radioactive waste are classified
17.21 under section 116C.840.

17.22 Sec. 3. Minnesota Statutes 2016, section 18B.045, is amended to read:

17.23 **18B.045 PESTICIDE MANAGEMENT PLAN.**

17.24 Subdivision 1. **Development.** The commissioner shall develop a pesticide management
17.25 plan for the prevention, evaluation, and mitigation of occurrences of pesticides or pesticide
17.26 breakdown products in groundwaters and surface waters of the state. The pesticide
17.27 management plan must include components promoting prevention, developing appropriate
17.28 responses to the detection of pesticides or pesticide breakdown products in groundwater
17.29 and surface waters, and providing responses to reduce or eliminate continued pesticide
17.30 movement to groundwater and surface water. By September 1 of each even-numbered year,
17.31 the commissioner must submit a status report on the plan to the ~~Environmental Quality~~

18.1 ~~Board for review and then to the~~ house of representatives and senate committees with
18.2 jurisdiction over the environment, natural resources, and agriculture.

18.3 Subd. 2. **Coordination.** The pesticide management plan shall be coordinated and
18.4 developed with other state agency plans and with other state agencies ~~through the~~
18.5 ~~Environmental Quality Board~~. In addition, the University of Minnesota Extension Service,
18.6 farm organizations, farmers, environmental organizations, and industry shall be involved
18.7 in the pesticide management plan development.

18.8 Sec. 4. Minnesota Statutes 2016, section 18E.06, is amended to read:

18.9 **18E.06 REPORT.**

18.10 By December 1 of each year, the Agricultural Chemical Response Compensation Board
18.11 and the commissioner shall submit to the house of representatives Committee on Ways and
18.12 Means, the senate Committee on Finance, and the house of representatives and senate
18.13 committees with jurisdiction over the environment, natural resources, and agriculture, ~~and~~
18.14 ~~the Environmental Quality Board~~ a report detailing the board's activities and reimbursements
18.15 and the expenditures and activities associated with the commissioner's incident response
18.16 program for which money from the account has been spent during the previous year.

18.17 Sec. 5. Minnesota Statutes 2016, section 103A.204, is amended to read:

18.18 **103A.204 GROUNDWATER POLICY.**

18.19 (a) The responsibility for the protection of groundwater in Minnesota is vested in a
18.20 multiagency approach to management. The following is a list of agencies and the groundwater
18.21 protection areas for which the agencies are primarily responsible; the list is not intended to
18.22 restrict the areas of responsibility to only those specified:

18.23 (1) ~~Environmental Quality Board~~ Clean Water Council: coordination of state groundwater
18.24 protection programs;

18.25 (2) Pollution Control Agency: water quality monitoring and reporting and the
18.26 development of best management practices and regulatory mechanisms for protection of
18.27 groundwater from nonagricultural chemical contaminants;

18.28 (3) Department of Agriculture: sustainable agriculture, integrated pest management,
18.29 water quality monitoring, and the development of best management practices and regulatory
18.30 mechanisms for protection of groundwater from agricultural chemical contaminants;

19.1 (4) Board of Water and Soil Resources: reporting on groundwater education and outreach
19.2 with local government officials, local water planning and management, and local cost share
19.3 programs;

19.4 (5) Department of Natural Resources: water quantity monitoring and regulation,
19.5 sensitivity mapping, and development of a plan for the use of integrated pest management
19.6 and sustainable agriculture on state-owned lands; and

19.7 (6) Department of Health: regulation of wells and borings, and the development of health
19.8 risk limits under section 103H.201.

19.9 (b) The ~~Environmental Quality Board shall~~ Clean Water Council must prepare a report
19.10 on policy issues related to its responsibilities listed in paragraph (a); and include these reports
19.11 with ~~the assessments in section 103A.43 and~~ the "Minnesota Water Plan" in section
19.12 103B.151.

19.13 Sec. 6. Minnesota Statutes 2016, section 103B.101, subdivision 9, is amended to read:

19.14 Subd. 9. **Powers and duties.** In addition to the powers and duties prescribed elsewhere,
19.15 the board ~~shall~~ must:

19.16 (1) coordinate the water and soil resources planning and implementation activities of
19.17 counties, soil and water conservation districts, watershed districts, watershed management
19.18 organizations, and any other local units of government through its various authorities for
19.19 approval of local plans, administration of state grants, contracts and easements, and by other
19.20 means as may be appropriate;

19.21 (2) facilitate communication and coordination among state agencies ~~in cooperation with~~
19.22 ~~the Environmental Quality Board~~, and between state and local units of government, in order
19.23 to make the expertise and resources of state agencies involved in water and soil resources
19.24 management available to the local units of government to the greatest extent possible;

19.25 (3) coordinate state and local interests with respect to the study in southwestern Minnesota
19.26 under United States Code, title 16, section 1009;

19.27 (4) develop information and education programs designed to increase awareness of local
19.28 water and soil resources problems and awareness of opportunities for local government
19.29 involvement in preventing or solving them;

19.30 (5) provide a forum for the discussion of local issues and opportunities relating to water
19.31 and soil resources management;

20.1 (6) adopt an annual budget and work program that integrate the various functions and
20.2 responsibilities assigned to it by law; and

20.3 (7) report to the governor and the legislature by October 15 of each even-numbered year
20.4 with an assessment of board programs and recommendations for any program changes and
20.5 board membership changes necessary to improve state and local efforts in water and soil
20.6 resources management.

20.7 The board may accept grants, gifts, donations, or contributions in money, services,
20.8 materials, or otherwise from the United States, a state agency, or other source to achieve
20.9 an authorized or delegated purpose. The board may enter into a contract or agreement
20.10 necessary or appropriate to accomplish the transfer. The board may conduct or participate
20.11 in local, state, or federal programs or projects that have as one purpose or effect the
20.12 preservation or enhancement of water and soil resources and may enter into and administer
20.13 agreements with local governments or landowners or their designated agents as part of those
20.14 programs or projects. The board may receive and expend money to acquire conservation
20.15 easements, as defined in chapter 84C, on behalf of the state and federal government consistent
20.16 with the Camp Ripley's Army Compatible Use Buffer Project.

20.17 Any money received is hereby deposited in an account in a fund other than the general
20.18 fund and appropriated and dedicated for the purpose for which it is granted.

20.19 Sec. 7. Minnesota Statutes 2016, section 103B.151, is amended to read:

20.20 **103B.151 COORDINATION OF WATER RESOURCE PLANNING.**

20.21 Subdivision 1. **Water planning.** The ~~Environmental Quality Board~~ Clean Water Council
20.22 ~~shall~~ must:

20.23 (1) coordinate public water resource management and regulation activities among the
20.24 state agencies having jurisdiction in the area;

20.25 (2) coordinate comprehensive long-range water resources planning in furtherance of the
20.26 Environmental Quality Board's "Minnesota Water Plan," published in January 1991, by
20.27 September 15, 2000, and each ten-year interval afterwards;

20.28 (3) coordinate water planning activities of local, regional, and federal bodies with state
20.29 water planning and integrate these plans with state strategies;

20.30 (4) coordinate development of state water policy recommendations and priorities, and
20.31 a recommended program for funding identified needs, including priorities for implementing
20.32 the state water resources monitoring plan;

- 21.1 (5) administer federal water resources planning with multiagency interests;
- 21.2 (6) ensure that groundwater quality monitoring and related data is provided and integrated
- 21.3 into the Minnesota land management information system according to published data
- 21.4 compatibility guidelines. Costs of integrating the data in accordance with data compatibility
- 21.5 standards must be borne by the agency generating the data;
- 21.6 (7) coordinate the development and evaluation of water information and education
- 21.7 materials and resources; and
- 21.8 (8) coordinate the dissemination of water information and education through existing
- 21.9 delivery systems.

21.10 Subd. 2. **Governor's representative.** The ~~Environmental Quality Board~~ Clean Water

21.11 Council chair shall represent the governor on interstate water resources organizations.

21.12 Sec. 8. Minnesota Statutes 2016, section 103B.315, subdivision 5, is amended to read:

21.13 Subd. 5. **State review.** (a) After conducting the public hearing but before final adoption,

21.14 the county board must submit its local water management plan, all written comments received

21.15 on the plan, a record of the public hearing under subdivision 4, and a summary of changes

21.16 incorporated as a result of the review process to the board for review. The board shall

21.17 complete the review within 90 days after receiving a local water management plan and

21.18 supporting documents. The board shall consult with the Departments of Agriculture, Health,

21.19 and Natural Resources; the Pollution Control Agency; ~~the Environmental Quality Board;~~

21.20 and other appropriate state agencies during the review.

21.21 (b) The board may disapprove a local water management plan if the board determines

21.22 the plan is not consistent with state law. If a plan is disapproved, the board shall provide a

21.23 written statement of its reasons for disapproval. A disapproved local water management

21.24 plan must be revised by the county board and resubmitted for approval by the board within

21.25 120 days after receiving notice of disapproval of the local water management plan, unless

21.26 the board extends the period for good cause.

21.27 (c) If the local government unit disagrees with the board's decision to disapprove the

21.28 plan, it may, within 60 days, initiate mediation through the board's informal dispute resolution

21.29 process as established pursuant to section 103B.345, subdivision 1. A local government

21.30 unit may appeal disapproval to the Court of Appeals. A decision of the board on appeal is

21.31 subject to judicial review under sections 14.63 to 14.69.

22.1 Sec. 9. Minnesota Statutes 2016, section 103H.151, subdivision 4, is amended to read:

22.2 Subd. 4. **Evaluation.** The commissioners of agriculture and the Pollution Control Agency
 22.3 shall, through field audits and other appropriate means, monitor the use and effectiveness
 22.4 of best management practices developed and promoted under this section. The information
 22.5 collected must be submitted to the ~~Environmental Quality Board, which must include the~~
 22.6 ~~information in the report required in section 103A.43, paragraph (d)~~ Clean Water Council.

22.7 Sec. 10. Minnesota Statutes 2016, section 103H.175, subdivision 3, is amended to read:

22.8 Subd. 3. **Report.** Every five years, the Pollution Control Agency, in cooperation with
 22.9 other agencies participating in the monitoring of water resources, shall provide a draft report
 22.10 on the status of groundwater monitoring to the ~~Environmental Quality Board for review~~
 22.11 ~~and then to the~~ house of representatives and senate committees with jurisdiction over the
 22.12 environment, natural resources, and agriculture as part of the report in section 103A.204.

22.13 Sec. 11. Minnesota Statutes 2016, section 115A.32, is amended to read:

22.14 **115A.32 RULES.**

22.15 ~~The board shall promulgate~~ commissioner of the Pollution Control Agency must adopt
 22.16 ~~rules pursuant~~ according to chapter 14 to govern ~~its~~ the activities under sections 115A.32
 22.17 to 115A.39. ~~For the purposes of sections 115A.32 to 115A.39, "board" means the~~
 22.18 ~~Environmental Quality Board established in section 116C.03. In all of its activities and~~
 22.19 ~~deliberations under sections 115A.32 to 115A.39, the board shall consult with the~~
 22.20 ~~commissioner of the Pollution Control Agency.~~

22.21 Sec. 12. Minnesota Statutes 2016, section 115A.33, is amended to read:

22.22 **115A.33 ELIGIBILITY; REQUEST FOR REVIEW.**

22.23 (a) ~~The following persons shall be~~ are eligible to request supplementary review by the
 22.24 temporary advisory board pursuant according to sections 115A.32 to 115A.39:

22.25 ~~(a)~~ (1) a generator of sewage sludge within the state ~~who~~ that has been issued permits
 22.26 by the agency for a facility to dispose of sewage sludge or solid waste resulting from sewage
 22.27 treatment;

22.28 ~~(b)~~ (2) a political subdivision ~~which~~ that has been issued permits by the agency, or a
 22.29 political subdivision acting on behalf of a person ~~who~~ that has been issued permits by the
 22.30 agency, for a solid waste facility ~~which~~ that is no larger than 250 acres, not including any
 22.31 proposed buffer area, and located outside the metropolitan area;

23.1 (e) (3) a generator of hazardous waste within the state ~~who~~ that has been issued permits
 23.2 by the agency for a hazardous waste facility to be owned and operated by the generator, on
 23.3 property owned by the generator, and to be used by the generator for managing the hazardous
 23.4 wastes produced by the generator only;

23.5 ~~(d)~~ (4) a person ~~who~~ that has been issued permits by the agency for a commercial
 23.6 hazardous waste processing facility at a site included in the board's inventory of preferred
 23.7 sites for such facilities adopted pursuant to Minnesota Statutes 1996, section 115A.09; and

23.8 ~~(e)~~ (5) a person ~~who~~ that has been issued permits by the agency for a disposal facility
 23.9 for the nonhazardous sludge, ash, or other solid waste generated by a permitted hazardous
 23.10 waste processing facility operated by the person.

23.11 (b) The ~~board~~ commissioner may require completion of a plan conforming to the
 23.12 requirements of section 115A.46, before granting review under ~~clause (b)~~ paragraph (a),
 23.13 clause (2). A request for supplementary review ~~shall~~ must show that the required permits
 23.14 for the facility have been issued by the agency and that a political subdivision has refused
 23.15 to approve the establishment or operation of the facility.

23.16 Sec. 13. Minnesota Statutes 2016, section 115A.34, is amended to read:

23.17 **115A.34 APPOINTMENT OF TEMPORARY ~~BOARD MEMBERS~~ ADVISORY**
 23.18 **BOARD.**

23.19 Within 45 days of the submission of a request determined by the ~~board~~ commissioner
 23.20 to satisfy the requirements for review under sections 115A.32 to 115A.39, a temporary
 23.21 ~~members shall~~ advisory board must be added to the board established for the purpose of the
 23.22 a supplementary review and providing recommendations to the commissioner on a final
 23.23 decision. Three members ~~shall~~ must be selected by the governing body of the city or town
 23.24 in which the ~~chair of the board~~ commissioner determines the facility would be principally
 23.25 located, and three members ~~shall~~ must be selected by the governing body of the county in
 23.26 which the ~~chair of the board~~ commissioner determines the proposed facility would be
 23.27 principally located. If the proposed facility is located in unorganized territory, all six members
 23.28 ~~shall~~ must be selected by the governing board of the county. Temporary advisory board
 23.29 members ~~shall~~ must be residents of the county in which the proposed facility would be
 23.30 located and ~~shall~~ must be selected to represent broadly the local interests that would be
 23.31 directly affected by the proposed facility. At least one member appointed by the city or
 23.32 town ~~shall~~ must live within one mile of the proposed facility, and at least one member
 23.33 appointed by the county ~~shall~~ must be a resident of a city or town in which the proposed
 23.34 facility would be located. If the appointing authority fails to appoint temporary advisory

24.1 board members in the period allowed, the governor ~~shall~~ must appoint the temporary members
 24.2 to represent the local interests ~~in accordance with~~ according to this section. Temporary
 24.3 advisory board members ~~shall~~ serve for terms lasting until the ~~board~~ commissioner has
 24.4 taken final action on the facility.

24.5 Sec. 14. Minnesota Statutes 2016, section 115A.35, is amended to read:

24.6 **115A.35 REVIEW PROCEDURE.**

24.7 The temporary advisory board ~~shall~~ must meet to ~~commence~~ begin the supplementary
 24.8 review within 90 days of the submission of a request determined by the ~~board~~ commissioner
 24.9 to satisfy the requirements for review under this section. At the meeting ~~commencing to~~
 24.10 begin the review, the chair ~~shall~~, selected by members of the temporary advisory board,
 24.11 must recommend and the temporary advisory board must establish a scope and procedure,
 24.12 in accordance with the rules of the ~~board~~ commissioner, for the supplemental review and
 24.13 final decision by the commissioner on the proposed facility. The procedure ~~shall~~ must require
 24.14 the ~~board~~ commissioner to make a final decision on the proposed facility within 90 days
 24.15 following the commencement of review. The procedure ~~shall~~ must require the temporary
 24.16 advisory board to hold, at the call of the chair, at least one public hearing in the county
 24.17 within which the proposed facility would be located. A majority of ~~permanent~~ the members
 24.18 of the board ~~shall~~ must be present at the hearing. The hearing ~~shall~~ must be conducted for
 24.19 the board by the state Office of Administrative Hearings in a manner determined by the
 24.20 administrative law judge to be consistent with the expeditious completion of the proceedings
 24.21 as required by sections 115A.32 to 115A.39. The hearing ~~shall~~ must not be deemed a
 24.22 contested case under chapter 14. Notice of the hearing ~~shall~~ must be published in a newspaper
 24.23 or newspapers of general circulation in the area for two successive weeks ending at least
 24.24 15 days before the date of the meeting. The notice ~~shall~~ must describe the proposed facility,
 24.25 its location, the permits, and the temporary advisory board's scope and procedure for review.
 24.26 The notice ~~shall~~ must identify a location or locations within the city or town and county
 24.27 where the permit applications, the agency permits, and the temporary advisory board's scope
 24.28 and procedure for review are available for review and where copies may be obtained.

24.29 Sec. 15. Minnesota Statutes 2016, section 115A.36, is amended to read:

24.30 **115A.36 SCOPE AND CONTENT OF REVIEW.**

24.31 In its review ~~and final decision on~~ of the proposed facility, the temporary advisory board
 24.32 ~~shall~~ must consider at least the following matters:

25.1 ~~(a)~~ (1) the risk and effect of the proposed facility on local residents, units of government,
 25.2 and the local public health, safety, and welfare, including such dangers as an accidental
 25.3 release of wastes during transportation to the facility, water, air, and land pollution, and fire
 25.4 or explosion where appropriate, and the degree to which the risk or effect may be alleviated;

25.5 ~~(b)~~ (2) the consistency of the proposed facility with, and its effect on, existing and
 25.6 planned local land use and development; local laws, ordinances, and permits; and local
 25.7 public facilities and services;

25.8 ~~(c)~~ (3) the adverse effects of the facility on agriculture and natural resources and
 25.9 opportunities to mitigate or eliminate the adverse effects by additional stipulations,
 25.10 conditions, and requirements respecting the proposed facility at the proposed site;

25.11 ~~(d)~~ (4) the need for the proposed facility, especially its contribution to abating solid and
 25.12 hazardous waste disposal, the availability of alternative sites, and opportunities to mitigate
 25.13 or eliminate need by additional and alternative waste management strategies or actions of
 25.14 a significantly different nature;

25.15 ~~(e)~~ (5) whether, in the case of solid waste resource recovery facilities, the applicant has
 25.16 considered the feasible and prudent waste processing alternatives for accomplishing the
 25.17 purposes of the proposed project and has compared and evaluated the costs of the alternatives,
 25.18 including capital and operating costs, and the effects of the alternatives on the cost to
 25.19 generators.

25.20 Sec. 16. Minnesota Statutes 2016, section 115A.37, is amended to read:

25.21 **115A.37 FINAL DECISION OF ~~BOARD~~ COMMISSIONER.**

25.22 Subdivision 1. **Approval or disapproval.** (a) In its making a final decision on the
 25.23 proposed facility, the ~~board~~ commissioner must consider the recommendations of the
 25.24 temporary advisory board and may either approve or disapprove the proposed facility at the
 25.25 proposed site. The ~~board's~~ commissioner's approval ~~shall~~ must embody all terms, conditions,
 25.26 and requirements of the permitting agencies, provided that the ~~board~~ commissioner may:

25.27 ~~(a)~~ (1) finally resolve any conflicts between state agencies regarding permit terms,
 25.28 conditions, and requirements;² and

25.29 ~~(b)~~ (2) require more stringent permit terms, conditions, and requirements respecting the
 25.30 design, construction, operation, inspection, monitoring, and maintenance of the proposed
 25.31 facility at the proposed site.

26.1 (b) The ~~board's~~ commissioner's resolution of conflicts under ~~clause paragraph~~ (a) ~~shall,~~
 26.2 clause (1), must be in favor of the more stringent terms, conditions, and requirements.

26.3 Subd. 2. **Decision paramount.** The decision of the ~~board~~ commissioner to approve a
 26.4 facility ~~shall be~~ is final and ~~shall supersede and preempt~~ supersedes and preempts
 26.5 requirements of state agencies and political subdivisions and the requirements of sections
 26.6 473H.02 to 473H.17; except that the facility ~~shall be~~ is subject to those terms, conditions,
 26.7 and requirements of permitting agencies embodied in the ~~board's~~ commissioner's approval
 26.8 and any requirements imposed pursuant to subdivision 3. The permitting agencies ~~shall~~
 26.9 must issue or amend the permits for the facility within 60 days following and in accordance
 26.10 with the final decision of the ~~board~~ commissioner, and all permits ~~shall~~ must conform to
 26.11 the terms, conditions, and requirements of the ~~board's~~ commissioner's decision. No charter
 26.12 provision, ordinance, rule, permit, or other requirement of any state agency or political
 26.13 subdivision shall prevent or restrict the establishment, operation, expansion, continuance,
 26.14 or closure of the facility in accordance with the final decision of the ~~board~~ commissioner
 26.15 and permits issued pursuant ~~thereto~~ to the final decision.

26.16 Subd. 3. **Local requirements.** A political subdivision may impose reasonable
 26.17 requirements respecting the construction, inspection, operation, monitoring, and maintenance
 26.18 of a facility. Any such requirements ~~shall be~~ are subject to review by the agency to determine
 26.19 their reasonableness and consistency with the establishment and use of a facility in
 26.20 accordance with the final decision of the ~~board~~ commissioner and permits issued pursuant
 26.21 ~~thereto~~ to the final decision. The agency may approve, disapprove, suspend, modify, or
 26.22 reverse any such requirements. The decision of the agency ~~shall be~~ is final.

26.23 Sec. 17. Minnesota Statutes 2016, section 115A.38, subdivision 1, is amended to read:

26.24 Subdivision 1. **Reports to legislative commission.** At least 30 days before making a
 26.25 final decision under section 115A.37 in a review brought ~~pursuant~~ according to section
 26.26 115A.33, ~~clause (d)~~ paragraph (a), clause (4), the chair of the temporary advisory board or
 26.27 commissioner may report to the legislative commission describing permit conditions or
 26.28 requirements being considered ~~which~~ that are not within the existing authority of the agency
 26.29 or the board or ~~which~~ that would require legislation or public financial assistance. In any
 26.30 such report, the chair of the board may request intervention in the review pursuant to
 26.31 subdivisions 2 and 3.

27.1 Sec. 18. Minnesota Statutes 2016, section 115A.38, subdivision 3, is amended to read:

27.2 Subd. 3. **Suspension of review process; intervention proceeding.** Following the report
27.3 of the intervenor, the legislative commission may suspend the review process for an additional
27.4 period not to exceed 90 days for an intervention proceeding. The intervenor ~~shall be~~ is in
27.5 charge of the intervention proceeding and may call for such participation and establish such
27.6 procedures as the intervenor deems necessary and appropriate to facilitate agreement. The
27.7 intervenor shall keep the chair of the legislative commission informed on the progress of
27.8 the intervention proceeding, particularly with respect to agreements or proposed agreements
27.9 ~~which that~~ which may require action or decisions not within the authority of the agency ~~or board,~~
27.10 legislative action, or public financial assistance. The intervenor shall make recommendations
27.11 to the commission respecting any such agreements or proposed agreements. The commission
27.12 may make recommendations to the intervenor respecting any such agreement or proposed
27.13 agreement. If the commission approves of an agreement, or a decision based upon an
27.14 agreement, ~~which that~~ which requires action or decisions not within the authority of the agency
27.15 ~~or board,~~ legislative action, or public financial assistance, the commission shall cause the
27.16 matter and recommendations to be submitted to the legislature for consideration.

27.17 Sec. 19. Minnesota Statutes 2016, section 115A.39, is amended to read:

27.18 **115A.39 JUDICIAL REVIEW.**

27.19 Judicial review with respect to conduct or decisions in supplementary reviews brought
27.20 ~~pursuant~~ according to section 115A.33, ~~clause (e) or (d)~~ paragraph (a), clause (3) or (4),
27.21 shall be as provided in section 115A.30.

27.22 Sec. 20. Minnesota Statutes 2016, section 115B.20, subdivision 6, is amended to read:

27.23 Subd. 6. **Report to legislature.** By January 31 of each odd-numbered year, the
27.24 commissioner of agriculture and the agency shall submit to the senate Finance Committee,
27.25 the house of representatives Ways and Means Committee, the Environment and Natural
27.26 Resources Committees of the senate and house of representatives, the Finance Division of
27.27 the senate Committee on Environment and Natural Resources, and the house of
27.28 representatives Committee on Environment and Natural Resources Finance, ~~and the~~
27.29 ~~Environmental Quality Board~~ a report detailing the activities for which money has been
27.30 spent pursuant to this section during the previous fiscal year.

28.1 Sec. 21. Minnesota Statutes 2016, section 116C.74, subdivision 2, is amended to read:

28.2 Subd. 2. **Violations; penalties.** (a) A person who violates section 116C.723,~~116C.724,~~
28.3 or 116C.731 is:

28.4 (1) guilty of a misdemeanor and is subject to a fine of not more than \$20,000; and

28.5 (2) subject to a civil penalty of not more than \$10,000 for each day of violation, payable
28.6 to the state, and may be ordered by the court to pay to the state an additional sum as
28.7 compensation for cleanup and for pollution, destruction, or impairment of the environment,
28.8 including but not limited to contamination of water supplies or water aquifers.

28.9 (b) A violation of section 116C.723,~~116C.724,~~ or 116C.731 may be enjoined as provided
28.10 by law in an action in the name of the state brought by the attorney general.

28.11 (c) This subdivision does not limit other remedies otherwise available to either the state
28.12 or private parties for violations of section 116C.723,~~116C.724,~~ or 116C.731.

28.13 Sec. 22. Minnesota Statutes 2016, section 116C.91, is amended by adding a subdivision
28.14 to read:

28.15 Subd. 2a. **Commissioner.** "Commissioner" means the commissioner of agriculture.

28.16 Sec. 23. Minnesota Statutes 2016, section 116C.92, is amended to read:

28.17 **116C.92 COORDINATION OF ACTIVITIES.**

28.18 Subdivision 1. **State coordinating organization.** The ~~Environmental Quality Board~~
28.19 Department of Agriculture is designated the state coordinating organization for state and
28.20 federal regulatory activities relating to genetically engineered organisms.

28.21 Subd. 2. **Notice of nationwide action.** The ~~board~~ commissioner of natural resources
28.22 ~~shall~~ must notify interested parties if a permit to release genetically engineered wild rice is
28.23 issued anywhere in the United States. For purposes of this subdivision, "interested parties"
28.24 means:

28.25 (1) the state's ~~wild-rice~~ wild-rice industry;

28.26 (2) the legislature;

28.27 (3) federally recognized tribes within Minnesota; and

28.28 (4) individuals who request to be notified.

29.1 Sec. 24. Minnesota Statutes 2016, section 116C.94, is amended to read:

29.2 **116C.94 RULES.**

29.3 Subdivision 1. **General authority.** (a) Except as provided in paragraph (b), the ~~board~~
29.4 commissioner shall adopt rules consistent with sections 116C.91 to 116C.96 that require
29.5 an environmental assessment worksheet and otherwise comply with chapter 116D and rules
29.6 adopted under it for a proposed release and a permit for a release. The ~~board~~ commissioner
29.7 may place conditions on a permit and may deny, modify, suspend, or revoke a permit.

29.8 (b) The ~~board~~ commissioner shall adopt rules that require an environmental impact
29.9 statement and otherwise comply with chapter 116D and rules adopted under it for a proposed
29.10 release and a permit for a release of genetically engineered wild rice. The ~~board~~ commissioner
29.11 may place conditions on the permit and may deny, modify, suspend, or revoke the permit.

29.12 Subd. 2. **Significant environmental permit.** The rules ~~shall~~ must provide that the ~~board~~
29.13 commissioner shall authorize an agency with a significant environmental permit to administer
29.14 the regulatory oversight for the release of certain genetically engineered organisms.

29.15 Subd. 3. **Commercialization.** The ~~board~~ commissioner may adopt rules providing
29.16 exemptions to the requirements to prepare an environmental assessment worksheet and
29.17 obtain a permit for releases of genetically engineered organisms for which substantial
29.18 evidence from past releases has shown to the ~~board's~~ commissioner's satisfaction that the
29.19 organism can be released without jeopardizing public health or the environment.

29.20 Subd. 4. **Alternative regulatory oversight.** The ~~board~~ commissioner may adopt rules
29.21 providing alternative regulatory oversight to the requirements to prepare an environmental
29.22 assessment worksheet and obtain a permit for releases of genetically engineered organisms
29.23 for which substantial evidence from past experience, including releases and laboratory data,
29.24 has shown to the ~~board's~~ commissioner's satisfaction that the alternative oversight will
29.25 protect public health and the environment.

29.26 Subd. 5. **Rules; federal oversight.** The ~~board~~ commissioner may adopt rules to implement
29.27 the authorities granted ~~to it~~ in section 116C.97, subdivision 2.

29.28 Subd. 6. **Consultation.** The ~~board~~ commissioner shall consult with local units of
29.29 government and with private citizens before adopting any rules.

29.30 Sec. 25. Minnesota Statutes 2016, section 116C.95, is amended to read:

29.31 **116C.95 LIABILITY.**

30.1 Rules established by the ~~board~~ commissioner under section 116C.94 ~~shall do~~ not affect
30.2 liability under any other law or regulation for adverse effects resulting from activities relating
30.3 to genetically engineered organisms.

30.4 Sec. 26. Minnesota Statutes 2016, section 116C.96, is amended to read:

30.5 **116C.96 COST REIMBURSEMENT.**

30.6 The ~~board~~ commissioner shall assess the proposer of a release for the necessary and
30.7 reasonable costs of processing exemptions from a release permit under rules authorized by
30.8 sections 116C.94, subdivisions 1, 3, and 4, and 116C.97, subdivision 2, paragraph (c), or
30.9 applications for a release permit. An estimated budget ~~shall~~ must be prepared for each
30.10 exemption or application by the ~~chair of the board~~ commissioner. The proposer must remit
30.11 25 percent of the estimated budget within 14 days of the receipt of the estimated budget
30.12 from the ~~chair~~ commissioner. The unpaid balance ~~shall~~ must be billed in periodic installments,
30.13 due upon receipt of an invoice from the ~~chair~~ commissioner. Costs in excess of the estimated
30.14 budget must be certified by the ~~board~~ commissioner and upon certification constitute prima
30.15 facie evidence that the expenses are reasonable and necessary and ~~shall~~ must be charged to
30.16 the proposer. The proposer may review all actual costs and present objections to the ~~board~~
30.17 commissioner, ~~which~~ who may modify the cost or determine that the cost assessed is
30.18 reasonable. The assessment paid by the proposer ~~shall~~ must not exceed the sum of the costs
30.19 incurred. All money received under this section ~~shall~~ must be deposited in the special account
30.20 established under section 116D.045, subdivision 3, ~~for the purpose of paying to pay~~ costs
30.21 incurred in processing exemptions and applications.

30.22 Sec. 27. Minnesota Statutes 2016, section 116C.97, is amended to read:

30.23 **116C.97 EXEMPTIONS.**

30.24 Subdivision 1. **Human gene therapy.** The requirements of sections 116C.91 to 116C.96
30.25 and of the rules ~~of the board~~ adopted ~~pursuant~~ according to section 116C.94 do not apply
30.26 to genetic engineering of human germ cells and human somatic cells intended for use in
30.27 human gene therapy.

30.28 Subd. 2. **Federal oversight.** (a) If the ~~board~~ commissioner determines, upon ~~its~~ the
30.29 commissioner's own volition or at the request of any person, that a federal program exists
30.30 for regulating the release of certain genetically engineered organisms and the federal oversight
30.31 under the program is adequate to protect human health or the environment, then any person
30.32 may release such genetically engineered organisms after obtaining the necessary federal
30.33 approval and without obtaining a state release permit or a significant environmental permit

31.1 or complying with the other requirements of sections 116C.91 to 116C.96 and the rules of
31.2 ~~the board~~ adopted pursuant to section 116C.94.

31.3 (b) If the ~~board~~ commissioner determines the federal program is adequate to meet only
31.4 certain requirements of sections 116C.91 to 116C.96 and the rules ~~of the board~~ adopted
31.5 pursuant to section 116C.94, the ~~board~~ commissioner may exempt such releases from those
31.6 requirements.

31.7 (c) A person proposing a release for which a federal authorization is required may apply
31.8 to the ~~board~~ commissioner for an exemption from the ~~board's~~ commissioner's permit or to
31.9 a state agency with a significant environmental permit for the proposed release for an
31.10 exemption from the agency's permit. The proposer must file with the ~~board~~ commissioner
31.11 or state agency a written request for exemption with a copy of the federal application and
31.12 the information necessary to determine if there is a potential for significant environmental
31.13 effects under chapter 116D and rules adopted under it. The ~~board~~ commissioner or state
31.14 agency shall give public notice of the request in the first available issue of the ~~EQB~~
31.15 Environmental Quality Monitor and shall provide an opportunity for public comment on
31.16 the environmental review process consistent with chapter 116D and rules adopted under it.
31.17 The ~~board~~ commissioner or state agency may grant the exemption if the ~~board~~ commissioner
31.18 or state agency finds that the federal authorization issued is adequate to meet the requirements
31.19 of chapter 116D and rules adopted under it and any other requirement of the ~~board's~~
31.20 commissioner's or state agency's authority regarding the release of genetically engineered
31.21 organisms. The ~~board~~ commissioner or state agency must grant or deny the exemption
31.22 within 45 days after the receipt of the written request and the information required by the
31.23 ~~board~~ commissioner or state agency.

31.24 (d) This subdivision does not apply to genetically engineered organisms for which an
31.25 environmental impact statement is required under sections 116C.91 to 116C.96.

31.26 Sec. 28. Minnesota Statutes 2016, section 116C.99, subdivision 2, is amended to read:

31.27 Subd. 2. **Standards and criteria.** (a) ~~By October 1, 2013,~~ The commissioner of natural
31.28 resources may maintain and update model standards and criteria developed by the
31.29 Environmental Quality Board, ~~in consultation with local units of government, shall develop~~
31.30 ~~model standards and criteria~~ for mining, processing, and transporting silica sand. These
31.31 standards and criteria may be used by local units of government in developing local
31.32 ordinances. The standards and criteria shall be different for different geographic areas of
31.33 the state. The unique karst conditions and landforms of southeastern Minnesota shall be
31.34 considered unique when compared with the flat scoured river terraces and uniform hydrology

- 32.1 of the Minnesota Valley. The standards and criteria developed shall reflect those differences
32.2 in varying regions of the state. The standards and criteria must include:
- 32.3 (1) recommendations for setbacks or buffers for mining operation and processing,
32.4 including:
- 32.5 (i) any residence or residential zoning district boundary;
- 32.6 (ii) any property line or right-of-way line of any existing or proposed street or highway;
- 32.7 (iii) ordinary high-water levels of public waters;
- 32.8 (iv) bluffs;
- 32.9 (v) designated trout streams, Class 2A water as designated in the rules of the Pollution
32.10 Control Agency, or any perennially flowing tributary of a designated trout stream or Class
32.11 2A water;
- 32.12 (vi) calcareous fens;
- 32.13 (vii) wellhead protection areas as defined in section 103I.005;
- 32.14 (viii) critical natural habitat acquired by the commissioner of natural resources under
32.15 section 84.944; and
- 32.16 (ix) a natural resource easement paid wholly or in part by public funds;
- 32.17 (2) standards for hours of operation;
- 32.18 (3) groundwater and surface water quality and quantity monitoring and mitigation plan
32.19 requirements, including:
- 32.20 (i) applicable groundwater and surface water appropriation permit requirements;
- 32.21 (ii) well-sealing requirements;
- 32.22 (iii) annual submission of monitoring well data; and
- 32.23 (iv) storm water runoff rate limits not to exceed two-, ten-, and 100-year storm events;
- 32.24 (4) air monitoring and data submission requirements;
- 32.25 (5) dust control requirements;
- 32.26 (6) noise testing and mitigation plan requirements;
- 32.27 (7) blast monitoring plan requirements;
- 32.28 (8) lighting requirements;
- 32.29 (9) inspection requirements;

33.1 (10) containment requirements for silica sand in temporary storage to protect air and
 33.2 water quality;

33.3 (11) containment requirements for chemicals used in processing;

33.4 (12) financial assurance requirements;

33.5 (13) road and bridge impacts and requirements; and

33.6 (14) reclamation plan requirements as required under the rules adopted by the
 33.7 commissioner of natural resources.

33.8 Sec. 29. Minnesota Statutes 2016, section 116C.99, subdivision 3, is amended to read:

33.9 Subd. 3. **Silica sand technical assistance team.** ~~By October 1, 2013, the Environmental~~
 33.10 ~~Quality Board~~ The commissioner of natural resources shall assemble a silica sand technical
 33.11 assistance team to provide local units of government, at their request, with assistance with
 33.12 ordinance development, zoning, environmental review and permitting, monitoring, or other
 33.13 issues arising from silica sand mining and processing operations. The technical assistance
 33.14 team may be chosen from representatives of the following entities: the Department of Natural
 33.15 Resources, the Pollution Control Agency, the Board of Water and Soil Resources, the
 33.16 Department of Health, the Department of Transportation, the University of Minnesota, the
 33.17 Minnesota State Colleges and Universities, and federal agencies. A majority of the members
 33.18 must be from a state agency and all members must have expertise in one or more of the
 33.19 following areas: silica sand mining, hydrology, air quality, water quality, land use, or other
 33.20 areas related to silica sand mining.

33.21 Sec. 30. Minnesota Statutes 2016, section 116C.991, is amended to read:

33.22 **116C.991 ENVIRONMENTAL REVIEW; SILICA SAND PROJECTS.**

33.23 (a) Until a final rule is adopted pursuant to Laws 2013, chapter 114, article 4, section
 33.24 105, paragraph (d), an environmental assessment worksheet must be prepared for any silica
 33.25 sand project that meets or exceeds the following thresholds, unless the project meets or
 33.26 exceeds the thresholds for an environmental impact statement under rules of the
 33.27 ~~Environmental Quality Board~~ adopted under section 116D.04, and an environmental impact
 33.28 statement must be prepared:

33.29 (1) excavates 20 or more acres of land to a mean depth of ten feet or more during its
 33.30 existence. The local government is the responsible governmental unit; or

34.1 (2) is designed to store or is capable of storing more than 7,500 tons of silica sand or
34.2 has an annual throughput of more than 200,000 tons of silica sand and is not required to
34.3 receive a permit from the Pollution Control Agency. The Pollution Control Agency is the
34.4 responsible governmental unit.

34.5 (b) In addition to the contents required under statute and rule, an environmental
34.6 assessment worksheet completed according to this section must include:

34.7 (1) a hydrogeologic investigation assessing potential groundwater and surface water
34.8 effects and geologic conditions that could create an increased risk of potentially significant
34.9 effects on groundwater and surface water;

34.10 (2) for a project with the potential to require a groundwater appropriation permit from
34.11 the commissioner of natural resources, an assessment of the water resources available for
34.12 appropriation;

34.13 (3) an air quality impact assessment that includes an assessment of the potential effects
34.14 from airborne particulates and dust;

34.15 (4) a traffic impact analysis, including documentation of existing transportation systems,
34.16 analysis of the potential effects of the project on transportation, and mitigation measures to
34.17 eliminate or minimize adverse impacts;

34.18 (5) an assessment of compatibility of the project with other existing uses; and

34.19 (6) mitigation measures that could eliminate or minimize any adverse environmental
34.20 effects for the project.

34.21 Sec. 31. Minnesota Statutes 2016, section 116C.992, is amended to read:

34.22 **116C.992 TECHNICAL ASSISTANCE, ORDINANCE, AND PERMIT LIBRARY.**

34.23 ~~By October 1, 2013, the Environmental Quality Board, in consultation with local units~~
34.24 ~~of government, shall create and~~ The commissioner of natural resources must maintain a
34.25 library on local government ordinances and local government permits that have been
34.26 approved for regulation of silica sand projects for reference by local governments.

34.27 Sec. 32. Minnesota Statutes 2016, section 116D.04, subdivision 2a, is amended to read:

34.28 Subd. 2a. **When prepared.** (a) Where there is potential for significant environmental
34.29 effects resulting from any major governmental action, the action shall be preceded by a
34.30 detailed environmental impact statement prepared by the responsible governmental unit.
34.31 The environmental impact statement shall be an analytical rather than an encyclopedic

35.1 document which describes the proposed action in detail, analyzes its significant environmental
35.2 impacts, discusses appropriate alternatives to the proposed action and their impacts, and
35.3 explores methods by which adverse environmental impacts of an action could be mitigated.
35.4 The environmental impact statement shall also analyze those economic, employment, and
35.5 sociological effects that cannot be avoided should the action be implemented. To ensure its
35.6 use in the decision-making process, the environmental impact statement shall be prepared
35.7 as early as practical in the formulation of an action.

35.8 ~~(a)~~ (b) The ~~board~~ commissioner of the Pollution Control Agency shall by rule establish
35.9 categories of actions for which environmental impact statements and for which environmental
35.10 assessment worksheets shall be prepared as well as categories of actions for which no
35.11 environmental review is required under this section. A mandatory environmental assessment
35.12 worksheet ~~shall~~ is not be required for the expansion of an ethanol plant, as defined in section
35.13 41A.09, subdivision 2a, paragraph (b), or the conversion of an ethanol plant to a biobutanol
35.14 facility or the expansion of a biobutanol facility as defined in section 41A.15, subdivision
35.15 2d, based on the capacity of the expanded or converted facility to produce alcohol fuel, but
35.16 must be required if the ethanol plant or biobutanol facility meets or exceeds thresholds of
35.17 other categories of actions for which environmental assessment worksheets must be prepared.
35.18 The responsible governmental unit for an ethanol plant or biobutanol facility project for
35.19 which an environmental assessment worksheet is prepared ~~shall be~~ is the state agency with
35.20 the greatest responsibility for supervising or approving the project as a whole.

35.21 (c) A mandatory environmental impact statement ~~shall~~ is not be required for a facility
35.22 or plant located outside the seven-county metropolitan area that produces less than
35.23 125,000,000 gallons of ethanol, biobutanol, or cellulosic biofuel annually, or produces less
35.24 than 400,000 tons of chemicals annually, if the facility or plant is: an ethanol plant, as
35.25 defined in section 41A.09, subdivision 2a, paragraph (b); a biobutanol facility, as defined
35.26 in section 41A.15, subdivision 2d; or a cellulosic biofuel facility. A facility or plant that
35.27 only uses a cellulosic feedstock to produce chemical products for use by another facility as
35.28 a feedstock ~~shall~~ is not be considered a fuel conversion facility as used in rules adopted
35.29 under this chapter.

35.30 ~~(b)~~ (d) The responsible governmental unit shall promptly publish notice of the completion
35.31 of an environmental assessment worksheet by publishing the notice in at least one newspaper
35.32 of general circulation in the geographic area where the project is proposed, by posting the
35.33 notice on a Web site that has been designated as the official publication site for publication
35.34 of proceedings, public notices, and summaries of a political subdivision in which the project
35.35 is proposed, or in any other manner determined by the ~~board~~ commissioner and shall provide

36.1 copies of the environmental assessment worksheet to the ~~board and its member agencies~~
 36.2 commissioner. Comments on the need for an environmental impact statement may be
 36.3 submitted to the responsible governmental unit during a 30-day period following publication
 36.4 of the notice that an environmental assessment worksheet has been completed. The
 36.5 responsible governmental unit's decision on the need for an environmental impact statement
 36.6 shall be based on the environmental assessment worksheet and the comments received
 36.7 during the comment period, and shall be made within 15 days after the close of the comment
 36.8 period. The ~~board's chair~~ commissioner may extend the 15-day period by not more than 15
 36.9 additional days upon the request of the responsible governmental unit.

36.10 ~~(e)~~ (e) An environmental assessment worksheet shall also be prepared for a proposed
 36.11 action whenever material evidence accompanying a petition by not less than 100 individuals
 36.12 who reside or own property in the state, submitted before the proposed project has received
 36.13 final approval by the appropriate governmental units, demonstrates that, because of the
 36.14 nature or location of a proposed action, there may be potential for significant environmental
 36.15 effects. Petitions requesting the preparation of an environmental assessment worksheet shall
 36.16 be submitted to the ~~board~~ commissioner. The ~~chair of the board~~ commissioner shall determine
 36.17 the appropriate responsible governmental unit and forward the petition to it. A decision on
 36.18 the need for an environmental assessment worksheet shall be made by the responsible
 36.19 governmental unit within 15 days after the petition is received by the responsible
 36.20 governmental unit. The ~~board's chair~~ commissioner may extend the 15-day period by not
 36.21 more than 15 additional days upon request of the responsible governmental unit.

36.22 ~~(d)~~ (f) Except in an environmentally sensitive location where Minnesota Rules, part
 36.23 4410.4300, subpart 29, item B, applies, the proposed action is exempt from environmental
 36.24 review under this chapter and rules ~~of the board~~ adopted under this chapter, if:

36.25 (1) the proposed action is:

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

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

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

36.32 (3) the county board holds a public meeting for citizen input at least ten business days
 36.33 ~~prior to~~ before the Pollution Control Agency or county issuing a feedlot permit for the
 36.34 animal feedlot facility unless another public meeting for citizen input has been held with

37.1 regard to the feedlot facility to be permitted. The exemption in this paragraph is in addition
37.2 to other exemptions provided under other law and rules ~~of the board~~ adopted under this
37.3 chapter.

37.4 ~~(e)~~ (g) The ~~board~~ commissioner may, ~~prior to~~ before final approval of a proposed project,
37.5 require preparation of an environmental assessment worksheet by a responsible governmental
37.6 unit selected by the ~~board~~ commissioner for any action where environmental review under
37.7 this section has not been specifically provided for by rule or otherwise initiated.

37.8 ~~(f)~~ (h) An early and open process shall be utilized to limit the scope of the environmental
37.9 impact statement to a discussion of those impacts, ~~which that~~, because of the nature or
37.10 location of the project, have the potential for significant environmental effects. The same
37.11 process shall be utilized to determine the form, content, and level of detail of the statement
37.12 as well as the alternatives ~~which that~~ are appropriate for consideration in the statement. In
37.13 addition, the permits ~~which that~~ will be required for the proposed action shall be identified
37.14 during the scoping process. Further, the process shall identify those permits for which
37.15 information will be developed concurrently with the environmental impact statement. The
37.16 ~~board~~ commissioner shall provide in ~~its~~ rules adopted under this chapter for the expeditious
37.17 completion of the scoping process. The determinations reached in the process shall be
37.18 incorporated into the order requiring the preparation of an environmental impact statement.

37.19 ~~(g)~~ (i) The responsible governmental unit shall, to the extent practicable, avoid duplication
37.20 and ensure coordination between state and federal environmental review and between
37.21 environmental review and environmental permitting. Whenever practical, information
37.22 needed by a governmental unit for making final decisions on permits or other actions required
37.23 for a proposed project shall be developed in conjunction with the preparation of an
37.24 environmental impact statement. When an environmental impact statement is prepared for
37.25 a project requiring multiple permits for which two or more agencies' decision processes
37.26 include either mandatory or discretionary hearings before a hearing officer ~~prior to~~ before
37.27 the agencies' decision on the permit, the agencies may, notwithstanding any law or rule to
37.28 the contrary, conduct the hearings in a single consolidated hearing process if requested by
37.29 the proposer. All agencies having jurisdiction over a permit that is included in the
37.30 consolidated hearing shall participate. The responsible governmental unit shall establish
37.31 appropriate procedures for the consolidated hearing process, including procedures to ensure
37.32 that the consolidated hearing process is consistent with the applicable requirements for each
37.33 permit regarding the rights and duties of parties to the hearing, and shall utilize the earliest
37.34 applicable hearing procedure to initiate the hearing.

38.1 ~~(h)~~ (j) An environmental impact statement shall be prepared and its adequacy determined
38.2 within 280 days after notice of its preparation unless the time is extended by consent of the
38.3 parties or by the governor for good cause. The responsible governmental unit shall determine
38.4 the adequacy of an environmental impact statement, unless within 60 days after notice is
38.5 published that an environmental impact statement will be prepared, the ~~board~~ commissioner
38.6 chooses to determine the adequacy of an environmental impact statement. If an environmental
38.7 impact statement is found to be inadequate, the responsible governmental unit shall have
38.8 60 days to prepare an adequate environmental impact statement.

38.9 ~~(i)~~ (k) The proposer of a specific action may include in the information submitted to the
38.10 responsible governmental unit a preliminary draft environmental impact statement under
38.11 this section on that action for review, modification, and determination of completeness and
38.12 adequacy by the responsible governmental unit. A preliminary draft environmental impact
38.13 statement prepared by the project proposer and submitted to the responsible governmental
38.14 unit shall identify or include as an appendix all studies and other sources of information
38.15 used to substantiate the analysis contained in the preliminary draft environmental impact
38.16 statement. The responsible governmental unit shall require additional studies, if needed,
38.17 and obtain from the project proposer all additional studies and information necessary for
38.18 the responsible governmental unit to perform its responsibility to review, modify, and
38.19 determine the completeness and adequacy of the environmental impact statement.

38.20 Sec. 33. Minnesota Statutes 2016, section 116D.04, subdivision 5b, is amended to read:

38.21 Subd. 5b. **Review of environmental assessment worksheets and environmental**
38.22 **impact statements.** By December 1, 2012, and every five years thereafter, the ~~Environmental~~
38.23 ~~Quality Board~~, Pollution Control Agency, Department of Natural Resources, and Department
38.24 of Transportation, after consultation with political subdivisions, shall submit to the governor
38.25 and the chairs of the house of representatives and senate committees having jurisdiction
38.26 over environment and natural resources a list of mandatory environmental assessment
38.27 worksheet and mandatory environmental impact statement categories for which the agency
38.28 or a political subdivision is designated as the responsible government unit, and for each
38.29 worksheet or statement category, a document including:

38.30 (1) intended historical purposes of the category;

38.31 (2) whether projects that fall within the category are also subject to local, state, or federal
38.32 permits; and

39.1 (3) an analysis of whether the mandatory category should be modified, eliminated, or
39.2 unchanged based on its relationship to existing permits or other federal, state, or local laws
39.3 or ordinances.

39.4 Sec. 34. Minnesota Statutes 2016, section 116D.04, subdivision 13, is amended to read:

39.5 Subd. 13. **Enforcement.** This section may be enforced by injunction, action to compel
39.6 performance, or other appropriate action in the district court of the county where the violation
39.7 takes place. Upon the request of the ~~board or the chair of the board~~ commissioner of the
39.8 Pollution Control Agency, the attorney general may bring an action under this subdivision.

39.9 Sec. 35. Minnesota Statutes 2016, section 116D.04, subdivision 14, is amended to read:

39.10 Subd. 14. **Customized environmental assessment worksheet forms; electronic**
39.11 **submission.** (a) The commissioners of natural resources and the Pollution Control Agency
39.12 ~~and the board~~ shall periodically review mandatory environmental assessment worksheet
39.13 categories under rules adopted under this section, and other project types that are frequently
39.14 subject to environmental review, and develop customized environmental assessment
39.15 worksheet forms for the category or project type. The forms must include specific questions
39.16 that focus on key environmental issues for the category or project type. In assessing categories
39.17 and project types and developing forms, the ~~board~~ commissioners shall seek the input of
39.18 governmental units that are frequently responsible for the preparation of a worksheet for
39.19 the particular category or project type. The commissioners ~~and the board~~ shall also seek
39.20 input from the general public on the development of customized forms. The commissioners
39.21 ~~and board~~ shall make the customized forms available online.

39.22 (b) The commissioners of natural resources and the Pollution Control Agency shall allow
39.23 for the electronic submission of environmental assessment worksheets and permits.

39.24 Sec. 36. Minnesota Statutes 2016, section 116D.045, subdivision 1, is amended to read:

39.25 Subdivision 1. **Assessment.** The ~~board shall~~ commissioner must by rule adopt procedures
39.26 to assess the proposer of a specific action for reasonable costs of preparing, reviewing, and
39.27 distributing the environmental impact statement. The costs ~~shall~~ must be determined by the
39.28 responsible governmental unit ~~pursuant~~ according to the rules ~~promulgated by the board~~
39.29 adopted under this chapter.

40.1 Sec. 37. Minnesota Statutes 2016, section 116F.06, subdivision 2, is amended to read:

40.2 Subd. 2. **Agency review; sale prohibition.** The agency shall review new or revised
40.3 packages or containers except when such changes involve only color, size, shape or printing.
40.4 The agency shall review innovations including, but not limited to, changes in constituent
40.5 materials or combinations thereof and changes in closures. When the agency determines
40.6 that any new or revised package or container would constitute a solid waste disposal problem
40.7 or be inconsistent with state environmental policies, the manufacturer of the product may
40.8 withdraw it from further consideration until such time as the manufacturer may resubmit
40.9 such product to the agency, or, the agency may, by order made after notice and hearing as
40.10 provided in chapter 14, ~~and following an additional period not to exceed 30 days during~~
40.11 ~~which the Environmental Quality Board may review the proposed action,~~ prohibit the sale
40.12 of the package or container in the state. Any such prohibition shall continue in effect until
40.13 revoked by the agency or until the last legislative day of the next following legislative
40.14 session, whichever occurs first, unless extended by law. This subdivision shall not apply to
40.15 any package or container sold at retail in this state prior to September 7, 1979.

40.16 Sec. 38. Minnesota Statutes 2016, section 216B.243, subdivision 7, is amended to read:

40.17 Subd. 7. **Participation by other agency or political subdivision.** (a) Other state agencies
40.18 authorized to issue permits for siting, construction or operation of large energy facilities,
40.19 and those state agencies authorized to participate in matters before the commission involving
40.20 utility rates and adequacy of utility services, shall present their position regarding need and
40.21 participate in the public hearing process prior to the issuance or denial of a certificate of
40.22 need. Issuance or denial of certificates of need shall be the sole and exclusive prerogative
40.23 of the commission and these determinations and certificates shall be binding upon other
40.24 state departments and agencies, regional, county, and local governments and special purpose
40.25 government districts except as provided in ~~sections 116C.01 to 116C.08 and~~ section 116D.04,
40.26 subdivision 9.

40.27 (b) An applicant for a certificate of need shall notify the commissioner of agriculture if
40.28 the proposed project will impact cultivated agricultural land, as that term is defined in section
40.29 216G.01, subdivision 4. The commissioner may participate in any proceeding on the
40.30 application and advise the commission as to whether to grant the certificate of need, and
40.31 the best options for mitigating adverse impacts to agricultural lands if the certificate is
40.32 granted. The Department of Agriculture shall be the lead agency on the development of any
40.33 agricultural mitigation plan required for the project.

41.1 Sec. 39. Minnesota Statutes 2016, section 216C.18, subdivision 2, is amended to read:

41.2 Subd. 2. **Draft report; public meeting.** ~~Prior to the preparation of~~ Before preparing a
41.3 final report, the commissioner shall issue a draft report to the Environmental Quality Board
41.4 ~~and~~ any person, upon request, and shall hold a public meeting. Notice of the public meeting
41.5 shall be provided to each regional development commission.

41.6 Sec. 40. **TRANSFER OF AUTHORITY.**

41.7 The responsibilities of the Environmental Quality Board under Minnesota Statutes,
41.8 chapter 116D, are transferred to the Pollution Control Agency as provided in Minnesota
41.9 Statutes, section 15.039.

41.10 Sec. 41. **REVISOR'S INSTRUCTION.**

41.11 (a) The revisor of statutes shall change the term "Environmental Quality Board" or
41.12 "board" when referring thereto to "commissioner of the Pollution Control Agency" or
41.13 "commissioner" wherever it appears in Minnesota Statutes, sections 116D.04, subdivisions
41.14 2b, 4a, 7, 8, 9, 10, 11, 15, and 16; 116D.045, subdivision 2; and 116D.11, subdivisions 2
41.15 and 3.

41.16 (b) The revisor of statutes shall change the term "Environmental Quality Board Monitor"
41.17 or "EQB Monitor" to "Environmental Quality Monitor" wherever it appears in Minnesota
41.18 Statutes or Minnesota Rules.

41.19 (c) The revisor of statutes shall change the term "Environmental Quality Board" or
41.20 "board" when referring thereto to "commissioner of natural resources" or "commissioner"
41.21 wherever it appears in Minnesota Statutes, sections 116G.01 to 116G.14 and 116G.151.

41.22 (d) The revisor of statutes shall change the term "Environmental Quality Board" or
41.23 "board" when referring thereto to "commissioner of agriculture" or "commissioner" wherever
41.24 it appears in Minnesota Statutes, sections 40A.122 and 473H.15.

41.25 Sec. 42. **REPEALER.**

41.26 Minnesota Statutes 2016, sections 103A.403; 103A.43; 103F.614; 116C.02; 116C.03,
41.27 subdivisions 1, 2, 2a, 3a, 4, 5, and 6; 116C.04, subdivisions 1, 2, 3, 4, 7, 10, and 11; 116C.06;
41.28 116C.08; 116C.71, subdivisions 1c and 2a; 116C.721; 116C.722; 116C.724, subdivisions
41.29 2 and 3; 116C.91, subdivision 2; and 116G.03, subdivision 2, are repealed.

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103A.403 STATEWIDE NITRATE DATA.

The Environmental Quality Board shall ensure that all available data regarding the presence of nitrates in groundwater in the state that meet state standards recommended under Laws 1992, chapter 544, section 13, are integrated into the Minnesota Geospatial Information Office's statewide nitrate database according to published data compatibility guidelines. Costs of integrating the data in accordance with data compatibility standards must be borne by the agency generating the data or, if the data are not generated by an entity that receives or received state appropriations for monitoring or information management, by the Environmental Quality Board.

103A.43 WATER ASSESSMENTS AND REPORTS.

(a) The Environmental Quality Board shall consolidate the assessments required in paragraphs (b) and (c) with the policy report in section 103A.204 and submit a single report to the house of representatives and senate committees with jurisdiction over the environment, natural resources, and agriculture and the Legislative-Citizen Commission on Minnesota Resources by September 15, 2010, and every five years thereafter.

(b) The Pollution Control Agency and the Department of Agriculture shall provide an assessment and analysis of water quality, groundwater degradation trends, and efforts to reduce, prevent, minimize, and eliminate degradation of water. The assessment and analysis must include an analysis of relevant monitoring data.

(c) The Department of Natural Resources shall provide an assessment and analysis of the quantity of surface and ground water in the state and the availability of water to meet the state's needs.

103F.614 EMINENT DOMAIN ACTIONS.

Subdivision 1. **Applicability.** An agency of the state, a public benefit corporation, a local government, or any other entity with the power of eminent domain under chapter 117, except a public utility as defined in section 216B.02, a municipal electric or gas utility, a municipal power agency, a cooperative electric association organized under chapter 308A, or a pipeline operating under the authority of the Natural Gas Act, United States Code, title 15, sections 717 to 717z, shall follow the procedures in this section before:

(1) acquiring land or an easement in land with a total area over ten acres within a wetland preservation area; or

(2) advancing a grant, loan, interest subsidy, or other funds for the construction of dwellings, commercial or industrial facilities, or water or sewer facilities that could be used to serve structures in areas that are not for agricultural use, that require an acquisition of land or an easement in a wetland preservation area.

Subd. 2. **Notice of intent.** At least 60 days before an action described in subdivision 1, notice of intent must be filed with the Environmental Quality Board containing information and in the manner and form required by the Environmental Quality Board. The notice of intent must contain a report justifying the proposed action, including an evaluation of alternatives that would not affect land within a wetland preservation area.

Subd. 3. **Review and order.** The Environmental Quality Board, in consultation with affected local governments, shall review the proposed action to determine its effect on the preservation and enhancement of wetlands and the relationship to local and regional comprehensive plans. If the Environmental Quality Board finds that the proposed action might have an unreasonable effect on a wetland preservation area, the Environmental Quality Board shall issue an order within the 60-day period under subdivision 2 for the party to refrain from the proposed action for an additional 60 days.

Subd. 4. **Public hearing.** During the additional 60 days, the Environmental Quality Board shall hold a public hearing concerning the proposed action at a place within the affected wetland preservation area or easily accessible to the wetland preservation area. Notice of the hearing must be published in a newspaper having a general circulation within the area. Individual written notice must be given to the local governments with jurisdiction over the wetland preservation area, the agency, corporation or government proposing to take the action, the owner of land in the wetland preservation area, and any public agency having the power of review or approval of the action.

Subd. 5. **Joint review.** The review process required in this section may be conducted jointly with any other environmental impact review by the Environmental Quality Board.

Subd. 6. **Suspension.** The Environmental Quality Board may suspend an eminent domain action for up to one year if it determines that the action is contrary to wetland preservation and

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that there are feasible and prudent alternatives that may have a less negative impact on the wetland preservation area.

Subd. 7. **Wetland preservation area terminates.** The benefits and limitations of a wetland preservation area, including the restrictive covenant for the portion of the wetland preservation area taken, end on the date title and possession of the property is obtained.

Subd. 8. **Action by attorney general.** The Environmental Quality Board may request the attorney general to bring an action to enjoin an agency, corporation, or government from violating this section.

Subd. 9. **Exception.** This section does not apply to an emergency project that is immediately necessary for the protection of life and property.

116C.02 DEFINITIONS.

Subdivision 1. **Applicability.** For the purposes of sections 116C.01 to 116C.08, the following terms have the meaning given them.

Subd. 2. **Board.** "Board" means the Minnesota Environmental Quality Board.

116C.03 CREATION OF ENVIRONMENTAL QUALITY BOARD; MEMBERSHIP; CHAIR; STAFF.

Subdivision 1. **Creation.** An environmental quality board, designated as the Minnesota Environmental Quality Board, is hereby created.

Subd. 2. **Membership.** The members of the board are the commissioner of administration, the commissioner of commerce, the commissioner of the Pollution Control Agency, the commissioner of natural resources, the commissioner of agriculture, the commissioner of health, the commissioner of employment and economic development, the commissioner of transportation, the chair of the Board of Water and Soil Resources, and a representative of the governor's office designated by the governor. The governor shall appoint five members from the general public to the board, subject to the advice and consent of the senate. At least two of the five public members must have knowledge of and be conversant in water management issues in the state. Notwithstanding the provisions of section 15.06, subdivision 6, members of the board may not delegate their powers and responsibilities as board members to any other person.

Subd. 2a. **Public members.** The membership terms, compensation, removal, and filling of vacancies of public members of the board shall be as provided in section 15.0575.

Subd. 3a. **Chair.** The representative of the governor's office shall serve as chair of the board.

Subd. 4. **Support.** Staff and consultant support for board activities shall be provided by the Pollution Control Agency. This support shall be provided based upon an annual budget and work program developed by the board and certified to the commissioner by the chair of the board. The board shall have the authority to request and require staff support from all other agencies of state government as needed for the execution of the responsibilities of the board.

Subd. 5. **Administration.** The board shall contract with the Pollution Control Agency for administrative services necessary to the board's activities. The services shall include personnel, budget, payroll and contract administration.

Subd. 6. **Annual budget and work program.** The board shall adopt an annual budget and work program.

116C.04 POWERS AND DUTIES.

Subdivision 1. **Scope; votes.** The powers and duties of the Minnesota Environmental Quality Board shall be as provided in this section and as otherwise provided by law or executive order. Actions of the board shall be taken only at an open meeting upon a majority vote of all the permanent members of the board.

Subd. 2. **Jurisdiction.** (a) The board shall determine which environmental problems of interdepartmental concern to state government shall be considered by the board. The board shall initiate interdepartmental investigations into those matters that it determines are in need of study. Topics for investigation may include but need not be limited to future population and settlement patterns, air and water resources and quality, solid waste management, transportation and utility corridors, economically productive open space, energy policy and need, growth and development, and land use planning.

(b) The board shall review programs of state agencies that significantly affect the environment and coordinate those it determines are interdepartmental in nature, and insure agency compliance with state environmental policy.

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(c) The board may review environmental rules and criteria for granting and denying permits by state agencies and may resolve conflicts involving state agencies with regard to programs, rules, permits and procedures significantly affecting the environment, provided that such resolution of conflicts is consistent with state environmental policy.

(d) State agencies shall submit to the board all proposed legislation of major significance relating to the environment and the board shall submit a report to the governor and the legislature with comments on such major environmental proposals of state agencies.

Subd. 3. **Cooperation.** The board shall cooperate with regional development commissions in appropriate matters of environmental concern.

Subd. 4. **Task forces.** The board may establish interdepartmental or citizen task forces or subcommittees to study particular problems.

Subd. 7. **Annual congress.** At its discretion, the board shall convene an annual Environmental Quality Board congress including, but not limited to, representatives of state, federal and regional agencies, citizen organizations, associations, industries, colleges and universities, and private enterprises who are active in or have a major impact on environmental quality. The purpose of the congress shall be to receive reports and exchange information on progress and activities related to environmental improvement.

Subd. 10. **Stipulation agreements.** The board may enter into and enforce stipulation agreements made to enforce statutes and rules administered by the board.

Subd. 11. **Coordination.** The Environmental Quality Board shall coordinate the implementation of an interagency compliance with existing state and federal lead regulations and report to the legislature by January 31, 1992, on the changes in programs needed to comply.

116C.06 HEARINGS.

Subdivision 1. **Process.** The board shall hold public hearings on matters that it determines to be of major environmental impact. The board shall prescribe by rule in conformity to the provisions of chapter 14, the procedures for the conduct of all hearings and review procedures.

Subd. 2. **Delegation to hearings officer.** The board may delegate its authority to conduct a hearing to a hearings officer. The hearings officer shall have the same power as the board to compel the attendance of witnesses to examine them under oath, to require the production of books, papers, and other evidence, and to issue subpoenas and cause the same to be served and executed in any part of the state. The hearings officer shall be knowledgeable in matters of law and the environment.

If a hearings officer conducts a hearing, the officer shall make findings of fact and submit them to the board. The transcript of testimony and exhibits shall constitute the exclusive record upon which such findings are made. The findings shall be available for public inspection.

Subd. 3. **Recommendations.** After receipt of the findings of fact of the hearings officer, the board shall make recommendations to the governor and legislature as to administrative and legislative actions to be considered in regard to the matter.

116C.08 FEDERAL FUNDS; DONATIONS.

The board may apply for, receive, and disburse federal funds made available to the state by federal law or rules promulgated thereunder for any purpose related to the powers and duties of the board. The board shall comply with any and all requirements of such federal law or such rules and regulations promulgated thereunder in order to apply for, receive, and disburse such funds. The board is authorized to accept any donations or grants from any public or private concern. All such moneys received by the board shall be deposited in the state treasury and are hereby appropriated to it for the purpose for which they are received. None of such moneys in the state treasury shall cancel.

116C.71 DEFINITIONS.

Subd. 1c. **Board.** "Board" means the Minnesota Environmental Quality Board.

Subd. 2a. **Chair.** "Chair" means the chair of the board.

116C.721 PUBLIC PARTICIPATION.

Subdivision 1. **Information meetings.** The board shall conduct public information meetings within an area designated in a draft area recommendation report, final area recommendation report, draft area characterization plan, or final area characterization plan. Information meetings shall be held within 30 days after the board receives each of the reports.

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Subd. 2. **Notice.** The board shall notify the public of information meetings and the availability of the area recommendation reports and the area characterization plans. Copies of the reports shall be made available for public review and distribution at the board office, the Minnesota Geological Survey office, regional development commission offices in regions that include a part of the potentially impacted areas, county courthouses in counties that include a part of a potentially impacted area, and other appropriate places determined by the board to provide public accessibility.

Subd. 3. **Transmittal of public concerns.** The board shall transmit public concerns expressed at public information meetings to the department of energy.

116C.722 LEGAL AND TECHNICAL ASSISTANCE TO INDIAN TRIBES.

If an Indian tribal council that has jurisdiction over part of a potentially impacted area within the state requests legal or technical assistance, the board shall provide assistance.

116C.724 FIELD INVESTIGATIONS, TESTS, AND STUDIES.

Subd. 2. **Drilling.** A permit shall be obtained from the Environmental Quality Board, in accordance with chapter 14, for any geologic and hydrologic drilling related to disposal. Conditions of obtaining and retaining the permit must be specified by rule and must include:

(1) compliance with state drilling and drill hole restoration rules as an exploratory boring under chapter 103I;

(2) proof that access to the test site has been obtained by a negotiated agreement or other legal process;

(3) payment by the permittee of a fee covering the costs of processing and monitoring drilling activities;

(4) unrestricted access by the commissioner of health, the commissioner of natural resources, the commissioner of the Pollution Control Agency, the director of the Minnesota Geological Survey, the agent of a community health board as authorized under section 145A.04, and their employees and agents to the drilling sites to inspect and monitor the drill holes, drilling operations, and abandoned sites, and to sample air and water that may be affected by drilling;

(5) submission of splits or portions of a core sample, requested by the commissioner of natural resources or director of the Minnesota Geological Survey, except that the commissioner or director may accept certified data on the sample in lieu of a sample if certain samples are required in their entirety by the permittee; and

(6) that a sample submitted may become property of the state.

Subd. 3. **Other requirements.** (a) A person who conducts geologic, hydrologic, or geophysical testing or studies shall provide unrestricted access to both raw and interpretive data to the chair and the director of the Minnesota Geological Survey or their designated representatives. The raw and interpretive data includes core samples, well logs, water samples and chemical analyses, survey charts and graphs, and predecisional reports. Studies and data shall be made available within 30 days of a formal request by the chair.

(b) A person proposing to investigate shall hold at least one public meeting before a required permit is issued, and during the investigation at least once every three months, during the investigation within the potentially impacted area. The meetings shall provide the public with current information on the progress of the investigation. The person investigating shall respond in writing to the Environmental Quality Board about concerns and issues raised at the public meetings.

(c) Before a person engages in negotiations regarding property interests in land or water, or permitting activities, the person shall notify the chair in writing. Copies of terms and agreements shall also be provided to the chair.

116C.91 DEFINITIONS.

Subd. 2. **Board.** "Board" means the Environmental Quality Board.

116G.03 DEFINITIONS.

Subd. 2. **Board.** "Board" means the Minnesota Environmental Quality Board.