

Environmental Review & Permitting Legislation

1. Establish PCA and DNR goal to issue permits within 150 days and require a report on applications not meeting the goal.

This provision was passed in 2010 for the Department of Agriculture. We believe that establishing a state goal and then requiring the agency or department to report the reasons why the goal is not met for specific permits will provide information that will be critical to ongoing improvement of the system. For example, the data may show that a specific type of permit may take longer to issue. Administrators and stakeholders can use the information to evaluate causes of delay and options for making the process work better.

2. Eliminate district court review of environmental review decisions; appeals would go directly to the Court of Appeals.

The environmental review statute, Chapter 116D, requires appeals of environmental review decisions to go to district court. The law pre-dates the creation of the Court of Appeals. Consequently, there is a duplicative appeals process. The district court reviews the decision of the Responsible Governmental Unit (RGU) in the same manner as an appeals court. The district court decision may then be appealed to the Court of Appeals. Eliminating this duplication will save significant time in the legal process.

3. Allow a project proposer to prepare the draft EIS, rather than RGU. RGU would still review, modify, approve the EIS.

Currently, the RGU (state agency or local government) hires contractors to prepare an Environmental Impact Statement (EIS) and bills the cost back to the project proposer. The proposed amendment gives the project proposer the option to directly contract with consultants for preparation of the draft EIS. A proposer may determine that administrative process time can be reduced and the draft EIS be completed sooner. The RGU would retain full authority to review, modify and determine the adequacy of the review.

4. Require that final decisions on permits be made within 30 days---rather than 90 days--- of the final approval of an EIS.

Common practice today is that environmental review and the permitting process proceed on a parallel, not consecutive, timeline; therefore, final decisions on permits should be made sooner than 90 days after final approval of the EIS.

5. For projects requiring NPDES water permits, repeal MPCA rule prohibiting construction before permit issuance. Pre-permit construction is not prohibited by Clean Water Act. Operation and discharge could not occur until the permit is issued.

This amendment was proposed by PCA in 2010. The federal Clean Air Act prohibits the construction of an emission facility before a permit is issued. The federal Clean Water Act does not have the same restriction on construction of a wastewater facility requiring a permit. However, Minnesota law has the same restriction for both air and water permits. The amendment would allow construction (but not operation) of a water discharge facility before issuance of the permit, as allowed under federal law.

6. In PCA rulemaking for air, water and hazardous waste, to adopt standards more stringent than any similar federal standard, the Statement of Need and Reasonableness must include documentation that the federal standard does not provide adequate protection for public health and the environment and a comparison of the proposed standard with standards in border states and the states within EPA Region 5.

Environmental standards become a point of comparison as states compete for new business and jobs. This proposal does not prohibit the state from having more stringent standards. It simply requires that if a new standard is proposed that is more stringent than a similar federal standard, then the rulemaking process must document why a more stringent standard is needed and compare the standard with border states and other states in EPA Region 5.

7. IRRRB functions as a Regional Economic Development Agency. The amendment to the bill clarifies the language to include IRRRB as such.

IRRRB is essentially a regional development agency. All funds must go to a specified area. The Taconite Tax Relief Area which is essentially the Iron Range, the Aitkin area, and the North Shore.

IRRRB is not a permitting agency and does not have any decisions within environmental review or the permitting process.

The agency does not have any authority over any environmental review, or any regulatory authority over any project.

Actions taken by IRRRB do not influence decisions made by agencies involved in environmental review and permitting.

IRRRB has been providing funding for projects, including several that were in environmental review, for decades, since the 70's.

This is not just about mining. The Tower harbor project is a recent example of another project that received financial support prior to any regulatory approval.

The amendment simply clarifies this long standing intent.

It is needed for future agency action.

There is not an issue with this interfering with any lawsuit.

The loan, in this case, was never finalized, because Governor Pawlenty did not sign it before he left office. That is required before any funding approved by IRRRB is final.

The Attorney General has asked that the suit be dismissed.

Regulatory agencies with direct environmental oversights will continue to be prohibited from providing incentives.