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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 1040

02/11/2019 Authored by Torkelson, Heintzeman, Fabian, Bennett, Albright and others
The bill was read for the first time and referred to the Committee on Ways and Means

1.1 A bill for an act
1.2 relating to environment; modifying external peer review requirements for certain
1.3 standards; amending Minnesota Statutes 2018, section 115.035.

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

1.5 Section 1. Minnesota Statutes 2018, section 115.035, is amended to read:

1.6 115.035 EXTERNAL PEER REVIEW OF WATER QUALITY STANDARDS.

1.7 (a) ~~When the commissioner convenes an external peer review panel during the~~
1.8 ~~promulgation or amendment of water quality standards, the commissioner must provide~~
1.9 ~~notice and take public comment on the charge questions for the external peer review panel~~
1.10 ~~and must allow written and oral public comment as part of the external peer review panel~~
1.11 ~~process.~~ Every new or revised numeric water quality standard must be supported by a
1.12 technical support document that provides the scientific basis for the proposed standard and
1.13 that has undergone external, scientific peer review. Numeric water quality standards in
1.14 which the agency is adopting, without change, a United States Environmental Protection
1.15 Agency criterion that has been through peer review are not subject to this paragraph.
1.16 Documentation of the external peer review panel, including the name or names of the peer
1.17 reviewer or reviewers, must be included in the statement of need and reasonableness for
1.18 the water quality standard. ~~If the commissioner does not convene an external peer review~~
1.19 ~~panel during the promulgation or amendment of water quality standards, the commissioner~~
1.20 ~~must state the reason an external peer review panel will not be convened in the statement~~
1.21 ~~of need and reasonableness.~~

2.1 (b) Every technical support document that is subject to this section and developed by  
2.2 the agency must be released in draft form for public comment before peer review and again  
2.3 before finalizing the technical support document.

2.4 (c) The commissioner must provide public notice and information about the external  
2.5 peer review through the request for comments published at the beginning of the rulemaking  
2.6 process for the numeric water quality standard, and:

2.7 (1) the request for comments must identify the draft technical support document and  
2.8 where the document can be found;

2.9 (2) the request for comments must include a proposed charge for the external peer review  
2.10 and request comments on the charge;

2.11 (3) all comments received during the public comment period must be made available to  
2.12 the external peer reviewers; and

2.13 (4) if the agency is not soliciting external peer review because the agency is adopting a  
2.14 United States Environmental Protection Agency criterion without change, that must be  
2.15 noted in the request for comments.

2.16 (d) The purpose of the external peer review is to evaluate whether the technical support  
2.17 document and proposed standard are based on sound scientific knowledge, methods, and  
2.18 practices. The external peer review must be conducted according to the guidance in the  
2.19 most recent edition of the United States Environmental Protection Agency's Peer Review  
2.20 Handbook. Peer reviewers must not have participated in developing the scientific basis of  
2.21 the standard. Peer reviewers must disclose any activities or circumstances that could pose  
2.22 a conflict of interest or create an appearance of loss of impartiality that could interfere with  
2.23 an objective review.

2.24 (e) The type of review and the number of peer reviewers depend on the nature of the  
2.25 science underlying the standard. When the agency is developing significant new science or  
2.26 science that expands significantly beyond current documented scientific practices or  
2.27 principles, a panel review must be used.

2.28 (f) In response to the findings of the external peer review, the draft technical support  
2.29 document must be revised as appropriate. The findings of the external peer review must be  
2.30 documented and attached to the final technical support document, which must be an exhibit  
2.31 as part of the statement of need and reasonableness in the rulemaking to adopt the new or  
2.32 revised numeric water quality standard. The final technical support document must note  
2.33 changes made in response to the external peer review.

- 3.1 ~~(b)~~ (g) By December 15 each year, the commissioner shall post on the agency's website
- 3.2 a report identifying the water quality standards development work in progress or completed
- 3.3 in the past year, the lead agency scientist for each development effort, and opportunities for
- 3.4 public input.