

Senate File 2797 Information

Background:

Link to the bill:

https://www.revisor.mn.gov/bills/text.php?number=SF2797&version=latest&session=ls92&session_year=2022&session_number=0

Bill Summary:

See below for a full summary of the bill.

SF 2797 is Modeled after Obama’s FAST-41:

SF 2797 is modelled after the Fixing America’s Surface Transportation Act, also known as “FAST-41.” FAST-41 was the Obama administration initiative to speed up infrastructure projects.

The Act was signed into law under the Obama administration in December 2015. It created a new governance structure, set of procedures, and funding authorities designed to improve the timeliness, predictability, and transparency of the Federal environmental review and authorization process for major infrastructure projects. In January 2021, mining sector projects were added as eligible for coverage under FAST-41 due to domestic mining’s important role in supply chains and infrastructure development.

Several projects overseen by the Minnesota Department of Transportation have applied and either been completed or are still in process under FAST-41, including the Brainerd Lakes Regional Airport Solar Farm Environmental Assessment and Metropolitan Council’s Gold Line Bus Rapid Transit and Southwest Light Rail Transit projects.

FAST-41 includes a “Permitting Dashboard” to provide a real-time snapshot of actions and milestones. It also includes important provisions specifically designed to ensure coordination of federal agency environmental review with state, local and tribal governments.

Biden “Fundamental Principles of Domestic Mining Reform”:

SF 2797 is also strikingly similar to the permitting principles of the “Biden-Harris Administration Fundamental Principles for Domestic Mining Reform” that was released on February 22, 2022. Here’s a link to that full document:

<https://www.doi.gov/sites/doi.gov/files/biden-harris-administration-fundamental-principles-for-domestic-mining-reform.pdf>

The document lists 11 fundamental principles. Here is #7:

7. Provide Permitting Certainty: There is no comprehensive law that provides clear and comprehensive direction for permitting hardrock mines. Indeed, the primary statute governing hardrock mining on public federal lands—the General Mining Law of 1872—is now 150 years old and has never been significantly revised. A new

law covering mineral extraction or updates of existing mining regulations should provide clear, consistent standards and processes for mine exploration, operations, closure, and plan approvals on public land. Consistent with a whole-of-government approach, federal agencies will improve interagency cooperation and coordination during environmental review and permitting. This will be done in concert with project proponents, state, and local governments as well as Tribal Nations to improve permitting times, reduce conflicts with local communities, and improve environmental, social, and economic outcomes. Using transparency, such as the Project Permitting Dashboard, can provide real-time clarity for proponents, agencies, and the public.

As a side note, the General Mining Law of 1872 does not apply to mining on federal lands in Minnesota and not all of the “fundamental principles” are supported by industry. Nevertheless, the “permitting certainty” fundamental principals as similar to SF2797:

- improve interagency cooperation and coordination, improve permitting times,
- improve environmental, social, and economic outcomes.
- use transparency, such as the Project Permitting Dashboard, to provide real-time clarity for proponents, agencies, and the public.

MINING ENVIRONMENTAL REVIEW AND PERMITTING IMPROVEMENTS LEGISLATION

SUMMARY OF KEY PROVISIONS

Covered Mining Projects:

This bill applies to metallic mining projects for which an environmental assessment worksheet or environmental impact statement is required unless the project proposer requests that its project be excluded.

Purpose:

The purpose of the bill is to improve coordination, effectiveness, transparency, and accountability of the environmental review and permitting processed for metallic mineral mining projects.

Environmental Review and Permitting Dashboard:

The DNR will create and maintain a dashboard as an online tool for government agencies, the public and the project proposer to track the progress of environmental review and permitting actions for a covered mining project. The dashboard will include:

- A description of the project.
- A description of environmental reviews and required local, state, and federal approvals.
- A comprehensive schedule for completion of environmental review and permitting for the covered mining project.
- A description of public hearings and opportunities to comment on environmental review and permits for the covered mining project.
- Access to environmental review and permitting information.
- Descriptions of any agency actions taken, and decisions made that materially affect the status of the environmental review or permitting for the project.
- Descriptions of the status of any litigation to which a state agency is a party that is directly related to the project.

Cooperating Agencies:

All state agencies with regulatory authority over a project must participate with DNR in establishing procedures and deadlines for completion of environmental review and permits for a covered mining project.

Coordinated Project Plan:

The DNR must establish, in consultation with state and federal agencies, a Coordinated Project Plan that is a concise plan for coordinating public and agency participation in, and completion of, any required state and Federal environmental review and permits for the project.

Synchronization of State and Federal Activity :

State agencies will coordinate environmental review and permitting processes with any federal, local or tribal entity responsible for environmental review and permitting for a project.

Report to the Legislature:

The DNR will submit to the legislature a report detailing the progress accomplished under this subchapter during the previous fiscal year in making environmental and permitting process improvements and assessing the performance of each participating agency in implementing those improvements.

Process Improvements:

DNR will issue recommended best practices for environmental review and permitting for metallic mining projects and report to the legislature on environmental and permitting process improvements made.