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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FOURTH SESSION

H. F. No. **1208**

02/19/2025

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

1.1 A bill for an act
1.2 relating to environment; modifying provisions for permitting efficiency; amending
1.3 Minnesota Statutes 2024, sections 115.542; 116.03, subdivision 2b; 116.07,
1.4 subdivision 4a.

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

1.6 Section 1. Minnesota Statutes 2024, section 115.542, is amended to read:

1.7 **115.542 NOTICE REQUIREMENTS FOR PUBLICLY OWNED WASTEWATER**
1.8 **TREATMENT FACILITIES.**

1.9 Subdivision 1. **Definitions.** For the purpose of this section, the following terms have
1.10 the meanings given:

1.11 (1) "permit" means a national pollutant discharge elimination system (NPDES) permit
1.12 or state disposal system (SDS) permit; and

1.13 (2) "permit applicant" means a person or entity submitting an application for a new
1.14 permit or renewal, modification, or revocation of an existing permit for a publicly owned
1.15 wastewater treatment facility.

1.16 Subd. 2. **Applicability.** This section applies to all draft permits and permits for publicly
1.17 owned wastewater treatment facilities for which the commissioner of the Pollution Control
1.18 Agency makes a preliminary determination whether to issue or deny.

1.19 Subd. 3. **Prepublic notice review requirements.** Unless waived by the permit applicant,
1.20 the commissioner of the Pollution Control Agency must provide a permit applicant with a
1.21 copy of the draft permit and any fact sheets required by agency rules at least 30 days before
1.22 the distribution and public notice of the permit application and preliminary determination.

2.1 Subd. 4. **Permitting efficiency Public notice requirements.** The commissioner must
 2.2 prepare and issue a public notice of a completed application and the commissioner's
 2.3 preliminary determination as to whether the permit should be issued or denied. The public
 2.4 comment period must be at least 60 days for permit applications under this section but may
 2.5 be reduced to 30 days if:

2.6 (1) a request for the reduction is made by the permit applicant; and

2.7 (2) the commissioner approves the request based on consideration of public or Tribal
 2.8 interest in the permit action.

2.9 Subd. 5. **Permitting efficiency.** Notwithstanding section 116.03, it is the goal of the
 2.10 state that tier 2 permits for publicly owned wastewater treatment facilities be issued or
 2.11 denied within 210 days following submission of a permit application.

2.12 Sec. 2. Minnesota Statutes 2024, section 116.03, subdivision 2b, is amended to read:

2.13 Subd. 2b. **Permitting efficiency.** (a) It is the goal of the state that environmental and
 2.14 resource management permits be issued or denied within 90 days for tier 1 permits or 150
 2.15 days for tier 2 permits following submission of a permit application. The commissioner ~~of~~
 2.16 ~~the Pollution Control Agency~~ shall establish management systems designed to achieve the
 2.17 goal. For the purposes of this section, "tier 1 permits" are permits that do not require
 2.18 individualized actions or public comment periods, and "tier 2 permits" are permits that
 2.19 require individualized actions or public comment periods.

2.20 (b) The commissioner shall prepare an annual permitting efficiency report that includes
 2.21 statistics on meeting the goal in paragraph (a) and the criteria for tier 2 by permit categories.
 2.22 The report is due August 1 each year. For permit applications that have not met the goal,
 2.23 the report must state the reasons for not meeting the goal. In stating the reasons for not
 2.24 meeting the goal, the commissioner shall separately identify delays caused by the
 2.25 responsiveness of the proposer, lack of staff, scientific or technical disagreements, or the
 2.26 level of public engagement. The report must specify the number of days from initial
 2.27 submission of the application to the day of determination that the application is complete.
 2.28 The report must aggregate the data for the year and assess whether program or system
 2.29 changes are necessary to achieve the goal. The report must be posted on the agency's website
 2.30 and submitted to the governor and the chairs and ranking minority members of the house
 2.31 of representatives and senate committees having jurisdiction over environment policy and
 2.32 finance.

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

3.3 (d) Within 30 business days of application for a permit subject to paragraph (a), the
3.4 commissioner ~~of the Pollution Control Agency~~ shall notify the permit applicant, in writing,
3.5 whether the application is complete or incomplete. If the commissioner determines that an
3.6 application is incomplete, the notice to the applicant must enumerate all deficiencies, citing
3.7 specific provisions of the applicable rules and statutes, and advise the applicant on how the
3.8 deficiencies can be remedied. If the commissioner determines that the application is complete,
3.9 the notice must confirm the application's tier 1 or tier 2 permit status. If the commissioner
3.10 believes that a complete application for a tier 2 construction permit cannot be issued within
3.11 the 150-day goal, the commissioner must provide notice to the applicant with the
3.12 commissioner's notice that the application is complete and, upon request of the applicant,
3.13 provide the permit applicant with a schedule estimating when the agency will begin drafting
3.14 the permit and issue the public notice of the draft permit. This paragraph does not apply to
3.15 an application for a permit that is subject to a grant or loan agreement under chapter 446A.

3.16 (e) If, after notifying the permit applicant that the application is complete, the
3.17 commissioner determines that additional information is needed, the commissioner must
3.18 notify the applicant. Upon notice under this paragraph, counting days toward the 90- or
3.19 150-day goal described in paragraph (a) stops until the applicant has responded with the
3.20 additional information. Once the applicant has responded with all the additional information
3.21 required, counting resumes from where it stopped. The applicant has 30 business days to
3.22 provide the additional information to the commissioner, but the commissioner may extend
3.23 the time upon the applicant's request.

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

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

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

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

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

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

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

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

4.6 (iii) business schedule for project completion; and

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

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

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

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

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

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

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

4.20 ~~(g)~~ (h) The applicant may select a permit professional to undertake the preparation of
4.21 the permit application and draft permit.

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

4.25 ~~(i)~~ (j) Upon receipt of notice that the application is complete, the permit professional
4.26 shall submit to the agency a timetable for submitting a draft permit. The permit professional
4.27 shall submit a draft permit on or before the date provided in the timetable. Within 60 days
4.28 after the close of the public comment period, the commissioner shall notify the applicant
4.29 whether the permit can be issued.

4.30 ~~(j)~~ (k) Nothing in this section shall be construed to modify:

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

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

5.4 ~~(k)~~ (l) The permit application and draft permit shall identify or include as an appendix
5.5 all studies and other sources of information used to substantiate the analysis contained in
5.6 the permit application and draft permit. The commissioner shall request additional studies,
5.7 if needed, and the permit applicant shall submit all additional studies and information
5.8 necessary for the commissioner to perform the commissioner's responsibility to review,
5.9 modify, and determine the completeness of the application and approve the draft permit.

5.10 Sec. 3. Minnesota Statutes 2024, section 116.07, subdivision 4a, is amended to read:

5.11 Subd. 4a. **Permits.** (a) The Pollution Control Agency may issue, continue in effect or
5.12 deny permits, under such conditions as it may prescribe for the prevention of pollution, for
5.13 the emission of air contaminants, or for the installation or operation of any emission facility,
5.14 air contaminant treatment facility, treatment facility, potential air contaminant storage
5.15 facility, or storage facility, or any part thereof, or for the sources or emissions of noise
5.16 pollution.

5.17 (b) The Pollution Control Agency may also issue, continue in effect or deny permits,
5.18 under such conditions as it may prescribe for the prevention of pollution, for the storage,
5.19 collection, transportation, processing, or disposal of waste, or for the installation or operation
5.20 of any system or facility, or any part thereof, related to the storage, collection, transportation,
5.21 processing, or disposal of waste.

5.22 (c) The agency may not issue a permit to a facility without analyzing and considering
5.23 the cumulative levels and effects of past and current environmental pollution from all sources
5.24 on the environment and residents of the geographic area within which the facility's emissions
5.25 are likely to be deposited, provided that the facility is located in a community in a city of
5.26 the first class in Hennepin County that meets all of the following conditions:

5.27 (1) is within a half mile of a site designated by the federal government as an EPA
5.28 superfund site due to residential arsenic contamination;

5.29 (2) a majority of the population are low-income persons of color and American Indians;

5.30 (3) a disproportionate percent of the children have childhood lead poisoning, asthma,
5.31 or other environmentally related health problems;

6.1 (4) is located in a city that has experienced numerous air quality alert days of dangerous
6.2 air quality for sensitive populations between February 2007 and February 2008; and

6.3 (5) is located near the junctions of several heavily trafficked state and county highways
6.4 and two one-way streets which carry both truck and auto traffic.

6.5 (d) The Pollution Control Agency may revoke or modify any permit issued under this
6.6 subdivision and section 116.081 whenever it is necessary, in the opinion of the agency, to
6.7 prevent or abate pollution.

6.8 (e) The Pollution Control Agency has the authority for approval over the siting, expansion,
6.9 or operation of a solid waste facility with regard to environmental issues. However, the
6.10 agency's issuance of a permit does not release the permittee from any liability, penalty, or
6.11 duty imposed by any applicable county ordinances. Nothing in this chapter precludes, or
6.12 shall be construed to preclude, a county from enforcing land use controls, regulations, and
6.13 ordinances existing at the time of the permit application and adopted pursuant to Minnesota
6.14 Statutes 2020, sections 366.10 to 366.181, or sections 394.21 to 394.37, or 462.351 to
6.15 462.365, with regard to the siting, expansion, or operation of a solid waste facility.

6.16 (f) Except as prohibited by federal law, a person may commence construction,
6.17 reconstruction, replacement, or modification of any facility prior to the issuance of a
6.18 construction permit by the agency.

6.19 (g) For the purposes of this subdivision, the Pollution Control Agency may require the
6.20 owners and operators of any emission facility, air containment treatment facility, treatment
6.21 facility, potential air containment storage facility, or storage facility, or any part thereof, to
6.22 conduct air dispersion modeling of air contaminants.