

SENATE
STATE OF MINNESOTA
NINETY-FOURTH SESSION

S.F. No. 1382

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DATE	D-PG	OFFICIAL STATUS
02/13/2025	384	Introduction and first reading Referred to Environment, Climate, and Legacy

1.1A bill for an act

1.2relating to natural resources; requiring certain determinations before conducting

1.3environmental review and issuing permits relating to proposed nonferrous sulfide

1.4ore projects; amending Minnesota Statutes 2024, sections 93.001; 115.03,

1.5subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 93.

1.6BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7Section 1. Minnesota Statutes 2024, section 93.001, is amended to read:

1.8**93.001 POLICY FOR MINERAL DEVELOPMENT.**

1.9It is the policy of the state to provide for the diversification of the state's mineral economy

1.10through long-term support of mineral exploration, evaluation, environmental research,

1.11development, production, and commercialization, consistent with the state policy to protect

1.12human health, clean air, clean water, and other natural resources of the state.

1.13Sec. 2. **[93.2501] MORATORIUM ON CONDUCTING ENVIRONMENTAL**

1.14**REVIEW AND ISSUING PERMITS RELATING TO PROPOSED NONFERROUS**

1.15**SULFIDE ORE PROJECTS.**

1.16Subdivision 1. **Scope.** This section applies to conducting environmental review and

1.17issuing permits relating to proposed nonferrous sulfide ore projects under this chapter or

1.18other chapters administered by the commissioner of natural resources or the commissioner

1.19of the Minnesota Pollution Control Agency. This section does not apply to permits for or

1.20conducting environmental review relating to mining iron ore.

1.21Subd. 2. **Definitions.** (a) The terms used in this section have the meanings given.

(b) "Nonferrous sulfide ore" means a metallic mineral from which iron is not the predominant metal extracted, including but not limited to copper, nickel, platinum, palladium, gold, silver, cobalt, chromium, zinc, lead, bismuth, tin, tungsten, tantalum, or niobium.

(c) "Similar environment" means a location:

(1) with similar average annual precipitation and average monthly temperatures; and

(2) in which the proximity of surface water and groundwater to mining operations is similar to the proximity of surface water and groundwater to the Minnesota site or sites where the proposed nonferrous sulfide ore project would be sited.

Subd. 3. **Moratorium.** (a) The commissioner and the commissioner of the Minnesota Pollution Control Agency must not conduct environmental review and must not issue permits relating to proposed nonferrous sulfide ore projects unless the commissioner and the commissioner of the Minnesota Pollution Control Agency both determine, based on published, peer-reviewed scientific information and public records, that a mine for nonferrous sulfide ore has operated commercially for at least ten years and has been closed for at least ten years without resulting in a release of a hazardous substance, hazardous waste, or pollutant or contaminant as defined under section 115B.02. The mine must have operated in the United States in a similar environment and must have used reclamation techniques substantially similar to those proposed by the nonferrous sulfide ore project. The applicant for a proposed nonferrous sulfide ore project bears the burden of proof under this section to demonstrate each of the conditions necessary for a determination that environmental review may be conducted or a permit may be issued.

(b) The commissioner and the commissioner of the Minnesota Pollution Control Agency must publish notice of a proposed determination under paragraph (a) and allow public comment before making a preliminary decision to conduct environmental review or grant or deny any application for a permit relating to proposed nonferrous sulfide ore projects. If probative evidence is submitted to the commissioner or the commissioner of the Minnesota Pollution Control Agency during the public comment period that is contrary to the commissioners' proposed determination, the commissioners must order a contested case hearing under chapter 14 and must base the final decision for conducting environmental review or proceeding with the permitting process on the evidentiary record developed in the hearing.

Subd. 4. **Renewing and amending permits.** (a) For any permit issued relating to a nonferrous sulfide ore mining project under this chapter or other chapters administered by the commissioner or the commissioner of the Minnesota Pollution Control Agency, the

3.1 permittee must apply for a reissuance of the permit every ten years, or sooner if the terms
3.2 of the permit include an accelerated schedule.

3.3 (b) A person or entity seeking renewal, reissuance, modification, or reinstatement of or
3.4 an expansion or extension of activities under a permit under this chapter or other chapters
3.5 administered by the commissioner or the commissioner of the Minnesota Pollution Control
3.6 Agency related to mining nonferrous sulfide ore projects must submit to the commissioner
3.7 or the commissioner of the Minnesota Pollution Control Agency a new, modified, or amended
3.8 application for the permit. The application is subject to subdivision 3 and is considered a
3.9 substantial change to the permit for purposes of the notice requirement in section 93.481,
3.10 subdivision 3, paragraph (b).

3.11 Sec. 3. Minnesota Statutes 2024, section 115.03, subdivision 1, is amended to read:

3.12 Subdivision 1. **Generally.** (a) The commissioner is given and charged with the following
3.13 powers and duties:

3.14 (1) to administer and enforce all laws relating to the pollution of any of the waters of
3.15 the state;

3.16 (2) to investigate the extent, character, and effect of the pollution of the waters of this
3.17 state and to gather data and information necessary or desirable in the administration or
3.18 enforcement of pollution laws, and to make such classification of the waters of the state as
3.19 it may deem advisable;

3.20 (3) to establish and alter such reasonable pollution standards for any waters of the state
3.21 in relation to the public use to which they are or may be put as it shall deem necessary for
3.22 the purposes of this chapter and, with respect to the pollution of waters of the state, chapter
3.23 116;

3.24 (4) to encourage waste treatment, including advanced waste treatment, instead of stream
3.25 low-flow augmentation for dilution purposes to control and prevent pollution;

3.26 (5) to adopt, issue, reissue, modify, deny, revoke, reopen, enter into, or enforce reasonable
3.27 orders, permits, variances, standards, rules, schedules of compliance, and stipulation
3.28 agreements, under such conditions as it may prescribe, in order to prevent, control or abate
3.29 water pollution, or for the installation or operation of disposal systems or parts thereof, or
3.30 for other equipment and facilities:

3.31 (i) requiring the discontinuance of the discharge of sewage, industrial waste or other
3.32 wastes into any waters of the state resulting in pollution in excess of the applicable pollution
3.33 standard established under this chapter;

(ii) prohibiting or directing the abatement of any discharge of sewage, industrial waste, or other wastes, into any waters of the state or the deposit thereof or the discharge into any municipal disposal system where the same is likely to get into any waters of the state in violation of this chapter and, with respect to the pollution of waters of the state, chapter 116, or standards or rules promulgated or permits issued pursuant thereto, and specifying the schedule of compliance within which such prohibition or abatement must be accomplished;

(iii) prohibiting the storage of any liquid or solid substance or other pollutant in a manner which does not reasonably assure proper retention against entry into any waters of the state that would be likely to pollute any waters of the state;

(iv) requiring the construction, installation, maintenance, and operation by any person of any disposal system or any part thereof, or other equipment and facilities, or the reconstruction, alteration, or enlargement of its existing disposal system or any part thereof, or the adoption of other remedial measures to prevent, control or abate any discharge or deposit of sewage, industrial waste or other wastes by any person;

(v) establishing, and from time to time revising, standards of performance for new sources taking into consideration, among other things, classes, types, sizes, and categories of sources, processes, pollution control technology, cost of achieving such effluent reduction, and any nonwater quality environmental impact and energy requirements. Said standards of performance for new sources shall encompass those standards for the control of the discharge of pollutants which reflect the greatest degree of effluent reduction which the agency determines to be achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, where practicable, a standard permitting no discharge of pollutants. New sources shall encompass buildings, structures, facilities, or installations from which there is or may be the discharge of pollutants, the construction of which is commenced after the publication by the agency of proposed rules prescribing a standard of performance which will be applicable to such source. Notwithstanding any other provision of the law of this state, any point source the construction of which is commenced after May 20, 1973, and which is so constructed as to meet all applicable standards of performance for new sources shall, consistent with and subject to the provisions of section 306(d) of the Amendments of 1972 to the Federal Water Pollution Control Act, not be subject to any more stringent standard of performance for new sources during a ten-year period beginning on the date of completion of such construction or during the period of depreciation or amortization of such facility for the purposes of section 167 or 169, or both, of the Federal Internal Revenue Code of 1954, whichever period ends first.

5.1 Construction shall encompass any placement, assembly, or installation of facilities or
5.2 equipment, including contractual obligations to purchase such facilities or equipment, at
5.3 the premises where such equipment will be used, including preparation work at such
5.4 premises;

5.5 (vi) establishing and revising pretreatment standards to prevent or abate the discharge
5.6 of any pollutant into any publicly owned disposal system, which pollutant interferes with,
5.7 passes through, or otherwise is incompatible with such disposal system;

5.8 (vii) requiring the owner or operator of any disposal system or any point source to
5.9 establish and maintain such records, make such reports, install, use, and maintain such
5.10 monitoring equipment or methods, including where appropriate biological monitoring
5.11 methods, sample such effluents in accordance with such methods, at such locations, at such
5.12 intervals, and in such a manner as the agency shall prescribe, and providing such other
5.13 information as the agency may reasonably require;

5.14 (viii) notwithstanding any other provision of this chapter, and with respect to the pollution
5.15 of waters of the state, chapter 116, requiring the achievement of more stringent limitations
5.16 than otherwise imposed by effluent limitations in order to meet any applicable water quality
5.17 standard by establishing new effluent limitations, based upon section 115.01, subdivision
5.18 13, clause (b), including alternative effluent control strategies for any point source or group
5.19 of point sources to insure the integrity of water quality classifications, whenever the agency
5.20 determines that discharges of pollutants from such point source or sources, with the
5.21 application of effluent limitations required to comply with any standard of best available
5.22 technology, would interfere with the attainment or maintenance of the water quality
5.23 classification in a specific portion of the waters of the state. Prior to establishment of any
5.24 such effluent limitation, the agency shall hold a public hearing to determine the relationship
5.25 of the economic and social costs of achieving such limitation or limitations, including any
5.26 economic or social dislocation in the affected community or communities, to the social and
5.27 economic benefits to be obtained and to determine whether or not such effluent limitation
5.28 can be implemented with available technology or other alternative control strategies. If a
5.29 person affected by such limitation demonstrates at such hearing that, whether or not such
5.30 technology or other alternative control strategies are available, there is no reasonable
5.31 relationship between the economic and social costs and the benefits to be obtained, such
5.32 limitation shall not become effective and shall be adjusted as it applies to such person;

5.33 (ix) modifying, in its discretion, any requirement or limitation based upon best available
5.34 technology with respect to any point source for which a permit application is filed after July
5.35 1, 1977, upon a showing by the owner or operator of such point source satisfactory to the

agency that such modified requirements will represent the maximum use of technology within the economic capability of the owner or operator and will result in reasonable further progress toward the elimination of the discharge of pollutants;

(x) requiring that applicants for wastewater discharge permits evaluate in their applications the potential reuses of the discharged wastewater; and

(xi) when appropriate, requiring parties who enter into a negotiated agreement to settle an enforcement matter with the agency to reimburse the agency for oversight costs. The agency may recover oversight costs only if the agency's costs exceed \$25,000. If oversight costs exceed \$25,000, the agency may recover all the oversight costs incurred by the agency that are associated with implementing the negotiated agreement. Oversight costs may include but are not limited to any costs associated with inspections, sampling, monitoring, modeling, risk assessment, permit writing, engineering review, economic analysis and review, and other record or document review. Estimates of anticipated oversight costs must be disclosed in the negotiated agreement, and estimates must be periodically updated and disclosed to the parties to the negotiated agreement. The agency's legal and litigation costs are not recoverable under this clause. In addition to settlement agreements, the commissioner has discretion as to whether to apply this clause in cases when the agency is using schedules of compliance to bring a class of regulated parties into compliance;

(6) to require to be submitted and to approve plans and specifications for disposal systems or point sources, or any part thereof and to inspect the construction thereof for compliance with the approved plans and specifications thereof;

(7) to prescribe and alter rules, not inconsistent with law, for the conduct of the agency and other matters within the scope of the powers granted to and imposed upon it by this chapter and, with respect to pollution of waters of the state, in chapter 116, provided that every rule affecting any other department or agency of the state or any person other than a member or employee of the agency shall be filed with the secretary of state;

(8) to conduct such investigations, issue such notices, public and otherwise, ~~and~~ hold such hearings and make such determinations as are necessary or which ~~the commissioner~~ may deem advisable for the discharge of its duties under this chapter and section 93.2501 and, with respect to the pollution of waters of the state, under chapter 116, including, but not limited to, the issuance of permits, and to authorize any member, employee, or agent appointed by it to conduct such investigations or, issue such notices and hold such hearings;

(9) for the purpose of water pollution control planning by the state and pursuant to the Federal Water Pollution Control Act, as amended, to establish and revise planning areas,

adopt plans and programs and continuing planning processes, including, but not limited to, basin plans and areawide waste treatment management plans, and to provide for the implementation of any such plans by means of, including, but not limited to, standards, plan elements, procedures for revision, intergovernmental cooperation, residual treatment process waste controls, and needs inventory and ranking for construction of disposal systems;

(10) to train water pollution control personnel and charge training fees as are necessary to cover the agency's costs. All such fees received must be paid into the state treasury and credited to the Pollution Control Agency training account;

(11) to provide chloride reduction training and charge training fees as necessary to cover the agency's costs not to exceed \$350. All training fees received must be paid into the state treasury and credited to the Pollution Control Agency training account;

(12) to impose as additional conditions in permits to publicly owned disposal systems appropriate measures to insure compliance by industrial and other users with any pretreatment standard, including, but not limited to, those related to toxic pollutants, and any system of user charges ratably as is hereby required under state law or said Federal Water Pollution Control Act, as amended, or any regulations or guidelines promulgated thereunder;

(13) to set a period not to exceed five years for the duration of any national pollutant discharge elimination system permit or not to exceed ten years for any permit issued as a state disposal system permit only;

(14) to require each governmental subdivision identified as a permittee for a wastewater treatment works to evaluate in every odd-numbered year the condition of its existing system and identify future capital improvements that will be needed to attain or maintain compliance with a national pollutant discharge elimination system or state disposal system permit;

(15) to train subsurface sewage treatment system personnel, including persons who design, construct, install, inspect, service, and operate subsurface sewage treatment systems, and charge fees as necessary to pay the agency's costs. All fees received must be paid into the state treasury and credited to the agency's training account. Money in the account is appropriated to the agency to pay expenses related to training; and

(16) to encourage practices that enable the recovery and use of waste heat from wastewater treatment operations.

(b) The information required in paragraph (a), clause (14), must be submitted in every odd-numbered year to the commissioner on a form provided by the commissioner. The commissioner shall provide technical assistance if requested by the governmental subdivision.

8.1 (c) The powers and duties given the agency in this subdivision also apply to permits
8.2 issued under chapter 114C.

8.3 Sec. 4. **EFFECTIVE DATE.**

8.4 Sections 1 to 3 are effective the day following final enactment and apply to proposed
8.5 nonferrous sulfide ore projects that have begun, but not completed, environmental review
8.6 on or before that date and to permits granted, renewed, modified, or amended on or after
8.7 that date relating to proposed nonferrous sulfide ore projects under Minnesota Statutes,
8.8 chapter 93, or other chapters administered by the commissioner of natural resources or the
8.9 commissioner of the Minnesota Pollution Control Agency.