

This Document can be made available in alternative formats upon request

State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 673

01/23/2023 Authored by Lee, F.; Hansen, R.; Jordan; Hassan; Hollins and others
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; requiring reporting for air toxics emissions; requiring
1.3 rulemaking to regulate air toxics emissions; proposing coding for new law in
1.4 Minnesota Statutes, chapter 116.

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

1.6 Section 1. [116.062] AIR TOXICS EMISSIONS REPORTING.

1.7 (a) The commissioner must require a facility operating under an air quality permit issued
1.8 by the agency to annually report the facility's air toxics emissions to the agency, including
1.9 a facility not required as a condition of its air quality permit to keep records of air toxics
1.10 emissions. The commissioner must determine the method to be used by a facility to directly
1.11 measure or estimate air toxics emissions. The commissioner must incorporate the requirement
1.12 to annually report air toxics emissions into the air quality permit of each facility subject to
1.13 this section.

1.14 (b) For the purposes of this section, "air toxics" means chemical compounds or compound
1.15 classes that are emitted into the air by a permitted facility and that are:

1.16 (1) hazardous air pollutants listed under the federal Clean Air Act, United States Code,
1.17 title 42, section 7412, as amended;

1.18 (2) chemicals reported as released into the atmosphere by a facility located in the state
1.19 for the Toxic Release Inventory under the federal Emergency Planning and Community
1.20 Right-to-Know Act, United States Code, title 42, section 11023, as amended;

1.21 (3) chemicals of high concern, as listed by the Department of Health under section
1.22 116.9402;

2.1 (4) chemicals for which the Department of Health has adopted health-based values or
 2.2 risk assessment advice;

2.3 (5) chemicals for which the risk to human health has been assessed by the federal
 2.4 Environmental Protection Agency's Integrated Risk Information System;

2.5 (6) chemicals for which emission limits are incorporated into current facility permits;
 2.6 or

2.7 (7) chemicals reported by facilities in the agency's triennial emissions inventory.

2.8 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.9 **Sec. 2. RULEMAKING; AIR TOXICS EMISSIONS.**

2.10 **Subdivision 1. Definitions.** For the purposes of this section:

2.11 (1) "agency" means the Minnesota Pollution Control Agency;

2.12 (2) "air toxics" means chemical compounds or compound classes that are emitted into
 2.13 the air by a facility issued an air quality permit by the agency and that are:

2.14 (i) hazardous air pollutants listed under the federal Clean Air Act, United States Code,
 2.15 title 42, section 7412, as amended;

2.16 (ii) chemicals reported as released into the atmosphere by a facility located in the state
 2.17 for the Toxic Release Inventory under the federal Emergency Planning and Community
 2.18 Right-to-Know Act, United States Code, title 42, section 11023, as amended;

2.19 (iii) chemicals of high concern, as listed by the Department of Health under Minnesota
 2.20 Statutes, section 116.9402;

2.21 (iv) chemicals for which the Department of Health has adopted health-based values or
 2.22 risk assessment advice;

2.23 (v) chemicals for which emission limits are incorporated into current facility permits;
 2.24 or

2.25 (vi) chemicals reported by facilities in the agency's triennial emissions inventory;

2.26 (3) "commissioner" means the commissioner of the Minnesota Pollution Control Agency;

2.27 (4) "continuous emission monitoring system" has the meaning given in Minnesota Rules,
 2.28 part 7017.1002, subpart 4;

2.29 (5) "environmental justice area" means one or more census tracts in Minnesota:

2.30 (i) in which, based on the most recent data published by the United States Census Bureau:

3.1 (A) 40 percent or more of the population is nonwhite;

3.2 (B) 35 percent or more of the households have an income at or below 200 percent of the
3.3 federal poverty level; or

3.4 (C) 40 percent or more of the population over the age of five has limited English
3.5 proficiency; or

3.6 (ii) located within Indian Country, as defined in United States Code, title 18, section
3.7 1151;

3.8 (6) "performance test" has the meaning given in Minnesota Rules, part 7017.2005,
3.9 subpart 4; and

3.10 (7) "volatile organic compound" means any compound of carbon that participates in
3.11 atmospheric photochemical reactions, except carbon monoxide, carbon dioxide, carbonic
3.12 acid, metallic carbides or carbonates, and ammonium carbonate.

3.13 Subd. 2. **Rulemaking required.** No later than January 15, 2024, the commissioner of
3.14 the Pollution Control Agency must initiate rulemaking under Minnesota Statutes, chapter
3.15 14, to regulate air toxics emissions by providing notice of a rulemaking hearing according
3.16 to Minnesota Statutes, section 14.14, subdivision 1a.

3.17 Subd. 3. **Content of rules.** (a) The rules required under subdivision 2 must address, at
3.18 a minimum:

3.19 (1) specific air toxics to be regulated, including, at a minimum, those defined in
3.20 subdivision 1;

3.21 (2) types of facilities to be regulated, including, at a minimum, facilities that have been
3.22 issued an air quality permit by the commissioner and:

3.23 (i) emit air toxics, whether the emissions are limited in a permit or not; or

3.24 (ii) purchase or use material containing volatile organic compounds;

3.25 (3) performance tests conducted by facilities to measure the volume of air toxics emissions
3.26 and testing methods, procedures, protocols, and frequency;

3.27 (4) required air monitoring, including using continuous emission monitoring systems
3.28 for certain facilities;

3.29 (5) requirements for reporting information to the agency to assist the agency in
3.30 determining the volume of the facility's air toxics emissions and the facility's compliance
3.31 with emission limits in the facility's permit;

4.1 (6) record keeping related to air toxics emissions; and

4.2 (7) frequency of facility inspections and inspection activities that provide information
4.3 about air toxics emissions.

4.4 (b) In developing the rules, the commissioner must establish testing, monitoring,
4.5 reporting, record keeping, and inspection requirements for facilities that reflect:

4.6 (1) the different risks to human health and the environment posed by the specific air
4.7 toxics and volumes emitted by a facility, such that facilities posing greater risks are required
4.8 to more frequently conduct performance tests and air monitoring, receive inspections, and
4.9 report to the agency;

4.10 (2) the facility's record of compliance with air toxics emission limits and other permit
4.11 conditions; and

4.12 (3) any exposure of residents of an environmental justice area to the facility's air toxics
4.13 emissions.

4.14 Subd. 4. **Modifying permits.** Within ... years after adopting the rules required in
4.15 subdivision 2, the commissioner must amend existing air quality permits as necessary to
4.16 conform with the rules.

4.17 Subd. 5. **Relation to federal law.** The commissioner must implement this section
4.18 consistent with federal law and to the fullest extent allowed by federal law. Nothing in this
4.19 section may be construed to conflict with federal law.

4.20 Subd. 6. **Rulemaking cost.** The commissioner must collect the agency's costs to adopt
4.21 rules under this section and to conduct regulatory activities required as a result of the adopted
4.22 rules through the annual fee paid by owners or operators of facilities required to obtain air
4.23 quality permits from the agency, as required under Minnesota Statutes, section 116.07,
4.24 subdivision 4d, paragraph (b).

4.25 **EFFECTIVE DATE.** This section is effective the day following final enactment.