

Moody's Investors Service, Inc., or a similar nationally recognized rating agency, or (ii) if the issuer is a bank with headquarters in Minnesota, the long-term senior unsecured debt of the issuer is rated, or obligations backed by letters of credit of the issuer if forming the primary basis of a rating of such obligations would be rated in one of the three highest rating categories of Standard & Poor's Corporation, Moody's Investors Service, Inc., or similar nationally recognized rating agency, or (2) in the case of short-term investment contracts, the short-term unsecured debt of the issuer or guarantor is rated, or obligations backed by letters of credit of the issuer or guarantor if forming the primary basis or a rating of such obligations would be rated, in the highest two rating categories of Standard and Poor's Corporation, Moody's Investors Service, Inc., or similar nationally recognized rating agency.

The fund may also be used to purchase any obligation, whether general or special, of an issue which is payable from the fund, at such price, which may include a premium, as shall be agreed to by the holder, or may be used to redeem any obligation of such an issue prior to maturity in accordance with its terms. The securities representing any such investment may be sold or hypothecated by the municipality at any time, but the money so received remains a part of the fund until used for the purpose for which the fund was created.

**Sec. 8. EFFECTIVE DATE.**

Sections 1 to 3 are effective March 1, 1993. Sections 4 to 7 are effective the day following final enactment.

Presented to the governor April 17, 1992

Signed by the governor April 27, 1992, 2:01 p.m.

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**CHAPTER 546—H.F.No. 2437**

*An act relating to the environment; pollution control; eliminating a fee limit; conforming certain pollution control measures to federal Clean Air Act amendments; authorizing assessment of emission fees; changing method used for calculating emission fees; changing the definition of chlorofluorocarbons; establishing a small business air quality compliance assistance program; providing for the appointment of an ombudsman for small business air quality compliance assistance; creating a small business air quality compliance advisory council; requiring a report on the role of the pollution control agency board; requiring a monitoring program and certain studies and reports; amending Minnesota Statutes 1990, sections 115D.12, subdivision 2; and 116.70, subdivision 3; Minnesota Statutes 1991 Supplement, section 116.07, subdivision 4d; proposing coding for new law in Minnesota Statutes, chapter 116.*

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

**New language is indicated by underline, deletions by ~~strikeout~~.**

Section 1. Minnesota Statutes 1990, section 115D.12, subdivision 2, is amended to read:

Subd. 2. **FEES.** (a) Persons required by United States Code, title 42, section 11023, to submit a toxic chemical release form to the commission shall pay a pollution prevention fee of \$150 for each toxic pollutant reported as released plus a fee based on the total pounds of toxic pollutants reported as released from each facility. Facilities reporting less than 25,000 pounds annually of toxic pollutants released per facility shall be assessed a fee of \$500. Facilities reporting annual releases of toxic pollutants in excess of 25,000 pounds shall be assessed a graduated fee at the rate of two cents per pound of toxic pollutants reported; ~~not to exceed a total of \$30,000 per facility.~~

(b) Persons who generate more than 1,000 kilograms of hazardous waste per month but who are not subject to the fee under paragraph (a) must pay a pollution prevention fee of \$500 per facility. Hazardous waste as used in this paragraph has the meaning given it in section 116.06, subdivision 13, and Minnesota Rules, chapter 7045.

(c) Fees required under this subdivision must be paid to the director by January 1 of each year. The fees shall be deposited in the state treasury and credited to the environmental fund.

Sec. 2. Minnesota Statutes 1991 Supplement, section 116.07, subdivision 4d, is amended to read:

Subd. 4d. **PERMIT FEES.** (a) The agency may collect permit fees in amounts not greater than those necessary to cover the reasonable costs of reviewing and acting upon applications for agency permits and implementing and enforcing the conditions of the permits pursuant to agency rules. Permit fees shall not include the costs of litigation. The agency shall adopt rules under section 16A.128 establishing the amounts and methods of collection of any permit fees collected under this subdivision. The fee schedule must reflect reasonable and routine permitting, implementation, and enforcement costs. The agency may impose an additional enforcement fee to be collected for a period of up to two years to cover the reasonable costs of implementing and enforcing the conditions of a permit under the rules of the agency. Any money collected under this paragraph shall be deposited in the special revenue account.

(b) Notwithstanding paragraph (a), and section 16A.128, subdivision 1, the agency shall collect an annual fee from the owner or operator of all stationary sources, emission facilities, emissions units, air contaminant treatment facilities, treatment facilities, potential air contaminant storage facilities, or storage facilities subject to the requirement to obtain a permit under Title V of the federal Clean Air Act Amendments of 1990, Public Law Number 101-549, Statutes at Large, volume 104, pages 2399 et seq., or section 116.081. The annual fee shall be used to pay for all direct and indirect reasonable costs, including attorney general costs, required to develop and administer the permit program requirements of Title V of the federal Clean Air Act Amendments of 1990, Public Law

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Number 101-549, Statutes at Large, volume 104, pages 2399 et seq., and sections of this chapter and the rules adopted under this chapter related to air contamination and noise. Those costs include the reasonable costs of reviewing and acting upon an application for a permit; implementing and enforcing statutes, rules, and the terms and conditions of a permit; emissions, ambient, and deposition monitoring; preparing generally applicable regulations; responding to federal guidance; modeling, analyses, and demonstrations; preparing inventories and tracking emissions; providing information to the public about these activities; and, after June 30, 1992, the costs of acid deposition monitoring currently assessed under section 116C.69, subdivision 3.

(c) The agency shall adopt fee rules in accordance with the procedures in section 16A.128, subdivisions 1a and 2a, that will result in the collection, in the aggregate, from the sources listed in paragraph (b), of the following amounts:

(1) in fiscal years 1992 and 1993, the amount appropriated by the legislature from the air quality account in the environmental fund for the agency's air quality program; ~~and~~

(2) for fiscal year 1994 and thereafter, an amount not less than \$25 per ton of each volatile organic compound; pollutant regulated under United States Code, title 42, section 7411 or 7412 (section 111 or 112 of the federal Clean Air Act); ~~pollutant regulated under Minnesota Rules, chapter 7005;~~ and each pollutant, except carbon monoxide, for which a national ~~or~~ state primary ambient air quality standard has been promulgated ~~;~~ and

(3) for fiscal year 1994 and thereafter, the agency fee rules may also result in the collection, in the aggregate, from the sources listed in paragraph (b), of an amount not less than \$25 per ton of each pollutant not listed in clause (2) that is regulated under Minnesota Rules, chapter 7005, or for which a state primary ambient air quality standard has been adopted.

The agency must not include in the calculation of the aggregate amount to be collected under the fee rules any amount in excess of 4,000 tons per year of each air pollutant from a source.

(d) To cover the reasonable costs described in paragraph (b), the agency shall provide in the rules promulgated under paragraph (c) for an increase in the fee collected in each year beginning after ~~1990~~ fiscal year 1993 by the percentage, if any, by which the Consumer Price Index for the most recent calendar year ending before the beginning of the year the fee is collected exceeds the Consumer Price Index for the calendar year 1989. For purposes of this paragraph the Consumer Price Index for any calendar year is the average of:

~~(1)~~ (1) the Consumer Price Index for all-urban consumers published by the United States Department of Labor, as of the close of the 12-month period ending on August 31 of each calendar year; ~~and.~~

~~(2)~~ (2) The revision of the Consumer Price Index that is most consistent with the Consumer Price Index for calendar year 1989 shall be used.

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(e) Any money collected under paragraphs (b) to (d) must be deposited in an air quality account in the environmental fund and must be used solely for the activities listed in paragraph (b).

(f) ~~The agency shall adopt the fee rules for this subdivision by September 1, 1991.~~

### Sec. 3. [116.454] MONITORING PROGRAM.

By July 1, 1993, the agency shall establish a statewide monitoring program for, and inventory of probable sources of, releases into the air, ambient concentrations in the air, and deposition from the air of toxic substances.

Sec. 4. Minnesota Statutes 1990, section 116.70, subdivision 3, is amended to read:

Subd. 3. **CHLOROFLUOROCARBONS OR CFC'S.** "Chlorofluorocarbons;" or "CFC's" means the substances identified in the Montreal Treaty as: CFC-11, CFC-13, CFC-12, CF<sub>2</sub>Cl<sub>2</sub>, CFC-113, C<sub>2</sub>F<sub>3</sub>Cl<sub>3</sub>, CFC-114, C<sub>2</sub>F<sub>4</sub>Cl<sub>2</sub>, CFC-115, C<sub>2</sub>F<sub>5</sub>Cl, Halon-1211, CF<sub>2</sub>BrCl, Halon-1301, CF<sub>3</sub>Br, and Halon-2402, C<sub>2</sub>F<sub>4</sub>Br<sub>2</sub>; Chlorofluorocarbons or CFC's also includes substances identified by the agency by rule as being included or added to the Montreal Treaty as Class I or Class II substances under section 602 of the Clean Air Act, United States Code, title 42, section 7401 et seq., as amended by the Clean Air Act Amendments of 1990, Public Law Number 101-549.

### SMALL BUSINESS AIR QUALITY COMPLIANCE ASSISTANCE PROGRAM

### Sec. 5. [116.95] CITATION.

Sections 6 to 9 may be cited as the "small business air quality compliance assistance act."

### Sec. 6. [116.96] DEFINITIONS.

Subdivision 1. SCOPE. The definitions in this section apply to sections 6 to 9.

Subd. 2. AGENCY. "Agency" means the pollution control agency.

Subd. 3. CLEAN AIR ACT. "Clean Air Act" means the federal Clean Air Act, United States Code, title 42, section 7401 et seq., as amended.

Subd. 4. COMMISSIONER. "Commissioner" means the commissioner of the pollution control agency.

Subd. 5. REGULATED POLLUTANT. "Regulated pollutant" means:

(1) a volatile organic compound that participates in atmospheric photochemical reactions;

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(2) a pollutant for which a national ambient air quality standard has been promulgated;

(3) a pollutant that is addressed by a standard promulgated under section 7411 or 7412 of the Clean Air Act; or

(4) any pollutant that is regulated under Minnesota Rules, chapter 7005, or for which a state ambient air quality standard has been adopted.

Subd. 6. SMALL BUSINESS STATIONARY SOURCE. "Small business stationary source" means a business that:

(1) is owned or operated by a person that employs 100 or fewer individuals;

(2) is a small business concern as defined in the Small Business Act, United States Code, title 15, section 632(a);

(3) is not a major stationary source as defined in section 7661 of the Clean Air Act;

(4) does not emit 50 tons or more per year of any regulated pollutant; and

(5) emits less than 75 tons per year of all regulated pollutants.

**Sec. 7. [116.97] SMALL BUSINESS AIR QUALITY COMPLIANCE ASSISTANCE PROGRAM.**

Subdivision 1. CREATION. The commissioner shall establish a small business air quality compliance assistance program that incorporates the small business stationary source technical and environmental compliance assistance program required by section 7661f of the Clean Air Act.

Subd. 2. REQUIREMENTS. The commissioner shall ensure that the program provides at least the following:

(1) direct, timely, one-on-one information and technical assistance to small businesses that are stationary sources on matters including, but not limited to, their legal rights and obligations under federal and state air quality laws and regulations, applicable requirements and alternatives for achieving compliance, permit procedures, preparation of permit applications, sources of technical expertise, consequences of operating in violation, enforcement, fines, penalties, and appeals;

(2) a clearinghouse to provide information and referral to appropriate technical experts concerning Clean Air Act regulatory requirements, compliance methods, and control technologies;

(3) information and assistance on methods of pollution prevention and the prevention and detection of accidental releases;

(4) audits of the operations of small business stationary sources to determine compliance with federal and state air quality laws and regulations, or establishment of a procedure for referring sources to qualified auditors. Audits

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may include, but need not be limited to, an evaluation of work practices, compliance monitoring procedures, record keeping requirements, and technical assistance on pollution prevention opportunities and control options;

(5) to the extent permitted by federal and state air quality laws and regulations, procedures for responding to requests from small business stationary sources for modification of work practices or methods compliance because of the financial or technological capability of the source; and

(6) coordination of efforts with trade associations, small business assistance providers, and federal, state, and local governmental agencies that provide information and technical assistance to small businesses, in order to maximize the information and assistance available to small businesses and to prevent duplication of effort and services.

**Sec. 8. [116.98] OMBUDSMAN FOR SMALL BUSINESS AIR QUALITY COMPLIANCE ASSISTANCE PROGRAM.**

Subdivision 1. APPOINTMENT. The commissioner shall appoint an ombudsman for small business air quality compliance assistance in the classified service.

Subd. 2. DUTIES. The ombudsman shall provide direct oversight of the small business air quality compliance assistance program. The ombudsman's duties include, but are not limited to:

(1) conducting independent evaluations of all aspects of the program;

(2) monitoring, reviewing, and providing comments and recommendations to federal, state, and local air quality authorities on laws and regulations that impact small businesses;

(3) facilitating and promoting the participation of small businesses in the development of laws and regulations that affect them;

(4) providing reports to federal, state, and local air quality authorities and the public on the requirements of the Clean Air Act and their impact on small businesses;

(5) disseminating information concerning proposed air quality regulations, control technologies, and other information to small businesses and other interested parties;

(6) participating in and sponsoring meetings and conferences concerning air quality laws and regulations with state and local regulatory officials, industry groups, and small business representatives;

(7) investigating and assisting in the resolution of complaints and disputes from small businesses against state or local air quality authorities;

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(8) periodically reviewing the work and services provided by the program with trade associations and small business representatives;

(9) operating a toll-free telephone line to provide free, confidential help on individual source problems and grievances;

(10) referring small businesses to appropriate technical specialists for information and assistance on affordable alternative technologies, process changes, products, and operational methods to help reduce air pollution and accidental releases;

(11) arranging for and assisting in the preparation of program guideline documents to ensure that the language is readily understandable by the lay person;

(12) establishing cooperative programs with trade associations and small businesses to promote and achieve voluntary compliance with federal and state air quality laws and regulations;

(13) establishing cooperative programs with federal, state, and local governmental entities and the private sector to assist small businesses in securing sources of funds to comply with federal, state, and local air quality laws and regulations;

(14) conducting studies to evaluate the impacts of federal and state air quality laws and regulations on the state's economy, local economies, and small businesses;

(15) serving as a voting member of the small business air quality compliance advisory council established by section 12; and

(16) performing the ombudsman's duties in cooperation and coordination with governmental entities and private organizations as appropriate so as to eliminate overlap and duplication to the extent practicable.

Subd. 3. INDEPENDENCE OF ACTION. In carrying out the duties imposed by sections 6 to 9, the ombudsman may act independently of the agency in providing testimony to the legislature, contacting and making periodic reports to federal and state officials as necessary to carry out the duties imposed by sections 6 to 9, and addressing problems of concern to small businesses.

Subd. 4. QUALIFICATIONS. The ombudsman must be knowledgeable about federal and state air quality laws and regulations, control technologies, and federal and state legislative and regulatory processes. The ombudsman must be experienced in dealing with both private enterprise and governmental entities, arbitration and negotiation, interpretation of laws and regulations, investigation, record keeping, report writing, public speaking, and management.

Subd. 5. OFFICE SUPPORT. The commissioner shall provide the ombudsman with the necessary office space, supplies, equipment, and clerical support to effectively perform the duties imposed by sections 6 to 9.

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**Sec. 9. [116.99] SMALL BUSINESS AIR QUALITY COMPLIANCE ADVISORY COUNCIL.**

Subdivision 1. CREATION. A small business air quality compliance assistance advisory council is established within the agency.

Subd. 2. DUTIES. The council has the following duties:

(1) rendering advisory opinions on the effectiveness of the program, difficulties encountered, and degree and severity of enforcement;

(2) preparing periodic reports on matters relating to the program as requested by appropriate federal and state agencies;

(3) reviewing information for sources to ensure the information is complete, comprehensive, and understandable to the lay person; and

(4) other duties it finds appropriate to comply with applicable federal or state air quality laws and regulations.

Subd. 3. MEMBERSHIP. The council consists of the following members:

(1) two members appointed by the governor who represent the general public and are not owners or representatives of owners who are small business stationary sources;

(2) the commissioner or the commissioner's designee, who shall represent the agency;

(3) four members appointed by the legislature who are owners or representatives of owners of small business stationary sources;

(4) the director of the office of waste management or the director's designee; and

(5) the commissioner of trade and economic development or the commissioner's designee.

The majority and minority leaders of the house of representatives and the senate shall each appoint one of the members listed in clause (3).

Subd. 4. MEMBERSHIP TERMS; COMPENSATION; REMOVAL. The membership terms, compensation, and removal of council members are governed by section 15.0575, except that subdivision 5 does not apply.

Subd. 5. CHAIR. The council shall select its chair by a majority vote.

Subd. 6. PROGRAM. The council may set its own agenda and work program, consistent with the requirements of the Clean Air Act, after consultation with the commissioner and the small business ombudsman established by this chapter.

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Subd. 7. FUNDING. The commissioner shall allocate and administer the funds reasonably necessary to cover the operational costs of the council.

Subd. 8. STAFF. The commissioner shall provide staff services reasonably required by the council.

**Sec. 10. REPORT ON ROLE OF POLLUTION CONTROL AGENCY BOARD.**

(a) The pollution control agency board shall study and develop recommendations on what the board's role should be in formulating, implementing, and enforcing environmental policy in the state. In developing the recommendations, the board shall consider:

(1) the comments of the legislative auditor on the board's role, as contained in the auditor's report dated January, 1991; and

(2) any other relevant factors not addressed in the auditor's report.

(b) By January 15, 1993, the board shall report the results of the study to the legislative policy committees having jurisdiction over environmental and natural resource issues and the environment and natural resource divisions of the senate finance and house appropriations committees. In addition to the board's recommendations, the report must include:

(1) specific discussion of each of the legislative auditor's recommendations on the board's role; and

(2) a plan for implementing the board's recommendations, including proposed legislation.

**Sec. 11. VIDEO DISPLAY TERMINAL OPERATOR HEALTH STUDY.**

The commissioner of labor and industry shall review and identify the occupational health problems associated with the operation of video display terminals. The commissioner shall review existing literature on the subject and may conduct additional research. The commissioner shall recommend solutions to any health problems that are identified.

The commissioner shall study the potential savings and benefits to employers in reduced days lost off work due to providing ergonomically correct work stations, antiglare screens, and other features and programs, including amount of time in front of video display terminals, also education and training, designed to prevent injury or illness to video display terminal operators. The commissioner shall also study the effects of implementation of other state, county, and city laws, regulations, and ordinances regulating video display terminal operators and the ability of employers to comply with those laws, regulations, and ordinances.

The commissioner shall report the results of the study and make recommendations to the legislature by February 15, 1993.

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**Sec. 12. REPORT ON RULEMAKING ACTIVITIES.**

By January 1, 1993, the commissioner of the pollution control agency shall submit to the legislative commission to review administrative rules and legislative committees having jurisdiction over environmental and natural resource issues a report describing the ongoing rulemaking activities of the agency as of that date and any additional rulemaking activities the agency plans to begin before July 1, 1993.

**Sec. 13. FUNDING FOR MONITORING PROGRAM.**

The monitoring program established under section 3 must be implemented to the extent allowed by the additional revenues generated by section 1.

**Sec. 14. EFFECTIVE DATE.**

Section 4 is effective the day after final enactment. Section 1 is effective for fees collected in fiscal year 1994 and thereafter.

Presented to the governor April 17, 1992

Signed by the governor April 29, 1992, 8:04 a.m.

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**CHAPTER 547—H.F.No. 2649**

*An act relating to real estate foreclosures; establishing a voluntary foreclosure process with waiver of deficiency claims and equity; proposing coding for new law in Minnesota Statutes, chapter 582.*

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

**Section 1. [582.32] VOLUNTARY FORECLOSURE; PROCEDURE.**

Subdivision 1. APPLICATION. This section applies to mortgages executed on or after August 1, 1993, under which there has been a default and where the mortgagor and mortgagee enter into a written agreement for voluntary foreclosure of the mortgaged real estate under this section. This section applies only to real estate no part of which is homestead or agricultural property.

Subd. 2. DEFINITIONS. (a) As used in this section, the following terms have the meanings given:

(b) "Agreement" means the agreement for voluntary foreclosure described in subdivision 3.

(c) "Date of agreement" means the effective date of the agreement which shall not be sooner than the date on which the agreement is executed and acknowledged by both the mortgagor and mortgagee.

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