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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. **1237**

02/18/2021 Authored by Hansen, R.,
The bill was read for the first time and referred to the Committee on Environment and Natural Resources Finance and Policy
03/01/2021 Adoption of Report: Amended and re-referred to the Committee on Climate and Energy Finance and Policy
By motion, recalled and re-referred to the Committee on Judiciary Finance and Civil Law
03/10/2021 Adoption of Report: Amended and re-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 priority qualified facilities;
- 1.3 modifying authority to acquire property interests; authorizing requests for
- 1.4 information on contaminants; requiring public notice of wastewater overflows,
- 1.5 bypasses, and releases from publicly owned treatment works; modifying provisions
- 1.6 for electronic waste; modifying enforcement; providing for waste composition
- 1.7 studies; amending Minnesota Statutes 2020, sections 115.03, subdivision 1;
- 1.8 115.061; 115.071, subdivisions 1, 4, by adding subdivisions; 115A.1310,
- 1.9 subdivision 12b; 115A.1312, subdivision 1; 115A.1314, subdivision 1; 115A.1316,
- 1.10 subdivision 1; 115A.1318, subdivision 2; 115A.1320, subdivision 1; 115B.17,
- 1.11 subdivision 13; 115B.406, subdivisions 1, 9; 115B.407; 116.07, subdivision 9, by
- 1.12 adding subdivisions; proposing coding for new law in Minnesota Statutes, chapters
- 1.13 115A; 116; repealing Minnesota Rules, part 7044.0350.
- 1.14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:
- 1.15 Section 1. Minnesota Statutes 2020, section 115.03, subdivision 1, is amended to read:
- 1.16 Subdivision 1. **Generally.** The agency is hereby given and charged with the following
- 1.17 powers and duties:
- 1.18 (a) to administer and enforce all laws relating to the pollution of any of the waters of
- 1.19 the state;
- 1.20 (b) to investigate the extent, character, and effect of the pollution of the waters of this
- 1.21 state and to gather data and information necessary or desirable in the administration or
- 1.22 enforcement of pollution laws, and to make such classification of the waters of the state as
- 1.23 it may deem advisable;
- 1.24 (c) to establish and alter such reasonable pollution standards for any waters of the state
- 1.25 in relation to the public use to which they are or may be put as it shall deem necessary for

2.1 the purposes of this chapter and, with respect to the pollution of waters of the state, chapter
2.2 116;

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

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

2.10 (1) requiring the discontinuance of the discharge of sewage, industrial waste or other
2.11 wastes into any waters of the state resulting in pollution in excess of the applicable pollution
2.12 standard established under this chapter;

2.13 (2) prohibiting or directing the abatement of any discharge of sewage, industrial waste,
2.14 or other wastes, into any waters of the state or the deposit thereof or the discharge into any
2.15 municipal disposal system where the same is likely to get into any waters of the state in
2.16 violation of this chapter and, with respect to the pollution of waters of the state, chapter
2.17 116, or standards or rules promulgated or permits issued pursuant thereto, and specifying
2.18 the schedule of compliance within which such prohibition or abatement must be
2.19 accomplished;

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

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

2.28 (5) establishing, and from time to time revising, standards of performance for new sources
2.29 taking into consideration, among other things, classes, types, sizes, and categories of sources,
2.30 processes, pollution control technology, cost of achieving such effluent reduction, and any
2.31 nonwater quality environmental impact and energy requirements. Said standards of
2.32 performance for new sources shall encompass those standards for the control of the discharge
2.33 of pollutants which reflect the greatest degree of effluent reduction which the agency
2.34 determines to be achievable through application of the best available demonstrated control

3.1 technology, processes, operating methods, or other alternatives, including, where practicable,
3.2 a standard permitting no discharge of pollutants. New sources shall encompass buildings,
3.3 structures, facilities, or installations from which there is or may be the discharge of pollutants,
3.4 the construction of which is commenced after the publication by the agency of proposed
3.5 rules prescribing a standard of performance which will be applicable to such source.

3.6 Notwithstanding any other provision of the law of this state, any point source the construction
3.7 of which is commenced after May 20, 1973, and which is so constructed as to meet all
3.8 applicable standards of performance for new sources shall, consistent with and subject to
3.9 the provisions of section 306(d) of the Amendments of 1972 to the Federal Water Pollution
3.10 Control Act, not be subject to any more stringent standard of performance for new sources
3.11 during a ten-year period beginning on the date of completion of such construction or during
3.12 the period of depreciation or amortization of such facility for the purposes of section 167
3.13 or 169, or both, of the Federal Internal Revenue Code of 1954, whichever period ends first.
3.14 Construction shall encompass any placement, assembly, or installation of facilities or
3.15 equipment, including contractual obligations to purchase such facilities or equipment, at
3.16 the premises where such equipment will be used, including preparation work at such
3.17 premises;

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

3.21 (7) requiring the owner or operator of any disposal system or any point source to establish
3.22 and maintain such records, make such reports, install, use, and maintain such monitoring
3.23 equipment or methods, including where appropriate biological monitoring methods, sample
3.24 such effluents in accordance with such methods, at such locations, at such intervals, and in
3.25 such a manner as the agency shall prescribe, and providing such other information as the
3.26 agency may reasonably require;

3.27 (8) notwithstanding any other provision of this chapter, and with respect to the pollution
3.28 of waters of the state, chapter 116, requiring the achievement of more stringent limitations
3.29 than otherwise imposed by effluent limitations in order to meet any applicable water quality
3.30 standard by establishing new effluent limitations, based upon section 115.01, subdivision
3.31 13, clause (b), including alternative effluent control strategies for any point source or group
3.32 of point sources to insure the integrity of water quality classifications, whenever the agency
3.33 determines that discharges of pollutants from such point source or sources, with the
3.34 application of effluent limitations required to comply with any standard of best available
3.35 technology, would interfere with the attainment or maintenance of the water quality

4.1 classification in a specific portion of the waters of the state. Prior to establishment of any
4.2 such effluent limitation, the agency shall hold a public hearing to determine the relationship
4.3 of the economic and social costs of achieving such limitation or limitations, including any
4.4 economic or social dislocation in the affected community or communities, to the social and
4.5 economic benefits to be obtained and to determine whether or not such effluent limitation
4.6 can be implemented with available technology or other alternative control strategies. If a
4.7 person affected by such limitation demonstrates at such hearing that, whether or not such
4.8 technology or other alternative control strategies are available, there is no reasonable
4.9 relationship between the economic and social costs and the benefits to be obtained, such
4.10 limitation shall not become effective and shall be adjusted as it applies to such person;

4.11 (9) modifying, in its discretion, any requirement or limitation based upon best available
4.12 technology with respect to any point source for which a permit application is filed after July
4.13 1, 1977, upon a showing by the owner or operator of such point source satisfactory to the
4.14 agency that such modified requirements will represent the maximum use of technology
4.15 within the economic capability of the owner or operator and will result in reasonable further
4.16 progress toward the elimination of the discharge of pollutants; ~~and~~

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

4.19 (11) requiring parties who enter into a negotiated agreement to settle an enforcement
4.20 matter with the agency to reimburse the agency according to this clause for oversight costs
4.21 that are incurred by the agency and associated with implementing the negotiated agreement.
4.22 The agency may recover oversight costs exceeding \$25,000. Oversight costs include
4.23 personnel and direct costs associated with inspections, sampling, monitoring, modeling,
4.24 risk assessment, permit writing, engineering review, economic analysis and review, and
4.25 other record or document review. Only oversight costs incurred after executing the negotiated
4.26 agreement are covered by this clause. The agency's legal and litigation costs are not covered
4.27 by this clause. The commissioner has discretion as to whether to apply this clause in cases
4.28 when the agency is using schedules of compliance to bring a class of regulated parties into
4.29 compliance. Reimbursement amounts are appropriated to the commissioner;

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

4.33 (g) to prescribe and alter rules, not inconsistent with law, for the conduct of the agency
4.34 and other matters within the scope of the powers granted to and imposed upon it by this

5.1 chapter and, with respect to pollution of waters of the state, in chapter 116, provided that
5.2 every rule affecting any other department or agency of the state or any person other than a
5.3 member or employee of the agency shall be filed with the secretary of state;

5.4 (h) to conduct such investigations, issue such notices, public and otherwise, and hold
5.5 such hearings as are necessary or which it may deem advisable for the discharge of its duties
5.6 under this chapter and, with respect to the pollution of waters of the state, under chapter
5.7 116, including, but not limited to, the issuance of permits, and to authorize any member,
5.8 employee, or agent appointed by it to conduct such investigations or, issue such notices and
5.9 hold such hearings;

5.10 (i) for the purpose of water pollution control planning by the state and pursuant to the
5.11 Federal Water Pollution Control Act, as amended, to establish and revise planning areas,
5.12 adopt plans and programs and continuing planning processes, including, but not limited to,
5.13 basin plans and areawide waste treatment management plans, and to provide for the
5.14 implementation of any such plans by means of, including, but not limited to, standards, plan
5.15 elements, procedures for revision, intergovernmental cooperation, residual treatment process
5.16 waste controls, and needs inventory and ranking for construction of disposal systems;

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

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

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

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

5.32 (n) to train subsurface sewage treatment system personnel, including persons who design,
5.33 construct, install, inspect, service, and operate subsurface sewage treatment systems, and
5.34 charge fees as necessary to pay the agency's costs. All fees received must be paid into the

6.1 state treasury and credited to the agency's training account. Money in the account is
6.2 appropriated to the agency to pay expenses related to training.

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

6.6 The powers and duties given the agency in this subdivision also apply to permits issued
6.7 under chapter 114C.

6.8 Sec. 2. Minnesota Statutes 2020, section 115.061, is amended to read:

6.9 **115.061 DUTY TO NOTIFY; AVOIDING WATER POLLUTION.**

6.10 (a) Except as provided in paragraph (b), it is the duty of every person to notify the agency
6.11 immediately of the discharge, accidental or otherwise, of any substance or material under
6.12 its control which, if not recovered, may cause pollution of waters of the state, and the
6.13 responsible person shall recover as rapidly and as thoroughly as possible such substance or
6.14 material and take immediately such other action as may be reasonably possible to minimize
6.15 or abate pollution of waters of the state caused thereby.

6.16 (b) Notification is not required under paragraph (a) for a discharge of five gallons or
6.17 less of petroleum, as defined in section 115C.02, subdivision 10. This paragraph does not
6.18 affect the other requirements of paragraph (a).

6.19 (c) Immediately after notifying the agency of a sanitary sewer facility overflow,
6.20 wastewater bypass, or wastewater release, a publicly owned treatment works permittee must
6.21 provide notice of the event to the public and to any drinking water facility downstream of
6.22 the permittee that may be impacted by the event. In addition, the permittee must immediately
6.23 post a written notice at each area used by the public, such as swimming beaches, boat
6.24 launches, and playgrounds, where the area may be directly impacted by released material.
6.25 A notice under this paragraph must include the date and time of the release and the volume
6.26 of released material, a description of the nature of the material released, and the permittee's
6.27 contact information. Notice to the public and drinking water facilities must be made directly
6.28 by any feasible means such as in person, phone call, radio, social media, or other expedited
6.29 form. Notice must also be posted electronically on the permittee's website and provided
6.30 directly to any person requesting notification. The permittee must maintain a list of persons
6.31 requesting notification. When the overflow, bypass, or release ends and initial corrective
6.32 actions to manage the overflow, bypass, or release are completed, the permittee must provide
6.33 a second notice in the same manner as each of the initial notices. The second notice must

7.1 include information on the end of the overflow, bypass, or release; corrective actions taken;
7.2 and follow-up monitoring that may occur. Wastewater permits issued or renewed on or after
7.3 the effective date of this section must include language requiring notices according to this
7.4 paragraph.

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

7.6 Sec. 3. Minnesota Statutes 2020, section 115.071, subdivision 1, is amended to read:

7.7 Subdivision 1. **Remedies available.** The provisions of sections 103F.701 to 103F.755,
7.8 this chapter and chapters 114C, 115A, and 116, and sections 325E.10 to 325E.1251 and
7.9 325E.32 and all rules, standards, orders, stipulation agreements, schedules of compliance,
7.10 and permits adopted or issued by the agency thereunder or under any other law now in force
7.11 or hereafter enacted for the prevention, control, or abatement of pollution may be enforced
7.12 by any one or any combination of the following: criminal prosecution; action to recover
7.13 civil penalties; injunction; action to compel or cease performance; or other appropriate
7.14 action, in accordance with the provisions of said chapters and this section.

7.15 Sec. 4. Minnesota Statutes 2020, section 115.071, subdivision 4, is amended to read:

7.16 Subd. 4. **Injunctions.** Any violation of the provisions, rules, standards, orders, stipulation
7.17 agreements, variances, schedules of compliance, or permits specified in this chapter and
7.18 chapters 114C and 116 ~~shall constitute~~ constitutes a public nuisance and may be enjoined
7.19 as provided by law in an action, in the name of the state, brought by the attorney general.
7.20 Injunctive relief under this subdivision may include but is not limited to a requirement that
7.21 a facility or person immediately cease operation or activities until such time as the
7.22 commissioner has reasonable assurance that renewed operation or activities will not violate
7.23 state pollution requirements, cause harm to human health, or result in a serious violation of
7.24 an applicable permit.

7.25 Sec. 5. Minnesota Statutes 2020, section 115.071, is amended by adding a subdivision to
7.26 read:

7.27 Subd. 8. **Stipulation agreements.** In exercising enforcement powers over a term of a
7.28 stipulation agreement when a party asserts a good cause or force majeure claim for an
7.29 extension of time to comply with a stipulated term, the commissioner must not grant the
7.30 extension if the assertion is based solely on increased costs.

8.1 Sec. 6. Minnesota Statutes 2020, section 115.071, is amended by adding a subdivision to
8.2 read:

8.3 Subd. 9. **Compliance when required permit not obtained.** The commissioner may
8.4 require a person or facility that fails to obtain a required permit to comply with any terms
8.5 of a permit that would have been issued had the person or facility obtained a permit, including
8.6 but not limited to reporting, monitoring, controlling pollutant discharge, and creating and
8.7 implementing operations and maintenance plans. The person or facility is subject to liability
8.8 and penalties, including criminal liability, for failing to operate in compliance with a permit
8.9 not obtained beginning at the time a permit should have been obtained.

8.10 Sec. 7. Minnesota Statutes 2020, section 115A.1310, subdivision 12b, is amended to read:

8.11 Subd. 12b. **Phase II recycling credits.** "Phase II recycling credits" means ~~the number~~
8.12 ~~of pounds of covered electronic devices recycled by a manufacturer during a program year~~
8.13 ~~beginning July 1, 2019, and thereafter, from households located outside the 11-county~~
8.14 ~~metropolitan area, as defined in section 115A.1314, subdivision 2, less the manufacturer's~~
8.15 ~~recycling obligation calculated for the same program year in section 115A.1320, subdivision~~
8.16 ~~1, paragraph (g).~~ an amount calculated in a program year beginning July 1, 2019, and in
8.17 each program year thereafter, according to the formula $(1.5 \times A) - (B - C)$, where:

8.18 A = the number of pounds of covered electronic devices a manufacturer recycled or
8.19 arranged to have collected and recycled during a program year from households located
8.20 outside the 11-county metropolitan area, as defined in section 115A.1314, subdivision 2;

8.21 B = the manufacturer's recycling obligation calculated for the same program year in
8.22 section 115A.1320, subdivision 1, paragraph (g); and

8.23 C = the number of pounds of covered electronic devices a manufacturer recycled or
8.24 arranged to have collected and recycled, up to but not exceeding B, during the same program
8.25 year from households in the 11-county metropolitan area.

8.26 Sec. 8. Minnesota Statutes 2020, section 115A.1312, subdivision 1, is amended to read:

8.27 Subdivision 1. **Requirements for sale.** (a) On or after September 1, 2007, a manufacturer
8.28 must not sell or offer for sale or deliver to retailers for subsequent sale a new video display
8.29 device unless:

8.30 (1) the video display device is labeled with the manufacturer's brand, which label is
8.31 permanently affixed and readily visible; and

9.1 (2) the manufacturer has filed a registration with the agency, as specified in subdivision
9.2 2.

9.3 ~~(b) On or after February 1, 2008, a retailer who sells or offers for sale a new video display~~
9.4 ~~device to a household must, before the initial offer for sale, review the agency website~~
9.5 ~~specified in subdivision 2, paragraph (g), to determine that all new video display devices~~
9.6 ~~that the retailer is offering for sale are labeled with the manufacturer's brands that are~~
9.7 ~~registered with the agency.~~

9.8 (b) A retailer must not sell, offer for sale, rent, or lease a video display device unless
9.9 the video display device is labeled according to this subdivision and listed as registered on
9.10 the agency website according to subdivision 2.

9.11 (c) A retailer is not responsible for an unlawful sale under this subdivision if the
9.12 manufacturer's registration expired or was revoked and the retailer took possession of the
9.13 video display device prior to the expiration or revocation of the manufacturer's registration
9.14 and the unlawful sale occurred within six months after the expiration or revocation.

9.15 Sec. 9. Minnesota Statutes 2020, section 115A.1314, subdivision 1, is amended to read:

9.16 Subdivision 1. **Registration fee.** (a) Each manufacturer who registers under section
9.17 115A.1312 must, by August 15 each year, pay to the commissioner of revenue an annual
9.18 registration fee, on a form and in a manner prescribed by the commissioner of revenue. The
9.19 commissioner of revenue must deposit the fee in the state treasury and credit the fee to the
9.20 environmental fund.

9.21 (b) The registration fee for manufacturers that sell 100 or more video display devices
9.22 to households in the state during the previous calendar year is \$2,500, plus a variable
9.23 recycling fee. The registration fee for manufacturers that sell fewer than 100 video display
9.24 devices in the state during the previous calendar year is a variable recycling fee. The variable
9.25 recycling fee is calculated according to the formula:

9.26 $[A - (B + C)] \times D$, where:

9.27 A = the manufacturer's recycling obligation as determined under section 115A.1320;

9.28 B = the number of pounds of covered electronic devices ~~recycled by~~ that a manufacturer
9.29 recycled or arranged to have collected and recycled from households during the immediately
9.30 preceding program year, as reported under section 115A.1316, subdivision 1;

9.31 C = the number of phase I or phase II recycling credits a manufacturer elects to use to
9.32 calculate the variable recycling fee; and

10.1 D = the estimated per-pound cost of recycling, initially set at \$0.50 per pound for
10.2 manufacturers who recycle less than 50 percent of the manufacturer's recycling obligation;
10.3 \$0.40 per pound for manufacturers who recycle at least 50 percent but less than 90 percent
10.4 of the manufacturer's recycling obligation; \$0.30 per pound for manufacturers who recycle
10.5 at least 90 percent but less than 100 percent of the manufacturer's recycling obligation; and
10.6 \$0.00 per pound for manufacturers who recycle 100 percent or more of the manufacturer's
10.7 recycling obligation.

10.8 (c) A manufacturer may petition the agency to waive the per-pound cost of recycling
10.9 fee, element D in the formula in paragraph (b), required under this section. The agency shall
10.10 direct the commissioner of revenue to waive the per-pound cost of recycling fee if the
10.11 manufacturer demonstrates to the agency's satisfaction a good faith effort to meet its recycling
10.12 obligation as determined under section 115A.1320. The petition must include:

10.13 (1) documentation that the manufacturer has met at least 75 percent of its recycling
10.14 obligation as determined under section 115A.1320;

10.15 (2) a list of political subdivisions and public and private collectors with whom the
10.16 manufacturer had a formal contract or agreement in effect during the previous program year
10.17 to recycle or collect covered electronic devices;

10.18 (3) the total amounts of covered electronic devices collected from both within and outside
10.19 of the 11-county metropolitan area, as defined in subdivision 2;

10.20 (4) a description of the manufacturer's best efforts to meet its recycling obligation as
10.21 determined under section 115A.1320; and

10.22 (5) any other information requested by the agency.

10.23 (d) A manufacturer may retain phase I and phase II recycling credits to be added, in
10.24 whole or in part, to the actual value of C, as reported under section 115A.1316, subdivision
10.25 2, during any succeeding program year, provided that no more than 25 percent of a
10.26 manufacturer's recycling obligation ($A \times B$) for any program year may be met with phase
10.27 I and phase II recycling credits, separately or in combination, generated in a prior program
10.28 year. A manufacturer may sell any portion or all of its phase I and phase II recycling credits
10.29 to another manufacturer, at a price negotiated by the parties, who may use the credits in the
10.30 same manner.

10.31 (e) For the purpose of determining B in calculating a manufacturer's variable recycling
10.32 fee using the formula under paragraph (b), starting with the program year beginning July
10.33 1, 2019, and continuing each year thereafter, the weight of covered electronic devices

11.1 ~~collected from~~ that a manufacturer recycled or arranged to have collected and recycled from
11.2 households located outside the 11-county metropolitan area, as defined in subdivision 2,
11.3 paragraph (b), is calculated at 1.5 times their actual weight.

11.4 Sec. 10. Minnesota Statutes 2020, section 115A.1316, subdivision 1, is amended to read:

11.5 Subdivision 1. **Manufacturer reporting requirements.** ~~(a) By August 1, 2016, each~~
11.6 ~~manufacturer must report to the agency using the form prescribed:~~

11.7 ~~(1) the total weight of each specific model of its video display devices sold to households~~
11.8 ~~during the previous program year; and~~

11.9 ~~(2) either:~~

11.10 ~~(i) the total weight of its video display devices sold to households during the previous~~
11.11 ~~program year; or~~

11.12 ~~(ii) an estimate of the total weight of its video display devices sold to households during~~
11.13 ~~the previous program year, calculated by multiplying the weight of its video display devices~~
11.14 ~~sold nationally times the quotient of Minnesota's population divided by the national~~
11.15 ~~population. All manufacturers with sales of 99 or fewer video display devices to households~~
11.16 ~~in the state during the previous calendar year must report using the method under this item~~
11.17 ~~for calculating sales.~~

11.18 ~~(b)~~ (a) By March 1, 2017, and each March 1 thereafter each year, each manufacturer
11.19 must report to the agency using the form prescribed:

11.20 (1) the total weight of each specific model of its video display devices sold to households
11.21 during the previous calendar year; and

11.22 (2) either:

11.23 (i) the total weight of its video display devices sold to households during the previous
11.24 calendar year; or

11.25 (ii) an estimate of the total weight of its video display devices sold to households during
11.26 the previous calendar year, calculated by multiplying the weight of its video display devices
11.27 sold nationally times the quotient of Minnesota's population divided by the national
11.28 population. All manufacturers with sales of 99 or fewer video display devices to households
11.29 in the state during the previous calendar year must report using the method under this item
11.30 for calculating sales.

11.31 A manufacturer must submit with the report required under this paragraph a description of
11.32 how the information or estimate was calculated.

12.1 ~~(e)~~ (b) By August 15 each year, each manufacturer must report to ~~the department until~~
 12.2 ~~June 30, 2017, and to the agency thereafter;~~

12.3 (1) the total weight of covered electronic devices the manufacturer collected from
 12.4 households and recycled or arranged to have collected and recycled during the preceding
 12.5 program year;

12.6 ~~(d)~~ ~~By August 15 each year, each manufacturer must report separately to the department~~
 12.7 ~~until June 30, 2017, and to the agency thereafter;~~

12.8 ~~(1)~~ (2) the number of phase I and phase II recycling credits the manufacturer has
 12.9 purchased and sold during the preceding program year;

12.10 ~~(2)~~ (3) the number of phase I and phase II recycling credits possessed by the manufacturer
 12.11 that the manufacturer elects to use in the calculation of its variable recycling fee under
 12.12 section 115A.1314, subdivision 1; and

12.13 ~~(3)~~ (4) the number of phase I and phase II recycling credits the manufacturer retains at
 12.14 the beginning of the current program year.

12.15 ~~(e)~~ (c) Upon request of the commissioner of revenue, the agency shall provide a copy
 12.16 of each report to the commissioner of revenue.

12.17 Sec. 11. Minnesota Statutes 2020, section 115A.1318, subdivision 2, is amended to read:

12.18 Subd. 2. **Recycler responsibilities.** (a) As part of the report submitted under section
 12.19 115A.1316, subdivision 2, a recycler must certify, except as provided in paragraph (b), that
 12.20 facilities that recycle covered electronic devices, including all downstream recycling
 12.21 operations:

12.22 (1) use only registered collectors;

12.23 (2) comply with all applicable health, environmental, safety, and financial responsibility
 12.24 regulations;

12.25 (3) are licensed by all applicable governmental authorities;

12.26 (4) use no prison labor to recycle video display devices;

12.27 (5) possess liability insurance of not less than \$1,000,000 for environmental releases,
 12.28 accidents, and other emergencies;

12.29 (6) provide a report annually to each registered collector regarding the video display
 12.30 devices received from that entity; and

13.1 (7) do not charge collectors for ~~the transportation and~~ transporting, recycling of, or any
13.2 necessary supplies related to transporting or recycling covered electronic devices that meet
13.3 a manufacturer's recycling obligation as determined under section 115A.1320, unless
13.4 otherwise mutually agreed upon.

13.5 (b) A nonprofit corporation that contracts with a correctional institution to refurbish and
13.6 reuse donated computers in schools is exempt from paragraph (a), clauses (4) and (5).

13.7 (c) Except to the extent otherwise required by law and unless agreed upon otherwise by
13.8 the recycler or manufacturer, a recycler has no responsibility for any data that may be
13.9 contained in a covered electronic device if an information storage device is included in the
13.10 covered electronic device.

13.11 Sec. 12. Minnesota Statutes 2020, section 115A.1320, subdivision 1, is amended to read:

13.12 Subdivision 1. **Duties of agency.** (a) The agency shall administer sections 115A.1310
13.13 to 115A.1330.

13.14 (b) The agency shall establish procedures for:

13.15 (1) receipt and maintenance of the registration statements and certifications filed with
13.16 the agency under section 115A.1312; and

13.17 (2) making the statements and certifications easily available to manufacturers, retailers,
13.18 and members of the public.

13.19 (c) The agency shall annually review the following variables that are used to calculate
13.20 a manufacturer's annual registration fee under section 115A.1314, subdivision 1:

13.21 (1) the obligation-setting mechanism for manufacturers as specified under paragraph
13.22 (g);

13.23 (2) the estimated per-pound price of recycling covered electronic devices sold to
13.24 households; and

13.25 (3) the base registration fee.

13.26 (d) If the agency determines that any of these values must be changed in order to improve
13.27 the efficiency or effectiveness of the activities regulated under sections 115A.1312 to
13.28 115A.1330, or if the revenues exceed the amount that the agency determines is necessary,
13.29 the agency shall submit recommended changes and the reasons for them to the chairs of the
13.30 senate and house of representatives committees with jurisdiction over solid waste policy.

14.1 (e) By ~~September 1, 2016, and by May 1, 2017, and each May 1 thereafter~~ each year,
14.2 the agency shall publish a statewide recycling goal for all video display device waste that
14.3 is the weight of all video display devices collected for recycling during each of the three
14.4 most recently completed program years, excluding the most recently concluded program
14.5 year, divided by two. ~~For the program years beginning July 1, 2016, July 1, 2017, and July~~
14.6 ~~1, 2018, the agency shall establish and publish separate statewide recycling goals for video~~
14.7 ~~display devices as follows:~~

14.8 ~~(1) the agency shall set the statewide recycling goal for video display devices at~~
14.9 ~~25,000,000 pounds, 23,000,000 pounds, and 21,000,000 pounds, respectively, during these~~
14.10 ~~successive program years;~~

14.11 ~~(2) the agency shall set the recycling goal for televisions at 80 percent of the applicable~~
14.12 ~~amount in clause (1); and~~

14.13 ~~(3) the agency shall set the recycling goal for computer monitors at 20 percent of the~~
14.14 ~~applicable amount in clause (1).~~

14.15 (f) By ~~September 1, 2016, and by May 1, 2017, and each May 1 thereafter~~ each year,
14.16 the agency shall determine each registered manufacturer's market share of video display
14.17 devices to be collected and recycled based on the manufacturer's percentage share of the
14.18 total weight of video display devices sold as reported to the agency under section 115A.1316,
14.19 subdivision 1.

14.20 (g) By ~~September 1, 2016, and by May 1, 2017, and each May 1 thereafter~~ each year,
14.21 the agency shall provide each manufacturer with a determination of the manufacturer's share
14.22 of video display devices to be collected and recycled. A manufacturer's market share of
14.23 video display devices as specified in paragraph (f) is applied proportionally to the statewide
14.24 recycling goal as specified in paragraph (e) to determine an individual manufacturer's
14.25 recycling obligation. Upon request by the commissioner of revenue, the agency must provide
14.26 the information submitted to manufacturers under this paragraph to the commissioner of
14.27 revenue.

14.28 (h) The agency shall provide a report to the governor and the legislature on the
14.29 implementation of sections 115A.1310 to 115A.1330. For each program year, the report
14.30 must discuss the total weight of covered electronic devices recycled and a summary of
14.31 information in the reports submitted by manufacturers and recyclers under section 115A.1316.
14.32 The report must also discuss the various collection programs used by manufacturers to
14.33 collect covered electronic devices; information regarding covered electronic devices that
14.34 are being collected by persons other than registered manufacturers, collectors, and recyclers;

15.1 and information about covered electronic devices, if any, being disposed of in landfills in
15.2 this state. The report must examine which covered electronic devices, based on economic
15.3 and environmental considerations, should be subject to the obligation-setting mechanism
15.4 under paragraph (g). The report must include a description of enforcement actions under
15.5 sections 115A.1310 to 115A.1330. The agency may include in its report other information
15.6 received by the agency regarding the implementation of sections 115A.1312 to 115A.1330.
15.7 The report must be done in conjunction with the report required under section 115A.121.

15.8 (i) The agency shall promote public participation in the activities regulated under sections
15.9 115A.1312 to 115A.1330 through public education and outreach efforts.

15.10 (j) The agency shall enforce sections 115A.1310 to 115A.1330 in the manner provided
15.11 by sections 115.071, subdivisions 1, 3, 4, 5, and 6; and 116.072, except for those provisions
15.12 enforced by the department, as provided in subdivision 2. The agency may revoke a
15.13 registration of a collector or recycler found to have violated sections 115A.1310 to
15.14 115A.1330.

15.15 (k) The agency shall facilitate communication between counties, collection and recycling
15.16 centers, and manufacturers to ensure that manufacturers are aware of video display devices
15.17 available for recycling.

15.18 (l) The agency shall post on its website the contact information provided by each
15.19 manufacturer under section 115A.1318, subdivision 1, paragraph (e).

15.20 **Sec. 13. [115A.405] WASTE COMPOSITION STUDY.**

15.21 Subdivision 1. **Waste composition study.** By January 1 each year, the commissioner
15.22 must conduct a waste composition study at covered entities. When identifying facilities for
15.23 waste composition studies, the commissioner must rotate the covered entities and each
15.24 covered entity must allow the commissioner to perform a waste composition study at least
15.25 once every three years.

15.26 Subd. 2. **Access.** The commissioner or commissioner's designee, upon presentation of
15.27 credentials, may enter upon any public or private property to take any action authorized by
15.28 this section. The covered entity must provide access to pertinent books and records and
15.29 provide reasonable accommodations for a waste composition study to be completed
15.30 accurately and safely.

15.31 Subd. 3. **Data compilation.** The commissioner must annually compile and summarize
15.32 the waste composition data. The commissioner must make the summary information available
15.33 to the public.

16.1 Sec. 14. Minnesota Statutes 2020, section 115B.17, subdivision 13, is amended to read:

16.2 Subd. 13. **Priorities; rules.** (a) By November 1, 1983, the Pollution Control Agency
16.3 shall establish a temporary list of priorities among releases or threatened releases for the
16.4 purpose of taking remedial action and, to the extent practicable consistent with the urgency
16.5 of the action, for taking removal action under this section. The temporary list, with any
16.6 necessary modifications, shall remain in effect until the Pollution Control Agency adopts
16.7 rules establishing state criteria for determining priorities among releases and threatened
16.8 releases. The Pollution Control Agency shall adopt the rules by July 1, 1984. After rules
16.9 are adopted, a permanent priority list shall be established, and may be modified from time
16.10 to time, using the current guidance and tools for the Hazard Ranking System adopted by
16.11 the federal Environmental Protection Agency and according to the criteria set forth in the
16.12 rules. Before any list is established under this subdivision the Pollution Control Agency
16.13 shall publish the list in the State Register and allow 30 days for comments on the list by the
16.14 public.

16.15 (b) The temporary list and the rules required by this subdivision shall be based upon the
16.16 relative risk or danger to public health or welfare or the environment, taking into account
16.17 to the extent possible the population at risk, the hazardous potential of the hazardous
16.18 substances at the facilities, the potential for contamination of drinking water supplies, the
16.19 potential for direct human contact, the potential for destruction of sensitive ecosystems, the
16.20 administrative and financial capabilities of the Pollution Control Agency, and other
16.21 appropriate factors.

16.22 Sec. 15. Minnesota Statutes 2020, section 115B.406, subdivision 1, is amended to read:

16.23 Subdivision 1. **Legislative findings.** The legislature recognizes the need to protect the
16.24 public health and welfare and the environment at priority qualified facilities. To implement
16.25 a timely and effective cleanup and prevent multiparty litigation, the legislature finds it is in
16.26 the public interest to direct the commissioner of the Pollution Control Agency to:

16.27 (1) take environmental response actions that the commissioner deems reasonable and
16.28 necessary to protect the public health or welfare or the environment at priority qualified
16.29 facilities ~~and to~~;

16.30 (2) acquire real property interests at priority qualified facilities to ensure the completion
16.31 and long-term effectiveness of environmental response actions; and

16.32 (3) prevent both an unjust financial windfall to and double liability of owners and
16.33 operators of priority qualified facilities.

17.1 **EFFECTIVE DATE.** This section is effective the day following final enactment and
17.2 applies to actions commenced on or after January 1, 2021.

17.3 Sec. 16. Minnesota Statutes 2020, section 115B.406, subdivision 9, is amended to read:

17.4 Subd. 9. **Environmental response costs; liens.** (a) All environmental response costs
17.5 and reasonable and necessary expenses, including administrative and legal expenses, incurred
17.6 by the commissioner at a priority qualified facility constitute a lien in favor of the state upon
17.7 any real property located in the state, other than homestead property, owned by the owner
17.8 or operator of the priority qualified facility who is subject to the requirements of section
17.9 115B.40, subdivision 4 or 5. Notwithstanding section 514.672, a lien under this paragraph
17.10 continues until the lien is satisfied or is released according to paragraph (c).

17.11 (b) If the commissioner conducts an environmental response action at a priority qualified
17.12 facility and the environmental response action increases the fair market value of the facility
17.13 above the fair market value of the facility that existed before the response action was initiated,
17.14 then the state has a lien on the facility for the increase in fair market value of the property
17.15 attributable to the response action, valued at the time that construction of the final
17.16 environmental response action was completed, not including operation and maintenance.
17.17 Notwithstanding section 514.672, a lien under this paragraph continues until the lien is
17.18 satisfied or is released according to paragraph (c).

17.19 (c) A lien under this subdivision paragraph (a) or (b) attaches when the environmental
17.20 response costs are first incurred. Notwithstanding section 514.672, a lien under this
17.21 subdivision continues until the lien is satisfied or six years after completion of construction
17.22 of the final environmental response action, not including operation and maintenance. Notice,
17.23 filing, and release, and enforcement of the lien are governed by sections 514.671 to 514.676,
17.24 except where those requirements specifically are related to only cleanup action expenses
17.25 as defined in section 514.671. The commissioner may release a lien under this subdivision
17.26 if the commissioner determines that attachment or enforcement of the lien is not in the
17.27 public interest. A lien under this subdivision is not subject to the foreclosure limitation
17.28 described in section 514.674, subdivision 2. Relative priority of a lien under this subdivision
17.29 is governed by section 514.672, except that a lien attached to property that was included in
17.30 any permit for the priority qualified facility takes precedence over all other liens regardless
17.31 of when the other liens were or are perfected. Amounts received to satisfy all or a part of a
17.32 lien must be deposited in the remediation fund. An environmental lien notice for a lien under
17.33 paragraph (a) or (b) must state that it is a lien in accordance with this section and identify

18.1 whether the property described in the notice was included in any permit for the priority
18.2 qualified facility.

18.3 **EFFECTIVE DATE.** This section is effective the day following final enactment and
18.4 applies to actions commenced on or after January 1, 2021.

18.5 Sec. 17. Minnesota Statutes 2020, section 115B.407, is amended to read:

18.6 **115B.407 ACQUISITION AND DISPOSITION ACQUIRING AND DISPOSING**
18.7 **OF REAL PROPERTY AT PRIORITY QUALIFIED FACILITIES.**

18.8 Subdivision 1. **Acquiring and disposing of real property.** (a) The commissioner may
18.9 acquire interests in real property by donation or eminent domain at all or a portion of a
18.10 priority qualified facility. Condemnation under this section includes acquisition of fee title
18.11 or an easement. After acquiring an interest in real property under this section, the
18.12 commissioner must take environmental response actions at the priority qualified facility
18.13 according to sections 115B.39 to 115B.414 after the legislature makes an appropriation for
18.14 that purpose.

18.15 (b) The commissioner may dispose of real property acquired under this section according
18.16 to section 115B.17, subdivision 16.

18.17 (c) Except as modified by this section, chapter 117 governs condemnation proceedings
18.18 by the commissioner under this section. The exceptions under section 117.189 apply to the
18.19 use of eminent domain authority under this section. Section 117.226 does not apply to
18.20 properties acquired by the use of eminent domain authority under this section.

18.21 (d) The state is not liable under this chapter solely as a result of acquiring an interest in
18.22 real property under this section.

18.23 Subd. 2. **Eminent domain damages.** (a) For purposes of this subdivision, the following
18.24 terms have the meanings given:

18.25 (1) "after-market value" means the property value of that portion of the subject property
18.26 remaining after a partial taking;

18.27 (2) "as remediated" means the condition of the property assuming the environmental
18.28 response actions selected by the commissioner have been completed, including environmental
18.29 covenants and easements and other institutional controls that may apply;

18.30 (3) "before-market value" means the property value of the entire subject property before
18.31 the taking, less the remediation costs;

19.1 (4) "property value" means the fair market value of the real property, as remediated, less
19.2 any reduction in value attributable to the stigma of pollution; and

19.3 (5) "remediation costs" means the reasonably foreseeable costs and expenses, including
19.4 administrative and legal expenses, that the commissioner will incur to implement the
19.5 environmental response actions that the commissioner selected for the property according
19.6 to section 115B.406, subdivision 3, less the amount, if any, that the property owner
19.7 demonstrates was released under section 115B.443, subdivision 8, which must not be greater
19.8 than the extent of insurance coverage under policies for the property included in a settlement
19.9 consistent with section 115B.443, subdivision 8.

19.10 (b) The damages awarded for condemnation of real property under this section is the
19.11 greater of \$500 or:

19.12 (1) for a total taking of the subject property, the before-market value; or

19.13 (2) for a partial taking of the subject property, the before-market value less the
19.14 after-market value.

19.15 (c) When awarding damages in a condemnation proceeding under this section, in addition
19.16 to any other requirement of chapter 117, the finder of fact must report:

19.17 (1) the amount determined for the property value of the entire subject property before
19.18 the taking; and

19.19 (2) the itemized amount determined for remediation costs.

19.20 (d) The commissioner may seek recovery of environmental response costs only to the
19.21 extent the costs exceed the lower of the remediation costs or the property value of the entire
19.22 subject property before the taking as reported under paragraph (c).

19.23 (e) If the actual expenses incurred by the commissioner to take environmental response
19.24 actions at the priority qualified facility as determined at the time construction of the final
19.25 environmental response action was completed would have yielded a higher award of damages
19.26 under this section, then the commissioner must reimburse the owner an amount equal to the
19.27 amount of damages as if the actual expenses were used instead of the remediation costs,
19.28 less any damages already awarded.

19.29 **EFFECTIVE DATE.** This section is effective the day following final enactment and
19.30 applies to actions commenced on or after January 1, 2021.

20.1 Sec. 18. Minnesota Statutes 2020, section 116.07, is amended by adding a subdivision to
20.2 read:

20.3 Subd. 41. **Real property interests.** (a) The commissioner may acquire interests in real
20.4 property at a solid waste disposal facility, limited to environmental covenants under chapter
20.5 114E and easements for the environmental covenants, when the commissioner determines
20.6 the property interests are related to:

20.7 (1) closure;

20.8 (2) postclosure care; and

20.9 (3) any other actions needed after the postclosure care period expires.

20.10 (b) The state is not liable under this chapter or any other law solely as a result of acquiring
20.11 an interest in real property under this section.

20.12 (c) An environmental covenant under this subdivision must be in accordance with chapter
20.13 114E and must be signed and acknowledged by every owner of the fee simple title to the
20.14 real property subject to the covenant.

20.15 Sec. 19. Minnesota Statutes 2020, section 116.07, subdivision 9, is amended to read:

20.16 **Subd. 9. Orders; investigations.** ~~The agency shall have~~ commissioner has the following
20.17 powers and duties for ~~the enforcement of~~ enforcing any provision of this chapter and chapter
20.18 114C, relating to air contamination or waste:

20.19 (1) to adopt, issue, reissue, modify, deny, revoke, reopen, enter into, or enforce reasonable
20.20 orders, schedules of compliance, and stipulation agreements;

20.21 (2) to require the owner or operator of any emission facility, air contaminant treatment
20.22 facility, potential air contaminant storage facility, or any system or facility related to the
20.23 storage, collection, transportation, processing, or disposal of waste to establish and maintain
20.24 records; to make reports; to install, use, and maintain monitoring equipment or methods;
20.25 and to make tests, including testing for odor where a nuisance may exist, in accordance with
20.26 methods, at locations, at intervals, and in a manner as the agency shall prescribe; and to
20.27 provide other information as the agency may reasonably require;

20.28 (3) to conduct investigations, issue notices, public and otherwise, and order hearings as
20.29 it may deem necessary or advisable for the discharge of its duties under this chapter and
20.30 chapter 114C, including but not limited to the issuance of permits; and to authorize any
20.31 member, employee, or agent appointed by it to conduct the investigations and issue the
20.32 notices; and

21.1 (4) to require parties who enter into a negotiated agreement to settle an enforcement
21.2 matter with the agency to reimburse the agency according to this clause for oversight costs
21.3 that are incurred by the agency and associated with implementing the negotiated agreement.
21.4 The agency may recover oversight costs exceeding \$25,000. Oversight costs include
21.5 personnel and direct costs associated with inspections, sampling, monitoring, modeling,
21.6 risk assessment, permit writing, engineering review, economic analysis and review, and
21.7 other record or document review. Only oversight costs incurred after executing the negotiated
21.8 agreement are covered by this clause. The agency's legal and litigation costs are not covered
21.9 by this clause. The commissioner has discretion as to whether to apply this clause in cases
21.10 where the agency is using schedules of compliance to bring a class of regulated parties into
21.11 compliance. Reimbursement amounts are appropriated to the commissioner.

21.12 Sec. 20. Minnesota Statutes 2020, section 116.07, is amended by adding a subdivision to
21.13 read:

21.14 Subd. 9a. **Stipulation agreements.** In exercising enforcement powers over a term of a
21.15 stipulation agreement when a party asserts a good cause or force majeure claim for an
21.16 extension of time to comply with a stipulated term, the commissioner must not grant the
21.17 extension if the assertion is based solely on increased costs.

21.18 Sec. 21. Minnesota Statutes 2020, section 116.07, is amended by adding a subdivision to
21.19 read:

21.20 Subd. 9b. **Compliance when required permit not obtained.** The commissioner may
21.21 require a person or facility that fails to obtain a required permit to comply with any terms
21.22 of a permit that would have been issued had the person or facility obtained a permit, including
21.23 but not limited to reporting, monitoring, controlling pollutant discharge, and creating and
21.24 implementing operations and maintenance plans. The person or facility is subject to liability
21.25 and penalties, including criminal liability, for failing to operate in compliance with a permit
21.26 not obtained beginning at the time a permit should have been obtained.

21.27 Sec. 22. [116.0735] **AUTHORITY TO REQUIRE INFORMATION ON**
21.28 **CONTAMINANTS.**

21.29 Subdivision 1. **Definitions.** (a) For the purposes of this section, the terms in this
21.30 subdivision have the meanings given them.

21.31 (b) "Activities" means actions by a person that produce, emit, discharge, release, threaten
21.32 to release, or otherwise cause a contaminant to enter the environment or the human body

22.1 and that occurred at a point in time or continue to occur. Activities includes but is not limited
22.2 to manufacturing, distributing, using, or selling products.

22.3 (c) "Agency" means the Minnesota Pollution Control Agency.

22.4 (d) "Agency action" means investigating, monitoring, surveying, testing, or other similar
22.5 action necessary or appropriate to identify the existence and extent of a release of a
22.6 contaminant or threat of a release, the source and nature of the contaminant, and the extent
22.7 of danger to the public health or welfare or the environment.

22.8 (e) "Biomonitoring" means the process by which chemicals and their metabolites are
22.9 identified and measured in a biospecimen.

22.10 (f) "Biospecimen" means a sample of human fluid, serum, or tissue that is reasonably
22.11 available as a medium to measure the presence and concentration of chemicals or their
22.12 metabolites in a human body.

22.13 (g) "Commissioner" means the commissioner of the agency.

22.14 (h) "Contaminant" means a substance with a distinct molecular composition or a group
22.15 of structurally related substances, including the breakdown products of the substance or
22.16 substances that form through decomposition, degradation, or metabolism, that may:

22.17 (1) harm normal development of a fetus or child or cause other developmental toxicity;

22.18 (2) cause cancer, genetic damage, or reproductive harm;

22.19 (3) disrupt the endocrine or hormone system;

22.20 (4) damage the nervous system, immune system, or organs or cause other systemic
22.21 toxicity;

22.22 (5) be persistent, bioaccumulative, or toxic; or

22.23 (6) be very persistent or very bioaccumulative.

22.24 (i) "Monitoring" means sampling environmental media and analyzing general and specific
22.25 data relating to the presence of contaminants.

22.26 (j) "Person" means an individual, partnership, association, public or private corporation,
22.27 or other entity, including the United States government; any association, commission, or
22.28 interstate body; the state and any agency, department, or political subdivision of the state;
22.29 and any officer or governing or managing body of a municipality, governmental subdivision,
22.30 public or private corporation, or other entity.

23.1 (k) "Supplier" means a person who provides goods or services that lead to or are
23.2 incorporated into a finished product used in commerce or by consumers.

23.3 Subd. 2. **Agency action.** The commissioner may take agency action whenever:

23.4 (1) the commissioner detects a contaminant:

23.5 (i) during the agency's monitoring of Minnesota's environment;

23.6 (ii) through receipt of environmental monitoring data from a local, state, or federal
23.7 agency or nongovernmental organization in the United States; or

23.8 (iii) through receipt of biomonitoring data of residents of the United States; or

23.9 (2) the commissioner has reason to believe that:

23.10 (i) a release of a contaminant has occurred, is about to occur, or is connected to a person's
23.11 activities; or

23.12 (ii) illness, disease, environmental harm, or complaints thereof may be attributable to
23.13 exposure to a contaminant connected to a person's activities.

23.14 Subd. 3. **Duty to provide information.** (a) When requested by the commissioner or the
23.15 commissioner's designee, a person the commissioner has reason to believe is engaged in
23.16 activities where agency action is proposed to be taken must furnish to the commissioner
23.17 any information that the person may have or may reasonably obtain that is relevant to the
23.18 contaminant under investigation.

23.19 (b) For purposes of this subdivision, the commissioner may:

23.20 (1) request in writing that a person produce electronic or physical documents, papers,
23.21 books, or other tangible items in the possession, custody, or control of the person;

23.22 (2) request in writing that a person provide information submitted to the person from a
23.23 supplier or within the supply chain for production of a commercial or consumer good;

23.24 (3) examine and copy books, papers, records, memoranda, and other electronic or physical
23.25 data of a person who has a duty to provide information under this subdivision; and

23.26 (4) enter upon public or private property to take an action authorized under this section,
23.27 including to obtain information from a person who has a duty to provide the information
23.28 under this subdivision and to conduct agency action.

23.29 (c) A person must submit requested information to the commissioner within the time
23.30 specified in the commissioner's written request. If a person fails or refuses to comply with
23.31 the commissioner's request for information, the commissioner may petition the district court

24.1 for an order to compel compliance with the request or take other enforcement action
24.2 authorized by law.

24.3 Subd. 4. **Classifying data.** Except as otherwise provided in this subdivision, data obtained
24.4 from a person under this section are public data as defined in section 13.02. Upon certification
24.5 by the subject of the data that the data relate to sales figures, processes or methods of
24.6 production unique to that person, or information that would tend to adversely affect the
24.7 competitive position of that person, the commissioner must classify the data as private or
24.8 nonpublic data as defined in section 13.02. Notwithstanding any other law to the contrary,
24.9 data classified as private or nonpublic under this subdivision may be disclosed when relevant:

24.10 (1) in any proceeding under this section;

24.11 (2) in further agency actions, including permitting, setting local water quality standards,
24.12 or other similar actions; and

24.13 (3) to other public agencies involved in protecting human health, welfare, or the
24.14 environment.

24.15 **Sec. 23. REPEALER.**

24.16 Minnesota Rules, part 7044.0350, is repealed.

7044.0350 HRS SCORING SYSTEM.

The Pollution Control Agency and the commissioner of agriculture shall score sites under part 7044.0250 utilizing the Hazard Ranking System (HRS) adopted by the United States Environmental Protection Agency, and published in the Federal Register, volume 55, pages 51583 to 51667 (December 14, 1990).