

SENATE
STATE OF MINNESOTA
EIGHTY-EIGHTH SESSION

S.F. No. 2193

(SENATE AUTHORS: SCALZE, Eaton and Marty)

DATE	D-PG	OFFICIAL STATUS
03/03/2014	5926	Introduction and first reading Referred to Environment and Energy
03/10/2014	6056a	Comm report: To pass as amended and re-refer to Jobs, Agriculture and Rural Development
03/13/2014	6208	Comm report: To pass and re-referred to State and Local Government
03/19/2014	6307a	Comm report: To pass as amended and re-refer to Judiciary
03/24/2014	6642a	Comm report: To pass as amended and re-refer to Finance
05/01/2014	8621a	Comm report: To pass as amended
	8622	Second reading
05/07/2014	8844	HF substituted on General Orders HF2543

A bill for an act

1.1 relating to environment; classifying certain data; modifying certain reporting
 1.2 requirements; modifying and creating certain permitting procedures and
 1.3 efficiencies; modifying duties of Pollution Control Agency; modifying
 1.4 administrative penalty order and field citation provisions; providing civil
 1.5 penalties; requiring rulemaking; appropriating money; amending Minnesota
 1.6 Statutes 2012, sections 13.741, by adding a subdivision; 84.027, subdivision 14a,
 1.7 by adding a subdivision; 115.03, subdivisions 1, 10; 115.551; 116.03, subdivision
 1.8 2b; 116.07, subdivisions 4d, 4j; 116.072, subdivision 2; 116.073, subdivisions
 1.9 1, 2; 116J.035, subdivision 8.
 1.10

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

1.12 Section 1. Minnesota Statutes 2012, section 13.741, is amended by adding a
 1.13 subdivision to read:

1.14 Subd. 4. **Electronic submittal data.** Preliminary data entered or uploaded into
 1.15 the Pollution Control Agency online data submission system are classified as private or
 1.16 nonpublic data. The data is public once electronically transmitted through and received by
 1.17 the Pollution Control Agency from the online data submission system, unless otherwise
 1.18 classified by law.

1.19 Sec. 2. Minnesota Statutes 2012, section 84.027, subdivision 14a, is amended to read:

1.20 Subd. 14a. **Permitting efficiency.** (a) It is the goal of the state that environmental
 1.21 and resource management permits be issued or denied within 90 days for Tier 1 permits
 1.22 or 150 days of the for Tier 2 permits following submission of a permit application.

1.23 The commissioner of natural resources shall establish management systems designed
 1.24 to achieve the goal.

1.25 (b) The commissioner shall prepare ~~semiannual~~ an annual permitting efficiency
 1.26 reports report that include includes statistics on meeting the goal in paragraph (a) and the

2.1 criteria for Tier 1 and Tier 2 by permit categories. The reports are report is due February 1
 2.2 and August 1 each year. For permit applications that have not met the goal, the report
 2.3 must state the reasons for not meeting the goal. In stating the reasons for not meeting the
 2.4 goal, the commissioner shall separately identify delays caused by the responsiveness of
 2.5 the proposer, lack of staff, scientific or technical disagreements, or the level of public
 2.6 engagement. The report must specify the number of days from initial submission of the
 2.7 application to the day of determination that the application is complete. The report for
 2.8 August 1 each year must aggregate the data for the year and assess whether program
 2.9 or system changes are necessary to achieve the goal. The report must be posted on the
 2.10 department's Web site and submitted to the governor and the chairs and ranking minority
 2.11 members of the house of representatives and senate committees having jurisdiction over
 2.12 natural resources policy and finance.

2.13 (c) The commissioner shall allow electronic submission of environmental review
 2.14 and permit documents to the department.

2.15 (d) Beginning July 1, 2011, within 30 business days of application for a permit
 2.16 subject to paragraph (a), the commissioner of natural resources shall notify the
 2.17 project proposer, in writing, whether the application is complete or incomplete. If the
 2.18 commissioner determines that an application is incomplete, the notice to the applicant must
 2.19 enumerate all deficiencies, citing specific provisions of the applicable rules and statutes,
 2.20 and advise the applicant on how the deficiencies can be remedied. If the commissioner
 2.21 determines that the application is complete, the notice must confirm the application's Tier
 2.22 1 or Tier 2 permit status. This paragraph does not apply to an application for a permit that
 2.23 is subject to a grant or loan agreement under chapter 446A.

2.24 **EFFECTIVE DATE.** This section is effective January 1, 2015.

2.25 Sec. 3. Minnesota Statutes 2012, section 84.027, is amended by adding a subdivision
 2.26 to read:

2.27 Subd. 14b. **Expediting costs; reimbursement.** Permit applicants who wish
 2.28 to construct, reconstruct, modify, or operate a facility needing any permit from the
 2.29 commissioner of natural resources may offer to reimburse the department for the costs
 2.30 of staff time or consultant services needed to expedite the permit development process,
 2.31 including the analysis of environmental review documents. The reimbursement shall be in
 2.32 addition to permit application fees imposed by law. When the commissioner determines
 2.33 that additional resources are needed to develop the permit application in an expedited
 2.34 manner, and that expediting the development is consistent with permitting program
 2.35 priorities, the commissioner may accept the reimbursement. Reimbursements accepted

3.1 by the commissioner are appropriated to the commissioner for the purpose of developing
3.2 the permit or analyzing environmental review documents. Reimbursement by a permit
3.3 applicant shall precede and not be contingent upon issuance of a permit; shall not affect
3.4 the commissioner's decision on whether to issue or deny a permit, what conditions are
3.5 included in a permit, or the application of state and federal statutes and rules governing
3.6 permit determinations; and shall not affect final decisions regarding environmental review.

3.7 Sec. 4. Minnesota Statutes 2012, section 115.03, subdivision 1, is amended to read:

3.8 Subdivision 1. **Generally.** The agency is hereby given and charged with the
3.9 following powers and duties:

3.10 (a) to administer and enforce all laws relating to the pollution of any of the waters of
3.11 the state;

3.12 (b) to investigate the extent, character, and effect of the pollution of the waters of
3.13 this state and to gather data and information necessary or desirable in the administration
3.14 or enforcement of pollution laws, and to make such classification of the waters of the
3.15 state as it may deem advisable;

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

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

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

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

3.30 (2) prohibiting or directing the abatement of any discharge of sewage, industrial
3.31 waste, or other wastes, into any waters of the state or the deposit thereof or the discharge
3.32 into any municipal disposal system where the same is likely to get into any waters of the
3.33 state in violation of this chapter and, with respect to the pollution of waters of the state,
3.34 chapter 116, or standards or rules promulgated or permits issued pursuant thereto, and

4.1 specifying the schedule of compliance within which such prohibition or abatement must
4.2 be accomplished;

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

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

4.11 (5) establishing, and from time to time revising, standards of performance for new
4.12 sources taking into consideration, among other things, classes, types, sizes, and categories
4.13 of sources, processes, pollution control technology, cost of achieving such effluent
4.14 reduction, and any nonwater quality environmental impact and energy requirements.
4.15 Said standards of performance for new sources shall encompass those standards for the
4.16 control of the discharge of pollutants which reflect the greatest degree of effluent reduction
4.17 which the agency determines to be achievable through application of the best available
4.18 demonstrated control technology, processes, operating methods, or other alternatives,
4.19 including, where practicable, a standard permitting no discharge of pollutants. New
4.20 sources shall encompass buildings, structures, facilities, or installations from which there
4.21 is or may be the discharge of pollutants, the construction of which is commenced after the
4.22 publication by the agency of proposed rules prescribing a standard of performance which
4.23 will be applicable to such source. Notwithstanding any other provision of the law of this
4.24 state, any point source the construction of which is commenced after May 20, 1973, and
4.25 which is so constructed as to meet all applicable standards of performance for new sources
4.26 shall, consistent with and subject to the provisions of section 306(d) of the Amendments
4.27 of 1972 to the Federal Water Pollution Control Act, not be subject to any more stringent
4.28 standard of performance for new sources during a ten-year period beginning on the date
4.29 of completion of such construction or during the period of depreciation or amortization
4.30 of such facility for the purposes of section 167 or 169, or both, of the Federal Internal
4.31 Revenue Code of 1954, whichever period ends first. Construction shall encompass any
4.32 placement, assembly, or installation of facilities or equipment, including contractual
4.33 obligations to purchase such facilities or equipment, at the premises where such equipment
4.34 will be used, including preparation work at such premises;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7.16 Sec. 5. Minnesota Statutes 2012, section 115.03, subdivision 10, is amended to read:

7.17 Subd. 10. **Nutrient Pollutant loading offset.** (a) ~~Prior to the completion of a~~
7.18 ~~total maximum daily load for an impaired water,~~ The Pollution Control Agency may
7.19 ~~issue a permit for a new discharger or an expanding discharger if it results in decreased~~
7.20 ~~loading to an impaired water. Where a new discharger or an expanding existing discharger~~
7.21 ~~cannot effectively implement zero discharge options, the agency may issue a permit if~~
7.22 ~~the increased loading is offset by reductions~~ or amend permits to authorize pollutant
7.23 discharges to a receiving water and may authorize reductions in loading from other
7.24 sources of loading to the impaired water, so that there is to the same receiving water, if
7.25 together the changes achieve a net decrease in the pollutant loading of concern. The term
7.26 "new discharger" is as defined in Code of Federal Regulations, title 40, section 122.2. to
7.27 the receiving water. A point source participating in a water quality offset authorized by
7.28 this subdivision must have pollutant load reduction requirements for the traded pollutants
7.29 based on water quality based effluent limits or wasteload allocations in place prior to the
7.30 offset. The pollutant load reduction requirements in place prior to the offset must meet the
7.31 requirements of this chapter and Minnesota Rules, parts 7050.0150, subpart 8; 7053.0205;
7.32 and 7053.0215, including, but not limited to, requirements related to pollutant form,
7.33 spatial loading, and temporal loading. The agency must require significant offset ratios for
7.34 offsets between permitted sources and nonpermitted sources and must demonstrate how
7.35 nonpermitted source offset credits make progress toward ensuring attainment of water

8.1 quality standards. The agreement of a source to participate in an offset is voluntary. The
 8.2 agency shall track the pollutant offsets or "trades" implemented under this subdivision.

8.3 (b) The legislature intends this subdivision to confirm and clarify the authority of the
 8.4 Pollution Control Agency to issue the authorized permits under prior law. The subdivision
 8.5 must not be construed as a legislative interpretation within the meaning of section 645.16,
 8.6 clause (8), or otherwise as the legislature's intent that the agency did not have authority to
 8.7 issue such a permit under prior law.

8.8 Sec. 6. Minnesota Statutes 2012, section 115.551, is amended to read:

8.9 **115.551 TANK FEE.**

8.10 (a) An installer shall pay a fee of \$25 for each septic system tank installed in the
 8.11 previous calendar year. ~~The fees required under this section must be paid~~ By January 30
 8.12 each year, the installer shall submit to the commissioner by January 30 of each year a
 8.13 form showing the number of tanks installed in each jurisdiction in the previous calendar
 8.14 year. The commissioner shall invoice the installers with the final fee due. Tank fee
 8.15 payment is due within 30 days of receiving the invoice. The revenue derived from the fee
 8.16 imposed under this section shall be deposited in the environmental fund and is exempt
 8.17 from section 16A.1285.

8.18 (b) Notwithstanding paragraph (a), for the purposes of performance-based subsurface
 8.19 sewage treatment systems, the tank fee is limited to \$25 per household system installation.

8.20 **EFFECTIVE DATE.** This section is effective January 1, 2015, and applies to
 8.21 tanks installed on or after January 1, 2015.

8.22 Sec. 7. Minnesota Statutes 2012, section 116.03, subdivision 2b, is amended to read:

8.23 Subd. 2b. **Permitting efficiency.** (a) It is the goal of the state that environmental
 8.24 and resource management permits be issued or denied within 90 days for Tier 1 permits
 8.25 or 150 days of the for Tier 2 permits following submission of a permit application. The
 8.26 commissioner of the Pollution Control Agency shall establish management systems
 8.27 designed to achieve the goal. For the purposes of this section, "Tier 1 permits" are permits
 8.28 that do not require individualized actions or public comment periods, and "Tier 2 permits"
 8.29 are permits that require individualized actions or public comment periods.

8.30 (b) The commissioner shall prepare ~~semiannual~~ an annual permitting efficiency
 8.31 reports report that include includes statistics on meeting the goal in paragraph (a) and the
 8.32 criteria for Tier 1 and Tier 2 by permit categories. ~~The reports are~~ report is due February 1
 8.33 and August 1 each year. For permit applications that have not met the goal, the report

9.1 must state the reasons for not meeting the goal. In stating the reasons for not meeting the
9.2 goal, the commissioner shall separately identify delays caused by the responsiveness of
9.3 the proposer, lack of staff, scientific or technical disagreements, or the level of public
9.4 engagement. The report must specify the number of days from initial submission of the
9.5 application to the day of determination that the application is complete. The report ~~for~~
9.6 ~~August 1 each year~~ must aggregate the data for the year and assess whether program
9.7 or system changes are necessary to achieve the goal. The report must be posted on the
9.8 agency's Web site and submitted to the governor and the chairs and ranking minority
9.9 members of the house of representatives and senate committees having jurisdiction over
9.10 environment policy and finance.

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

9.13 (d) Beginning July 1, 2011, within 30 business days of application for a permit
9.14 subject to paragraph (a), the commissioner of the Pollution Control Agency shall notify
9.15 the project proposer, in writing, whether the application is complete or incomplete. If the
9.16 commissioner determines that an application is incomplete, the notice to the applicant must
9.17 enumerate all deficiencies, citing specific provisions of the applicable rules and statutes,
9.18 and advise the applicant on how the deficiencies can be remedied. If the commissioner
9.19 determines that the application is complete, the notice must confirm the application's Tier
9.20 1 or Tier 2 permit status. This paragraph does not apply to an application for a permit that
9.21 is subject to a grant or loan agreement under chapter 446A.

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

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

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

9.27 (3) abides by the duty of candor applicable to employees of the Pollution Control
9.28 Agency under agency rules and complies with all applicable requirements under chapter
9.29 326.

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

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

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

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

- 10.1 (iii) business schedule for project completion; and
- 10.2 (iv) other information requested by the agency at least four weeks prior to the
- 10.3 scheduled meeting; and
- 10.4 (2) during the preapplication meeting, the agency shall provide for the applicant at
- 10.5 least the following:
- 10.6 (i) an overview of the permit review program;
- 10.7 (ii) a determination of which specific application or applications will be necessary
- 10.8 to complete the project;
- 10.9 (iii) a statement notifying the applicant if the specific permit being sought requires a
- 10.10 mandatory public hearing or comment period;
- 10.11 (iv) a review of the timetable established in the permit review program for the
- 10.12 specific permit being sought; and
- 10.13 (v) a determination of what information must be included in the application,
- 10.14 including a description of any required modeling or testing.
- 10.15 (g) The applicant may select a permit professional to undertake the preparation
- 10.16 of the permit application and draft permit.
- 10.17 (h) If a preapplication meeting was held, the agency shall, within seven business
- 10.18 days of receipt of an application, notify the applicant and submitting permit professional
- 10.19 that the application is complete or is denied, specifying the deficiencies of the application.
- 10.20 (i) Upon receipt of notice that the application is complete, the permit professional
- 10.21 shall submit to the agency a timetable for submitting a draft permit. The permit
- 10.22 professional shall submit a draft permit on or before the date provided in the timetable.
- 10.23 Within 60 days after the close of the public comment period, the commissioner shall notify
- 10.24 the applicant whether the permit can be issued.
- 10.25 (j) Nothing in this section shall be construed to modify:
- 10.26 (1) any requirement of law that is necessary to retain federal delegation to or
- 10.27 assumption by the state; or
- 10.28 (2) the authority to implement a federal law or program.
- 10.29 (k) The permit application and draft permit shall identify or include as an appendix
- 10.30 all studies and other sources of information used to substantiate the analysis contained in
- 10.31 the permit application and draft permit. The commissioner shall request additional studies,
- 10.32 if needed, and the project proposer shall submit all additional studies and information
- 10.33 necessary for the commissioner to perform the commissioner's responsibility to review,
- 10.34 modify, and determine the completeness of the application and approve the draft permit.

10.35 **EFFECTIVE DATE.** This section is effective January 1, 2015.

11.1 Sec. 8. Minnesota Statutes 2012, section 116.07, subdivision 4d, is amended to read:

11.2 Subd. 4d. **Permit fees.** (a) The agency may collect permit fees in amounts not greater
11.3 than those necessary to cover the reasonable costs of developing, reviewing, and acting
11.4 upon applications for agency permits and implementing and enforcing the conditions of
11.5 the permits pursuant to agency rules. Permit fees shall not include the costs of litigation.
11.6 The fee schedule must reflect reasonable and routine direct and indirect costs associated
11.7 with permitting, implementation, and enforcement. The agency may impose an additional
11.8 enforcement fee to be collected for a period of up to two years to cover the reasonable costs
11.9 of implementing and enforcing the conditions of a permit under the rules of the agency.
11.10 Any money collected under this paragraph shall be deposited in the environmental fund.

11.11 (b) Notwithstanding paragraph (a), the agency shall collect an annual fee from
11.12 the owner or operator of all stationary sources, emission facilities, emissions units, air
11.13 contaminant treatment facilities, treatment facilities, potential air contaminant storage
11.14 facilities, or storage facilities subject to the requirement to obtain a permit under
11.15 subchapter V of the federal Clean Air Act, United States Code, title 42, section 7401 et
11.16 seq., or section 116.081. The annual fee shall be used to pay for all direct and indirect
11.17 reasonable costs, including attorney general costs, required to develop and administer
11.18 the permit program requirements of subchapter V of the federal Clean Air Act, United
11.19 States Code, title 42, section 7401 et seq., and sections of this chapter and the rules
11.20 adopted under this chapter related to air contamination and noise. Those costs include the
11.21 reasonable costs of reviewing and acting upon an application for a permit; implementing
11.22 and enforcing statutes, rules, and the terms and conditions of a permit; emissions, ambient,
11.23 and deposition monitoring; preparing generally applicable regulations; responding to
11.24 federal guidance; modeling, analyses, and demonstrations; preparing inventories and
11.25 tracking emissions; and providing information to the public about these activities.

11.26 (c) The agency shall set fees that:

11.27 (1) will result in the collection, in the aggregate, from the sources listed in paragraph
11.28 (b), of an amount not less than \$25 per ton of each volatile organic compound; pollutant
11.29 regulated under United States Code, title 42, section 7411 or 7412 (section 111 or 112
11.30 of the federal Clean Air Act); and each pollutant, except carbon monoxide, for which a
11.31 national primary ambient air quality standard has been promulgated;

11.32 (2) may result in the collection, in the aggregate, from the sources listed in paragraph
11.33 (b), of an amount not less than \$25 per ton of each pollutant not listed in clause (1) that is
11.34 regulated under this chapter or air quality rules adopted under this chapter; and

12.1 (3) shall collect, in the aggregate, from the sources listed in paragraph (b), the
 12.2 amount needed to match grant funds received by the state under United States Code, title
 12.3 42, section 7405 (section 105 of the federal Clean Air Act).

12.4 The agency must not include in the calculation of the aggregate amount to be collected
 12.5 under clauses (1) and (2) any amount in excess of 4,000 tons per year of each air pollutant
 12.6 from a source. The increase in air permit fees to match federal grant funds shall be a
 12.7 surcharge on existing fees. The commissioner may not collect the surcharge after the grant
 12.8 funds become unavailable. In addition, the commissioner shall use nonfee funds to the
 12.9 extent practical to match the grant funds so that the fee surcharge is minimized.

12.10 (d) To cover the reasonable costs described in paragraph (b), the agency shall provide
 12.11 in the rules promulgated under paragraph (c) for an increase in the fee collected in each year
 12.12 by the percentage, if any, by which the Consumer Price Index for the most recent calendar
 12.13 year ending before the beginning of the year the fee is collected exceeds the Consumer Price
 12.14 Index for the calendar year 1989. For purposes of this paragraph the Consumer Price Index
 12.15 for any calendar year is the average of the Consumer Price Index for all-urban consumers
 12.16 published by the United States Department of Labor, as of the close of the 12-month period
 12.17 ending on August 31 of each calendar year. The revision of the Consumer Price Index that
 12.18 is most consistent with the Consumer Price Index for calendar year 1989 shall be used.

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

12.21 (f) ~~Persons~~ Permit applicants who wish to construct ~~or expand~~, reconstruct, or
 12.22 modify a facility may offer to reimburse the agency for the costs of staff ~~overtime~~ time
 12.23 or consultant services needed to expedite the permit development process, including the
 12.24 analysis of environmental review documents. The reimbursement shall be in addition
 12.25 to permit application fees imposed by law. When the agency determines that it needs
 12.26 additional resources to ~~review~~ develop the permit application in an expedited manner, and
 12.27 that expediting the ~~review would not disrupt~~ development is consistent with permitting
 12.28 program priorities, the agency may accept the reimbursement. Reimbursements accepted
 12.29 by the agency are appropriated to the agency for the purpose of ~~reviewing~~ developing the
 12.30 permit ~~application~~ or analyzing environmental review documents. Reimbursement by a
 12.31 permit applicant shall precede and not be contingent upon issuance of a permit ~~and~~; shall
 12.32 not affect the agency's decision on whether to issue or deny a permit, what conditions are
 12.33 included in a permit, or the application of state and federal statutes and rules governing
 12.34 permit determinations; and shall not affect final decisions regarding environmental review.

12.35 (g) The fees under this subdivision are exempt from section 16A.1285.

13.1 Sec. 9. Minnesota Statutes 2012, section 116.07, subdivision 4j, is amended to read:

13.2 Subd. 4j. **Permits; solid waste facilities.** (a) The agency may not issue a permit
 13.3 for new or additional capacity for a mixed municipal solid waste resource recovery or
 13.4 disposal facility as defined in section 115A.03 unless each county using or projected in
 13.5 the permit to use the facility has in place a solid waste management plan approved under
 13.6 section 115A.46 or 473.803 and amended as required by section 115A.96, subdivision 6.
 13.7 The agency shall issue the permit only if the capacity of the facility is consistent with the
 13.8 needs for resource recovery or disposal capacity identified in the approved plan or plans.
 13.9 Consistency must be determined by the Pollution Control Agency. Plans approved before
 13.10 January 1, 1990, need not be revised if the capacity sought in the permit is consistent
 13.11 with the approved plan or plans.

13.12 (b) The agency shall require as part of the permit application for a waste incineration
 13.13 facility identification of preliminary plans for ash management and ash leachate treatment
 13.14 or ash utilization. The permit issued by the agency must include requirements for ash
 13.15 management and ash leachate treatment.

13.16 (c) Within 30 days of receipt by the agency of a permit application for a solid waste
 13.17 facility, the commissioner shall notify the applicant in writing whether the application
 13.18 is complete and if not, what items are needed to make it complete, and shall give an
 13.19 estimate of the time it will take to process the application. Within 180 days of receipt of
 13.20 a completed application, the agency shall approve, disapprove, or delay decision on the
 13.21 application, with reasons for the delay, in writing.

13.22 (d) The agency may not issue a permit for a new disposal facility, as defined in
 13.23 section 115A.03, subdivision 10, or a permit to expand an existing disposal facility until
 13.24 all required local approval has been granted for the new or expanded facility.

13.25 Sec. 10. Minnesota Statutes 2012, section 116.072, subdivision 2, is amended to read:

13.26 Subd. 2. **Amount of penalty; considerations.** (a) The commissioner or county
 13.27 board may issue ~~an order~~ orders assessing a ~~penalty~~ penalties up to ~~\$10,000~~ \$20,000 for
 13.28 ~~all~~ violations identified during an inspection or other compliance review.

13.29 (b) In determining the amount of a penalty the commissioner or county board may
 13.30 consider:

13.31 (1) the willfulness of the violation;

13.32 (2) the gravity of the violation, including damage to humans, animals, air, water,
 13.33 land, or other natural resources of the state;

13.34 (3) the history of past violations;

13.35 (4) the number of violations;

14.1 (5) the economic benefit gained by the person by allowing or committing the
14.2 violation; and

14.3 (6) other factors as justice may require, if the commissioner or county board
14.4 specifically identifies the additional factors in the commissioner's or county board's order.

14.5 (c) For a violation after an initial violation, the commissioner or county board shall,
14.6 in determining the amount of a penalty, consider the factors in paragraph (b) and the:

14.7 (1) similarity of the most recent previous violation and the violation to be penalized;

14.8 (2) time elapsed since the last violation;

14.9 (3) number of previous violations; and

14.10 (4) response of the person to the most recent previous violation identified.

14.11 Sec. 11. Minnesota Statutes 2012, section 116.073, subdivision 1, is amended to read:

14.12 Subdivision 1. **Authority to issue.** (a) Pollution Control Agency staff designated
14.13 by the commissioner and Department of Natural Resources conservation officers may
14.14 issue citations to a person who:

14.15 (1) disposes of solid waste as defined in section 116.06, subdivision 22, at a location
14.16 not authorized by law for the disposal of solid waste without permission of the owner
14.17 of the property;

14.18 (2) fails to report or recover discharges as required under section 115.061;

14.19 (3) fails to take discharge preventive or preparedness measures required under
14.20 chapter 115E; ~~or~~

14.21 (4) fails to install or use vapor recovery equipment during the transfer of gasoline
14.22 from a transport delivery vehicle to an underground storage tank as required in section
14.23 116.49, subdivisions 3 and 4;²

14.24 (5) performs labor or services designing, installing, constructing, inspecting,
14.25 servicing, repairing, or operating a subsurface sewage treatment system (SSTS) as defined
14.26 in chapter 115 and has violated rules adopted under chapters 115 and 116 in any of the
14.27 following categories:

14.28 (i) failure to acquire or maintain a current state-issued SSTS license;

14.29 (ii) failure to acquire or maintain a current surety bond for SSTS activities;

14.30 (iii) failure to acquire or maintain a required local permit for SSTS activities; or

14.31 (iv) failure to submit SSTS as-built plans or compliance inspection forms to the
14.32 local governmental unit; or

14.33 (6) performs labor or services pumping, hauling, treating, spreading, dumping,
14.34 discharging, or land applying septage as defined in Minnesota Rules, part 7080.1100,

15.1 subpart 69, and has violated rules adopted under chapters 115 and 116 or Code of Federal
 15.2 Regulations, title 40, section 503, in any of the following categories:

- 15.3 (i) failure to acquire or maintain a current state-issued SSTS license;
 15.4 (ii) failure to acquire or maintain a current surety bond for SSTS activities;
 15.5 (iii) failure to provide control measures to prevent the pollution of underground
 15.6 waters from the discharge of septage into the saturated or unsaturated zone;
 15.7 (iv) failure to produce records or maintain records in accordance with Code of
 15.8 Federal Regulations, title 40, section 503; or
 15.9 (v) failure to treat septage for pathogens and vectors in accordance with Code of
 15.10 Federal Regulations, title 40, section 503.

15.11 (b) In addition, Pollution Control Agency staff designated by the commissioner may
 15.12 issue citations to owners and operators of facilities who violate sections 116.46 to 116.50
 15.13 and Minnesota Rules, chapters 7150 and 7151 and parts 7001.4200 to 7001.4300. A
 15.14 citation issued under this subdivision must include a requirement that the person cited
 15.15 remove and properly dispose of or otherwise manage the waste or discharged oil or
 15.16 hazardous substance, reimburse any government agency that has disposed of the waste or
 15.17 discharged oil or hazardous substance and contaminated debris for the reasonable costs of
 15.18 disposal, or correct any storage tank violations.

15.19 (c) Citations for violations of sections 115E.045 and 116.46 to 116.50 and Minnesota
 15.20 Rules, chapters 7150 and 7151, may be issued only after the owners and operators have
 15.21 had a 60-day period to correct violations stated in writing by Pollution Control Agency
 15.22 staff, unless there is a discharge associated with the violation or the violation is a repeat
 15.23 violation from a previous inspection.

15.24 Sec. 12. Minnesota Statutes 2012, section 116.073, subdivision 2, is amended to read:

15.25 Subd. 2. **Penalty amount.** The citation must impose the following penalty amounts:

- 15.26 (1) \$100 per major appliance, as defined in section 115A.03, subdivision 17a, up
 15.27 to a maximum of \$2,000;
 15.28 (2) \$25 per waste tire, as defined in section 115A.90, subdivision 11, up to a
 15.29 maximum of \$2,000;
 15.30 (3) \$25 per lead acid battery governed by section 115A.915, up to a maximum
 15.31 of \$2,000;
 15.32 (4) \$1 per pound of other solid waste or \$20 per cubic foot up to a maximum of \$2,000;
 15.33 (5) up to \$200 for any amount of waste that escapes from a vehicle used for the
 15.34 transportation of solid waste if, after receiving actual notice that waste has escaped the
 15.35 vehicle, the person or company transporting the waste fails to immediately collect the waste;

16.1 (6) \$50 per violation of rules adopted under section 116.49, relating to underground
16.2 storage tank system design, construction, installation, and notification requirements, up
16.3 to a maximum of \$2,000;

16.4 (7) \$500 per violation of rules adopted under section 116.49, relating to upgrading of
16.5 existing underground storage tank systems, up to a maximum of \$2,000 per tank system;

16.6 (8) \$250 per violation of rules adopted under section 116.49, relating to underground
16.7 storage tank system general operating requirements, up to a maximum of \$2,000;

16.8 (9) \$250 per violation of rules adopted under section 116.49, relating to underground
16.9 storage tank system release detection requirements, up to a maximum of \$2,000;

16.10 (10) \$50 per violation of rules adopted under section 116.49, relating to
16.11 out-of-service underground storage tank systems and closure, up to a maximum of \$2,000;

16.12 (11) \$50 per violation of sections 116.48 to 116.491 relating to underground storage
16.13 tank system notification, monitoring, environmental protection, and tank installers training
16.14 and certification requirements, up to a maximum of \$2,000;

16.15 (12) \$25 per gallon of oil or hazardous substance discharged which is not reported or
16.16 recovered under section 115.061, up to a maximum of \$2,000;

16.17 (13) \$1 per gallon of oil or hazardous substance being stored, transported, or
16.18 otherwise handled without the prevention or preparedness measures required under
16.19 chapter 115E, up to a maximum of \$2,000;

16.20 (14) \$250 per violation of Minnesota Rules, parts 7001.4200 to 7001.4300 or chapter
16.21 7151, related to aboveground storage tank systems, up to a maximum of \$2,000; and

16.22 (15) \$250 per delivery made in violation of section 116.49, subdivision 3 or 4,
16.23 levied against:

16.24 (i) the retail location if vapor recovery equipment is not installed or maintained
16.25 properly;

16.26 (ii) the carrier if the transport delivery vehicle is not equipped with vapor recovery
16.27 equipment; or

16.28 (iii) the driver for failure to use supplied vapor recovery equipment;

16.29 (16) \$500 per violation of rules adopted under chapters 115 and 116 relating
16.30 to failure to comply with state subsurface sewage treatment system (SSTS) license
16.31 requirements, up to a maximum of \$2,000;

16.32 (17) \$500 per violation of rules adopted under chapters 115 and 116 relating to
16.33 failure to comply with SSTS surety bond requirements, up to a maximum of \$2,000;

16.34 (18) \$500 per violation of rules adopted under chapters 115 and 116 relating to
16.35 failure to provide control measures to prevent the pollution of underground waters from the
16.36 discharge of septage into the saturated or unsaturated zone, up to a maximum of \$2,000;

17.1 (19) \$500 per violation of rules adopted under chapters 115 and 116 or Code of
 17.2 Federal Regulations, title 40, section 503, relating to failure to treat septage for pathogens
 17.3 and vectors, up to a maximum of \$2,000;

17.4 (20) \$250 per violation of rules adopted under chapters 115 and 116 or Code of
 17.5 Federal Regulations, title 40, section 503, relating to failure to produce records or maintain
 17.6 records, up to a maximum of \$2,000;

17.7 (21) \$250 per violation of rules adopted under chapters 115 and 116 or Code of
 17.8 Federal Regulations, title 40, section 503, relating to failure to submit as-built plans or
 17.9 compliance inspection forms to the local governmental unit, up to a maximum of \$2,000;
 17.10 and

17.11 (22) \$500 per violation of rules adopted under chapters 115 and 116 relating to
 17.12 failure to obtain required local permits, up to a maximum of \$2,000.

17.13 Sec. 13. Minnesota Statutes 2012, section 116J.035, subdivision 8, is amended to read:

17.14 Subd. 8. **Minnesota Business First Stop.** (a) The commissioner of employment and
 17.15 economic development shall, through the multiagency collaboration called "Minnesota
 17.16 Business First Stop," ensure the coordination, development, implementation, and
 17.17 administration of state permits, including:

17.18 (1) establishing a mechanism in state government that will coordinate administrative
 17.19 decision-making procedures and related quasijudicial and judicial review pertaining to
 17.20 permits related to the state's air, land, and water resources;

17.21 (2) providing coordination and understanding between federal, state, and local
 17.22 governmental units in the administration of the various programs relating to air, water,
 17.23 and land resources;

17.24 (3) identifying all existing state permits, reviews, and other approvals, compliance
 17.25 schedules, or other programs that pertain to the use of natural resources and protection
 17.26 of the environment; and

17.27 (4) recommending legislative or administrative modifications to existing permit
 17.28 programs to increase their efficiency and utility.

17.29 (b) A person proposing a project may apply to Minnesota Business First Stop for
 17.30 assistance in obtaining necessary state permits, reviews, and other approvals. Upon
 17.31 request, the commissioner shall to the extent practicable:

17.32 (1) provide a list of all federal, state, and local permits and other required reviews
 17.33 and approvals for the project;

18.1 (2) provide a plan that will coordinate federal, state, and local administrative
18.2 decision-making practices, including monitoring, analysis and reporting, public comments
18.3 and hearings, and issuances of permits and approvals;

18.4 (3) provide a timeline for the issuance of all federal, state, and local permits and
18.5 other reviews and approvals required for the project;

18.6 (4) coordinate the execution of any memorandum of understanding between the
18.7 person proposing a project and any federal, state, or local agency;

18.8 (5) coordinate all federal, state, or local public comment periods and hearings; and

18.9 (6) provide other assistance requested to facilitate final approval and issuance of all
18.10 federal, state, and local permits and other approvals required for the project.

18.11 (c) Notwithstanding section 16A.1283, as necessary, the commissioner may negotiate
18.12 a schedule to assess the project proposer for reasonable costs that any state agency incurs
18.13 in ~~coordinating~~ the coordination, development, implementation, and administration of
18.14 state permits, and the proposer shall pay the assessed costs to the commissioner. Money
18.15 received by the commissioner must be credited to an account in the special revenue fund
18.16 and is appropriated to the commissioner to cover the assessed costs incurred.

18.17 (d) Reimbursement by a project proposer shall precede and not be contingent upon
18.18 issuance of a permit and shall not affect any state agency's decision on whether to issue or
18.19 deny a permit, what conditions are included in a permit, or the application of state and
18.20 federal statutes and rules governing permit determinations.

18.21 (e) The coordination of the development, implementation, and administration of
18.22 state permits is not governmental action under section 116D.04.

18.23 Sec. 14. **RULEMAKING.**

18.24 (a) The commissioner of the Pollution Control Agency shall amend Minnesota Rules,
18.25 chapter 7001, to extend permit terms not to exceed ten years for solid waste management
18.26 facilities and shall otherwise amend Minnesota Rules to conform with section 4.

18.27 (b) To make the rule changes directed in paragraph (a), the commissioner of the
18.28 Pollution Control Agency may use the good cause exemption under Minnesota Statutes,
18.29 section 14.388, subdivision 1, clause (3), and Minnesota Statutes, section 14.386, does not
18.30 apply, except as provided in Minnesota Statutes, section 14.388.