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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 1239

02/14/2019 Authored by Wagenius, Schultz, Gunther, Loeffler, Liebling and others
The bill was read for the first time and referred to the Committee on Environment and Natural Resources Policy

1.1 A bill for an act
1.2 relating to health; directing the commissioner of health to test for contaminants in
1.3 certain surface water used as drinking water; requiring identification and
1.4 implementation of source water protection strategies; directing the commissioner
1.5 of health to adopt health risk limits for certain substances; requiring reports;
1.6 appropriating money; amending Minnesota Statutes 2018, section 144.382, by
1.7 adding subdivisions; proposing coding for new law in Minnesota Statutes, chapter
1.8 144.

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

1.10 Section 1. Minnesota Statutes 2018, section 144.382, is amended by adding a subdivision
1.11 to read:

1.12 Subd. 2a. Community water system. Community water system has the meaning
1.13 given in United States Code, title 42, section 300(f)(15).

1.14 Sec. 2. Minnesota Statutes 2018, section 144.382, is amended by adding a subdivision to
1.15 read:

1.16 Subd. 3a. Finished water. Finished water has the meaning given in Code of Federal
1.17 Regulations, title 40, section 141.2.

1.18 Sec. 3. Minnesota Statutes 2018, section 144.382, is amended by adding a subdivision to
1.19 read:

1.20 Subd. 6. Surface water. Surface water has the meaning given in Code of Federal
1.21 Regulations, title 40, section 141.2.

2.1       Sec. 4. **[144.3835] TESTING REQUIREMENTS; COMMUNITY WATER SYSTEMS**  
2.2       **THAT USE SURFACE WATER AS A DRINKING WATER SOURCE.**

2.3       Subdivision 1. Testing surface water for contaminants. The commissioner of health,  
2.4       in consultation with the commissioners of agriculture and the Pollution Control Agency,  
2.5       must develop and implement a schedule to conduct periodic, ongoing testing of the surface  
2.6       water, used by a community water system as a drinking water source, for drinking water  
2.7       contaminants.

2.8       Subd. 2. Community water systems subject to testing. (a) Except as provided in  
2.9       paragraph (b), the surface water of each of the following community water systems that use  
2.10       surface water as a drinking water source must be tested in the schedule developed under  
2.11       this section:

2.12       (1) Aurora;

2.13       (2) Beaver Bay;

2.14       (3) Biwabik;

2.15       (4) Burnsville;

2.16       (5) Chisholm;

2.17       (6) Duluth;

2.18       (7) East Grand Forks;

2.19       (8) Ely;

2.20       (9) Eveleth;

2.21       (10) Fairmont;

2.22       (11) Fergus Falls;

2.23       (12) Grand Marais;

2.24       (13) Hoyt Lakes;

2.25       (14) International Falls;

2.26       (15) Mankato;

2.27       (16) Minneapolis;

2.28       (17) Moorhead;

2.29       (18) St. Cloud;

3.1 (19) St. Paul;

3.2 (20) Silver Bay;

3.3 (21) Thief River Falls;

3.4 (22) Two Harbors; and

3.5 (23) Virginia.

3.6 (b) The commissioner may modify the list of community water systems in paragraph

3.7 (a) as needed in order to test all community water systems that currently use surface water  
3.8 as a drinking water source.

3.9 Subd. 3. Contaminants. (a) In the schedule developed under this section, surface water  
3.10 must be tested for at least the following contaminants:

3.11 (1) microbiological contaminants regulated under Code of Federal Regulations, title 40,  
3.12 part 141;

3.13 (2) the following pesticides and their degradants: acetochlor, alachlor, atrazine,  
3.14 metolachlor, metribuzin, clothianidin, imidacloprid, thiamethoxam, and chlorpyrifos;

3.15 (3) nitrates;

3.16 (4) the pharmaceuticals identified by the Pollution Control Agency as part of the agency's  
3.17 2008 and 2013 work sampling and identifying pharmaceuticals present in Minnesota's lakes  
3.18 and rivers;

3.19 (5) microplastics;

3.20 (6) tributyltin, brominated flame retardants, phthalates, bisphenols, lead, methyl mercury,  
3.21 and any other chemicals more likely than not to have an adverse effect on a child's  
3.22 development; and

3.23 (7) other contaminants that are currently unregulated by the commissioner or the United  
3.24 States Environmental Protection Agency, but that are designated by the commissioner for  
3.25 testing under this subdivision, according to the process in paragraph (b).

3.26 (b) The commissioner shall use a clear, transparent process to designate additional  
3.27 contaminants for testing under this subdivision and as part of the designation process shall  
3.28 consult with a technical advisory team comprised of scientific experts. Contaminants that  
3.29 may be considered by the commissioner for designation include:

3.30 (1) a contaminant of significant toxicity or exposure based on use or sales in the state  
3.31 of a product containing the contaminant; and

4.1 (2) a contaminant for which a health risk limit, health-based value, or risk assessment  
 4.2 advice has been established in the state.

4.3 (c) In the schedule developed under this section, surface water samples must be collected  
 4.4 from the intake locations of each community water system listed in subdivision 2 and from  
 4.5 other locations identified as a potential contamination source of the surface water used as  
 4.6 a drinking water source. Samples must be collected and tested several times each calendar  
 4.7 year, including when contaminant levels are projected to be at peak levels.

4.8 Subd. 4. **Testing for contaminants in finished water.** The commissioner may require  
 4.9 a community water system to test its finished water for any contaminants listed in or  
 4.10 designated according to subdivision 3 that were detected in testing of the community water  
 4.11 system's surface water under subdivisions 1 to 3, or the relevant by-products of contaminants  
 4.12 that were detected in testing under subdivisions 1 to 3.

4.13 Subd. 5. **Source water protection strategies.** (a) If the commissioner determines that  
 4.14 surface water used by a community water system as a drinking water source requires  
 4.15 additional protection to limit or eliminate contaminants in the surface water, the commissioner  
 4.16 must identify and implement effective source water protection strategies, including  
 4.17 on-the-ground practices and regulatory strategies, as necessary to protect the public health.

4.18 (b) If the commissioner determines that additional resources are needed to implement  
 4.19 source water protection strategies under this subdivision, the commissioner shall report to  
 4.20 the Clean Water Council and the members of the legislative committees with jurisdiction  
 4.21 over drinking water on the amount of resources needed and the purposes for which the  
 4.22 resources will be used.

4.23 Subd. 6. **Report.** By February 15, 2021, and every odd year thereafter, the commissioner  
 4.24 must submit a report on the status and results of the testing required by this section to the  
 4.25 legislative committees with jurisdiction over health and the environment and natural  
 4.26 resources. This report must also be made easily available for viewing by the public.

4.27 Sec. 5. **SOURCE WATER PROTECTION STRATEGIES.**

4.28 (a) The commissioner of health must:

4.29 (1) review source water protection plans for locations in other states that use surface  
 4.30 water as a drinking water source, including New York, New York; Boston, Massachusetts;  
 4.31 and Portland, Maine;

4.32 (2) identify effective source water protections strategies, including on-the-ground practices  
 4.33 and regulatory strategies, used in the locations reviewed by the commissioner; and

5.1 (3) implement source water protection strategies identified under clause (2), as necessary  
 5.2 to protect the public health.

5.3 (b) To implement this section, the commissioner may use the authority in Minnesota  
 5.4 Statutes, chapter 144.

5.5 (c) If the commissioner determines that additional resources are needed to implement  
 5.6 source water protection strategies under this section, the commissioner shall report to the  
 5.7 Clean Water Council and the members of the legislative committees with jurisdiction over  
 5.8 drinking water on the amount of resources needed and the purposes for which they will be  
 5.9 used.

5.10 **Sec. 6. DIRECTION TO COMMISSIONER OF HEALTH; HEALTH RISK LIMITS.**

5.11 (a) By September 30, 2021, the commissioner of health must adopt health risk limits  
 5.12 for:

5.13 (1) the following neonicotinoids: clothianidin, imidacloprid, and thiamethoxam;

5.14 (2) N-nitrosodimethylamine (NDMA); and

5.15 (3) the commonly found degradants of the following pesticides: acetochlor, alachlor,  
 5.16 atrazine, chlorpyrifos, metolachlor, and metribuzin.

5.17 (b) Health risk limits adopted under this section must comply with Minnesota Statutes,  
 5.18 section 144.0751, requiring reasonable margins of safety for the protection of infants,  
 5.19 children, and adults.

5.20 (c) To implement this section, the commissioner may use the authority in Minnesota  
 5.21 Statutes, chapter 144.

5.22 **Sec. 7. APPROPRIATIONS.**

5.23 (a) \$..... in fiscal year 2020 and \$..... in fiscal year 2021 are appropriated from the  
 5.24 clean water fund to the commissioner of health for the activities required in Minnesota  
 5.25 Statutes, section 144.3835.

5.26 (b) \$..... in fiscal year 2020 and \$..... in fiscal year 2021 are appropriated from the  
 5.27 clean water fund to the commissioner of health to review source water protection plans in  
 5.28 other states and identify and implement effective source water protection strategies.

5.29 (c) \$..... in fiscal year 2020 and \$..... in fiscal year 2021 are appropriated from the  
 5.30 clean water fund to the commissioner of health to adopt health risk limits for specified  
 5.31 contaminants and pesticides. This is a onetime appropriation.