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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 4170

03/22/2018 Authored by Swedzinski, Garofalo, Hamilton, Torkelson, Ecklund and others
The bill was read for the first time and referred to the Committee on Environment and Natural Resources Policy and Finance

1.1 A bill for an act
1.2 relating to environment; prohibiting use of ambient air quality standards as
1.3 individual facility standards; specifying requirements for documenting proposals
1.4 to implement pollution standards more stringent than comparable federal standards;
1.5 amending Minnesota Statutes 2016, section 116.07, subdivision 2.

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

1.7 Section 1. Minnesota Statutes 2016, section 116.07, subdivision 2, is amended to read:

1.8 Subd. 2. **Adopting standards.** (a) The Pollution Control Agency shall improve air
1.9 quality by promoting, in the most practicable way possible, the use of energy sources and
1.10 waste disposal methods which produce or emit the least air contaminants consistent with
1.11 the agency's overall goal of reducing all forms of pollution. The agency shall also adopt
1.12 standards of air quality, including maximum allowable standards of emission of air
1.13 contaminants from motor vehicles, recognizing that due to variable factors, no single standard
1.14 of purity of air is applicable to all areas of the state. In adopting standards the Pollution
1.15 Control Agency shall give due recognition to the fact that the quantity or characteristics of
1.16 air contaminants or the duration of their presence in the atmosphere, which may cause air
1.17 pollution in one area of the state, may cause less or not cause any air pollution in another
1.18 area of the state, and it shall take into consideration in this connection such factors, including
1.19 others which it may deem proper, as existing physical conditions, zoning classifications,
1.20 topography, prevailing wind directions and velocities, and the fact that a standard of air
1.21 quality which may be proper as to an essentially residential area of the state, may not be
1.22 proper as to a highly developed industrial area of the state. Such standards of air quality
1.23 shall be premised upon scientific knowledge of causes as well as effects based on technically
1.24 substantiated criteria and commonly accepted practices. No local government unit shall set

2.1 standards of air quality which are more stringent than those set by the Pollution Control
2.2 Agency. Consistent with this recognition of the variability of air contamination levels and
2.3 conditions across the state, the agency must not apply or enforce a national or state ambient
2.4 air quality standard as an applicable standard for an individual source under an individual
2.5 facility permit issued pursuant to Code of Federal Regulations, title 40, part 70, unless the
2.6 permittee is a temporary source issued a permit under United States Code, title 42, section
2.7 7661c, paragraph (e).

2.8 (b) The Pollution Control Agency shall promote solid waste disposal control by
2.9 encouraging the updating of collection systems, elimination of open dumps, and
2.10 improvements in incinerator practices. The agency shall also adopt standards for the control
2.11 of the collection, transportation, storage, processing, and disposal of solid waste and sewage
2.12 sludge for the prevention and abatement of water, air, and land pollution, recognizing that
2.13 due to variable factors, no single standard of control is applicable to all areas of the state.
2.14 In adopting standards, the Pollution Control Agency shall give due recognition to the fact
2.15 that elements of control which may be reasonable and proper in densely populated areas of
2.16 the state may be unreasonable and improper in sparsely populated or remote areas of the
2.17 state, and it shall take into consideration in this connection such factors, including others
2.18 which it may deem proper, as existing physical conditions, topography, soils and geology,
2.19 climate, transportation, and land use. Such standards of control shall be premised on technical
2.20 criteria and commonly accepted practices.

2.21 (c) The Pollution Control Agency shall also adopt standards describing the maximum
2.22 levels of noise in terms of sound pressure level which may occur in the outdoor atmosphere,
2.23 recognizing that due to variable factors no single standard of sound pressure is applicable
2.24 to all areas of the state. Such standards shall give due consideration to such factors as the
2.25 intensity of noises, the types of noises, the frequency with which noises recur, the time
2.26 period for which noises continue, the times of day during which noises occur, and such
2.27 other factors as could affect the extent to which noises may be injurious to human health
2.28 or welfare, animal or plant life, or property, or could interfere unreasonably with the
2.29 enjoyment of life or property. In adopting standards, the Pollution Control Agency shall
2.30 give due recognition to the fact that the quantity or characteristics of noise or the duration
2.31 of its presence in the outdoor atmosphere, which may cause noise pollution in one area of
2.32 the state, may cause less or not cause any noise pollution in another area of the state, and
2.33 it shall take into consideration in this connection such factors, including others which it
2.34 may deem proper, as existing physical conditions, zoning classifications, topography,
2.35 meteorological conditions and the fact that a standard which may be proper in an essentially

3.1 residential area of the state, may not be proper as to a highly developed industrial area of
3.2 the state. Such noise standards shall be premised upon scientific knowledge as well as effects
3.3 based on technically substantiated criteria and commonly accepted practices. No local
3.4 governing unit shall set standards describing the maximum levels of sound pressure which
3.5 are more stringent than those set by the Pollution Control Agency.

3.6 (d) The Pollution Control Agency shall adopt standards for the identification of hazardous
3.7 waste and for the management, identification, labeling, classification, storage, collection,
3.8 transportation, processing, and disposal of hazardous waste, recognizing that due to variable
3.9 factors, a single standard of hazardous waste control may not be applicable to all areas of
3.10 the state. In adopting standards, the Pollution Control Agency shall recognize that elements
3.11 of control which may be reasonable and proper in densely populated areas of the state may
3.12 be unreasonable and improper in sparsely populated or remote areas of the state. The agency
3.13 shall consider existing physical conditions, topography, soils, and geology, climate,
3.14 transportation and land use. Standards of hazardous waste control shall be premised on
3.15 technical knowledge, and commonly accepted practices. Hazardous waste generator licenses
3.16 may be issued for a term not to exceed five years. No local government unit shall set
3.17 standards of hazardous waste control which are in conflict or inconsistent with those set by
3.18 the Pollution Control Agency.

3.19 (e) A person who generates less than 100 kilograms of hazardous waste per month is
3.20 exempt from the following agency hazardous waste rules:

3.21 (1) rules relating to transportation, manifesting, storage, and labeling for photographic
3.22 fixer and x-ray negative wastes that are hazardous solely because of silver content; and

3.23 (2) any rule requiring the generator to send to the agency or commissioner a copy of
3.24 each manifest for the transportation of hazardous waste for off-site treatment, storage, or
3.25 disposal, except that counties within the metropolitan area may require generators to provide
3.26 manifests.

3.27 Nothing in this paragraph exempts the generator from the agency's rules relating to on-site
3.28 accumulation or outdoor storage. A political subdivision or other local unit of government
3.29 may not adopt management requirements that are more restrictive than this paragraph.

3.30 (f) In any rulemaking proceeding under chapter 14 to adopt standards for air quality,
3.31 solid waste, or hazardous waste under this chapter, or standards for water quality under
3.32 chapter 115, the statement of need and reasonableness must include:

3.33 (1) an assessment of any differences between the proposed rule and:

4.1 (i) existing federal standards adopted under the Clean Air Act, United States Code, title
4.2 42, section 7412(b)(2); the Clean Water Act, United States Code, title 33, sections 1312(a)
4.3 and 1313(c)(4); and the Resource Conservation and Recovery Act, United States Code, title
4.4 42, section 6921(b)(1);

4.5 (ii) similar standards in states bordering Minnesota; and

4.6 (iii) similar standards in states within the Environmental Protection Agency Region 5;
4.7 and

4.8 (2) a specific analysis of the need and reasonableness of each difference.

4.9 If the proposed standards in a rulemaking subject to this paragraph are more stringent than
4.10 comparable federal standards, the statement of need and reasonableness must, in addition
4.11 to the requirements of this paragraph, include documentation that the federal standard does
4.12 not provide adequate protection for public health and the environment.

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