

**SENATE
STATE OF MINNESOTA
NINETY-SECOND SESSION**

S.F. No. 1797

(SENATE AUTHORS: DIBBLE)

DATE
03/04/2021

D-PG

OFFICIAL STATUS
Introduction and first reading
Referred to Environment and Natural Resources Policy and Legacy Finance

1.1 A bill for an act
1.2 relating to environment; clarifying that Pollution Control Agency has authority to
1.3 regulate greenhouse gas emissions; amending Minnesota Statutes 2020, sections
1.4 116.06, by adding a subdivision; 116.07, subdivisions 2, 4, 4a.

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

1.6 Section 1. Minnesota Statutes 2020, section 116.06, is amended by adding a subdivision
1.7 to read:

1.8 Subd. 10a. Greenhouse gases. "Greenhouse gases" means carbon dioxide, methane,
1.9 nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

1.10 Sec. 2. Minnesota Statutes 2020, section 116.07, subdivision 2, is amended to read:

1.11 Subd. 2. **Adopting standards.** (a) The Pollution Control Agency shall improve air
1.12 quality by promoting, in the most practicable way possible, the use of energy sources and
1.13 waste disposal methods ~~which~~ that produce or emit the least greenhouse gases and other air
1.14 contaminants consistent with the agency's overall goal of reducing all forms of pollution.
1.15 The agency shall also adopt standards of air quality, including maximum allowable standards
1.16 of emission of air contaminants from motor vehicles, recognizing that due to variable factors,
1.17 no single standard of purity of air is applicable to all areas of the state. In adopting standards
1.18 the Pollution Control Agency shall give due recognition to the fact that the quantity or
1.19 characteristics of air contaminants or the duration of their presence in the atmosphere, which
1.20 may cause air pollution in one area of the state, may cause less or not cause any air pollution
1.21 in another area of the state, and it shall take into consideration in this connection such factors,
1.22 including others which it may deem proper, as existing physical conditions, zoning
1.23 classifications, topography, prevailing wind directions and velocities, and the fact that a

2.1 standard of air quality which may be proper as to an essentially residential area of the state,
2.2 may not be proper as to a highly developed industrial area of the state. Such standards of
2.3 air quality shall be premised upon scientific knowledge of causes as well as effects based
2.4 on technically substantiated criteria and commonly accepted practices. No local government
2.5 unit shall set standards of air quality which are more stringent than those set by the Pollution
2.6 Control Agency.

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

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

3.1 the state. Such noise standards shall be premised upon scientific knowledge as well as effects
3.2 based on technically substantiated criteria and commonly accepted practices. No local
3.3 governing unit shall set standards describing the maximum levels of sound pressure which
3.4 are more stringent than those set by the Pollution Control Agency.

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

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

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

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

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

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

3.32 (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 Sec. 3. Minnesota Statutes 2020, section 116.07, subdivision 4, is amended to read:

4.10 Subd. 4. **Rules and standards.** (a) Pursuant and subject to the provisions of chapter 14,
4.11 and the provisions hereof, the Pollution Control Agency may adopt, amend and rescind
4.12 rules and standards having the force of law relating to any purpose within the provisions of
4.13 Laws 1967, chapter 882, for the prevention, abatement, or control of air pollution. Any such
4.14 rule or standard may be of general application throughout the state, or may be limited as to
4.15 times, places, circumstances, or conditions in order to make due allowance for variations
4.16 therein. Without limitation, rules or standards may relate to sources or emissions of
4.17 greenhouse gases, air contamination, or air pollution; to the quality or composition of such
4.18 emissions; or to the quality of or composition of the ambient air or outdoor atmosphere; or
4.19 to any other matter relevant to the prevention, abatement, or control of air pollution.

4.20 (b) Pursuant and subject to the provisions of chapter 14, and the provisions hereof, the
4.21 Pollution Control Agency may adopt, amend, and rescind rules and standards having the
4.22 force of law relating to any purpose within the provisions of Laws 1969, chapter 1046, for
4.23 the collection, transportation, storage, processing, and disposal of solid waste and the
4.24 prevention, abatement, or control of water, air, and land pollution which may be related
4.25 thereto, and the deposit in or on land of any other material that may tend to cause pollution.
4.26 The agency shall adopt such rules and standards for sewage sludge, addressing the intrinsic
4.27 suitability of land, the volume and rate of application of sewage sludge of various degrees
4.28 of intrinsic hazard, design of facilities, and operation of facilities and sites. Any such rule
4.29 or standard may be of general application throughout the state or may be limited as to times,
4.30 places, circumstances, or conditions in order to make due allowance for variations therein.
4.31 Without limitation, rules or standards may relate to collection, transportation, processing,
4.32 disposal, equipment, location, procedures, methods, systems or techniques or to any other
4.33 matter relevant to the prevention, abatement or control of water, air, and land pollution
4.34 which may be advised through the control of collection, transportation, processing, and

5.1 disposal of solid waste and sewage sludge, and the deposit in or on land of any other material
5.2 that may tend to cause pollution. By January 1, 1983, the rules for the management of
5.3 sewage sludge shall include an analysis of the sewage sludge determined by the commissioner
5.4 of agriculture to be necessary to meet the soil amendment labeling requirements of section
5.5 18C.215.

5.6 (c) The rules for the disposal of solid waste shall include site-specific criteria to prohibit
5.7 solid waste disposal based on the area's sensitivity to groundwater contamination, including
5.8 site-specific testing. The rules shall provide criteria for locating landfills based on a site's
5.9 sensitivity to groundwater contamination. Sensitivity to groundwater contamination is based
5.10 on the predicted minimum time of travel of groundwater contaminants from the solid waste
5.11 to the compliance boundary. The rules shall prohibit landfills in areas where karst is likely
5.12 to develop. The rules shall specify testable or otherwise objective thresholds for these criteria.
5.13 The rules shall also include modifications to financial assurance requirements under
5.14 subdivision 4h that ensure the state is protected from financial responsibility for future
5.15 groundwater contamination. The modifications to the financial assurance rules specified in
5.16 this paragraph must require that a solid waste disposal facility subject to them maintain
5.17 financial assurance so long as the facility poses a potential environmental risk to human
5.18 health, wildlife, or the environment, as determined by the agency following an empirical
5.19 assessment. The financial assurance and siting modifications to the rules specified in this
5.20 paragraph do not apply to:

5.21 (1) solid waste facilities initially permitted before January 1, 2011, including future
5.22 contiguous expansions and noncontiguous expansions within 600 yards of a permitted
5.23 boundary;

5.24 (2) solid waste disposal facilities that accept only construction and demolition debris
5.25 and incidental nonrecyclable packaging, and facilities that accept only industrial waste that
5.26 is limited to wood, concrete, porcelain fixtures, shingles, or window glass resulting from
5.27 the manufacture of construction materials; and

5.28 (3) requirements for permit by rule solid waste disposal facilities.

5.29 (d) Until the rules are modified as provided in paragraph (c) to include site-specific
5.30 criteria to prohibit areas from solid waste disposal due to groundwater contamination
5.31 sensitivity, as required under this section, the agency shall not issue a permit for a new solid
5.32 waste disposal facility, except for:

5.33 (1) the reissuance of a permit for a land disposal facility operating as of March 1, 2008;

6.1 (2) a permit to expand a land disposal facility operating as of March 1, 2008, beyond its
6.2 permitted boundaries, including expansion on land that is not contiguous to, but is located
6.3 within 600 yards of, the land disposal facility's permitted boundaries;

6.4 (3) a permit to modify the type of waste accepted at a land disposal facility operating as
6.5 of March 1, 2008;

6.6 (4) a permit to locate a disposal facility that accepts only construction debris as defined
6.7 in section 115A.03, subdivision 7;

6.8 (5) a permit to locate a disposal facility that:

6.9 (i) accepts boiler ash from an electric energy power plant that has wet scrubbed units or
6.10 has units that have been converted from wet scrubbed units to dry scrubbed units as those
6.11 terms are defined in section 216B.68;

6.12 (ii) is on land that was owned on May 1, 2008, by the utility operating the electric energy
6.13 power plant; and

6.14 (iii) is located within three miles of the existing ash disposal facility for the power plant;
6.15 or

6.16 (6) a permit to locate a new solid waste disposal facility for ferrous metallic minerals
6.17 regulated under Minnesota Rules, chapter 6130, or for nonferrous metallic minerals regulated
6.18 under Minnesota Rules, chapter 6132.

6.19 (e) Pursuant and subject to the provisions of chapter 14, and the provisions hereof, the
6.20 Pollution Control Agency may adopt, amend and rescind rules and standards having the
6.21 force of law relating to any purpose within the provisions of Laws 1971, chapter 727, for
6.22 the prevention, abatement, or control of noise pollution. Any such rule or standard may be
6.23 of general application throughout the state, or may be limited as to times, places,
6.24 circumstances or conditions in order to make due allowances for variations therein. Without
6.25 limitation, rules or standards may relate to sources or emissions of noise or noise pollution,
6.26 to the quality or composition of noises in the natural environment, or to any other matter
6.27 relevant to the prevention, abatement, or control of noise pollution.

6.28 (f) As to any matters subject to this chapter, local units of government may set emission
6.29 regulations with respect to stationary sources which are more stringent than those set by
6.30 the Pollution Control Agency.

6.31 (g) Pursuant to chapter 14, the Pollution Control Agency may adopt, amend, and rescind
6.32 rules and standards having the force of law relating to any purpose within the provisions of
6.33 this chapter for generators of hazardous waste, the management, identification, labeling,

7.1 classification, storage, collection, treatment, transportation, processing, and disposal of
7.2 hazardous waste and the location of hazardous waste facilities. A rule or standard may be
7.3 of general application throughout the state or may be limited as to time, places, circumstances,
7.4 or conditions. In implementing its hazardous waste rules, the Pollution Control Agency
7.5 shall give high priority to providing planning and technical assistance to hazardous waste
7.6 generators. The agency shall assist generators in investigating the availability and feasibility
7.7 of both interim and long-term hazardous waste management methods. The methods shall
7.8 include waste reduction, waste separation, waste processing, resource recovery, and
7.9 temporary storage.

7.10 (h) The Pollution Control Agency shall give highest priority in the consideration of
7.11 permits to authorize disposal of diseased shade trees by open burning at designated sites to
7.12 evidence concerning economic costs of transportation and disposal of diseased shade trees
7.13 by alternative methods.

7.14 Sec. 4. Minnesota Statutes 2020, section 116.07, subdivision 4a, is amended to read:

7.15 Subd. 4a. **Permits.** (a) The Pollution Control Agency may issue, continue in effect or
7.16 deny permits, under such conditions as it may prescribe for the prevention of pollution, for
7.17 the emission of greenhouse gases or other air contaminants~~;~~ for the installation or
7.18 operation of any emission facility, air contaminant treatment facility, treatment facility,
7.19 potential air contaminant storage facility, or storage facility, or any part thereof~~;~~ or for the
7.20 sources or emissions of noise pollution.

7.21 (b) The Pollution Control Agency may also issue, continue in effect or deny permits,
7.22 under such conditions as it may prescribe for the prevention of pollution, for the storage,
7.23 collection, transportation, processing, or disposal of waste, or for the installation or operation
7.24 of any system or facility, or any part thereof, related to the storage, collection, transportation,
7.25 processing, or disposal of waste.

7.26 (c) The agency may not issue a permit to a facility without analyzing and considering
7.27 the cumulative levels and effects of past and current environmental pollution from all sources
7.28 on the environment and residents of the geographic area within which the facility's emissions
7.29 are likely to be deposited, provided that the facility is located in a community in a city of
7.30 the first class in Hennepin County that meets all of the following conditions:

7.31 (1) is within a half mile of a site designated by the federal government as an EPA
7.32 superfund site due to residential arsenic contamination;

7.33 (2) a majority of the population are low-income persons of color and American Indians;

8.1 (3) a disproportionate percent of the children have childhood lead poisoning, asthma,
8.2 or other environmentally related health problems;

8.3 (4) is located in a city that has experienced numerous air quality alert days of dangerous
8.4 air quality for sensitive populations between February 2007 and February 2008; and

8.5 (5) is located near the junctions of several heavily trafficked state and county highways
8.6 and two one-way streets which carry both truck and auto traffic.

8.7 (d) The Pollution Control Agency may revoke or modify any permit issued under this
8.8 subdivision and section 116.081 whenever it is necessary, in the opinion of the agency, to
8.9 prevent or abate pollution.

8.10 (e) The Pollution Control Agency has the authority for approval over the siting, expansion,
8.11 or operation of a solid waste facility with regard to environmental issues. However, the
8.12 agency's issuance of a permit does not release the permittee from any liability, penalty, or
8.13 duty imposed by any applicable county ordinances. Nothing in this chapter precludes, or
8.14 shall be construed to preclude, a county from enforcing land use controls, regulations, and
8.15 ordinances existing at the time of the permit application and adopted pursuant to sections
8.16 366.10 to 366.181, 394.21 to 394.37, or 462.351 to 462.365, with regard to the siting,
8.17 expansion, or operation of a solid waste facility.

8.18 (f) Except as prohibited by federal law, a person may commence construction,
8.19 reconstruction, replacement, or modification of any facility prior to the issuance of a
8.20 construction permit by the agency.