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State of Minnesota
HOUSE OF REPRESENTATIVES

**EIGHTY-SIXTH
SESSION**

HOUSE FILE No. 3367

March 4, 2010

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The bill was read for the first time and referred to the Committee on Environment Policy and Oversight

1.1 A bill for an act
1.2 relating to the environment; modifying requirements for solid waste disposal
1.3 facilities; amending Minnesota Statutes 2008, section 116.07, subdivisions 4, 4h.

1.4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:**

1.5 Section 1. Minnesota Statutes 2008, section 116.07, subdivision 4, is amended to read:

1.6 Subd. 4. **Rules and standards.** Pursuant and subject to the provisions of chapter 14,
1.7 and the provisions hereof, the Pollution Control Agency may adopt, amend and rescind
1.8 rules and standards having the force of law relating to any purpose within the provisions
1.9 of Laws 1967, chapter 882, for the prevention, abatement, or control of air pollution.

1.10 Any such rule or standard may be of general application throughout the state, or may be
1.11 limited as to times, places, circumstances, or conditions in order to make due allowance
1.12 for variations therein. Without limitation, rules or standards may relate to sources or
1.13 emissions of air contamination or air pollution, to the quality or composition of such
1.14 emissions, or to the quality of or composition of the ambient air or outdoor atmosphere or
1.15 to any other matter relevant to the prevention, abatement, or control of air pollution.

1.16 Pursuant and subject to the provisions of chapter 14, and the provisions hereof, the
1.17 Pollution Control Agency may adopt, amend, and rescind rules and standards having the
1.18 force of law relating to any purpose within the provisions of Laws 1969, chapter 1046,
1.19 for the collection, transportation, storage, processing, and disposal of solid waste and the
1.20 prevention, abatement, or control of water, air, and land pollution which may be related
1.21 thereto, and the deposit in or on land of any other material that may tend to cause pollution.
1.22 The agency shall adopt such rules and standards for sewage sludge, addressing the intrinsic
1.23 suitability of land, the volume and rate of application of sewage sludge of various degrees
1.24 of intrinsic hazard, design of facilities, and operation of facilities and sites. Any such rule

2.1 or standard may be of general application throughout the state or may be limited as to
2.2 times, places, circumstances, or conditions in order to make due allowance for variations
2.3 therein. Without limitation, rules or standards may relate to collection, transportation,
2.4 processing, disposal, equipment, location, procedures, methods, systems or techniques
2.5 or to any other matter relevant to the prevention, abatement or control of water, air, and
2.6 land pollution which may be advised through the control of collection, transportation,
2.7 processing, and disposal of solid waste and sewage sludge, and the deposit in or on land of
2.8 any other material that may tend to cause pollution. By January 1, 1983, the rules for the
2.9 management of sewage sludge shall include an analysis of the sewage sludge determined
2.10 by the commissioner of agriculture to be necessary to meet the soil amendment labeling
2.11 requirements of section 18C.215. The rules for the disposal of solid waste shall include
2.12 site-specific criteria to prohibit solid waste disposal based on the area's sensitivity to
2.13 groundwater contamination, including site-specific testing. The rules shall provide criteria
2.14 to prohibit locating landfills based on a site's sensitivity to groundwater contamination.
2.15 Sensitivity to groundwater contamination is based on the predicted minimum time of
2.16 travel of groundwater contaminants from the solid waste to the compliance boundary. The
2.17 rules shall prohibit landfills in areas where karst is likely to develop. The rules shall
2.18 specify testable or otherwise objective thresholds for these criteria. The rules shall also
2.19 include modifications to financial assurance requirements under subdivision 4h that ensure
2.20 the state is protected from financial responsibility for future groundwater contamination.
2.21 The financial assurance and siting modifications to the rules shall apply to solid waste
2.22 disposal facilities newly permitted after January 1, 2011, and solid waste disposal facilities
2.23 permitted before that date that propose to expand onto land not permitted by the agency
2.24 for solid waste disposal as of January 1, 2011. The rule modification shall not affect
2.25 solid waste disposal facilities that accept only construction and demolition debris and
2.26 incidental nonrecyclable packaging, and facilities that accept only industrial waste that is
2.27 limited to wood, concrete, porcelain fixtures, shingles, or window glass resulting from the
2.28 manufacture of construction materials. The rule amendment shall not require new siting or
2.29 financial assurance requirements for permit by rule solid waste disposal facilities that are
2.30 limited in duration to three months and limited in size to 2,000 cubic yards. Until the rules
2.31 are modified to include site-specific criteria to prohibit areas from solid waste disposal due
2.32 to groundwater contamination sensitivity, as required under this section, the agency shall
2.33 not issue a permit for a new solid waste disposal facility, except for:

2.34 (1) the reissuance of a permit for a land disposal facility operating as of March
2.35 1, 2008;

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

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

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

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

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

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

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

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

3.19 Pursuant and subject to the provisions of chapter 14, and the provisions hereof, the
3.20 Pollution Control Agency may adopt, amend and rescind rules and standards having the
3.21 force of law relating to any purpose within the provisions of Laws 1971, chapter 727, for
3.22 the prevention, abatement, or control of noise pollution. Any such rule or standard may
3.23 be of general application throughout the state, or may be limited as to times, places,
3.24 circumstances or conditions in order to make due allowances for variations therein.
3.25 Without limitation, rules or standards may relate to sources or emissions of noise or noise
3.26 pollution, to the quality or composition of noises in the natural environment, or to any
3.27 other matter relevant to the prevention, abatement, or control of noise pollution.

3.28 As to any matters subject to this chapter, local units of government may set emission
3.29 regulations with respect to stationary sources which are more stringent than those set
3.30 by the Pollution Control Agency.

3.31 Pursuant to chapter 14, the Pollution Control Agency may adopt, amend, and rescind
3.32 rules and standards having the force of law relating to any purpose within the provisions of
3.33 this chapter for generators of hazardous waste, the management, identification, labeling,
3.34 classification, storage, collection, treatment, transportation, processing, and disposal
3.35 of hazardous waste and the location of hazardous waste facilities. A rule or standard
3.36 may be of general application throughout the state or may be limited as to time, places,

4.1 circumstances, or conditions. In implementing its hazardous waste rules, the Pollution
4.2 Control Agency shall give high priority to providing planning and technical assistance
4.3 to hazardous waste generators. The agency shall assist generators in investigating the
4.4 availability and feasibility of both interim and long-term hazardous waste management
4.5 methods. The methods shall include waste reduction, waste separation, waste processing,
4.6 resource recovery, and temporary storage.

4.7 The Pollution Control Agency shall give highest priority in the consideration of
4.8 permits to authorize disposal of diseased shade trees by open burning at designated sites to
4.9 evidence concerning economic costs of transportation and disposal of diseased shade trees
4.10 by alternative methods.

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

4.12 Sec. 2. Minnesota Statutes 2008, section 116.07, subdivision 4h, is amended to read:

4.13 Subd. 4h. **Financial responsibility rules.** (a) The agency shall adopt rules requiring
4.14 the operator or owner of a solid waste disposal facility to submit to the agency proof of the
4.15 operator's or owner's financial capability to provide reasonable and necessary response
4.16 during the operating life of the facility and for a minimum of 30 years after closure for a
4.17 mixed municipal solid waste disposal facility or for a minimum of 20 years after closure,
4.18 as determined by agency rules, for any other solid waste disposal facility, and to provide
4.19 for the closure of the facility and postclosure care required under agency rules. Proof of
4.20 financial responsibility is required of the operator or owner of a facility receiving an
4.21 original permit or a permit for expansion after adoption of the rules. Within 180 days of
4.22 the effective date of the rules or by July 1, 1987, whichever is later, proof of financial
4.23 responsibility is required of an operator or owner of a facility with a remaining capacity of
4.24 more than five years or 500,000 cubic yards that is in operation at the time the rules are
4.25 adopted. Compliance with the rules and the requirements of paragraph (b) is a condition
4.26 of obtaining or retaining a permit to operate the facility.

4.27 (b) A municipality, as defined in section 475.51, subdivision 2, including a sanitary
4.28 district, that owns or operates a solid waste disposal facility that was in operation on May
4.29 15, 1989, may meet its financial responsibility for all or a portion of the contingency
4.30 action portion of the reasonable and necessary response costs at the facility by pledging its
4.31 full faith and credit to meet its responsibility.

4.32 The pledge must be made in accordance with the requirements in chapter 475 for
4.33 issuing bonds of the municipality, and the following additional requirements:

4.34 (1) The governing body of the municipality shall enact an ordinance that clearly
4.35 accepts responsibility for the costs of contingency action at the facility and that reserves,

5.1 during the operating life of the facility and for the time period required in paragraph (a)
5.2 after closure, a portion of the debt limit of the municipality, as established under section
5.3 475.53 or other law, that is equal to the total contingency action costs.

5.4 (2) The municipality shall require that all collectors that haul to the facility
5.5 implement a plan for reducing solid waste by using volume-based pricing, recycling
5.6 incentives, or other means.

5.7 (3) When a municipality opts to meet a portion of its financial responsibility by
5.8 relying on its authority to issue bonds, it shall also begin setting aside in a dedicated
5.9 long-term care trust fund money that will cover a portion of the potential contingency
5.10 action costs at the facility, the amount to be determined by the agency for each facility
5.11 based on at least the amount of waste deposited in the disposal facility each year, and the
5.12 likelihood and potential timing of conditions arising at the facility that will necessitate
5.13 response action. The agency may not require a municipality to set aside more than five
5.14 percent of the total cost in a single year.

5.15 (4) A municipality shall have and consistently maintain an investment grade bond
5.16 rating as a condition of using bonding authority to meet financial responsibility under
5.17 this section.

5.18 (5) The municipality shall file with the commissioner of revenue its consent to have
5.19 the amount of its contingency action costs deducted from state aid payments otherwise
5.20 due the municipality and paid instead to the remediation fund created in section 116.155,
5.21 if the municipality fails to conduct the contingency action at the facility when ordered
5.22 by the agency. If the agency notifies the commissioner that the municipality has failed to
5.23 conduct contingency action when ordered by the agency, the commissioner shall deduct
5.24 the amounts indicated by the agency from the state aids in accordance with the consent
5.25 filed with the commissioner.

5.26 (6) The municipality shall file with the agency written proof that it has complied
5.27 with the requirements of paragraph (b).

5.28 (c) The method for proving financial responsibility under paragraph (b) may not be
5.29 applied to a new solid waste disposal facility or to expansion of an existing facility, unless
5.30 the expansion is a vertical expansion. Vertical expansions of qualifying existing facilities
5.31 cannot be permitted for a duration of longer than three years.

5.32 (d) The commissioner shall consult with the commissioner of management and
5.33 budget for guidance on the forms of financial assurance that are acceptable for private
5.34 owners and public owners, and in carrying out a periodic review of the adequacy of
5.35 financial assurance for solid waste disposal facilities. Financial assurance rules shall

6.1 allow financial mechanisms to public owners of solid waste disposal facilities that are
6.2 appropriate to their status as subdivisions of the state.

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

6.4 Sec. 3. **SOLID WASTE FACILITY FINANCIAL ASSURANCE MECHANISMS;**
6.5 **INPUT.**

6.6 Within six months after the effective date of this section, and before publishing the
6.7 rules required for groundwater sensitivity and financial assurance in Minnesota Statutes,
6.8 section 116.07, subdivision 4, the Pollution Control Agency shall consult with experts and
6.9 interested persons on financial assurance adequacy for solid waste facilities, including, but
6.10 not limited to, staff from the Department of Natural Resources, Minnesota Management
6.11 and Budget, local governments, private landfill operators, and environmental groups.

6.12 The commissioner shall seek the input to determine the adequacy of existing financial
6.13 assurance rules to address environmental risks, the length of time financial assurance is
6.14 needed, the reliability of financial assurance in covering risks from land disposal of waste
6.15 in Minnesota and other states, and the role of private insurance.

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