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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 1037

02/11/2021 Authored by Wazlawik and Lee
The bill was read for the first time and referred to the Committee on Environment and Natural Resources Finance and Policy

1.1 A bill for an act
1.2 relating to environment; requiring certain physical measurements of air emissions
1.3 and reporting of emission-related statistics; proposing coding for new law in
1.4 Minnesota Statutes, chapter 116.

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

1.6 Section 1. [116.0718] ENSURING COMPLIANCE WITH AIR EMISSION LIMITS.

1.7 Subdivision 1. Definitions. (a) For purposes of this section, the following terms have
1.8 the meanings given them.

1.9 (b) "Attainment area" means a geographically defined region that is in compliance with
1.10 the national ambient air quality standards set by the federal Environmental Protection
1.11 Agency.

1.12 (c) "Continuous emission monitoring system" or "CEMS" has the meaning given in
1.13 Minnesota Rules, part 7017.1002, subpart 4.

1.14 (d) "Hazardous air pollutant" has the meaning given in section 609.671, subdivision 1,
1.15 paragraph (e).

1.16 (e) "Major facility" means a facility that has a potential to emit:

1.17 (1) an air pollutant in excess of 100 tons per year;

1.18 (2) a single hazardous air pollutant in excess of 10 tons per year; or

1.19 (3) a combination of hazardous air pollutants in excess of 25 tons per year.

2.1 (f) "Nonattainment area" means a geographically defined region that is not in compliance
2.2 with the national ambient air quality standards set by the federal Environmental Protection
2.3 Agency.

2.4 (g) "Performance test" has the meaning given in Minnesota Rules, part 7017.2005,
2.5 subpart 4.

2.6 (h) "Potential to emit" means the maximum annual air emissions of a pollutant from a
2.7 facility operating at full design capacity continuously for 8,760 hours throughout a year.

2.8 Subd. 2. **Compliance determination protocol.** Each air quality permit issued by the
2.9 agency must contain a compliance determination protocol that consists of a list of methods
2.10 the agency requires a permitted facility to employ to physically measure the actual emissions
2.11 of each pollutant emitted by the permitted facility and the frequency with which the agency
2.12 requires the permitted facility to employ each method, in order to determine a facility's
2.13 compliance with the facility's permit. The compliance determination protocol must be
2.14 designed to minimize the length of time between physical measures of each pollutant emitted
2.15 by the facility. Methods of physical measurement the agency may employ include but are
2.16 not limited to continuous emission monitoring systems, performance tests, ambient
2.17 monitoring near the permitted facility, portable monitoring units that have been calibrated
2.18 with performance tests or continuous emission monitors, and any other physical method of
2.19 measuring actual emissions that the agency determines is accurate.

2.20 Subd. 3. **Reporting requirements.** (a) A permit that requires a facility to maintain
2.21 records of parameters that serve as indirect measures of a facility's air emissions must require
2.22 the facility to transmit the records to the agency no less often than monthly. For purposes
2.23 of this subdivision, "indirect measures of a facility's air emissions" means proxy measures
2.24 or calculations that affect, indicate, or are correlated with the volume of emissions released
2.25 by the facility, including but not limited to measurements of the pollution removal efficiency
2.26 of pollution control equipment, temperature or pressure of equipment or processes, and the
2.27 volume of hazardous air pollutants or substances that emit hazardous air pollutants during
2.28 the production process that the facility purchases or uses.

2.29 (b) A third party under contract to a facility operating under an air quality permit issued
2.30 by the agency must report the results of any tests or measurements required under the permit
2.31 or ordered by the commissioner directly to the agency at the same time the results are
2.32 reported to the facility.

2.33 Subd. 4. **Performance tests; schedule.** (a) A facility operating under an air quality
2.34 permit issued by the agency must conduct performance tests according to the following

3.1 schedule for all applicable pollutants emitted by the facility that are not measured by a
3.2 continuous emission monitoring system installed at the facility:

3.3 (1) annual performance tests are required of:

3.4 (i) a major facility located in a nonattainment area;

3.5 (ii) a facility whose permit contains an air emissions limit for any hazardous air pollutant;

3.6 or

3.7 (iii) a facility that emits a pollutant identified as a chemical of high concern by the

3.8 Department of Health under section 116.9402; and

3.9 (iv) a facility whose most recent performance test showed emissions equal to or greater

3.10 than 85 percent of the emission limit contained in the facility's permit for that pollutant;

3.11 (2) biennial performance tests are required of a major facility that is located in an

3.12 attainment area and that does not meet any of the conditions in clause (1);

3.13 (3) two performance tests during a five-year period are required of a nonmajor facility

3.14 that is located in a nonattainment area and does not meet any of the conditions in clause

3.15 (1); and

3.16 (4) one performance test every five years is required of a nonmajor facility that is located

3.17 in an attainment area and does not meet any of the conditions in clause (1).

3.18 (b) A facility that exceeds an emissions limit must conduct a performance test for that

3.19 pollutant in each of the two years following the year in which the exceedance occurs.

3.20 (c) A facility whose pollution control equipment has undergone a significant alteration,

3.21 repair, or parts replacement that may affect the facility's ability to meet an emission limit,

3.22 as determined by the commissioner, must conduct a performance test within 90 days of the

3.23 pollution control equipment becoming operational following the modification.

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

3.25 made part of all air quality permits issued on or after that date, and must be incorporated

3.26 by the agency by reference, as applicable, into all existing air quality permits.