

HF3057 - 1E - Nonexpiring air emission permits; pub hearing req

Chief Author: **Fue Lee**
 Committee: **Environment & Natural Resources Finance Division**
 Date Completed: **2/21/2020 8:34:06 AM**
 Agency: **Pollution Control Agency**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings	X	
Tax Revenue		X
Information Technology		X
Local Fiscal Impact	X	

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2019	FY2020	FY2021	FY2022	FY2023
Environmental	-	-	818	246	(266)	
Total	-	-	818	246	(266)	
Biennial Total			818		(20)	

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2019	FY2020	FY2021	FY2022	FY2023
Environmental	-	-	3.81	3.35	.69
Total	-	-	3.81	3.35	.69

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Jim Carlson **Date:** 2/21/2020 8:34:06 AM
Phone: 651-284-6540 **Email:** jim.carlson@lbo.leg.mn

State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2 Dollars in Thousands	Biennium			Biennium	
	FY2019	FY2020	FY2021	FY2022	FY2023
Environmental	-	-	818	246	(266)
Total	-	-	818	246	(266)
Biennial Total			818		(20)
1 - Expenditures, Absorbed Costs*, Transfers Out*					
Environmental	-	-	818	696	184
Total	-	-	818	696	184
Biennial Total			818		880
2 - Revenues, Transfers In*					
Environmental	-	-	-	450	450
Total	-	-	-	450	450
Biennial Total			-		900

Bill Description

The bill amends Sections 1 and 2. Minnesota Statutes 2018, section 116.07 by adding Subd. 41. and 4m.

Subd. 41. Nonexpiring state individual permits; public informational meeting.

(a) requires the agency to conduct public informational meetings for each facility issued a nonexpiring state individual air quality permit at regular intervals to allow public comments or inquiries regarding the permit. The public informational meeting must be held at a location convenient to the permitted facility and persons responsible for meeting conditions of the permit, must be present at the informational meeting. For nonexpiring permits issued after December 31, 2015, a public informational meeting must be held no later than five years after permit issuance and every five years thereafter. Nonexpiring state individual air quality permits issued on or before December 31, 2015, must be held no later than December 31, 2021, and every five years thereafter.

(b) "state individual air quality permit" is defined as one issued to an individual facility under Minnesota Rules, part 7007.0250, subparts 2 to 6, and does not apply to general permits.

(c) The PCA direct and indirect reasonable costs of conducting activities under this subdivision must be recovered through air quality permit fees.

Subd. 4l. Permit review denial. If the PCA commissioner determines that a request for agency review of an existing permit is not warranted, the reasons for the determination must be made in writing within 15 days of the determination.

Assumptions

1. The costs reflected in this analysis only address PCA costs and are over and above current program appropriations to the PCA.
2. There is currently a total of 120 nonexpiring state individual air quality permits under Minnesota Rules, part 7007.0250, subparts 2 to 6 that must be presented individually in public meetings by December 31, 2021, and then again within a five year cycle thereafter.
3. Agency work activities would include meeting logistics such as; notification, meeting preparation, meeting attendance, and follow-up.
4. Time required for each public hearing would vary depending upon size, complexity and extent of public interest for each facility.
5. Additional revenue required to be collected to offset expenses will require permit application fee rulemaking under Minn. R. 7002.0019 subparts 1 and 2, which is assumed for this fiscal note to be successful in raising fees at the

conclusion of an 18 month long rulemaking process (proposed to begin July 1, 2020 and be completed December 31, 2021). Application fees for cumulative effect permits application and reissuance would need to be added in rule as they do not exist at present.

6. Rulemaking must be completed prior to recovering costs to conduct required activities. Therefore permit review costs under this fiscal note will begin January 1, 2022.
7. Reasonable costs of conducting activities under this subdivision must be recovered through air quality permit fees.

Expenditure and/or Revenue Formula

1. Number of permits impacted.
 - a. **120 nonexpiring air emission permits total.**
2. Staff time per facility per year.
 - a. Estimated average 30 hours for 2 staff per facility = 60 hours/permit. This time is needed to review the facility record in preparation for the meeting and attend the public meeting. 1 FTE* = 2,080 hours/year. 1 FTE = \$124,000.
 - b. Permit development costs related to review of all permits by December 31, 2021 will be recovered over the first five (5) year cycle of permit reviews from each permittee at the time of permit application; total costs / 24 permit applications each year for 5 years.
3. Calculation of public information meeting venues and related costs.
 - a. The public informational meetings reviewed in the first cycle is distributed as shown in the table below.
 - b. The venue cost for each meeting is estimated as \$1,500. Costs for public meeting venues can vary greatly depending upon whether a public space is available (could cost \$200 per event) versus using private space (could cost \$2,500 per event).
 - c. The public notification cost is \$2,500 for each meeting. Costs for public notification includes flyers and other materials mailed and delivered to the affected communities providing notification of meeting purpose, time and location.
 - d. The translator cost is \$500/3 hours of services x 15% of meetings anticipated to require translation services.
 - e. Total public engagement, hearing venues and related costs = ranges depending on the required number of meetings every year (see table below).
4. Calculation for rulemaking costs to recover direct and indirect costs associated with this bill.
 - a. Costs were estimated using the rulemaking manual. Rulemaking is estimated to take 18 months, and will span two fiscal years. Office of Administrative Hearing (OAH) and State Register costs are split evenly over two fiscal years. Rulemaking and attorney and air program staff time required are split evenly over two fiscal years.
 - b. OAH costs (filing fees associated with the eComments site, ALJ review time, hearing costs) = \$23,000 total, or **FY2021: \$11,500. FY2022: \$11,500.**
 - c. State Register costs (publication of all associated notices) = \$6,000. **FY2021: \$3,000. FY2022: \$3,000.**
 - d. Attorney costs for rulemaking \$131/hour for 86 hours = \$11,266 or **FY2021: \$5,633. FY2022: \$5,633.**
 - e. Rule Coordinator staff. 1,560 staff hours / 2,080 hours/year/FTE = 0.75 FTE. 0.75 FTE x \$124,000 x 2 years = \$186,000 or **FY2021: \$93,000, 0.75 FTE. FY2022: \$93,000, 0.75 FTE.**
 - f. Air program staff. 1,560 staff hours / 2,080 hours/year/FTE = 0.75 FTE. 0.75 FTE x \$124,000 x 2 years = \$186,000 or **FY2021: \$93,000, 0.75 FTE. FY2022: \$93,000, 0.75 FTE.**
 - g. Total rulemaking costs. **FY2021: \$206,133, 1.5 FTE. FY2022: \$206,133, 1.5 FTE**

h. Rulemaking costs will be recovered over the first five (5) year cycle of permit reviews from each permittee at the time of permit application; total costs / 24 permit applications each year for 5 years.

5. Total costs per year

	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
Rulemaking non-staff costs	\$ 20,133	\$ 20,133	0	0	0	0
Rulemaking staff costs	\$ 186,000	\$ 186,000	0	0	0	0
Rulemaking FTE	1.5	1.5	0	0	0	0
Rulemaking total costs	\$ 206,133	\$ 206,133	0	0	0	0
Permit Development Costs						
# of meetings by 12/31/2021	80	40	0	0	0	0
# of meetings 5-year cycle	0	24	24	24	24	24
Permit Staff Hours	4,800	3,840	1,440	1,440	1,440	1,440
Permit FTE	2.31	1.85	0.69	0.69	0.69	0.69
Total FTE	3.81	3.35	0.69	0.69	0.69	0.69
Staff cost	\$286,154	\$228,923	\$85,846	\$85,846	\$85,846	\$85,846
Venue cost	\$120,000	\$ 96,000	\$ 36,000	\$ 36,000	\$ 36,000	\$ 36,000
Public notification cost	\$200,000	\$160,000	\$ 60,000	\$ 60,000	\$ 60,000	\$ 60,000
Translator cost	\$ 6,000	\$ 4,800	\$ 1,800	\$ 1,800	\$ 1,800	\$ 1,800
Permit Development Total	\$612,154	\$489,723	\$183,646	\$183,646	\$183,646	\$183,646
Total Rulemaking and Permit	\$818,287	\$695,856	\$183,646	\$183,646	\$183,646	\$183,646

*The annual cost of 1.0 FTE is \$124,000 in FY2019-2023. Annual costs for 1.0 FTE include salary, fringe, and non-specialized employee support costs (work space, computer and office supplies, office equipment, local travel, etc.).

6. Total Revenue

	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
Distributed By 12/31/21 Permit development costs	\$0	\$183,646	\$183,646	\$183,646	\$183,646	\$183,646
5-year cycle Permit development costs	\$0	\$183,646	\$183,646	\$183,646	\$183,646	\$183,646
Distributed rulemaking costs	\$0	\$82,464	\$82,464	\$82,464	\$82,464	\$82,464
Total recovered permit app. costs	\$0	\$449,756	\$449,756	\$449,756	\$449,756	\$449,756
Total additional costs per application	\$0	\$18,740	\$18,740	\$18,740	\$18,740	\$18,740

a. Total Rulemaking costs are distributed to each permit with total recovered within first five (5) fiscal years.

Long-Term Fiscal Considerations

The costs associated with this bill will continue in future fiscal years.

Local Fiscal Impact

The bill will may have a fiscal impact on local government for staff to provide input and/or monitor the process.

References/Sources

MPCA staff with experience in enforcement actions and development of air emission permits.

Agency Contact: Doug Wetzstein 651-757-2819

Agency Fiscal Note Coordinator Signature: John Allen

Date: 2/21/2020 8:20:44 AM

Phone: 651-757-2185

Email: John.J.Allen@state.mn.us