

1.1 A bill for an act  
1.2 relating to environment; modifying requirement to analyze and consider cumulative  
1.3 pollution before issuing air quality permit; amending Minnesota Statutes 2020,  
1.4 sections 116.06, by adding subdivisions; 116.07, subdivision 4a, by adding  
1.5 subdivisions; 116D.04, by adding a subdivision; proposing coding for new law in  
1.6 Minnesota Statutes, chapter 116.

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

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

1.10 Subd. 10a. **Environmental justice.** "Environmental justice" means that:

1.11 (1) communities of color, Indigenous communities, and low-income communities have  
1.12 a healthy environment and are treated fairly when environmental statutes, rules, and policies  
1.13 are developed, adopted, implemented, and enforced; and

1.14 (2) in all decisions that have the potential to affect the environment of an environmental  
1.15 justice area or the public health of its residents, due consideration is given to the history of  
1.16 the area's and its residents' cumulative exposure to pollutants and to any current  
1.17 socioeconomic conditions that increase the physical sensitivity of those residents to additional  
1.18 exposure to pollutants.

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

2.1 Sec. 2. Minnesota Statutes 2020, section 116.06, is amended by adding a subdivision to  
 2.2 read:

2.3 Subd. 10b. **Environmental justice area.** "Environmental justice area" means one or  
 2.4 more census tracts in Minnesota:

2.5 (1) in which, based on the most recent data published by the United States Census Bureau:

2.6 (i) 40 percent or more of the population is nonwhite;

2.7 (ii) 35 percent or more of the households have an income at or below 200 percent of the  
 2.8 federal poverty level; or

2.9 (iii) 40 percent or more of the population over the age of five have limited English  
 2.10 proficiency; or

2.11 (2) located within Indian country, as defined in United State Code, title 18, section 1151.

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

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

2.14 Subd. 4a. **Permits.** (a) The Pollution Control Agency may issue, continue in effect or  
 2.15 deny permits, under such conditions as it may prescribe for the prevention of pollution, for  
 2.16 the emission of air contaminants, or for the installation or operation of any emission facility,  
 2.17 air contaminant treatment facility, treatment facility, potential air contaminant storage  
 2.18 facility, or storage facility, or any part thereof, or for the sources or emissions of noise  
 2.19 pollution.

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

2.25 (c) The agency may not issue ~~a permit~~, renew, or approve a major amendment to a facility  
 2.26 permit that potentially increases pollution levels or the toxicity of emissions in an  
 2.27 environmental justice area without analyzing and considering:

2.28 (1) the cumulative levels and effects of past and current environmental pollution from  
 2.29 all sources on the environment and residents of the geographic area within which the facility's  
 2.30 emissions are likely to be deposited, provided that the facility is located in a community in  
 2.31 a city of the first class in Hennepin County that meets all of the following conditions:

3.1 environmental justice area, including mobile sources and toxic chemicals contaminating  
3.2 soils; and

3.3 (2) the demographic, social, and economic characteristics of the exposed population in  
3.4 the environmental justice area that affect their sensitivity to exposure to additional pollution,  
3.5 as required under subdivision 4l.

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

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

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

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

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

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

3.18 (e) The Pollution Control Agency has the authority for approval over the siting, expansion,  
3.19 or operation of a solid waste facility with regard to environmental issues. However, the  
3.20 agency's issuance of a permit does not release the permittee from any liability, penalty, or  
3.21 duty imposed by any applicable county ordinances. Nothing in this chapter precludes, or  
3.22 shall be construed to preclude, a county from enforcing land use controls, regulations, and  
3.23 ordinances existing at the time of the permit application and adopted pursuant to sections  
3.24 366.10 to 366.181, 394.21 to 394.37, or 462.351 to 462.365, with regard to the siting,  
3.25 expansion, or operation of a solid waste facility.

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

3.29 (g) A permit application must indicate whether or not the permit action sought is likely  
3.30 to impact the environment or the health of residents of an environmental justice area, and  
3.31 must include the data used by the applicant to make that determination. If the application  
3.32 is filed before the agency has identified all environmental justice areas in the state under  
3.33 section 116.076, the agency must determine whether, based on the application's projected

4.1 impacts of the permit's issuance, the area impacted qualifies as an environmental justice  
4.2 area, and, as a result, whether a cumulative analysis is required.

4.3 (h) The agency must review the applicant's determination made under paragraph (g),  
4.4 and is responsible for determining whether a proposed permit will impact the environment  
4.5 or health of an environmental justice area.

4.6 (i) The agency's reasonable costs of complying with this subdivision are to be reimbursed  
4.7 by the permit applicant.

4.8 **EFFECTIVE DATE.** This section is effective the day following final enactment and  
4.9 applies to an application for a new permit, permit renewal, or major permit amendment filed  
4.10 with the agency on or after that date.

4.11 Sec. 4. Minnesota Statutes 2020, section 116.07, is amended by adding a subdivision to  
4.12 read:

4.13 Subd. 41. **Demographic analysis.** (a) A permit applicant subject to subdivision 4a,  
4.14 paragraph (c), is required to provide the information listed in this subdivision in its permit  
4.15 application, if available. The agency, in collaboration with the State Demographic Center,  
4.16 the Minnesota Department of Health, and other state agencies, shall provide an applicant  
4.17 with a list of sources for each type of data required in clauses (1) to (15). The information  
4.18 is designed to indicate the degree of sensitivity of the exposed population to incremental  
4.19 pollution emitted from the facility seeking the permit or permit amendment and the exposed  
4.20 population's ability to withstand, respond to, or recover from exposure to additional pollution.  
4.21 This information must include, but is not limited to:

4.22 (1) racial and ethnic characteristics;

4.23 (2) income and poverty levels;

4.24 (3) the age distribution;

4.25 (4) the birth rate;

4.26 (5) education levels;

4.27 (6) the incidence of and hospital admission rates for respiratory disease, pulmonary  
4.28 disease, cancer, diabetes, asthma, high levels of blood lead concentrations, compromised  
4.29 immune systems, and other conditions that may be exacerbated by exposure to pollution;

4.30 (7) the incidence of substandard housing conditions;

4.31 (8) the proportion of the population without access to health insurance and medical care;

5.1 (9) the proportion of the population receiving public assistance and medical assistance;

5.2 (10) the incidence of low and very low food security, as defined by the United States  
5.3 Department of Agriculture publication Food Security in the U.S.: Definitions of Food  
5.4 Security, 2006, as updated;

5.5 (11) biomonitoring data indicating body burdens of environmental pollutants;

5.6 (12) the presence of subpopulations that may be particularly sensitive to exposure to  
5.7 additional pollutants, including workers exposed to toxic chemicals in the workplace and  
5.8 subsistence fishers and hunters;

5.9 (13) microclimate or topographical factors of the area that affect exposure levels;

5.10 (14) other environmental stressors, including but not limited to noise, that impact the  
5.11 area population; and

5.12 (15) how the factors examined under this paragraph may interact to increase the likelihood  
5.13 of portions of the population sustaining an adverse effect from exposure to the additional  
5.14 pollution emitted by the permitted facility.

5.15 (b) A permit applicant must provide the data required under this subdivision to the  
5.16 commissioner in a format and at a level of quality and completeness required by the  
5.17 commissioner.

5.18 (c) The costs of complying with this subdivision must be paid by the permit applicant.

5.19 **EFFECTIVE DATE.** This section is effective the day following final enactment and  
5.20 applies to an application for a new permit, permit renewal, or major permit amendment filed  
5.21 with the agency on or after that date.

5.22 Sec. 5. Minnesota Statutes 2020, section 116.07, is amended by adding a subdivision to  
5.23 read:

5.24 Subd. 4m. **Permits; environmental justice area.** (a) At a public meeting held on a  
5.25 permit application required to undergo a cumulative analysis under subdivision 4a, paragraph  
5.26 (c), the agency must ensure that an accurate and complete reporting of public comments  
5.27 are made part of the public record on which the decision on permit issuance is based.

5.28 (b) Notwithstanding the provisions of any other law, the agency must, after reviewing  
5.29 the permit application, the agency's analysis of cumulative pollution conducted under  
5.30 subdivision 4a, paragraph (c), the permit applicant's demographic analysis under subdivision  
5.31 4l, and any additional relevant information, including testimony and written comments  
5.32 received at a public meeting, determine whether the incremental environmental impacts

6.1 that would result in an environmental justice area from approval of the permit will, in  
 6.2 conjunction with the cumulative pollution impacts and any heightened sensitivity to additional  
 6.3 pollution of residents of the environmental justice area, cause or contribute to increased  
 6.4 levels of environmental or health impacts compared with denying the permit.

6.5 (b) If the agency determines that issuing the permit would cause or contribute to increased  
 6.6 levels of environmental or health impacts compared with not issuing the permit, the  
 6.7 commissioner must:

6.8 (1) deny the permit; or

6.9 (2) place conditions on the permit that eliminate any contribution to increased levels of  
 6.10 environmental or health impacts from the permitted facility in an environmental justice  
 6.11 area.

6.12 **EFFECTIVE DATE.** This section is effective the day following final enactment and  
 6.13 applies to an application for a new permit, permit renewal, or major permit amendment filed  
 6.14 with the agency on or after that date.

6.15 Sec. 6. **[116.076] ENVIRONMENTAL JUSTICE AREAS; BOUNDARIES; MAPS.**

6.16 (a) No later than December 1, 2022, the agency shall, using the definition of  
 6.17 environmental justice area in section 116.06, subdivision 10b, determine the boundaries of  
 6.18 all environmental justice areas in Minnesota. The agency's determination of the geographic  
 6.19 boundaries of an environmental justice area may be appealed by the filing of a petition  
 6.20 signed by at least ... residents of census tracts within or adjacent to the environmental justice  
 6.21 area as determined by the agency that contains evidence to support amending the agency's  
 6.22 determination. The commissioner may, after reviewing the petition, amend the boundaries  
 6.23 of an environmental justice area.

6.24 (b) The agency shall post on its website updated maps of each environmental justice  
 6.25 area in the state.

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

6.27 Sec. 7. Minnesota Statutes 2020, section 116D.04, is amended by adding a subdivision to  
 6.28 read:

6.29 Subd. 2c. **Demographic analysis.** An environmental assessment worksheet and  
 6.30 environmental impact statement that indicates that a proposed project increases pollution  
 6.31 levels or the toxicity of emissions in an environmental justice area must contain demographic

7.1 analysis of the population exposed to the proposed project's impacts as required under  
7.2 section 116.07, subdivision 4l.

7.3 **EFFECTIVE DATE.** This section is effective the day following final enactment and  
7.4 applies to an environmental assessment worksheet that has been determined by a responsible  
7.5 governmental unit to be complete on or after that date and to an environmental impact  
7.6 statement determined by a responsible governmental unit to be adequate on or after that  
7.7 date.