

**Sec. 5. AIR TOXICS EMISSIONS; RULEMAKING.**

**Subdivision 1. Definitions.** For the purposes of this section:

- (1) "agency" means the Minnesota Pollution Control Agency;
- (2) "air toxics" has the meaning given in Minnesota Statutes, section 116.062;
- (3) "commissioner" means the commissioner of the Minnesota Pollution Control Agency;
- (4) "continuous emission monitoring system" has the meaning given in Minnesota Rules, part 7017.1002, subpart 4;
- (5) "environmental justice area" means one or more census tracts in Minnesota:
  - (i) in which, based on the most recent data published by the United States Census Bureau:
    - (A) 40 percent or more of the population is nonwhite;
    - (B) 35 percent or more of the households have an income at or below 200 percent of the federal poverty level; or
    - (C) 40 percent or more of the population over the age of five has limited English proficiency; or
  - (ii) located within Indian Country, as defined in United States Code, title 18, section 1151;
- (6) "performance test" has the meaning given in Minnesota Rules, part 7017.2005, subpart 4; and
- (7) "volatile organic compound" has the meaning given in Minnesota Rules, part 7005.0100, subpart 45.

**Subd. 2. Application.** This section applies to facilities that emit air toxics and are located in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, or Washington.

**Subd. 3. Rulemaking required.** The commissioner shall adopt rules under Minnesota Statutes, chapter 14, to implement and govern regulation of facilities that emit air toxics. Notwithstanding Minnesota Statutes, section 14.125, the agency must publish notice of intent to adopt rules within 36 months of the effective date of this act, or the authority for the rules expires.

**Subd. 4. Content of rules.**

(a) The rules required under subdivision 3 must address, at a minimum:

- (1) specific air toxics to be regulated, including, at a minimum, those defined in subdivision 1;
- (2) types of facilities to be regulated, including, at a minimum, facilities that have been issued an air quality permit by the commissioner, other than an Option B registration permit under Minnesota Rules, part 7007.1120, and that:
  - (i) emit air toxics, whether the emissions are limited in a permit or not; or
  - (ii) purchase or use material containing volatile organic compounds;
- (3) performance tests conducted by facilities to measure the volume of air toxics emissions and testing methods, procedures, protocols, and frequency;
- (4) required monitoring of air emissions, including using continuous emission monitoring systems for certain facilities, and monitoring of production inputs or other production parameters;
- (5) requirements for reporting information to the agency to assist the agency in determining the amount of the facility's air toxics emissions and the facility's compliance with emission limits in the facility's permit;
- (6) record keeping related to air toxics emissions; and
- (7) frequency of facility inspections and inspection activities that provide information about air toxics emissions.

(b) In developing the rules, the commissioner must establish testing, monitoring, reporting, record-keeping, and inspection requirements for facilities that reflect:

- (1) the different risks to human health and the environment posed by the specific air toxics and amounts emitted by a facility, such that facilities posing greater risks are required to provide more frequent evidence of permit compliance, including but not limited to performance tests, agency inspections, and reporting;
- (2) the facility's record of compliance with air toxics emission limits and other permit conditions; and
- (3) any exposure of residents of an environmental justice area to the facility's air toxics emissions.

**Subd. 5. Modifying permits.** Within three years after adopting the rules required in subdivision 3, the commissioner must amend existing air quality permits, including but not limited to federal permits, individual state total facility permits, and capped emission permits, as necessary to conform with the rules.

**Subd. 6. Rulemaking cost.** The commissioner must collect the agency's costs to develop the rulemaking required under this section and to conduct regulatory activities, including but not limited to monitoring, inspection, and data collection and maintenance, required as a result of the rulemaking through the annual fee paid by owners or operators of facilities required to obtain air quality permits from the agency, as required under Minnesota Statutes, section 116.07, subdivision 4d, paragraph (b).

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