

HF3058 - 1E - Air Quality Permit Reqs Modified; Position Estab

Chief Author: **Fue Lee**
 Committee: **Environment & Natural Resources Finance Division**
 Date Completed: **2/21/2020 8:34:22 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	-	-	206	160	(92)	
Total	-	-	206	160	(92)	
Biennial Total			206		68	

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2019	FY2020	FY2021	FY2022	FY2023
Environmental	-	-	1.5	62.13	121.26
Total	-	-	1.5	62.13	121.26

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 8:34:22 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		Biennium			Biennium	
Dollars in Thousands		FY2019	FY2020	FY2021	FY2022	FY2023
Environmental		-	-	206	160	(92)
Total		-	-	206	160	(92)
Biennial Total				206		68
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Environmental		-	-	206	8,104	15,796
Total		-	-	206	8,104	15,796
Biennial Total				206		23,900
2 - Revenues, Transfers In*						
Environmental		-	-	-	7,944	15,888
Total		-	-	-	7,944	15,888
Biennial Total				-		23,832

Bill Description

The bill amends Section 1. Minnesota Statutes 2018, section 116.07 subdivision 4a Permits by requiring the agency to not issue a permit to a facility without estimating and considering cumulative effects from past and present sources in an expanded geographical area that includes the metropolitan county as defined in section 473.121, subdivision 4.

Counties would include: Hennepin, Ramsey, Dakota, Washington, Anoka, Scott and Carver.

The agency’s direct and indirect reasonable cost of conducting activities required under subd. 4a must be recovered through permit fees.

Effective Date. This section is effective the day following enactment and applies to permits and permit reissuances for applications filed with the agency after that date.

Sec. 2. Position Established; Pollution Control Agency. The commissioner shall establish a new full-time equivalent position of community liaison, funded through air quality permit fees to conduct tasks necessary to implement subd. 4a and other regulatory activities requiring interaction between the agency and community residents.

Assumptions

1. The costs reflected in this analysis only address MPCA costs and are over and above current program appropriations to the MPCA.
2. There are approximately 862 existing air emission permits within the expanded geographical area that would potentially be subject to this requirement.
3. There are an additional 100 construction/modification air emission permit applications received each year for this geographical area.
4. Cumulative effect permits require public hearings.
5. Agency work activities would include staff time for review of compliance and enforcement documents and related data, permit conditions review, air toxics risk review, air dispersion modeling, and permit development and attendance at public meetings.
6. Estimate of required staff time would vary depending upon size, complexity and extent of public interest for each facility. Experience with development of several cumulative effect permits provides the following average increases of staff time: adds six (6) months to the schedule and requires 1) approximately 1,125 hours of staff time above the average amount of time required to develop a permit, which is approximately 150 hours for each permit, and 2) an

additional approximately 220 hours per permit for air toxics risk review, air dispersion modeling and preparation support to permit development, which are required activities for cumulative impact permits. Total permit development time per cumulative impacts permit is therefore 1,345 hours of staff time.

7. A new full-time equivalent position (1 FTE) will be added to the agency to conduct "community liaison" tasks separate from required permit development tasks detailed in Assumption #6 above necessary to implement subd. 4a and other regulatory activities requiring interaction between the agency and community residents. Position would begin after rulemaking was completed.
8. 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.
9. 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.

Expenditure and/or Revenue Formula

1. Calculation of cumulative effect permit review staff costs.
For the purpose of calculating costs for this fiscal note, we are assuming a 10% average **turnover of existing**
 - a. **862 permits** based upon expirations = **86 permits/year** x 1,345 hours/permit = 115,670 staff hours/year.
115,670 hours / 2080 hours/FTE/year = **55.61 FTE/year** x \$124,000/year/FTE = **\$6,895,640/year**
For the purpose of calculating costs for this fiscal note, we are using an average of **100 construction/**
 - b. **modification applications** each year x 1,345 hours/permit = 134,500 hours per year. 134,500 hours / 2080 hours/FTE/year = **64.66 FTE/year** x \$124,000/year/FTE = **\$8,017,840/year**
86 + 100 = **186 permits/year**. 55.61 FTE/year + 64.66 FTE/year = **120.26 FTE/year**. \$6,895,640/year + \$8,017,840/year = **\$14,913,480/year**. All annual costs will begin on January 1, 2022, at the conclusion of rulemaking.
2. Community liaison position. **1 FTE = \$124,000/year**. beginning January 1, 2022.
3. Calculation of public meeting venues and related costs for the 186 permits/year
100% of cumulative impact reviews will require public meeting venues to ensure opportunity for community
 - a. engagement.
186 public meetings/year x venue cost of \$1,500 each = **\$279,000/year**. (Costs for public meeting venues can vary greatly depending upon whether a public space is available (could cost \$200 per event) versus the use of private space (could cost up to \$2500 per event)).
 - b. 186 public meetings/year x public notification cost of \$2,500 each = **\$465,500/year**. (Costs for public notification includes flyers and other materials mailed and delivered to the affected communities providing notification of meeting purpose, time and location).
 - c. 186 public meetings/year x translator cost of \$500/3 hours of services x 15% of meetings anticipated to require translation services = **\$13,950/year**.
 - d. Total public engagement, venues and related costs = **\$758,450/year**. All annual costs will begin on January 1, 2022, at the conclusion of rulemaking.
4. Calculation for rulemaking costs to recover direct and indirect costs associated with this bill.
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.
OAH costs (filing fees associated with the eComments site, ALJ review time, hearing costs) = \$23,000 total, or
 - b. **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 (0.75 FTE x \$124,000 x 2 years) = \$186,000 or **FY2021: \$93,000, 0.75 FTE. FY2022: \$93,000, 0.75 FTE.**

Air program staff (0.75 FTE x \$124,000 x 2 years) = \$186,000 or **FY2021: \$93,000, 0.75 FTE. FY2022:**

f. **\$93,000, 0.75 FTE.**

Total rulemaking costs. **FY2021: \$206,133, 1.5 FTE. FY2022: \$206,133, 1.5 FTE**

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5. Total costs per year

	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
Rulemaking costs	\$206,133	\$206,133	0	0	0	0
Rulemaking FTE	1.5	1.5	0	0	0	0
Permits developed	0	93	186	186	186	186
Permit review staff costs	0	\$7,456,740	\$14,913,480	\$14,913,480	\$14,913,480	\$14,913,480
Permit review staff FTE	0	60.13	120.26	120.26	120.26	120.26
Community liaison position	0	\$62,000	\$124,000	\$124,000	\$124,000	\$124,000
Community liaison FTE	0	0.5	1	1	1	1
Public meetings costs	0	\$379,225	\$758,450	\$758,450	\$758,450	\$758,450
# of public meetings	0	93	186	186	186	186
Total Costs	\$206,133	\$8,104,098	\$15,795,930	\$15,795,930	\$15,795,930	\$15,795,930
Total FTE	1.50	62.13	121.26	121.26	121.26	121.26

6. Total Costs Recovered

a. Total rulemaking costs are distributed to each permit with total recovered within first five (5) fiscal years; FY 2022 FY 2026. \$412,266 / 837 permits = \$492.55/permit

	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
Permit development costs	\$0	\$7,897,965	\$15,795,930	\$15,795,930	\$15,795,930	\$15,795,930
Distributed rulemaking costs	\$0	\$45,807	\$91,614	\$91,614	\$91,614	\$91,614
Total permit app. costs	\$0	\$7,943,772	\$15,887,544	\$15,887,544	\$15,887,544	\$15,887,544
Total Costs per permit App.	\$ -	\$ 85,417	\$ 85,417	\$ 85,417	\$ 85,417	\$ 85,417

*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.).

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 to the extent that their staff would provide input and/or monitor the process.

References/Sources

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

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