

NOTE: This is an earlier version of the fiscal note for HF168-2A.

The most current version is available on the Fiscal Note Search site: <https://mn.gov/mmbapps/fnsearchlbo/>

Fiscal Note

2021-2022 Legislative Session

HF168 - 2A - Cumulative Pollution Analysis Requirement

Chief Author: **Fue Lee**
 Committee: **Environment And Natural Resources Finance And Policy**
 Date Completed: **2/24/2021 4:56:50 PM**
 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	FY2021	FY2022	FY2023	FY2024
General Fund	-	214	182	-	-
Environmental	-	11,702	11,702	-	-
Total	-	11,916	11,884	-	-
Biennial Total			23,800		-

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	1.5	1.25	-	-
Environmental	-	82.82	82.82	81.57	81.57
Total	-	84.32	84.07	81.57	81.57

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:** 2/24/2021 4:56:50 PM
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		FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	-	214	182	-	-	-
Environmental	-	11,702	11,702	-	-	-
Total	-	11,916	11,884	-	-	-
Biennial Total		23,800		-		-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund	-	214	182	-	-	-
Environmental	-	11,702	11,702	11,520	11,520	11,520
Total	-	11,916	11,884	11,520	11,520	11,520
Biennial Total		23,800		23,040		23,040
2 - Revenues, Transfers In*						
General Fund	-	-	-	-	-	-
Environmental	-	-	-	11,520	11,520	11,520
Total	-	-	-	11,520	11,520	11,520
Biennial Total		-		23,040		23,040

Bill Description

The bill amends Section 1. Minnesota Statutes 2018, section 116.07 subdivision 4a Permits, by; requiring the agency to not issue, renew, or amend a permit that potentially increases pollution levels or the toxicity of emissions to a facility in an Environmental Justice area. Includes exposure from mobile sources and contaminated soils. The demographic, social, and economic characteristics of residents and their sensitivity to increased pollution must be considered. The permit applicant must indicate whether the permit action will impact health or environment of residents, and include the data used to make the determination. The agency must review the determination. The agency must determine the geographical boundaries of an environmental justice area. The agency's determination may be appealed through petition. The agency must ensure that residents of an environmental justice area are notified about all steps in the permitting process and the progress of the analysis, including postings on the agency's website, and delivery of written materials to residents, in applicable languages. The agency must hold public meetings in the environmental justice area at regular intervals to allow for questions, comments, and recommendations from residents. The agency's reasonable costs of complying with this subdivision are to be reimbursed by the permit applicant. Definitions are provided. Subd. 4l Required demographic analysis information to be provided in the permit application is listed. Subd. 4m is added to include; the agency's analysis of cumulative pollution, the permit applicant's demographic analysis, and any additional relevant information, including testimony and written comments, determine whether impacts from approval of the permit will cause or contribute to increased levels of environmental or health impacts compared with denying the permit. If the agency determines that issuing the permit would cause or contribute to increased levels of environmental or health impacts compared with not issuing the permit, the commissioner must deny the permit, or place conditions on the permit that eliminate any contribution to increased levels of environmental or health impacts. The agency shall maintain on its website a list of all environmental justice areas that undergo the analysis required. Sec. 4. Minnesota Statutes 2020, section 116D.04, is amended by adding Subd. 2c; an environmental assessment worksheet and environmental impact statement that indicates that a proposed project increases pollution levels or the toxicity of emissions in an environmental justice area must contain demographic analysis of the population exposed to the proposed project's impacts as required. This applies to an environmental assessment worksheet that has been determined by a responsible governmental unit to be complete on or after the effective date, and to an environmental impact statement determined by a responsible governmental unit to be adequate on or after that date.

This section is effective the day following final enactment.

Assumptions

1. The costs reflected in this analysis only address MPCA costs and are over and above current program appropriations to the MPCA.
2. The MPCA's Environmental Justice (EJ) tool is not set up via census blocks, nor does its EJ area definition include all of the same parameters as listed in the bill. Therefore, the MPCA used its definition of EJ areas, and counted permitted facilities and environmental review actions located within one mile of an EJ area, because it is assumed they are close enough to be potentially capable of increasing pollution levels or the toxicity of emissions in the EJ area.
3. The permit action types covered by the bill include new issuances, reissuances, and major amendments of air quality permits. Solid waste permits subject to the bill include general permits, permits-by-rule, individual permits, reissuances and extensions, and major amendments. No other type of permit media is included in this analysis.
4. Federal (Title V) air permits expire. It is assumed individual state air permits expire and that no other air permit types expire. Based on MPCA data, it is assumed that 24 air reissuance applications will be received each year in EJ areas.
5. Based on MPCA data, it is assumed there will be 49 applications for new air permits and air major amendments received each year in EJ areas.
6. Individual solid waste permits expire every 10 years. Based on available MPCA data, it is assumed that 3 reissuance applications will be received each year in EJ areas.
7. The majority of solid waste permits are onetime, or nonexpiring, such as permits-by-rule. Based on available MPCA data, it is assumed that 46 applications for new solid waste permits and major amendments will be received each year.
-
8. MPCA work activities would include file and data review, modeling, risk assessment, permit development, and preparing for and attending public meetings.
9. Estimate of staff time for these work activities would vary depending upon size, complexity and extent of public interest for each facility. Experience with development of several cumulative impact permits adds six (6) months to the schedule and takes 1) approximately 1,125 hours of staff time above the average amount of time required to develop a permit. (Typical permit development time takes approximately 150 hours each for planning purposes) and 2) an additional 220 hours per permit for air toxics risk review, air dispersion modeling and preparation support to permit development. Total permit development time per permit/action is 1,345 hours of staff time.
10. The proposed bill would result in the need for EQB to conduct rulemaking to amend the decision criteria in Minn. R. 4410.1700 to consider the potential significance of the additional analyses, as well as additional staff onetime for amending the EAW Form, creating guidance, and implementing outreach activities.
11. MPCA conducts work on approximately 20 environmental review actions per year. Approximately 25% would be both located in EJ areas and be air quality or solid waste-related. The additional cumulative impacts work would require an additional .25 FTE/year to keep pace with current project timelines.
12. This fiscal note only addresses MPCA and EQB environmental review actions, no other impacts to state or local responsible governmental units that may lead a project subject to this bill.
13. It is assumed that two public meetings are required, per MPCA permit or environmental review action.
14. Translations may need to be performed in multiple languages in these areas. It is assumed ~25% of hearings will need these services, in two languages.
15. Rulemaking will be required in order to recover costs through permit fees. It would take two years, so costs could not be recovered until FY24.

Expenditure and/or Revenue Formula

1. MPCA staff costs each year related to permitting and environmental review
 - a. 24 air reissuance applications per year + 49 new air applications per year = 73 permits x 1,345 hours per permit = 98,185 hours/year. 1 FTE = 2,080 hours/year. 98,185 hours/year / 2,080 hours/FTE/year = 47.2 FTE/year. 47.2 FTE * x \$128,000/year = \$6,041,600/year
 - b. 3 solid waste reissuance applications per year + 46 new solid waste applications per year = 49 permits x 1,345 hours per permit = 65,905 hours/year. 65,905/2,080 hours/FTE = 31.68 FTE/year. 31.68 FTE x \$128,000/year = \$4,055,040
 - c. 5 environmental review actions/year require .25 FTE/year. .25 FTE = \$32,000
 - d. Total = 47.2 FTE + 31.68 FTE + .25 FTE + = **79.13 FTE** and **\$10,128,640**

2. EQB rulemaking costs (FY 22 and 23 only)
 - a. Rule coordinator staff (0.5 FTE x \$128,000 x 2 years) = \$128,000 (or \$64,000 per FY)
 - b. Program staff (0.75 FTE x \$128,000 x 2 years) = \$192,000 (or \$96,000 per FY)
 - c. Attorney costs (\$133/hour for 86 hours) = \$11,438 (or \$5,719 per FY)
 - d. OAH costs: \$29,025 (or \$14,512 per FY)
 - e. State Register costs: \$3,705 (\$1,852 per FY)
 - f. Total = **1.25 FTE** and **\$182,083**

3. EQB costs to amend the EAW Form, create guidance, and implement outreach activities (FY22 only)
 - a. **.25 FTE x \$128,000 = \$32,000**

4. MPCA public meeting staffing, venues, and related costs each year
 - a. Two public meeting actions required per permit and environmental review action. 73 air actions + 49 solid waste actions + 5 environmental review actions = 127 actions/year x 2 = 254 public meetings/year.
 - b. 254 public meetings/year x venue cost of \$1,500 each = \$381,000/year. (Costs for public meeting venues can vary greatly depending upon size of space needed and whether a public space is available (could cost \$200 per event) versus the requirement of using private space (could cost \$2500 per event).)
 - c. 254 public meetings/year x public notification cost of \$2,500 each = \$635,000/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.
 - d. 254 public meetings/year. ~25% of meetings needing translators = 63 x translator cost of \$500 for 3 hours of services x 2 languages/meeting = \$63,000/year.
 - e. 10 hours each for 2 staff to prepare and attend public meetings. 20 hours x 254 meetings = 5,080 hours. 5,080/2,080/FTE/year = 2.44 FTE x \$128,000 = \$312,320
 - f. Total public engagement, venues and related costs = **2.44 FTE** and **\$1,391,320/year**

5. Cost recovery rulemaking costs (FY 22 and 23 only)
 - a. Rule coordinator staff (0.75 FTE x \$128,000 x 2 years) = \$192,000 (or \$96,000 per FY)
 - b. Program staff (0.5 FTE x \$128,000 x 2 years) = \$128,000 (or \$64,000 per FY)

- c. Attorney costs (\$133/hour for 86 hours) = \$11,438 (or \$5,719 per FY)
- d. OAH costs: \$29,025 or \$14,512/year)
- e. State Register costs: \$3,705 (\$1,852 per FY)
- f. Total rulemaking costs = **1.25 FTE** and **\$182,083/year**

*The annual cost of 1.0 FTE is \$128,000 in FY2021-2024. 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 processes. Local responsible governmental units leading environmental review projects may be subject to, and impacted by, this bill.

References/Sources

MPCA EJ mapping

MPCA staff with expertise and experience in cumulative impacts analysis and development of air and solid waste permits.

MPCA data on air and solid waste permits and amendments and locations of facilities.

MPCA and EQB expertise and experience on environmental review

Agency Contact: Katie Smith 651-592-5361

Agency Fiscal Note Coordinator Signature: John Allen

Phone: 651-757-2185

Date: 2/24/2021 4:54:52 PM

Email: john.j.allen@state.mn.us