

**SENATE
STATE OF MINNESOTA
NINETY-SECOND SESSION**

S.F. No. 839

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DATE
02/11/2021

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OFFICIAL STATUS
Introduction and first reading
Referred to Environment and Natural Resources Policy and Legacy Finance

1.1 A bill for an act
1.2 relating to environment; requiring rulemaking to make whole effluent toxicity
1.3 requirements for dischargers of effluent consistent statewide.

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

1.5 Section 1. **WHOLE EFFLUENT TOXICITY RULEMAKING.**

1.6 (a) By January 31, 2022, the commissioner of the Pollution Control Agency must adopt
1.7 rules on:

1.8 (1) evaluating and applying whole effluent toxicity (WET) as water-quality-based effluent
1.9 limitations and permit conditions for discharges occurring outside the Lake Superior basin;
1.10 and

1.11 (2) the applicability and standards for acute and chronic mixing zones.

1.12 (b) Rules adopted under this section must be substantially identical to Minnesota Rules,
1.13 parts 7052.0210, subparts 1 and 2, and 7052.0240, so that, to the greatest extent possible,
1.14 dischargers in all parts of the state are subject to the same mixing zones requirements and
1.15 acute and chronic WET requirements for establishing permit conditions.

1.16 Sec. 2. **INTERIM PROVISIONS.**

1.17 (a) From the effective date of this act until the rules under section 1 are adopted, to the
1.18 extent allowable under the federal Clean Water Act or other federal laws, this section applies
1.19 to discharges occurring outside the Lake Superior basin.

1.20 (b) If a whole effluent toxicity test, as defined under Minnesota Rules, part 7050.0218,
1.21 subpart 3, item AAA, is performed on the effluent of a point source discharger and results

2.1 in less than 50 percent mortality of the test organisms or if a demonstration is provided
2.2 under Minnesota Rules, part 7052.0210, subpart 1, that 0.3 acute toxic units can be met at
2.3 the edge of an approved acute mixing zone, the effluent must not be considered acutely
2.4 toxic or lethal to aquatic organisms unless the commissioner of the Pollution Control Agency
2.5 finds that the test species do not represent sensitive organisms in the affected surface water
2.6 body or the whole effluent toxicity test was performed on a sample not representative of
2.7 the effluent quality.

2.8 (c) The commissioner of the Pollution Control Agency must establish whole effluent
2.9 toxicity mixing zones and whole effluent toxicity water-quality-based effluent limitations
2.10 and permit conditions according to Minnesota Rules, parts 7052.0210, subparts 1 and 2,
2.11 and 7052.0240.

2.12 (d) The antibacksliding provisions of Minnesota Rules, part 7001.1080, subpart 9, do
2.13 not apply to new or revised permit conditions established under paragraph (c).

2.14 **Sec. 3. EFFECTIVE DATE.**

2.15 Sections 1 and 2 are effective the day following final enactment.