

CHAPTER 116

POLLUTION CONTROL AGENCY

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116.01 POLICY. To meet the variety and complexity of problems relating to water and air pollution in the areas of the state affected thereby, and to achieve a reasonable degree of purity of water and air resources of the state consistent with the maximum enjoyment and use thereof in furtherance of the welfare of the people of the state, it is in the public interest that there be established a pollution control agency.

[1967 c 882 s 1]

116.02 POLLUTION CONTROL AGENCY, CREATION. Subdivision 1. A pollution control agency, designated as the Minnesota pollution control agency, is hereby created. The agency shall consist of seven members appointed by the governor, by and with the advice and consent of the senate, each for a four year term beginning on February 15, and until his successor is duly appointed and qualifies. A vacancy in the office of a member of the agency shall be filled by the governor, but with the advice and consent of the senate, for the unexpired term.

Subd. 2. The first pollution control agency shall consist of two members whose term shall expire on February 15, 1969, two members whose term shall expire on February 15, 1970, one member whose term shall expire on February 15, 1971, and two members whose terms shall expire on February 15, 1972. Thereafter each member shall be appointed for a four year term as provided in subdivision 1.

Subd. 3. The membership of the pollution control agency shall be broadly representative of the skills and experience necessary to effectuate the policy of sections 116.01 to 116.09, except that no member appointed shall be an officer or employee of the state or federal government. Only two members at one time may be officials or employees of a municipality or any governmental subdivision, but neither may be a member ex-officio or otherwise on the management board of a municipal sanitary sewage disposal system.

Subd. 4. The agency shall elect a chairman and such other officers as it deems necessary. Each member shall receive as compensation for his services the sum of \$35 per day for each day or fraction thereof spent in attending meetings of the agency or in performing other duties required by law, and each member of the agency shall be reimbursed for actual and necessary expenses incurred in the performance of his duties in the same manner and in the same amount as other members are reimbursed therefor.

Subd. 5. The pollution control agency is the successor of the water pollution control commission, and all powers and duties now vested in or imposed upon said commission by chapter 115, or any act amendatory thereof or supplementary thereto, are hereby transferred to, imposed upon, and vested in the Minnesota pollution control agency, except as to those matters pending before the commission in which hearings have been held and evidence has been adduced. The water pollution commission shall complete its action in such pending matters not later than six months from May 26, 1967. The water pollution control commission, as heretofore constituted, is hereby abolished, (a) effective upon completion of its action in the pending cases, as hereinbefore provided for; or (b) six months from May 26, 1967, whichever is the earlier.

[1967 c 882 s 2]

116.03 DIRECTOR. Subdivision 1. (a) The office of director of the pollution control agency is created and is under the supervision and control of the director, who is appointed by the governor by and with the consent of the senate for a four year term, which shall coincide with the term of the governor, and until his successor is duly appointed and qualifies. The governor may remove the director at any

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time at his pleasure. A vacancy in the office of director shall be filled by the governor by and with the consent of the senate, for the unexpired portion of the term.

(b) In order to expedite the establishing and functioning of the pollution control agency, the governor shall forthwith appoint an acting director, who shall have all the powers and duties of the director as provided in sections 116.01 to 116.09. The acting director may be a person in the service of the state at the time of his appointment, and who while serving as acting director is on leave of absence from his regular office or position in the state service. The acting director shall serve as such until the director is appointed and qualifies as such director. Pending the abolishment of the water pollution control commission as specified in section 116.02, subdivision 5, the director or acting director, as the case may be, is the secretary of such commission in lieu of the secretary and executive officer of the state board of health.

Subd. 2. The director shall organize the agency and employ such assistants and other officers, employees and agents as he may deem necessary to discharge the functions of his office, define the duties of such officers, employees and agents, and delegate to them any of his powers, duties, and responsibilities, subject to his control and under such conditions as he may prescribe. The director may also contract with persons, firms, corporations, the federal government and any agency or instrumentality thereof, the water research center of the university of Minnesota or any other instrumentality of such university, for doing any of the work of his office, and none of the provisions of chapter 16, relating to bids, shall apply to such contracts. All personnel employed and all contracts entered into pursuant to this subdivision shall be subject to the approval of the pollution control agency. Agreements to exercise delegated powers shall be by written order filed with the secretary of state. An employee of the state board of health engaged in environmental sanitation work may transfer to the pollution control agency with the approval of the director. Under such a transfer the employee shall be assigned to a position of similar responsibility and pay without loss of seniority, vacation, sick leave, or other benefits under the state civil service act.

Subd. 3. The director of the pollution control agency is the state agent to apply for, receive, and disburse federal funds made available to the state by federal law or rules and regulations promulgated thereunder for any purpose related to the powers and duties of the pollution control agency or the director. He shall comply with any and all requirements of such federal law or such rules and regulations promulgated thereunder to enable him to apply for, receive, and disburse such funds. All such moneys received by the director shall be deposited in the state treasury and are hereby annually appropriated to him for the purposes for which they are received. None of such moneys in the state treasury shall cancel and they shall be available for expenditure in accordance with the requirements of federal law.

No application for federal funds under this subdivision shall be submitted to federal authorities for approval unless the proposed budget for the expenditure of federal funds is approved by the governor and reported to the legislative committees designated in section 16.165 and, when the legislature is not in session, reported to the standing committee on finance of the senate and the standing committee on appropriations of the house of representatives.

Subd. 4. Before entering upon the duties of his office the director of the pollution control agency shall take and subscribe an oath and give his bond to the state of Minnesota, to be approved by the governor and filed with the secretary of state, in the sum of \$25,000, conditioned for the faithful performance of his duties.

Subd. 5. The salary of the director of the pollution control agency shall be prescribed by the governor, unless otherwise fixed by law.

Subd. 6. The term of the first director of the pollution control agency shall expire with the term of the governor expiring in January, 1971. Thereafter, the term of the director shall be in conformity with the provisions of this section.

[1967 c 882 s 3]

116.04 EXECUTIVE SECRETARY. The director of the pollution control agency is the executive secretary and chief executive officer of the Minnesota pollution control agency and is responsible for performing the executive duties of such agency prescribed by law.

[1967 c 882 s 4]

116.05 COOPERATION. Subdivision 1. All state departments and agencies

are hereby directed to cooperate with the pollution control agency and its director and assist them in the performance of their duties, and the pollution control agency is authorized to cooperate with other departments and agencies of the state, with municipalities, with other states, with the federal government and its agencies and instrumentalities, in the public interest and in order to control pollution.

Subd. 2. Upon the request of the pollution control agency the governor may, by order, require any department or agency of the state to furnish such assistance to the agency or its director in the performance of its duties or in the exercise of his powers imposed by law, as the governor may, in his order, designate or specify; and with the consent of the department or agency concerned, the governor may direct all or part of the cost or expense for the amount of such assistance to be paid from the pollution control agency fund or appropriation in such amount as he may deem just and proper.

[1967 c 882 s 5]

116.06 DEFINITIONS. Subdivision 1. The definitions given in this section shall obtain for the purposes of sections 116.01 to 116.09 except as otherwise expressly provided or indicated by the context.

Subd. 2. "Air contaminant" or "air contamination" means the presence in the outdoor atmosphere of any dust, fume, mist, smoke, vapor, gas, or other gaseous, fluid, or particulate substance differing in composition from or exceeding in concentration the natural components of the atmosphere.

Subd. 3. "Air pollution" means the presence in the outdoor atmosphere of any air contaminant or combination thereof in such quantity, of such nature and duration, and under such conditions as would be injurious to human health or welfare, to animal or plant life, or to property, or to interfere unreasonably with the enjoyment of life or property.

Subd. 4. "Emission" means a release or discharge into the outdoor atmosphere of any air contaminant or combination thereof.

Subd. 5. "Emission facility" means any structure, work, equipment, machinery, device, apparatus, or other means whereby an emission is caused to occur.

Subd. 6. "Air contaminant treatment facility" or "treatment facility" means any structure, work, equipment, machinery, device, apparatus, or other means for treatment of an air contaminant or combination thereof to prevent, abate, or control air pollution.

Subd. 7. "Potential air contaminant storage facility" or "Storage facility" means any structure, work, equipment, device, apparatus, tank, container, or other means for the storage or confinement, either stationary or in transit, of any substance which, if released or discharged into the outdoor atmosphere, might cause air contamination or air pollution.

Subd. 8. "Person" means any human being, any municipality or other governmental or political subdivision or other public agency, any public or private corporation, any partnership, firm, association, or other organization, any receiver, trustee, assignee, agent, or other legal representative of any of the foregoing, or any other legal entity, but does not include the pollution control agency.

[1967 c 882 s 6]

116.07 POWERS AND DUTIES. Subdivision 1. **Generally.** In addition to any powers or duties otherwise prescribed by law and without limiting the same, the pollution control agency shall have the powers and duties hereinafter specified.

Subd. 2. **Adoption of standards.** The pollution control agency shall adopt standards of air quality, including maximum allowable standards of emission of air contaminants from motor vehicles, recognizing that due to variable factors, no single standard of purity of air is applicable to all areas of the state. In adopting standards, the pollution control agency shall give due recognition to the fact that the quantity or characteristics of air contaminants or the duration of their presence in the atmosphere, which may cause air pollution in one area of the state, may cause less or not cause any air pollution in another area of the state, and it shall take into consideration in this connection such factors, including others which it may deem proper, as existing physical conditions, zoning classifications, topography, prevailing wind directions and velocities, and the fact that a standard of air quality which may be proper as to an essentially residential area of the state, may not be proper as to a highly developed industrial area of the state. Such standards of air quality shall be premised upon scientific knowledge of causes as

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well as effects based on technically substantiated criteria and commonly accepted practices.

Subd. 3. **Administrative rules.** Pursuant and subject to the provisions of chapter 15, and the provisions hereof, the pollution control agency may adopt, amend, and rescind rules governing its own administration and procedure and its staff and employees.

Subd. 4. **Regulations and standards.** Pursuant and subject to the provisions of chapter 15, and the provisions hereof, the pollution control agency may adopt, amend, and rescind regulations and standards having the force of law relating to any purpose within the provisions of this act for the prevention, abatement, or control of air pollution. Any such regulation or standard may be of general application throughout the state or may be limited as to times, places, circumstances, or conditions in order to make due allowance for variations therein. Without limitation, regulations or standards may relate to sources or emissions of air contamination or air pollution, to the quality or composition of such emissions, or to the quality of or composition of the ambient air or outdoor atmosphere or to any other matter relevant to the prevention, abatement, or control of air pollution.

Subd. 5. **Variations.** The pollution control agency may grant variances from the requirements of regulations or standards upon such procedure and conditions as it may by regulation prescribe in order to avoid undue hardship and promote the effective and reasonable application and enforcement of the laws, regulations, and standards for prevention, abatement, and control of air pollution.

Subd. 6. **Pollution control agency; exercise of powers.** In exercising all its powers the pollution control agency shall give due consideration to the establishment, maintenance, operation and expansion of business, commerce, trade, industry, traffic, and other economic factors and other material matters affecting the feasibility and practicability of any proposed action, including, but not limited to, the burden on a municipality of any tax which may result therefrom, and shall take or provide for such action as may be reasonable, feasible, and practical under the circumstances.

[1967 c 882 s 7]

116.08 ENFORCEMENT. Subdivision 1. **Violations; penalties.** It shall be the duty of every person affected to comply with the provisions of sections 116.01 to 116.09 as now in force or hereafter amended, relating to sources of air contamination or air pollution, emissions, emission facilities, treatment facilities, storage facilities, and other means, operations, acts or omissions causing air contamination or air pollution, or any thereof, and with the provisions of every regulation or standard of the pollution control agency relating thereto. Violation of any such provision shall be a misdemeanor, punishable by a fine of not exceeding \$100 or imprisonment for not exceeding 90 days. Each day of any such violation shall constitute a separate offense. It shall be the duty of all county attorneys, sheriffs and other peace officers, and other officers having authority in the enforcement of the general criminal laws to take all action to the extent of their authority, respectively, that may be necessary or proper for the enforcement of said provisions.

Subd. 2. **Civil actions.** The provisions of law, regulations, or standards specified in subdivision 1 or any thereof may be enforced by injunction, action to compel performance, or other appropriate action in the district court of any county wherein the applicable provision takes effect. Without limitation, the maintenance, operation, or allowance or any emission, emission facility, treatment facility, or storage facility contrary to any provision of sections 116.01 to 116.09 or any regulation or standard thereunder or the maintenance, operation, or allowance of any other source or means causing air contamination or air pollution in violation of any such provision shall be a public nuisance, and may be enjoined and abated as such by appropriate action in the district court of the county in which the subject matter or any part thereof is situated. The attorney general or the county attorney of the county of original venue as hereinbefore provided shall bring and maintain any action specified in this subdivision on request of the pollution control agency.

[1967 c 882 s 8]

116.09 STUDY AND REPORT. Subdivision 1. The pollution control agency shall investigate and study problems relating to air pollution in the areas of the state affected thereby and report to the governor and the legislature on or before February 15, 1969, in regard thereto. Such report shall contain an analysis of the

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problem as it exists and recommendations for the solution thereof, including standards to minimize air pollution promulgated hereunder.

Subd. 2. The pollution control agency shall study and investigate problems of solid waste control and problems concerning the uses of land in areas of the state which are affected by the pollution of air and water, and report to the governor and the legislature in regard thereto not later than February 15, 1969. Such report shall contain an analysis of these problems as they may exist, recommendations for the solution thereof, including proposed standards.

Subd. 3. The recommendations of the pollution control agency may include a comprehensive plan for the control, abatement, or prevention of air pollution.

Subd. 4. The recommendations of the pollution control agency may include a comprehensive plan covering standards of land use in places where such land use increases the problem of pollution.

[1967 c 882 s 9]