

CHAPTER 116C

ENVIRONMENTAL QUALITY BOARD

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**116C.01 FINDINGS.** The legislature of the state of Minnesota finds that problems related to the environment often encompass the responsibilities of several state agencies and that solutions to these environmental problems require the interaction of these agencies. The legislature also finds that further debate concerning population, economic and technological growth should be encouraged so that the consequences and causes of alternative decisions can be better known and understood by the public and its government.

[ 1973 c 342 s 1 ]

**116C.02 DEFINITIONS.** Subdivision 1. For the purposes of sections 116C.01 to 116C.08, the following terms have the meaning given them.

Subd. 2. "Board" means Minnesota environmental quality board.

[ 1973 c 342 s 2; 1975 c 271 s 6 ]

**116C.03 CREATION OF THE ENVIRONMENTAL QUALITY BOARD; MEMBERSHIP; CHAIRMAN; STAFF.** Subdivision 1. An environmental quality board, designated as the Minnesota environmental quality board, is hereby created.

Subd. 2. The board shall include as permanent members the director of the state planning agency, the director of the pollution control agency, the commissioner of natural resources, the commissioner of agriculture, the commissioner of health, the commissioner of transportation, the director of the Minnesota energy agency, a representative of the governor's office designated by the governor, the chairman of the citizens advisory committee, and three other members of the citizens advisory committee as designated by the governor. The names of the four members of the citizens advisory committee designated to serve on the board shall be submitted to the senate for its advice and consent. Upon the expiration of the citizens advisory committee the governor shall appoint four members from the general public to the board, subject to the advice and consent of the senate.

Subd. 2a. The membership terms, compensation, removal, and filling of vacancies of citizens advisory committee members or public members, as appropriate, on the board shall be as provided in section 15.0575.

Subd. 3. The director of the state planning agency shall be the chairman of the board.

Subd. 4. The director of the state planning agency shall employ staff or consultants who will be assigned to work for the board on a continuous basis. The board shall have the authority to request and require staff support from all other agencies of

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state government as needed for the execution of the responsibilities of the board.

[ 1973 c 342 s 3; 1974 c 307 s 16; 1975 c 271 s 6; 1976 c 134 s 28,29; 1976 c 166 s 7 ]

**116C.04 POWERS AND DUTIES.** Subdivision 1. The powers and duties of the Minnesota environmental quality board shall be as provided in this section and as otherwise provided by law or executive order. Actions of the board shall be taken only at an open meeting upon a majority vote of all the permanent members of the board.

Subd. 2. (a) The board shall determine which environmental problems of interdepartmental concern to state government shall be considered by the board. The board shall initiate interdepartmental investigations into those matters that it determines are in need of study. Topics for investigation may include but need not be limited to future population and settlement patterns, air and water resources and quality, solid waste management, transportation and utility corridors, economically productive open space, energy policy and need, growth and development, and land use planning.

(b) The board shall review programs of state agencies that significantly affect the environment and coordinate those it determines are interdepartmental in nature, and insure agency compliance with state environmental policy.

(c) The board may review environmental regulations and criteria for granting and denying permits by state agencies and may resolve conflicts involving state agencies with regard to programs, regulations, permits and procedures significantly affecting the environment, provided that such resolution of conflicts is consistent with state environmental policy.

(d) State agencies shall submit to the board all proposed legislation of major significance relating to the environment and the board shall submit a report to the governor and the legislature with comments on such major environmental proposals of state agencies.

Subd. 3. The board shall cooperate with regional development commissions in appropriate matters of environmental concern.

Subd. 4. The board may establish interdepartmental or citizen task forces or subcommittees to study particular problems.

Subd. 5. Pursuant and subject to the provisions of chapter 15, and the provisions hereof, the board may adopt, amend, and rescind rules governing its own administration and procedure and its staff and employees.

Subd. 6. The board shall assist and advise the governor on all environmental issues in which action or comment by the governor is required by law or is otherwise appropriate.

Subd. 7. At its discretion, the board shall convene an annual environmental quality board congress including, but not limited to, representatives of state, federal and regional agencies, citizen organizations, associations, industries, colleges and universities, and private enterprises who are active in or have a major impact on environmental quality. The purpose of the congress shall be to receive reports and exchange information on progress and activities related to environmental improvement.

Subd. 8. The board shall provide the citizens advisory committee established in section 116C.05 with such administrative, clerical and technical assistance as may be required by the committee to carry out its functions.

Subd. 9. The board shall meet with the citizens advisory committee established in section 116C.05 at least four times a year, at approximately three month intervals, to receive advice from the committee and to coordinate the activities of the board and the committee.

[ 1973 c 342 s 4; 1975 c 271 s 6 ]

**116C.05 CITIZENS ADVISORY COMMITTEE.** Subdivision 1. There is established a citizens advisory committee composed of one resident from each congressional district and three members at large as a vehicle for citizen participation in the activities of the board. The governor shall appoint the members of the citizens advisory committee, and the committee annually shall elect one of their members to serve as chairman. The committee shall expire and the terms, compensation, and removal of members shall be as provided in section 15.059.

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Subd. 2. The duties and functions of the committee shall be as follows:

(a) To hold meetings throughout the state as it deems necessary for the purpose of gathering information on public and private opinions concerning the adequacy of the state's environmental quality policies and the extent to which these policies are being implemented;

(b) To meet with the environmental quality board at least four times a year at approximately three month intervals, to give advice and counsel to the board on the basis of the information gathered pursuant to (a).

[ 1973 c 342 s 5; 1975 c 204 s 73; 1975 c 271 s 6; 1975 c 315 s 24 ]

**116C.06 HEARINGS.** Subdivision 1. The board shall hold public hearings on matters that it determines to be of major environmental impact. The board shall prescribe by rule and regulation in conformity to the provisions of sections 15.0411 to 15.0423, the procedures for the conduct of all hearings and review procedures.

Subd. 2. The board may delegate its authority to conduct a hearing to a hearings officer. The hearings officer shall have the same power as the board to compel the attendance of witnesses to examine them under oath, to require the production of books, papers, and other evidence, and to issue subpoenas and cause the same to be served and executed in any part of the state. The hearings officer shall be knowledgeable in matters of law and the environment.

If a hearings officer conducts a hearing, he shall make findings of fact and submit them to the board. The transcript of testimony and exhibits shall constitute the exclusive record upon which such findings are made. The findings shall be available for public inspection.

Subd. 3. After receipt of the findings of fact of the hearings officer, the board shall make recommendations to the governor and legislature as to administrative and legislative actions to be considered in regard to the matter.

[ 1973 c 342 s 6; 1975 c 271 s 6 ]

**116C.07 POLICY; LONG RANGE PLAN; PURPOSE.** Consistent with the policy announced herein, the board shall, before November 15, of each even numbered year, prepare a long range plan and program for the effectuation of said policy, and shall make a report to the governor and the legislature of progress on those matters assigned to it by law.

[ 1973 c 342 s 7; 1975 c 271 s 6 ]

**116C.08 FEDERAL FUNDS; DONATIONS.** The board may apply for, receive, and disburse federal funds made available to the state by federal law or rules promulgated thereunder for any purpose related to the powers and duties of the board. The board shall comply with any and all requirements of such federal law or such rules and regulations promulgated thereunder in order to apply for, receive, and disburse such funds. The board is authorized to accept any donations or grants from any public or private concern. All such moneys received by the board shall be deposited in the state treasury and are hereby appropriated to it for the purpose for which they are received. None of such moneys in the state treasury shall cancel.

[ 1973 c 342 s 8; 1975 c 271 s 6 ]

## ENVIRONMENTAL COORDINATION PROCEDURES

**116C.22 CITATION.** Sections 116C.22 to 116C.34 may be cited as the Minnesota environmental coordination procedures act.

[ 1976 c 303 s 1 ]

**116C.23 PURPOSE.** It shall be the purpose of sections 116C.22 to 116C.34:

(a) to provide an optional procedure to assist those who, in the course of satisfying the requirements of state government prior to undertaking a project which contemplates the use of the state's air, land, or water resources, must obtain more than one state permit, by establishing a mechanism in state government which will coordinate administrative decision-making procedures, and related quasi-judicial and judicial review, pertaining to these permits;

(b) to provide to the members of the public a better and easier opportunity to present their views comprehensively on proposed uses of natural resources and re-

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lated environmental matters prior to the making of decisions on these uses by state or local agencies;

(c) to provide to the members of the public a greater degree of certainty in terms of permit requirements of state and local government;

(d) to provide better coordination and understanding between state and local agencies in the administration of the various programs relating to air, water, and land resources; and

(e) to establish the opportunity for members of the public to obtain information pertaining to requirements of federal and state law which must be satisfied prior to undertaking a project in this state.

[ 1976 c 303 s 2 ]

**116C.24 DEFINITIONS.** Subdivision 1. For the purposes of sections 116C.22 to 116C.34, the terms defined in this section have the meanings given them.

Subd. 2. "Board" means the Minnesota environmental quality board.

Subd. 3. "Coordination unit" means the environmental coordination unit established pursuant to section 116C.25.

Subd. 4. "Local governmental unit" means a county, city, town, or special district with legal authority to issue a permit.

Subd. 5. "Permit" means a license, permit, certificate, certification, approval, compliance schedule, or other similar document pertaining to a regulatory or management program related to the protection, conservation, or use of, or interference with, the natural resources of land, air or water, which is required to be obtained from a state agency prior to constructing or operating a project in this state.

Nothing in sections 116C.22 to 116C.34 shall relate to the granting of a proprietary interest in publicly owned property through a sale, lease, easement, use permit, license or other conveyance.

Subd. 6. "Person" means an individual, an association or partnership, or a cooperative, or a municipal, public or private corporation, including but not limited to a state agency and a county.

Subd. 7. "Project" means a new activity or an expansion of or addition to an existing activity, which is fixed in location and for which permits are required from an agency prior to construction or operation, including but not limited to industrial and commercial operations and developments. Sections 116C.22 to 116C.34 shall not apply to projects which are:

(a) Covered by chapter 93, sections 116C.51 to 116C.69 or 116H.13; or

(b) Initiated for the purpose of taconite tailings disposal or mining, or the producing or beneficiating of copper, nickel or copper-nickel.

Subd. 8. "Agency" means a state department, commission, board or other agency of the state however titled or a local governmental unit or instrumentality, only when that unit or instrumentality is acting within existing legal authority to grant or deny a permit that otherwise would be granted or denied by a state agency.

[ 1975 c 271 s 6; 1976 c 303 s 3 ]

**116C.25 ENVIRONMENTAL PERMITS COORDINATION UNIT.** The board shall establish an environmental permits coordination unit to implement and administer the provisions of sections 116C.22 to 116C.34 and the chairman of the board shall employ necessary staff to work for the coordination unit on a continuous basis.

[ 1975 c 271 s 6; 1976 c 303 s 4 ]

**116C.26 APPLICATION PROCEDURE.** Subdivision 1. A person proposing a project which may require more than one permit may, prior to the initial construction of the project or prior to the initial operation of the project if construction of the project required no state permits, submit a master application to the coordination unit requesting the issuance of all state permits necessary for construction and operation of the project. The master application shall be on a form furnished by the coordination unit and shall contain precise information as to the location of the project, and shall describe the nature of the project including any contemplated discharges of wastes therefrom and any uses of, or interferences with, natural resources. No master application shall be accepted for processing by the coordination unit pursuant to sections

116C.22 to 116C.34, unless it is accompanied by the certifications issued not more than 120 days prior to the date of the master application as required by section 116C.31. No master application shall be accepted for processing by the coordination unit pursuant to sections 116C.22 to 116C.34, unless it is accompanied by a certification from the board that either an environmental impact statement concerning the project has been completed or that an environmental impact statement is not required concerning the project.

Subd. 2. Upon receipt of a completed master application, the coordination unit shall immediately notify in writing each agency having a possible interest in the master application arising from requirements pertaining to a permit program under its jurisdiction. The notification from the coordination unit shall be accompanied by a copy of the master application together with the date by which the agency shall respond to the notice. Each notified agency shall respond in writing to the coordination unit within the specified date, not exceeding 20 days from receipt, as determined by the coordination unit, advising whether the agency does or does not have an interest in the master application. If an agency timely responds that it has an interest in the master application, the response shall include information concerning the specific permit programs under its jurisdiction which are pertinent to the project described in the master application. The agency response shall also advise the coordination unit whether a public hearing concerning the master application as provided in section 116C.28 would or would not be required or of value considering the overall public interest.

Subd. 3. Each notified agency which responds within the specified date that it does not have an interest in the master application or which does not respond as required by subdivision 2 within the specified date, shall not subsequently require a permit of the applicant for the project described in the master application; provided the bar to requiring a permit subsequently shall not be applicable if:

(a) The master application provided to the notified agency contained false, misleading, or deceptive information, or lacked information, which would reasonably lead an agency to misjudge its interest in a master application; or

(b) Subsequent laws or rules require additional permits; or

(c) Unusual circumstances prevented the agency from notifying the coordination unit and the agency can establish that failure to require a permit would result in substantial harm to the public health or welfare, in which case the board may order that the permit be required.

Subd. 4. The coordination unit shall submit application forms concerning the permit programs identified in the affirmative responses under subdivision 2 to the applicant with a direction to complete and return them to the coordination unit within 90 days.

Subd. 5. Within ten days of receipt of the full set of completed application forms by the coordination unit, each application shall be transmitted to the appropriate agency for the performance of its responsibilities of decision making in accordance with the procedures of sections 116C.22 to 116C.33.

Subd. 6. If an agency has a procedure for setting priorities in issuing a permit according to the date of the application for the permit, the date used shall be the date upon which a master application is received by the coordination unit.

[ 1975 c 271 s 6; 1976 c 303 s 5 ]

**116C.27 NOTICE.** Subdivision 1. The coordination unit immediately after transmittal of the completed applications to the appropriate agency shall cause a notice to be published at the applicant's expense once each week on the same day of the week for three consecutive weeks in a newspaper of general circulation within each county in which the project is proposed to be constructed or operated. The notice shall describe the nature of the master application including, with reasonable specificity, the project proposed, its location, the various permits applied for, and the agency having jurisdiction over each permit. Except as provided in subdivision 2, the notice shall also state the time and place of the public hearing, to be held not less than 20 days after the date of last publication of the notice. It shall further state that a copy of the master application and a copy of all permit applications for the project are available for public inspection in the office of the county auditor of each county in which the project is proposed to be constructed or operated, as well as in other locations which the coordination unit may designate.

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Subd. 2. If the responses to the master application received by the coordination unit from the state agencies unanimously state the position that a public hearing in relation to a master application would not be of value in consideration of the overall public interest and are not required by any other law or rule, the provisions of subdivision 1 pertaining to the time and place of a public hearing shall not be included in the notice. In place thereof the notice shall state that members of the public may present relevant views and supporting materials in writing to the coordination unit concerning any of the permits applied for within 30 days after the last date of publication of the notice in a newspaper.

[ 1976 c 303 s 6 ]

**116C.28 PUBLIC HEARING.** Subdivision 1. When one or more agencies notifies the coordination unit that a public hearing is required or appropriate on matters relating to the project described in the master application, the coordination unit shall set the time and place for a hearing in which each of the affected agencies shall participate. The hearing shall be held pursuant to the contested case provisions of chapter 15 and section 116C.27.

Subd. 2. Each participating state agency shall be represented at the public hearing by its chief administrative officer or his designee. The representative of any state agency within whose jurisdiction a specific application lies shall participate in the portion of the hearing pertaining to submission of information, views, and supporting materials which are relevant to its application. The hearing examiner may, when appropriate, continue a hearing from time to time and place to place. The hearing shall be recorded in any manner suitable for transcription pursuant to chapter 15.

Subd. 3. Within 60 days of receipt of the hearing examiner's report, each state agency which is a party to the hearing shall forward its final decision on permit applications within its jurisdiction to the coordination unit, provided that this date may be extended by the chairman of the board for reasonable cause. Every final decision shall set forth the basis for the decision together with a final order denying the permit or granting the permit including the specifying of any conditions under which the permit is issued.

Subd. 4. If notice has been published pursuant to section 116C.27, subdivision 2, and no public hearing is conducted, the coordination unit shall, not less than 30 days after the last notice publication in the newspaper, submit a copy of all views and supporting material received by it to each agency having jurisdiction concerning any permit application described in the notice. Concurrently therewith, the coordination unit shall notify each state agency, in writing, of the date not to exceed 60 days by which final decisions on applications shall be forwarded to the coordination unit; provided that this date may be extended by the chairman of the board for reasonable cause. Each final decision shall set forth the information required by subdivision 3.

Subd. 5. As soon as all final decisions are received by the coordination unit from the various participating state agencies, the coordination unit shall immediately incorporate them, without modification, into one document and shall transmit the document to the applicant either personally or by registered mail.

[ 1975 c 271 s 6; 1976 c 303 s 7 ]

**116C.29 WITHDRAWAL OF AGENCY PARTICIPATION.** After an agency has responded that it has an interest in the master application, it may withdraw from further participation in the processing of that master application at any time by written notification to the coordination unit, if it subsequently appears to the agency that it has no permit programs under its jurisdiction which are applicable to the project.

[ 1976 c 303 s 8 ]

**116C.30 APPLICATION.** Subdivision 1. A person aggrieved by a final decision of an agency in granting or denying a permit shall seek redress directly and individually from that agency in the manner provided by chapter 15, or any other statute authorizing either judicial or administrative review of an agency decision.

Subd. 2. Each state agency having jurisdiction to approve or deny an application for a permit shall have continuing power as vested in it prior to February 15, 1977, to make such determinations. Nothing in sections 116C.22 to 116C.34 shall lessen or reduce such powers, and such sections shall modify only the procedures to be followed in the carrying out of such powers.

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Subd. 3. A state agency may in the performance of its responsibilities of decision making under sections 116C.22 to 116C.33, request or receive additional information from an applicant.

Subd. 4. Fee schedules authorized by statute for an application or permit shall continue to be applicable even though the application or permit is processed under the provisions set forth in sections 116C.22 to 116C.33. The coordination unit shall not charge the applicant or participating agencies a fee for its services.

Subd. 5. Sections 116C.22 to 116C.33 shall have no applicability to an application for a permit renewal, amendment, extension, or other similar document required subsequent to the completion of decisions and proceedings under sections 116C.27 to 116C.29, or to a replacement thereof or to a quasi-judicial or judicial proceeding held pursuant to an order of remand or similar order by a court in relation to a final decision of a state agency.

Subd. 6. Nothing in sections 116C.22 to 116C.34 shall modify in any manner whatsoever the applicability or inapplicability of any land use regulation statute or local zoning ordinance to the lands of any state agency.

[ 1976 c 303 s 9 ]

**116C.31 LOCAL CERTIFICATION.** Subdivision 1. No master application shall be processed pursuant to sections 116C.22 to 116C.33 unless it is accompanied by a certification issued not more than 120 days prior to the date the master application is first received by the coordination unit, from the local governmental units in whose jurisdiction the proposed project is located, certifying that the project is in compliance with all zoning ordinances, subdivision regulations, and environmental regulations administered by the local governmental unit and certifying that the preparation of any environmental impact statement which the local governmental unit is authorized to require pursuant to local ordinance, state statute, or board rule, has been completed or deemed not necessary. If the local governmental unit has required any environmental impact statement concerning the project, a copy of the completed environmental impact statement shall be attached to the local governmental unit's certification. If the local governmental unit has no zoning ordinances, subdivision regulations, or environmental regulations, the certification from the local governmental unit shall so state. A local governmental unit may accept applications for certifications as provided in this section and shall rule upon the same expeditiously to insure that the purposes of sections 116C.22 to 116C.33 are accomplished fully. After issuing a certification for the purposes of this section, no local government shall rescind it even though the local government may have changed its zoning ordinances, subdivision regulations, or environmental regulations. A change of zoning ordinances, subdivision regulations, or environmental regulations shall not invalidate a previously given certification for the purpose of securing a state permit under sections 116C.22 to 116C.33. Upon certification, the local government may change such zoning ordinances, subdivision regulations, or environmental regulations, but not so as to affect the proposed project until the procedures of sections 116C.22 to 116C.33, including any administrative or judicial reviews, are completed.

Subd. 2. A ruling by a local governmental unit denying an application for certification shall not be appealable under sections 116C.22 to 116C.34. The denial of an application for certification by a local governmental unit shall not preclude the applicant from filing a permit application under any other available statute or procedure.

[ 1975 c 271 s 6; 1976 c 303 s 10 ]

**116C.32 RULES; COOPERATION.** The board shall as soon as practicable adopt rules, not inconsistent with rules of procedure established by the office of hearing examiners, to implement the provisions of sections 116C.22 to 116C.34, including master application procedures, notice procedures, and public hearing procedures and costs.

[ 1975 c 271 s 6; 1976 c 303 s 11 ]

**116C.33 CONFLICT WITH FEDERAL REQUIREMENTS.** Subdivision 1. If in a final order of a court of competent jurisdiction, any part of sections 116C.22 to 116C.34 as enacted or administered is found to be in conflict with federal requirements which are a condition precedent to the allocation of federal funds authorized to this state, the conflicting part of sections 116C.22 to 116C.34 shall be void to the limited extent necessary to remove the conflict and the remainder of sections 116C.22 to 116C.34 shall remain effective.

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Subd. 2. The board, to the limited extent necessary to comply with procedural requirements of federal statutes relating to permit systems operated by the state, may modify the notice, timing, hearing and related procedural matters provided in sections 116C.22 to 116C.34.

[ 1975 c 271 s 6; 1976 c 303 s 12 ]

**116C.34 PERMIT INFORMATION CENTERS.** Subdivision 1. The board shall establish a permit information center in its office at St. Paul, which center shall establish and maintain an information and referral system to assist the public in the understanding and compliance with the requirements of state and local governmental regulations concerning the use of natural resources and protection of the environment. The system shall provide a telephone information service and disseminate printed materials. The board shall provide assistance to regional development commissions desiring to create a permit information center.

Subd. 2. The permit information center in St. Paul shall:

(a) Identify all existing state licenses, permit certifications, approvals, compliance schedules, or other programs which pertain to the use of natural resources and to protection of the environment.

(b) Standardize permit titles and assign designation codes to all such permits which would thereafter be imprinted on all permit forms.

(c) Develop permit profiles including applicable rules and regulations, copies of all appropriate permit forms, statutory mandate and legislative history, names of individuals administering the program, permit processing procedures, documentation of the magnitude of the program and of geographic and seasonal distribution of the workload, and estimated application processing time.

(d) Identify the public information procedures currently associated with each permit program.

(e) Identify the data monitored or acquired through each permit and ascertain current users of that data.

(f) Recommend revisions to the list of natural resource management and development permits contained in Minnesota Statutes 1974, Section 116D.04, Subdivision 5.

(g) Recommend legislative or administrative modifications of existing permit programs to increase their efficiency and utility.

Subd. 3. The auditor of each county shall post in a conspicuous place in his office the telephone numbers of the permit information centers established in St. Paul and in the office of the applicable regional development commission; copies of any master applications or permit applications forwarded to the auditor pursuant to section 116C.27, subdivision 1; and copies of any information published by any permit information center pursuant to subdivision 1.

[ 1975 c 271 s 6; 1976 c 303 s 13 ]

## POWER PLANT SITES

**116C.51 CITATION.** Sections 116C.51 to 116C.69 shall be known as the Minnesota power plant siting act.

[ 1973 c 591 s 1 ]

**116C.52 DEFINITIONS.** Subdivision 1. As used in sections 116C.51 to 116C.68, the terms defined in this section have the meanings given them, unless otherwise provided or indicated by the context.

Subd. 2. "Board" shall mean the Minnesota environmental quality board.

Subd. 3. "High voltage transmission line" shall mean a conductor of electric energy and associated facilities designed for and capable of operation at a nominal voltage of 200 kilovolts or more, except that the board, by regulation, may exempt lines under one mile in length.

Subd. 4. "Large electric power generating plant" shall mean electric power generating equipment and associated facilities designed for or capable of operation at a capacity of 50,000 kilowatts or more.

Subd. 5. "Person" shall mean an individual, partnership, joint venture, private or public corporation, association, firm, public service company, cooperative, political



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subdivision, municipal corporation, government agency, public utility district, or any other entity, public or private, however organized.

Subd. 6. "Utility" shall mean any entity engaged in this state in the generation, transmission or distribution of electric energy including, but not limited to, a private investor owned utility, cooperatively owned utility, and a public or municipally owned utility.

Subd. 7. Construction shall be deemed to have started or commenced as a result of significant physical alteration of a site or route but not including activities incident to preliminary engineering or environmental studies.

[ 1973 c 591 s 2; 1975 c 271 s 6 ]

**116C.53 SITING AUTHORITY.** The Minnesota environmental quality board is hereby given the authority to provide for power plant site and transmission line corridor and route selection.

[ 1973 c 591 s 3; 1975 c 271 s 6 ]

**116C.54 ADVANCE FORECASTING.** Every utility which owns or operates, or plans within the next 15 years to own or operate large electric power generating plants or high voltage transmission lines shall develop forecasts as specified in this section. On or before July 1 of each even-numbered year, every such utility shall submit a report of its forecast to the board. Such report may be appropriate portions of a single regional forecast or may be jointly prepared and submitted by two or more utilities and shall contain the following information:

(1) Description of the tentative regional location and general size and type of all large electric power generating plants and high voltage transmission lines to be owned or operated by such utility during the ensuing 15 years or such longer period as the board deems necessary;

(2) Identification of all existing generating plants and transmission lines projected to be removed from service during such 15 year period or upon completion of construction of such large electric power generating plants and high voltage transmission lines;

(3) Statement of the projected demand for electric energy for the ensuing 15 years and the underlying assumptions for this forecast, such information to be as geographically specific as possible where this demand will occur;

(4) Description of the capacity of the electric power system to meet such demands during the ensuing 15 years;

(5) Description of the utility's relationship to other utilities and regional associations, power pools or networks; and

(6) Other relevant information as may be requested by the board.

[ 1973 c 591 s 4; 1975 c 271 s 6 ]

**116C.55 DEVELOPMENT OF POWER PLANT SITING AND TRANSMISSION LINE ROUTING CRITERIA; PUBLIC HEARINGS; INVENTORY.** Subdivision 1. **Policy.** The legislature hereby declares it to be the policy of the state to site large electric power facilities in an orderly manner compatible with environmental preservation and the efficient use of resources. In accordance with this policy, the environmental quality board shall choose sites that minimize adverse human and environmental impact while insuring continuing electric power system reliability and integrity and insuring that electric energy needs are met and fulfilled in an orderly and timely fashion.

Subd. 2. **Inventory criteria; public hearings.** The board shall promptly initiate a public planning process where all interested persons can participate in developing the criteria and standards to be used by the board in preparing an inventory of potential large electric power generating plant sites and high voltage transmission line corridors and to guide the site suitability evaluation and selection process. The participatory process shall include, but should not be limited to public hearings. Before substantial modifications of the initial criteria and standards are adopted, additional public hearings shall be held. Such criteria and standards shall be promulgated on or before July 1, 1974.

Subd. 3. **Inventory of potential large electric power generating plant sites and high voltage transmission line corridors.** On or before July 1, 1975, the board shall assemble and publish an inventory of potential large electric power generating plant

sites and high voltage transmission line corridors. The inventory report of potential large electric power generating plant sites and high voltage transmission line corridors shall set forth the criteria and standards used in developing the potential site and corridor inventory. After completion of its initial inventory of potential sites and corridors, the board shall have a continuing responsibility to evaluate, update and publish its inventory and if, due to changed circumstances or information, a site or corridor is inconsistent with prescribed criteria or does not meet prescribed standards, such site or corridor shall be removed from the inventory of potential sites and corridors.

[ 1973 c 591 s 5; 1975 c 271 s 6 ]

**116C.56 FACILITY DEVELOPMENT PLANS.** After publication by the board of its initial inventory of potential sites and corridors, and the criteria by which such sites and corridors were selected, every utility which owns or operates or plans within the next five years to start construction, own or operate large electric power generating plants or high voltage transmission lines shall develop and annually submit to the board its plans for facilities to meet and fulfill the expected future demands for electric energy during the period covered by such report. Such plans may be appropriate portions of a single regional plan or may be jointly prepared and submitted by two or more utilities, and shall contain the following information:

(1) Description of the general size and type of all large electric power generating plants and high voltage transmission lines to be owned and operated by such utility;

(2) Identification of all existing generating plants and transmission lines intended to be removed from service upon completion of construction of such large electric power generating plants and high voltage transmission lines;

(3) Identification of the location of the tentative preferred site and at least one alternative site for all large electric power generating plants, and the tentative preferred corridors and at least one alternative corridor for all high voltage transmission lines on which construction is intended to be commenced, and preliminary indication of the potential impact of the planned plants and lines on existing environmental values, and how potential adverse effects on such values will be avoided or minimized at least detriment to the public and to the total environment. Such site and corridor identification shall be made from the inventory published by the board pursuant to section 116C.55 or from sites or corridors offered by the utility. In the event a utility identifies a plant site or transmission line corridor not contained in the board's inventory of potential sites and corridors, the utility shall set forth the reasons for such identification and shall make an evaluation of such identified sites and corridors using the board's plant siting and routing criteria.

[ 1973 c 591 s 6; 1975 c 271 s 6 ]

**116C.57 DESIGNATION OF SITES AND CORRIDORS; APPROVAL OF TRANSMISSION LINE ROUTES AND FACILITY CONSTRUCTION; EMERGENCY CERTIFICATION; RESPONSIBILITIES.** Subdivision 1. **Designation of sites and corridors suitable for specific facilities; reports.** Following publication of the inventory of potential sites for large electric power generating plants or corridors for high voltage transmission lines and the submission of the five year development plans of the utilities, a utility must apply to the board in a form and manner prescribed by the board for designation of a specific site or corridor for a specific size and type of facility. No large electric power generating plant or high voltage transmission line shall be constructed except on a site or route designated by the board pursuant to sections 116C.51 to 116C.69. Following the study, evaluation, and hearings, as provided in this section and sections 116C.58 to 116C.60, on any site or corridor proposed by the utilities and such other sites and corridors as the board deems necessary from the inventory the board shall designate a suitable site or corridor for a specific size and type of facility. This designation by the board shall be made in accordance with the site selection criteria and standards established in section 116C.55 and shall be made in a timely manner in a finding with reasons for such choice, and published no later than one year after the request for designation of a site by the utility or no later than 180 days after the request for designation of a corridor by the utility. The time for designation of a site may be extended for six months by the board for just cause. No site or corridor designation shall be made in violation of the site selection standards established in section 116C.55. The board shall indicate the reasons for any refusal and indicate changes in size or type of facility necessary to allow siting in compliance with the standards. Upon designation of the site or corridor, the board shall issue to the

utility a certificate of site compatibility.

**Subd. 2. Approval of specific high voltage transmission line facilities, designs and routes within a designated corridor.** No later than two years after the issuance of a certificate of site compatibility the utility shall apply to the board for a permit for the construction of a high voltage transmission line within the approved corridor. Following study, evaluation and hearings on the type, design, routing, right-of-way preparation and facility construction as identified in the utility's application and alternatives to the utility's corridor development proposal as provided in subdivision 4, the board shall issue a permit for the construction of high voltage transmission lines within the designated corridor. This permit issuance by the board shall be made in a timely manner and published no later than 180 days after the application for a permit by the utility.

**Subd. 3. Emergency certification.** Any utility whose electric power system requires the immediate construction of a large electric power generating plant or high voltage transmission line may make application to the board for an emergency certificate of site compatibility or permit for the construction of high voltage transmission lines, which certificate or permit shall be issued in a timely manner and published no later than 180 days of the application and upon a finding by the board that a demonstrable emergency exists which requires such immediate construction, and that adherence to the procedures and time schedules set forth in sections 116C.54 to 116C.57 would jeopardize such utility's electric power system. A public hearing shall be held within 90 days of the application. The board shall, after notice and hearing, promulgate regulations setting forth the criteria for emergency certification.

**Subd. 4. Responsibilities, procedures, considerations in designating sites and corridors; approval of transmission line facility construction.** To facilitate the study, research, evaluation and designation of sites and corridors for large electric power generating plants and high voltage transmission lines and the approval of specific transmission line facilities and their routes the board shall be guided by, but not limited to, the following responsibilities, procedures, and considerations:

(1) Evaluation of research and investigations relating to the effects on land, water and air resources of large electric power generating plants and high voltage transmission line corridors and routes and the effects of water and air discharges from such plants on public health and welfare, vegetation, animals, materials and aesthetic values, including base line studies, predictive modeling, and monitoring of the water and air mass at proposed sites and sites of operating large electric power generating plants, evaluation of new or improved methods for minimizing adverse impacts of water and air discharges and other matters pertaining to the effects of power plants on the water and air environment;

(2) Environmental evaluation of large electric power generating plant sites and high voltage transmission line corridors and routes proposed for future development and expansion and their relationship to the land, water, air and human resources of the state;

(3) Evaluation of the effects of new electric power generation and transmission technologies and systems related to power plants designed to minimize adverse environmental effects;

(4) Evaluation of the potential for beneficial uses of waste energy from proposed large electric power generating plants;

(5) Analysis of the direct and indirect economic impact of proposed large electric power generating plants and high voltage transmission lines;

(6) Evaluation of adverse direct and indirect environmental effects which cannot be avoided should the proposed site and transmission line corridor or route be accepted;

(7) Evaluation of alternatives to the proposed site and transmission line corridors and routes;

(8) Evaluation of irreversible and irretrievable commitments of resources should the proposed site and transmission line corridor or route be approved;

(9) Where appropriate, consideration of problems raised by other state and federal agencies and local entities.

(10) Where rules and regulations of the board as set forth in sections 116C.51 to 116C.69 are substantially similar to existing rules and regulations of a federal agency

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to which the utility in the state is subject, the federal rules and regulations shall be applied by the board.

[ 1973 c 591 s 7; 1975 c 271 s 6 ]

**116C.58 PUBLIC HEARINGS; NOTICE.** The board shall hold an annual public hearing at a time and place prescribed by regulation in order to afford interested persons an opportunity to be heard regarding its inventory of potential sites and corridors and any other aspects of the board's activities and duties or the policies set forth in sections 116C.51 to 116C.69. The board shall hold at least one public hearing in each county where a site or route is being considered for designation pursuant to section 116C.57 as suitable for construction of a large electric power generating plant or a high voltage transmission line. Notice of public hearings shall be given by the board at least ten days in advance but no earlier than 45 days prior to such hearings. Notice shall be by publication in a legal newspaper of general circulation in the county in which the public hearing is to be held and by mailed notice to chief executives of the regional councils, county and the incorporated municipalities therein.

[ 1973 c 591 s 8; 1975 c 271 s 6 ]

**116C.59 PUBLIC PARTICIPATION.** Subdivision 1. **Advisory committee.** The board shall appoint one or more advisory committees to assist it in carrying out its duties. Committees appointed to evaluate plant sites or transmission line corridors considered for designation shall be comprised of as many persons as may be designated by the board, but shall include a majority of public representatives; at least one representative from each of the following: A public or municipally owned utility, a private investor owned utility and a cooperatively owned utility; one representative from the regional council and one from each county and municipal corporation in which a large electric power generating plant site and high voltage transmission line corridor are proposed to be located. Reimbursement for expenses incurred shall be made pursuant to the rules governing state employees.

Subd. 2. **Other public participation.** The board shall adopt broad spectrum citizen participation as a principal of operation. The form of public participation shall not be limited to public hearings and advisory committees and shall be consistent with the board's rules, regulations and guidelines as provided for in section 116C.66.

[ 1973 c 591 s 9; 1975 c 271 s 6 ]

**116C.60 PUBLIC MEETINGS; TRANSCRIPT OF PROCEEDINGS; WRITTEN RECORDS.** Meetings of the board, including hearings, shall be open to the public. Minutes shall be kept of board meetings and a complete record of public hearings shall be kept. All books, records, files, and correspondence of the board shall be available for public inspection 471.705.

[ 1973 c 591 s 10; 1975 c 271 s 6 ]

**116C.61 LOCAL REGULATION; STATE PERMITS; STATE AGENCY PARTICIPATION.** Subdivision 1. **Regional, county and local ordinances, rules, regulations; primary responsibility and regulation of site designation, improvement and use.** To assure the paramount and controlling effect of the provisions herein over other state agencies, regional, county and local governments, and special purpose government districts, the issuance of a certificate of site compatibility or transmission line construction permit and subsequent purchase and use of such site or route locations for large electric power generating plant and high voltage transmission line purposes shall be the sole site approval required to be obtained by the utility. Such certificate or permit shall supersede and preempt all zoning, building, or land use rules, regulations, or ordinances promulgated by regional, county, local and special purpose government.

Subd. 2. **Facility licensing.** Notwithstanding anything herein to the contrary, utilities shall obtain state permits that may be required to construct and operate large electric power generating plants and high voltage transmission lines. A state agency in processing a utility's facility permit application shall be bound to the decisions of the board, with respect to the site designation for the large electric power generating plant or the corridor or route designation for the high voltage transmission line, and with respect to other matters for which authority has been granted to the board by sections 116C.51 to 116C.69.

Subd. 3. **State agency participation.** State agencies authorized to issue permits required for construction or operation of large electric power generating plants or

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high voltage transmission lines shall participate in and present the position of the agency at public hearings and all other activities of the board on specific site, corridor or route designations of the board, which position shall clearly state whether the site, corridor, or route being considered for designation or permit approval for a certain size and type of facility will be in compliance with state agency standards, regulations or policies. No site or route shall be designated which violates state agency regulations.

[ 1973 c 591 s 11; 1975 c 271 s 6 ]

**116C.62 IMPROVEMENT OF ACQUIRED LARGE ELECTRIC POWER GENERATING PLANT SITES AND HIGH VOLTAGE TRANSMISSION LINE ROUTE LOCATIONS.** Utilities which have acquired a power plant site or transmission line route in accordance with sections 116C.51 to 116C.69 may proceed to construct or improve such site or route for the intended purposes at any time, subject to section 116C.61, subdivision 2, provided that if such construction and improvement commences more than four years after a certificate or permit for the site or route has been issued then the utility must certify to the board that such site or route continues to meet the conditions upon which the certificate of site compatibility or transmission line construction permit was issued.

[ 1973 c 591 s 12; 1975 c 271 s 6 ]

**116C.63 EMINENT DOMAIN POWERS; RIGHT OF CONDEMNATION.** Nothing herein shall abrogate or invalidate the right of eminent domain vested in utilities by statute or common law existing as of May 24, 1973. Such right of eminent domain shall continue to exist for utilities and may be used according to law to accomplish any of the purposes and objectives of sections 116C.51 to 116C.69.

[ 1973 c 591 s 13 ]

**116C.64 FAILURE TO ACT.** In the event the board fails to designate in a timely manner large electric power generating plant sites and high voltage transmission line corridors or routes as provided for herein, any affected utility may seek an order of the district court requiring the board to designate a site, corridor, or route.

[ 1973 c 591 s 14; 1975 c 271 s 6 ]

**116C.65 JUDICIAL REVIEW.** Any utility, party or person aggrieved by the issuance of a certificate or emergency certificate of site compatibility or transmission line construction permit from the board or a certification of continuing suitability filed by a utility with the board or by a final order in accordance with any rules and regulations promulgated by the board, may appeal therefrom to any district court where such large electric power generating plant or high voltage transmission line is to be located. Such appeal shall be made and perfected within 60 days after the issuance of the certificate or permit by the board or certification filed with the council or the filing of any final order by the board. The notice of appeal to the district court shall be filed with the clerk of the district court and a copy thereof mailed to the board and affected utility. Any utility, party or person aggrieved by a final order or judgment rendered on appeal to the district court may appeal therefrom to the supreme court in the manner provided in civil actions.

[ 1973 c 591 s 15; 1975 c 271 s 6 ]

**116C.66 RULES AND REGULATIONS.** The board, in order to give effect to the purposes of sections 116C.51 to 116C.69, shall adopt rules and regulations consistent with sections 116C.51 to 116C.69, including promulgation of plant siting and transmission line routing criteria, the description of the information to be furnished by the utilities, establishment of minimum guidelines for public participation in the development, revision, and enforcement of any regulation, plan or program established by the board. Chapter 15, shall apply to the appeal of rules and regulations adopted by the board to the same extent as it applies to review of rules and regulations adopted by any other agency of state government.

[ 1973 c 591 s 16; 1975 c 271 s 6 ]

**116C.67 SAVINGS CLAUSE.** The provisions of sections 116C.51 to 116C.69 shall not apply to the site for the large electric power generating plant evaluated and recommended by the governor's environmental quality council prior to the date of enactment, and also to high voltage transmission lines, the construction of which will

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commence prior to July 1, 1974; provided, however, that within 90 days following the date of enactment, the affected utility shall file with the council a written statement identifying such transmission lines, their planned location, and the estimated date for commencement of construction.

[ 1973 c 591 s 17 ]

**116C.68 ENFORCEMENT, PENALTIES.** Subdivision 1. Any person who violates sections 116C.51 to 116C.69 or any rule or regulation promulgated hereunder, or knowingly submits false information in any report required by sections 116C.51 to 116C.69 shall be guilty of a misdemeanor for the first offense and a gross misdemeanor for the second and each subsequent offense. Each day of violation shall constitute a separate offense.

Subd. 2. The provisions of sections 116C.51 to 116C.69 or any rules or regulations promulgated hereunder may be enforced by injunction, action to compel performance or other appropriate action in the district court of the county wherein the violation takes place. The attorney general shall bring any action under this subdivision upon the request of the board.

Subd. 3. When the court finds that any person has violated sections 116C.51 to 116C.69, any rule or regulation hereunder, knowingly submitted false information in any report required by sections 116C.51 to 116C.69 or has violated any court order issued under this chapter, the court may impose a civil penalty of not more than \$10,000 for each violation. These penalties shall be paid to the general fund in the state treasury.

[ 1973 c 591 s 18; 1975 c 271 s 6 ]

**116C.69 BIENNIAL REPORT; BUDGET; APPROPRIATION; FUNDING.** Subdivision 1. The board shall prepare and submit to the legislature biennially a report of its power plant and transmission siting operations, activities, findings, recommendations, and undertakings. The report shall also contain information on the board's biennial expenditures, its proposed budget for the following biennium, and the amounts paid in certificate and permit application fees pursuant to subdivision 2 and in assessments pursuant to subdivision 3. The proposed budget for the following biennium shall be subject to legislative review.

Subd. 2. Every applicant for a site certificate or transmission line construction permit shall pay to the board a fee in an amount equal to \$500 for each \$1,000,000 of production or transmission line plant investment in the proposed installation as defined in the Federal Power Commission Uniform System of Accounts. The board shall specify the time and manner of payment of the fee. If any single payment requested by the board is in excess of 25 percent of the total estimated fee, the board shall show that such excess is reasonably necessary. The applicant shall pay within 30 days of notification such additional fees as are reasonably necessary for completion of the plant site, transmission line corridor or route evaluation and selection process by the board. In no event shall the total fees required of the applicant under this subdivision exceed an amount equal to 0.001 of said production or transmission line plant investment (\$1,000 for each \$1,000,000) except that the minimum application fee shall not be less than \$5,000. All money received pursuant to this subdivision shall be deposited in the general fund. So much money as is necessary is annually appropriated from the general fund to pay expenses incurred in processing applications for certificates or permits in accordance with the provisions of sections 116C.51 to 116C.69 and in the event such expenses are less than the fee paid, to refund the excess to the applicant. This annual appropriation shall not exceed the fees to be paid during such period.

Subd. 3. The board shall finance its base line studies, general environmental studies, development of criteria, inventory preparation and all other work, other than specific site, corridor, and route selection, from an assessment made annually by the board against all utilities. Each share shall be determined as follows: (1) the ratio that the annual retail kilowatt-hour sales in the state of each utility bears to the annual total retail kilowatt-hour sales in the state of all such utilities, multiplied by 0.667, plus (2) the ratio that the annual gross revenue from retail kilowatt-hour sales in the state of each utility bears to the annual total gross revenues from retail kilowatt-hour sales in the state of all such utilities, multiplied by 0.333, as determined by the board. Such assessment shall be credited to the general fund and shall be paid to the state treasury within 30 days after receipt of the bill, which shall constitute notice of said assessment and demand of payment thereof. The total amount which may be assessed to the

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several utilities under authority of this subdivision shall not exceed the annual budget of the board for carrying out the purposes of this subdivision.

[ 1973 c 591 s 19 subds 1-3; 1975 c 271 s 6 ]