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STATE ENVIRONMENTAL POLICY 116D.02

CHAPTER 116D

STATE ENVIRONMENTAL POLICY

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116D.01 PURPOSE. The purposes of Laws 1973, Chapter 412 are: (a) to declare a state policy that will encourage productive and enjoyable harmony between man and his environment; (b) to promote efforts that will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; and (c) to enrich the understanding of the ecological systems and natural resources important to the state and to the nation.

[1973 c 412 s 1]

116D.02 DECLARATION OF STATE ENVIRONMENTAL POLICY. Subdivision 1. The legislature, recognizing the profound impact of man's activity on the interrelations of all components of the natural environment, particularly the profound influences of population growth, high density urbanization, industrial expansion, resources exploitation, and new and expanding technological advances and recognizing further the critical importance of restoring and maintaining environmental quality to the overall welfare and development of man, declares that it is the continuing policy of the state government, in cooperation with federal and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of the state's people.

Subd. 2. In order to carry out the policy set forth in Laws 1973, Chapter 412, it is the continuing responsibility of the state government to use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate state plans, functions, programs and resources to the end that the state may:

(a) Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

(b) Assure for all people of the state safe, healthful, productive, and aesthetically and culturally pleasing surroundings;

(c) Discourage ecologically unsound aspects of population, economic and technological growth, and develop and implement a policy such that growth occurs only in an environmentally acceptable manner;

(d) Preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever practicable, an environment that supports diversity, and variety of individual choice;

(e) Encourage, through education, a better understanding of natural resources management principles that will develop attitudes and styles of living that minimize environmental degradation;

(f) Develop and implement land use and environmental policies, plans, and standards for the state as a whole and for major regions thereof through a coordinated program of planning and land use control;

(g) Define, designate, and protect environmentally sensitive areas;

(h) Establish and maintain statewide environmental information systems sufficient to gauge environmental conditions;

(i) Practice thrift in the use of energy and maximize the use of energy efficient systems for the utilization of energy, and minimize the environmental impact from energy production and use;

(j) Preserve important existing natural habitats of rare and endangered species of plants, wildlife, and fish, and provide for the wise use of our remaining areas of natu-

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ral habitation, including necessary protective measures where appropriate;

(k) Reduce wasteful practices which generate solid wastes;

(l) Minimize wasteful and unnecessary depletion of nonrenewable resources;

(m) Conserve natural resources and minimize environmental impact by encouraging extension of product lifetime, by reducing the number of unnecessary and wasteful materials practices, and by recycling materials to conserve both materials and energy;

(n) Improve management of renewable resources in a manner compatible with environmental protection;

(o) Provide for reclamation of mined lands and assure that any mining is accomplished in a manner compatible with environmental protection;

(p) Reduce the deleterious impact on air and water quality from all sources, including the deleterious environmental impact due to operation of vehicles with internal combustion engines in urbanized areas;

(q) Minimize noise, particularly in urban areas;

(r) Prohibit, where appropriate, flood plain development in urban and rural areas; and

(s) Encourage advanced waste treatment in abating water pollution.

[1973 c 412 s 2]

116D.03 ACTION BY STATE AGENCIES. Subdivision 1. The legislature authorizes and directs that, to the fullest extent practicable the policies, regulations and public laws of the state shall be interpreted and administered in accordance with the policies set forth in sections 116D.01 to 116D.06.

Subd. 2. All departments and agencies of the state government shall:

(a) On a continuous basis, seek to strengthen relationships between state, regional, local and federal-state environmental planning, development and management programs;

(b) Utilize a systematic, interdisciplinary approach that will insure the integrated use of the natural and social sciences and the environmental arts in planning and in decision making which may have an impact on man's environment; as an aid in accomplishing this purpose there shall be established advisory councils or other forums for consultation with persons in appropriate fields of specialization so as to ensure that the latest and most authoritative findings will be considered in administrative and regulatory decision making as quickly and as amply as possible;

(c) Identify and develop methods and procedures that will ensure that environmental amenities and values, whether quantified or not, will be given at least equal consideration in decision making along with economic and technical considerations;

(d) Study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources;

(e) Recognize the worldwide and long range character of environmental problems and, where consistent with the policy of the state, lend appropriate support to initiatives, resolutions, and programs designed to maximize interstate, national and international cooperation in anticipating and preventing a decline in the quality of mankind's world environment;

(f) Make available to the federal government, counties, municipalities, institutions and individuals, information useful in restoring, maintaining, and enhancing the quality of the environment, and in meeting the policies of the state as set forth in Laws 1973, Chapter 412;

(g) Initiate the gathering and utilization of ecological information in the planning and development of resource oriented projects; and

(h) Undertake, contract for or fund such research as is needed in order to determine and clarify effects by known or suspected pollutants which may be detrimental to human health or to the environment, as well as to evaluate the feasibility, safety and environmental effects of various methods of dealing with pollutants.

[1973 c 412 s 3]

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116D.04 ENVIRONMENTAL IMPACT STATEMENTS. Subdivision 1. Where there is potential for significant environmental effects resulting from any major governmental action or from any major private action of more than local significance, such action shall be preceded by a detailed statement prepared by the responsible agency or, where no governmental permit is required, by the responsible person, on:

(a) The environmental impact of the proposed action, including any pollution, impairment, or destruction of the air, water, land, or other natural resources located within the state;

(b) Any direct or indirect adverse environmental, economic, and employment effects that cannot be avoided should the proposal be implemented;

(c) Alternatives to the proposed action;

(d) The relationship between local short term uses of the environment and the maintenance and enhancement of long term productivity, including the environmental impact of predictable increased future development of an area because of the existence of a proposal, if approved;

(e) Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented;

(f) The impact on state government of any federal controls associated with proposed actions; and

(g) The multistate responsibilities associated with proposed actions.

Subd. 2. The Minnesota environmental quality board shall, by January 1, 1974, prescribe by rule and regulation in conformity with provisions of chapter 15, guidelines and regulations setting forth those instances in which environmental impact statements are required to be prepared for new and existing actions, including the time and manner in which such statements shall be prepared and acted upon, and to coordinate the processing of such statements among local, state and federal agencies. The board may require the preparation of an environmental impact statement for any action or project not referred to in its guidelines and regulations. Further, the board may require the revision of an environmental impact statement which is found to be inadequate.

Subd. 3. Upon the filing with the board of a petition of not less than 500 persons requesting an environmental impact statement on a particular action, the board shall review those petitions deemed by the board to involve potential for significant environmental effects or to concern an action of more than local significance and, where there is material evidence of the need for an environmental review, require the preparation of an environmental impact statement in accordance with provisions of this section.

Subd. 4. Prior to the preparation of a final environmental impact statement, the person responsible for the statement shall consult with and request the comments of every governmental office which has jurisdiction by law or special expertise with respect to any environmental effect involved. Copies of the drafts of such statements and the comments and views of the appropriate offices shall be made available to the board and the public. The final detailed environmental impact statement and the comments received thereon shall precede final decisions on the proposed action and shall accompany the proposal through an administrative review process.

Subd. 5. (a) "Permits for natural resources management and development" shall include only permits required by the following sections of Minnesota Statutes: 84.415, utility crossings of public lands and waters; 84.45, aircraft operation in wilderness areas; 84.60 and 84.621, underground storage of gas or liquid; 89.17, use of state forest lands; 89.18, roads through state forests; 90.151, cutting and removal of timber; 93.01 to 93.43, exploration and mining of minerals; 104.04, flood plain management ordinances; 105.41, appropriation and use of waters; 105.42, construction of dams, alteration of shorelines and waterways; 105.43, establishment of lake levels; 105.44 and 113.02, irrigation of agricultural lands; 105.485, shoreland conservation ordinances; 93.13 and 105.64, drainage to facilitate mining; 115.03 and 115.43, water pollution; 116.07 and 116.081, air, solid waste, and noise pollution; 117.47, use of state lands for taconite mining; 117.49, condemnation by pipeline companies; 160.20, connecting drains to highway drains; 360.018, subdivision 6, airport construction.

(b) "Natural resources" has the meaning given it in section 116B.02, subdivision

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(c) "Pollution, impairment or destruction" has the meaning given it in section 116B.02, subdivision 5.

Subd. 6. No state action significantly affecting the quality of the environment shall be allowed, nor shall any permit for natural resources management and development be granted, where such action or permit has caused or is likely to cause pollution, impairment, or destruction of the air, water, land or other natural resources located within the state, so long as there is a feasible and prudent alternative consistent with the reasonable requirements of the public health, safety, and welfare and the state's paramount concern for the protection of its air, water, land and other natural resources from pollution, impairment, or destruction. Economic considerations alone shall not justify such conduct.

Subd. 7. Regardless of whether a detailed written environmental impact statement is required by the board to accompany an application for a permit for natural resources management and development, or a recommendation, project, or program for action, officials responsible for issuance of aforementioned permits or for other activities described herein shall give due consideration to the provisions of Laws 1973, Chapter 412, as set forth in section 116D.03, in the execution of their duties.

Subd. 8. In order to facilitate coordination of environmental decision making and the timely review of agency decisions, the board shall establish by regulation a procedure for early notice to the board and the public of natural resource management and development permit applications and other impending state actions having significant environmental effects.

Subd. 9. Prior to the final decision upon any state project or action significantly affecting the environment or for which an environmental impact statement is required, or within ten days thereafter, the board may delay implementation of the action or project by notice to the agency or department and to interested parties. Thereafter, within 45 days of such notice, the board may reverse or modify the decisions or proposal where it finds, upon notice and hearing, that the action or project is inconsistent with the policy and standards of sections 116D.01 to 116D.06. Any aggrieved party may seek judicial review pursuant to chapter 15.

[1973 c 412 s 4; 1975 c 204 s 74; 1975 c 271 s 6]

116D.045 ENVIRONMENTAL IMPACT STATEMENTS; COSTS. Subdivision 1. The board shall, no later than January 1, 1977, by rule adopt procedures to assess the proposer of a specific action, when the proposer is a private person, for reasonable costs of preparing and distributing an environmental impact statement on that action required pursuant to section 116D.04. Such costs shall be determined by the responsible agency pursuant to the rules promulgated by the board in accordance with subdivision 5 and shall be assessed for projects for which an environmental impact statement preparation notice has been issued after February 15, 1977.

Subd. 2. In the event of a disagreement between the proposer of the action and the responsible agency over the cost of an environmental impact statement, the responsible agency shall consult with the board, which may modify the cost or determine that the cost assessed by the responsible agency is reasonable.

Subd. 3. The proposer shall pay the assessed cost to the board. All money received pursuant to this subdivision shall be deposited in the general fund.

Subd. 4. No agency or governmental subdivision shall commence with the preparation of an environmental impact statement until at least one-half of the assessed cost of the environmental impact statement is paid pursuant to subdivision 3. Other laws notwithstanding, no state agency may issue any permits for the construction or operation of a project for which an environmental impact statement is prepared until the assessed cost for the environmental impact statement has been paid in full.

Subd. 5. For actions proposed by a private person there shall be no assessment for preparation and distribution of an environmental impact statement for an action which has a total value less than one million dollars. For actions which are greater than one million dollars but less than ten million dollars, the assessment to the proposer as determined by the agency shall not exceed .3 percent of the total value except that the total value shall not include the first one million dollars of value. For actions the value of which exceed ten million dollars but are less than 50 million dollars, an additional charge may be made to the proposer by the agency which will not exceed .2 percent of each one million dollars of value over ten million dollars. For actions which

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are greater than 50 million dollars in total value, an additional charge may be made to the proposer by the agency which will not exceed .1 percent of each one million dollars of value over 50 million dollars. The proposer shall pay the assessed cost to the board when a state agency is designated the responsible agency. All money received by the board pursuant to this subdivision shall be deposited in the general fund. The proposer shall pay the assessed cost to the designated lead agency when such agency is a local unit of government.

[1976 c 344 s 3]

116D.05 REVIEW OF AUTHORITY, REPORT. All agencies of the state government shall review their present statutory authority, administrative regulations, and current policies and procedures for the purpose of determining whether there are any deficiencies or inconsistencies therein that prohibit full compliance with the purposes and provisions of sections 116D.01 to 116D.06, and shall propose to the governor not later than July 1, 1974, such measures as may be necessary to bring their authority and policies into conformity with the intent, purposes, and procedures set forth in Laws 1973, Chapter 412.

[1973 c 412 s 5]

116D.06 EFFECT OF EXISTING OBLIGATIONS. Subdivision 1. Nothing in sections 116D.03 to 116D.05 shall in any way affect the specific statutory obligations of any state agency to (a) comply with criteria or standards of environmental quality, (b) coordinate or consult with any federal or state agency, or (c) act or refrain from acting contingent upon the recommendations or certification of any other state agency or federal agency.

Subd. 2. The policies and goals set forth in sections 116D.01 to 116D.06 are supplementary to those set forth in existing authorizations of state agencies.

[1973 c 412 s 6]

116D.07 GOVERNOR, REPORT REQUIRED. The governor shall transmit to the legislature and make public by November 15 of each year an environmental quality report which shall set forth:

(1) The status and condition of the major natural, man made, or altered environmental classes of the state, including, but not limited to, the air, the aquatic, and the terrestrial environment, including, but not limited to, the forest, dryland, wetland, range, urban, suburban, and rural environment;

(2) Current and foreseeable trends in the quality, management and utilization of such environments and the effects of those trends on the social, economic and other requirements of the state;

(3) The adequacy of available natural resources for fulfilling human and economic requirements of the state in the light of expected population pressures;

(4) A review of the programs and activities, including regulatory activities, of the federal government in the state, the state and local governments, and nongovernmental entities or individuals, with particular reference to their effect on the environment and on the conservation, development and utilization of natural resources;

(5) A program for remedying the deficiencies of existing programs and activities, together with recommendations for legislation;

(6) A review of identified, potentially feasible programs and projects for solving existing and future natural resources problems;

(7) Measures as may be necessary to bring state government statutory authority, administrative regulations and current policies into conformity with the intent, purposes, and procedures set forth in Laws 1973, Chapter 412;

(8) The status of statewide natural resources plans; and

(9) A statewide inventory of natural resources projects, consisting of (a) a description of all existing and proposed public natural resources works or improvements to be undertaken in the coming biennium by state agencies or with state funds, (b) a biennial tabulation of initial investment costs and operation and maintenance costs for both existing and proposed projects, (c) an analysis of the relationship of existing state projects to all existing public natural resources works of improvement undertaken by local, regional, state-federal, and federal agencies with funds other than state funds, and (d) an analysis of the relationship of proposed state projects to local, re-

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gional, state-federal, and federal plans.

The purpose of this environmental quality report by the governor is to provide the information necessary for the legislature to assess the existing and possible future economic impact on state government of capital investments in and maintenance costs of natural resources works of improvement.

[1973 c 412 s 7]