

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.

History: 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.

History: 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 commissioner of the department of energy, planning and development, the director of the pollution control agency, the commissioner of natural resources, the commissioner of agriculture, the commissioner of health, the commissioner of transportation, and a representative of the governor's office designated by the governor. The governor shall appoint five members from the general public to the board, subject to the advice and consent of the senate.

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

Subd. 3. [Repealed, 1982 c 524 s 9]

Subd. 3a. The representative of the governor's office shall serve as chairman of the board.

Subd. 4. The board shall employ staff or consultants who will be assigned to work for the board on a continuous basis. The staff may include an executive director who shall serve in the unclassified service and be responsible for administering the board's staff, work program, budget, and other duties delegated by the board. The board shall have the authority to request and require staff support from all other agencies of state government as needed for the execution of the responsibilities of the board.

Subd. 5. The board shall contract with the department of energy, planning and development for administrative services necessary to the board's activities. The services shall include personnel, budget, payroll and contract administration.

Subd. 6. The board shall adopt an annual budget and work program.

History: 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; 1981 c 356 s 122-124; 1982 c 524 s 1-6

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.

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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. [Repealed, 1982 c 524 s 9]

Subd. 9. [Repealed, 1982 c 524 s 9]

History: 1973 c 342 s 4; 1975 c 271 s 6

116C.05 [Repealed, 1982 c 524 s 9]

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 14.02, 14.04 to 14.36, 14.38, 14.44 to 14.45, and 14.57 to 14.62, 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.

History: 1973 c 342 s 6; 1975 c 271 s 6; 1982 c 424 s 130

116C.07 [Repealed, 1982 c 524 s 9]

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.

History: 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.

History: 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 related 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.

History: 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 116J.28; 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.

History: 1975 c 271 s 6; 1976 c 303 s 3; 1981 c 356 s 248

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.

History: 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 concern-

ing 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.

History: 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.

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.

History: 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 14 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 14.

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 certified mail.

History: 1975 c 271 s 6; 1976 c 303 s 7; 1978 c 674 s 60; 1982 c 424 s 130

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.

History: 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 14, 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.

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.

History: 1976 c 303 s 9; 1982 c 424 s 130

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.

History: 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 administrative hearings, to implement the provisions of sections 116C.22 to 116C.34, including master application procedures, notice procedures, and public hearing procedures and costs.

History: 1975 c 271 s 6; 1976 c 303 s 11; 1980 c 615 s 60

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.

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.

History: 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.

History: 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.

History: 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" means 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 rule, may exempt lines pursuant to section 116C.57, subdivision 5.

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 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" means any clearing of land, excavation, or other action that would adversely affect the natural environment of the site or route but does not include changes needed for temporary use of sites or routes for nonutility purposes, or uses in securing survey or geological data, including necessary borings to ascertain foundation conditions.

Subd. 8. "Route" means the location of a high voltage transmission line between two end points. The route may have a variable width of up to 1.25 miles.

Subd. 9. "Site" means the location of a large electric power generating plant.

Subd. 10. "Large electric power facilities" means high voltage transmission lines and large electric power generating plants.

History: 1973 c 591 s 2; 1975 c 271 s 6; 1977 c 439 s 1-5

116C.53 SITING AUTHORITY.

Subdivision 1. **Policy.** The legislature hereby declares it to be the policy of the state to locate large electric power facilities in an orderly manner compatible with environmental preservation and the efficient use of resources. In accordance with this policy the board shall choose locations 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. **Jurisdiction.** The board is hereby given the authority to provide for site and route selection.

Subd. 3. **Interstate routes.** If a route is proposed in two or more states, the board shall attempt to reach agreement with affected states on the entry and exit points prior to authorizing the construction of the route. The board, in discharge of its duties pursuant to sections 116C.51 to 116C.69 may make joint investigations, hold joint hearings within or without the state, and issue joint or concurrent orders in conjunction or concurrence with any official or agency of any state or of the United States. The board may negotiate and enter into any agreements or compacts with agencies of other states, pursuant to any consent of congress, for cooperative efforts in certifying the construction, operation, and maintenance of large electric power facilities in accord with the purposes of sections 116C.51 to 116C.69 and for the enforcement of the respective state laws regarding such facilities.

History: 1973 c 591 s 3; 1975 c 271 s 6; 1977 c 439 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. The 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 the utility during the ensuing 15 years or any longer period the board deems necessary;

(2) Identification of all existing generating plants and transmission lines projected to be removed from service during any 15 year period or upon completion of construction of any 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 projected 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.

On or before July 1 of each odd-numbered year, a utility shall verify or submit revisions to items (1) and (2).

History: 1973 c 591 s 4; 1975 c 271 s 6; 1977 c 439 s 7

116C.55 DEVELOPMENT OF POWER PLANT STUDY AREAS CRITERIA; PUBLIC HEARINGS; INVENTORY.

Subdivision 1. [Repealed, 1977 c 439 s 27]

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 large electric power generating plant study areas and to guide the site and route 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. All hearings conducted under this subdivision shall be conducted pursuant to the rulemaking provisions of chapter 14.

Subd. 3. Inventory of large electric power generating plant study areas. On or before January 1, 1979, the board shall adopt an inventory of large electric power generating plant study areas and publish an inventory report. The inventory report shall specify the planning policies, criteria and standards used in developing the inventory. After completion of its initial inventory the board shall have a continuing responsibility to evaluate, update and publish its inventory.

History: 1973 c 591 s 5; 1975 c 271 s 6; 1977 c 439 s 8,9; 1982 c 424 s 130

116C.56 [Repealed, 1977 c 439 s 27]

116C.57 DESIGNATION OF SITES AND ROUTES; PROCEDURES; CONSIDERATIONS; EMERGENCY CERTIFICATION; EXEMPTION.

Subdivision 1. Designation of sites suitable for specific facilities; reports. A utility must apply to the board in a form and manner prescribed by the board for designation of a specific site for a specific size and type of facility. The application shall contain at least two proposed sites. In the event a utility proposes a site not included in the board's inventory of study areas, the utility shall specify the reasons for the proposal and shall make an evaluation of the proposed site based upon the planning policies, criteria and standards specified in the inventory. Pursuant to sections 116C.57 to 116C.60, the board shall study and evaluate any site proposed by a utility and any other site the board deems necessary which was proposed in a manner consistent with rules adopted by the board concerning the form, content, and timeliness of proposals for alternate sites. No site 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 site designation. Within a year after the board's acceptance of a utility's application, the board shall decide in accordance with the criteria specified in section 116C.55, subdivision 2, the responsibilities, procedures and considerations specified in section 116C.57, subdivision 4, and the considerations in chapter 116D which proposed site is to be designated. The board may extend for just cause the time limitation for its decision for a period not to exceed six months. When the board designates a site, it shall issue a certificate of site compatibility to the utility with any appropriate conditions. The board shall publish a notice of its decision in the state register within 30 days of site designation. No large electric power generating plant shall be constructed except on a site designated by the board.

Subd. 2. Designation of routes; procedure. A utility shall apply to the board in a form and manner prescribed by the board for a permit for the construction of a high voltage transmission line. The application shall contain at least two proposed routes. Pursuant to sections 116C.57 to 116C.60, the board shall study, and evaluate the type, design, routing, right-of-way preparation and facility construction of any route proposed in a utility's application and any other route the board deems necessary which was proposed in a manner consistent with rules adopted by the board concerning the form, content, and timeliness of proposals for alternate routes provided, however, that the board shall identify the alternative routes prior to the commencement of public hearings thereon pursuant to section 116C.58. Within one year after the board's acceptance of a utility's application, the board shall decide in accordance with the criteria and standards specified in section 116C.55, subdivision 2, and the considerations specified in section 116C.57, subdivision 4, which proposed route is to be designated. The

board may extend for just cause the time limitation for its decision for a period not to exceed 90 days. When the board designates a route, it shall issue a permit for the construction of a high voltage transmission line specifying the type, design, routing, right-of-way preparation and facility construction it deems necessary and with any other appropriate conditions. The board may order the construction of high voltage transmission line facilities which are capable of expansion in transmission capacity through multiple circuiting or design modifications. The board shall publish a notice of its decision in the state register within 30 days of issuance of the permit. No high voltage transmission line shall be constructed except on a route designated by the board, unless it was exempted pursuant to subdivision 5.

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 no later than 195 days after the board's acceptance of the application and upon a finding by the board that a demonstrable emergency exists which requires immediate construction, and that adherence to the procedures and time schedules specified in sections 116C.54, 116C.56 and this section would jeopardize the utility's electric power system or would jeopardize the utility's ability to meet the electric needs of its customers in an orderly and timely manner. A public hearing to determine if an emergency exists shall be held within 90 days of the application. The board shall, after notice and hearing, promulgate rules specifying the criteria for emergency certification.

Subd. 4. Considerations in designating sites and routes. To facilitate the study, research, evaluation and designation of sites and 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 routes and the effects of water and air discharges and electric fields resulting from such facilities 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 and operating sites and routes, 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 sites 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 sites and routes including, but not limited to, productive agricultural land lost or impaired;

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

(7) Evaluation of alternatives to the applicant's proposed site or route proposed pursuant to subdivisions 1 and 2;

(8) Evaluation of potential routes which would use or parallel existing railroad and highway rights-of-way;

(9) Evaluation of governmental survey lines and other natural division lines of agricultural land so as to minimize interference with agricultural operations;

(10) Evaluation of the future needs for additional high voltage transmission lines in the same general area as any proposed route, and the advisability of ordering the construction of structures capable of expansion in transmission capacity through multiple circuiting or design modifications;

(11) Evaluation of irreversible and irretrievable commitments of resources should the proposed site or route be approved; and

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

(13) If the board's rules are substantially similar to existing rules and regulations of a federal agency to which the utility in the state is subject, the federal rules and regulations shall be applied by the board.

(14) No site or route shall be designated which violates state agency rules.

Subd. 5. Exemption of certain routes. A utility may apply to the board in a form and manner prescribed by the board to exempt the construction of any proposed high voltage transmission line from sections 116C.51 to 116C.69. Within 15 days of the board's receipt of the exemption application, the utility shall publish a notice and description of the exemption application in a legal newspaper of general circulation in each county in which the route is proposed and send a copy of the exemption application by certified mail to the chief executive of any regional development commission, county, incorporated municipality and organized town in which the route is proposed and shall send a notice and description of the exemption application to each owner over whose property the line may run, together with an understandable description of the procedures the owner must follow should he desire to object. For the purpose of giving mailed notice under this subdivision, owners shall be those shown on the records of the county auditor or, in any county where tax statements are mailed by the county treasurer, on the records of the county treasurer; but other appropriate records may be used for this purpose. Except as to the owners of tax exempt property or property taxes on a gross earnings basis, every property owner whose name does not appear on the records of the county auditor or the county treasurer shall be deemed to have waived such mailed notice unless he has requested in writing that the county auditor or county treasurer, as the case may be, include his name on the records for such purpose. The failure to give mailed notice to a property owner, or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with this subdivision has been made. If any person who owns real property crossed by the proposed route, or any person owning property adjacent to property crossed by the proposed route, or any affected political subdivision files an objection with the board within 60 days after the board's receipt of the exemption application, the board shall either deny the exemption application or conduct a public hearing. If the board determines that the proposed high voltage transmission line will not create significant human or environmental impact, it may exempt the proposed transmission line with any appropriate conditions, but the utility shall comply with any applicable state rule and any applicable zoning, building and land use rules, regulations and ordinances of any regional, county, local and special purpose government in which the route is proposed. The board may by rule require a fee to pay expenses incurred in processing exemptions. Any fee charged is subject to the conditions of section 116C.69, subdivision 2a.

Subd. 6. Recording of survey points. The permanent location of monuments or markers found or placed by a utility in a survey of right-of-way for a route shall be placed on record in the office of the county recorder or registrar of titles. No fee shall be charged to the utility for recording this information.

History: 1973 c 591 s 7; 1975 c 271 s 6; 1977 c 439 s 10

116C.58 PUBLIC HEARINGS; NOTICE.

The board shall hold an annual public hearing at a time and place prescribed by rule in order to afford interested persons an opportunity to be heard regarding its inventory of study areas and any other aspects of the board's activities and duties or policies specified 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. Notice and agenda of public hearings and public meetings of the board held in each county shall be given by the board at least ten days in advance but no earlier than 45 days prior to such hearings or meetings. Notice shall be by publication in a legal newspaper of general circulation in the county in which the public hearing or public meeting is to be held and by certified mailed notice to chief executives of the regional development commissions, counties, organized towns and the incorporated municipalities in which a site or route is proposed. All hearings held for designating a site or route or for exempting a route shall be conducted by a hearing examiner from the office of administrative hearings pursuant to the contested case procedures of chapter 14. Any person may appear at the hearings and present testimony and exhibits and may question witnesses without the necessity of intervening as a formal party to the proceedings.

History: 1973 c 591 s 8; 1975 c 271 s 6; 1977 c 439 s 11; 1980 c 615 s 60; 1982 c 424 s 130

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 sites or routes considered for designation shall be comprised of as many persons as may be designated by the board, but at least one representative from each of the following: Regional development commissions, counties and municipal corporations and one town board member from each county in which a site or route is proposed to be located. No officer, agent or employee of a utility shall serve on an advisory committee. 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.

Subd. 3. **Public advisor.** The board shall designate one staff person for the sole purpose of assisting and advising those affected and interested citizens on how to effectively participate in site or route proceedings.

Subd. 4. **Scientific advisory committee.** The board may appoint one or more advisory committee composed of technical and scientific experts to conduct research and make recommendations concerning generic issues such as health and safety, underground routes, double circuiting and long range route and site planning. Reimbursement for expenses incurred shall be made pursuant to the rules governing reimbursement of state employees.

History: 1973 c 591 s 9; 1975 c 271 s 6; 1977 c 439 s 12,13

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 at any reasonable time. The council shall also be subject to section 471.705.

History: 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 or route designation, 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 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 or route designations of the board, which position shall clearly state whether the site 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.

History: 1973 c 591 s 11; 1975 c 271 s 6; 1977 c 439 s 14,15

116C.62 IMPROVEMENT OF SITES AND ROUTES.

Utilities which have acquired a site or route in accordance with sections 116C.51 to 116C.69 may proceed to construct or improve the site or route for the intended purposes at any time, subject to section 116C.61, subdivision 2, provided that if the 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 the site or route continues to meet the conditions upon which the certificate of site compatibility or transmission line construction permit was issued.

History: 1973 c 591 s 12; 1975 c 271 s 6; 1977 c 439 s 16

116C.63 EMINENT DOMAIN POWERS; RIGHT OF CONDEMNATION.

Subdivision 1. Nothing in this section shall invalidate the right of eminent domain vested in utilities by statute or common law existing as of May 24, 1973, except to the extent modified herein. The 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, including acquisition of the right to utilize existing high voltage transmission facilities which are capable of expansion or modification to accommodate both existing and proposed conduc-

tors. Notwithstanding any law to the contrary, all easement interests shall revert to the then fee owner if a route is not used for high voltage transmission line purposes for a period of five years.

Subd. 2. In eminent domain proceedings by a utility for the acquisition of real property proposed for construction of a route or a site, the proceedings shall be conducted in the manner prescribed in chapter 117, except as otherwise specifically provided in this section.

Subd. 3. When such property is acquired by eminent domain proceedings or voluntary purchase and the amount the owner shall receive for the property is finally determined, the owner who is entitled to payment may elect to have the amount paid in not more than ten annual installments, with interest on the deferred installments, at the rate of eight percent per annum on the unpaid balance, by submitting a written request to the utility before any payment has been made. After the first installment is paid the petitioner may make its final certificate, as provided by law, in the same manner as though the entire amount had been paid.

Subd. 4. When private real property defined as class 3, 3b, 3c, 3cc, 3d, or 3f pursuant to section 273.13 is proposed to be acquired for the construction of a site or route by eminent domain proceedings, the fee owner, or when applicable, the fee owner with the written consent of the contract for deed vendee, or the contract for deed vendee with the written consent of the fee owner, shall have the option to require the utility to condemn a fee interest in any amount of contiguous, commercially viable land which he wholly owns or has contracted to own in undivided fee and elects in writing to transfer to the utility within 60 days after his receipt of the notice of the objects of the petition filed pursuant to section 117.055. Commercial viability shall be determined without regard to the presence of the utility route or site. The owner or, when applicable, the contract vendee shall have only one such option and may not expand or otherwise modify his election without the consent of the utility. The required acquisition of land pursuant to this subdivision shall be considered an acquisition for a public purpose and for use in the utility's business, for purposes of chapter 117 and section 500.24, respectively; provided that a utility shall divest itself completely of all such lands used for farming or capable of being used for farming not later than the time it can receive the market value paid at the time of acquisition of lands less any diminution in value by reason of the presence of the utility route or site. Upon the owner's election made under this subdivision, the easement interest over and adjacent to the lands designated by the owner to be acquired in fee, sought in the condemnation petition for a high voltage transmission line right-of-way shall automatically be converted into a fee taking.

Subd. 5. A utility shall notify by certified mail each person who has transferred any interest in real property to the utility after July 1, 1974, but prior to the effective date of Laws 1977, Chapter 439, for the purpose of a site or route that he may elect in writing within 90 days after receipt of notice to require the utility to acquire any remaining contiguous parcel of land pursuant to this section or to return any payment to the utility and require it to make installment payments pursuant to this section.

History: 1973 c 591 s 13; 1977 c 439 s 17; 1978 c 674 s 15; 1980 c 614 s 87

116C.635 [Repealed, 1979 c 303 art 2 s 38]

116C.64 FAILURE TO ACT.

If the board fails to act within the times specified in section 116C.57, any affected utility may seek an order of the district court requiring the board to designate or refuse to designate a site or route.

History: 1973 c 591 s 14; 1975 c 271 s 6; 1977 c 439 s 19

116C.645 REVOCATION OR SUSPENSION.

A site certificate or construction permit may be revoked or suspended by the board after adequate notice of the alleged grounds for revocation or suspension and a full and fair hearing in which the affected utility has an opportunity to confront any witness and respond to any evidence against it and to present rebuttal or mitigating evidence upon a finding by the board of:

(1) Any false statement knowingly made in the application or in accompanying statements or studies required of the applicant, if a true statement would have warranted a change in the board's findings;

(2) Failure to comply with material conditions of the site certificate or construction permit, or failure to maintain health and safety standards; or

(3) Any material violation of the provisions of sections 116C.51 to 116C.69, any rule promulgated pursuant thereto, or any order of the board.

History: 1977 c 439 s 20; 1978 c 658 s 1

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 promulgated by the board, may appeal therefrom to any district court where such a site or route is to be located. The appeal shall be filed within 60 days after the publication in the state register of notice of the issuance of the certificate or permit by the board or certification filed with the board 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. The scope of judicial review shall be as prescribed in sections 14.63 to 14.68.

History: 1973 c 591 s 15; 1975 c 271 s 6; 1977 c 439 s 21; 1980 c 509 s 28; 1982 c 424 s 130

116C.66 RULES.

The board, in order to give effect to the purposes of sections 116C.51 to 116C.69, shall prior to July 1, 1978, adopt rules consistent with sections 116C.51 to 116C.69, including promulgation of site and route designation 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 rule, plan or program established by the board, procedures for the revocation or suspension of a construction permit or a certificate of site compatibility, the procedure and timeliness for proposing alternative routes and sites, and route exemption criteria and procedures. No rule adopted by the board shall grant priority to state owned wildlife management areas over agricultural lands in the designation of route avoidance areas. The provisions of chapter 14 shall apply to the appeal of rules adopted by the board to the same extent as it applies to review of rules adopted by any other agency of state government.

The chief hearing examiner shall, prior to January 1, 1978, adopt procedural rules for public hearings relating to the site and route designation process and to the route exemption process. The rules shall attempt to maximize citizen participation in these processes.

History: 1973 c 591 s 16; 1975 c 271 s 6; 1977 c 439 s 22; 1978 c 658 s 2; 1982 c 424 s 130

116C.67 SAVINGS CLAUSE.

The provisions of sections 116C.51 to 116C.69 shall not apply to any site evaluated and recommended by the governor's environmental quality council prior to the date of enactment, and to any high voltage transmission lines, the construction of which will commence prior to July 1, 1974.

History: 1973 c 591 s 17; 1977 c 439 s 23

116C.68 ENFORCEMENT, PENALTIES.

Subdivision 1. Any person who violates sections 116C.51 to 116C.69 or any rule promulgated hereunder, or knowingly submits false information in any report required by sections 116C.51 to 116C.69 is 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 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 hereunder, knowingly submitted false information in any report required by sections 116C.51 to 116C.69 or has violated any court order issued under sections 116C.51 to 116C.69, 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.

History: 1973 c 591 s 18; 1975 c 271 s 6; 1977 c 439 s 24

116C.69 BIENNIAL REPORT; APPLICATION FEES; APPROPRIATION; FUNDING.

Subdivision 1. **Biennial report.** Before November 15 of each even-numbered year the board shall prepare and submit to the legislature a report of its operations, activities, findings and recommendations concerning sections 116C.51 to 116C.69. 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 subdivisions 2 and 2a and in assessments pursuant to subdivision 3. The proposed budget for the following biennium shall be subject to legislative review.

Subd. 2. **Site application fee.** Every applicant for a site certificate shall pay to the board a fee in an amount equal to \$500 for each \$1,000,000 of production 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 the excess is reasonably necessary. The applicant shall pay within 30 days of notification any additional fees reasonably necessary for completion of the site evaluation and designation 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 plant investment (\$1,000 for each \$1,000,000). All money received pursuant to this subdivision shall be deposited in a special account. Money in the account is appropriated to the board to pay expenses incurred in processing applications for certificates in accordance with sections 116C.51 to 116C.69 and in the event the expenses are less than the fee paid, to refund the excess to the applicant.

Subd. 2a. **Route application fee.** Every applicant for a transmission line construction permit shall pay to the board a base fee of \$35,000 plus a fee in an

amount equal to \$1,000 per mile length of the longest proposed route. 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 the excess is reasonably necessary. In the event the actual cost of processing an application up to the board's final decision to designate a route exceeds the above fee schedule, the board may assess the applicant any additional fees necessary to cover the actual costs, not to exceed an amount equal to \$500 per mile length of the longest proposed route. All money received pursuant to this subdivision shall be deposited in a special account. Money in the account is appropriated to the board to pay expenses incurred in processing applications for construction permits in accordance with sections 116C.51 to 116C.69 and in the event the expenses are less than the fee paid, to refund the excess to the applicant.

Subd. 3. Funding; assessment. The board shall finance its base line studies, general environmental studies, development of criteria, inventory preparation, monitoring of conditions placed on site certificates and construction permits, and all other work, other than specific site and route designation, from an assessment made quarterly, at least 30 days before the start of each quarter, by the board against all utilities. The assessment shall also include an amount sufficient to cover 60 percent of the costs to the pollution control agency of developing the acid deposition control plan required by sections 116.42 to 116.45; this amount shall be certified to the board by the executive director of the pollution control agency. 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. The 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 several utilities under authority of this subdivision shall not exceed the sum of the annual budget of the board for carrying out the purposes of this subdivision plus 60 percent of the annual budget of the pollution control agency for developing the plan required by sections 116.42 to 116.45. The assessment for the second quarter of each fiscal year shall be adjusted to compensate for the amount by which actual expenditures by the board and the pollution control agency for the preceding fiscal year were more or less than the estimated expenditures previously assessed.

History: 1973 c 591 s 19 subs 1-3; 1975 c 271 s 6; 1977 c 439 s 25; 1981 c 356 s 313-315; 1982 c 482 s 5

RADIOACTIVE WASTE MANAGEMENT

116C.71 DEFINITIONS.

Subdivision 1. For the purposes of sections 116C.71 to 116C.74, the terms defined in this section have the meaning given them.

Subd. 2. "By-product nuclear material" means any material, except special nuclear material, yielded in or made radioactive by:

- (a) Exposure to the radiation incident to the process of producing or utilizing special nuclear material; or
- (b) Exposure to radiation produced or accelerated in an atomic or sub-atomic particle accelerating machine.

Subd. 3. "Person" means any individual, corporation, partnership or other unincorporated association or governmental agency.

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Subd. 4. "Radiation" means any or all of the following: alpha rays, beta rays, gamma rays, high energy neutrons or protons or electrons, and other atomic particles; but not x-rays and electromagnetic radiations of wavelengths greater than 2,000 Angstrom units and sound waves.

Subd. 5. "Radioactive material" means any matter which emits radiation. Radioactive material includes special nuclear material, source nuclear material, and by-product nuclear material.

Subd. 6. "Radioactive waste" means:

(a) Useless or unwanted capturable radioactive residues produced incidental to the use of radioactive material; or

(b) Useless or unwanted radioactive material; or

(c) Otherwise non-radioactive material made radioactive by contamination with radioactive material.

Radioactive waste does not include discharges of radioactive effluents to air or surface water when subject to applicable federal or state regulations or excreta from persons undergoing medical diagnosis or therapy with radioactive material or naturally occurring radioactive isotopes.

Subd. 7. "Radioactive waste management facility" means a geographic site, including buildings, structures, and equipment in or upon which radioactive waste is retrievably or irretrievably disposed by burial in soil or permanently stored.

Subd. 8. "Source nuclear material" means:

(a) Uranium or thorium or any combination thereof, in any physical or chemical form; or

(b) Ores which contain by weight one-twentieth of one percent or more of uranium, thorium, or any combination thereof. Source nuclear material does not include special nuclear material.

Subd. 9. "Special nuclear material" means:

(a) Plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the Nuclear Regulatory Commission, pursuant to the Atomic Energy Act of 1954 as amended, determines to be special nuclear material; or

(b) Any material artificially enriched by any of the materials described in clause (a). Special nuclear material does not include source nuclear material.

History: 1977 c 416 s 1

116C.72 RADIOACTIVE WASTE MANAGEMENT FACILITY.

Notwithstanding any provision of chapter 116H, to the contrary, no person shall construct or operate a radioactive waste management facility within Minnesota unless expressly authorized by the Minnesota legislature.

History: 1977 c 416 s 2

116C.73 TRANSPORTATION OF RADIOACTIVE WASTES INTO STATE.

Notwithstanding any provision of chapter 116H, to the contrary, no person shall transport radioactive wastes into the state of Minnesota for the purpose of disposal by burial in soil or permanent storage within Minnesota unless expressly authorized by the Minnesota legislature, except that radioactive wastes may be transported into the state for temporary storage in accordance with applicable federal and state law for up to 12 months pending transportation out of the state.

History: 1977 c 416 s 3

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116C.74 PENALTIES.

Any person who violates section 116C.72 or who causes radioactive wastes to be shipped in violation of section 116C.73 shall be guilty of a gross misdemeanor and subject to a fine of not more than \$10,000 or a sentence of imprisonment of not more than one year, or both.

History: 1977 c 416 s 4