

## CHAPTER 116

### POLLUTION CONTROL AGENCY

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#### 116.03 DIRECTOR.

*[For text of subds 1 and 2, see M.S.1982]*

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

The provisions of section 3.3005 shall not apply to moneys available under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Sections 9601 to 9657, for which a state match is not required or for which a state match is available under the Environmental Response and Liability Act or from a political subdivision. The receipt of the moneys shall be reported to the legislative advisory commission.

*[For text of subds 4 to 6, see M.S.1982]*

**History:** 1983 c 301 s 111

#### 116.06 DEFINITIONS.

*[For text of subds 1 to 9h, see M.S.1982]*

Subd. 9i. "Sludge" means any solid, semi-solid, or liquid waste generated from a municipal, commercial, or industrial waste water treatment plant, water supply treatment plant, or air contaminant treatment facility, or any other waste having similar characteristics and effects.

*[For text of subds 10 to 12, see M.S.1982]*

Subd. 13. "Hazardous waste" means any refuse, sludge, or other waste material or combinations of refuse, sludge or other waste materials in solid, semi-solid, liquid, or contained gaseous form which because of its quantity, concentration, or chemical, physical, or infectious characteristics may (a) cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or (b) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed. Categories of hazardous waste materials include, but are not limited to: explosives, flammables,

oxidizers, poisons, irritants, and corrosives. Hazardous waste does not include source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended.

*[For text of subs 14 and 15, see M.S.1982]*

**History:** 1983 c 373 s 42,43

#### 116.07 POWERS AND DUTIES.

*[For text of subs 1 and 2, see M.S.1982]*

**Subd. 2a. Exemptions from standards.** No standards adopted by any state agency for limiting levels of noise in terms of sound pressure which may occur in the outdoor atmosphere shall apply to (1) segments of trunk highways constructed with federal interstate substitution money, provided that all reasonably available noise mitigation measures are employed to abate noise, (2) skeet, trap or shooting sports clubs, or (3) the holding of motor vehicle race events conducted at a facility specifically designed for that purpose that was in operation on or before July 1, 1983. Nothing herein shall prohibit a local unit of government or a public corporation with the power to make rules for the government of its real property from regulating the location and operation of skeet, trap or shooting sports clubs, or the holding of motor vehicle race events conducted at a facility specifically designed for that purpose that was in operation on or before July 1, 1983.

*[For text of subd 3, see M.S.1982]*

**Subd. 4. Rules and standards.** Pursuant and subject to the provisions of chapter 14, and the provisions hereof, the pollution control agency may adopt, amend and rescind rules and standards having the force of law relating to any purpose within the provisions of Laws 1969, Chapter 1046, for the prevention, abatement, or control of air pollution. Any such rule or standard may be of general application throughout the state, or may be limited as to times, places, circumstances, or conditions in order to make due allowance for variations therein. Without limitation, rules or standards may relate to sources or emissions of air contamination or air pollution, to the quality or composition of such emissions, or to the quality of or composition of the ambient air or outdoor atmosphere or to any other matter relevant to the prevention, abatement, or control of air pollution.

Pursuant and subject to the provisions of chapter 14, and the provisions hereof, the pollution control agency may adopt, amend, and rescind rules and standards having the force of law relating to any purpose within the provisions of Laws 1969, Chapter 1046, for the collection, transportation, storage, processing, and disposal of solid waste and the prevention, abatement, or control of water, air, and land pollution which may be related thereto, and the deposit in or on land of any other material that may tend to cause pollution. The agency shall adopt such rules and standards for sewage sludge, addressing the intrinsic suitability of land, the volume and rate of application of sewage sludge of various degrees of intrinsic hazard, design of facilities, and operation of facilities and sites. The agency shall promulgate temporary rules for sewage sludge pursuant to sections 14.29 to 14.36. Notwithstanding the provisions of sections 14.29 to 14.36, the temporary rules shall be effective until permanent rules are promulgated or March 1, 1982, whichever is earlier. Any such rule or standard may be of general application throughout the state or may be limited as to times, places, circumstances, or conditions in order to make due allowance for variations therein. Without limitation, rules or standards may relate to collection, transportation, processing, disposal, equipment, location,

procedures, methods, systems or techniques or to any other matter relevant to the prevention, abatement or control of water, air, and land pollution which may be advised through the control of collection, transportation, processing, and disposal of solid waste and sewage sludge, and the deposit in or on land of any other material that may tend to cause pollution. By January 1, 1983, the rules for the management of sewage sludge shall include an analysis of the sewage sludge determined by the commissioner of agriculture to be necessary to meet the soil amendment labeling requirements of section 17.716.

Pursuant and subject to the provisions of chapter 14, and the provisions hereof, the pollution control agency may adopt, amend and rescind rules and standards having the force of law relating to any purpose within the provisions of Laws 1971, Chapter 727, for the prevention, abatement, or control of noise pollution. Any such rule or standard may be of general application throughout the state, or may be limited as to times, places, circumstances or conditions in order to make due allowances for variations therein. Without limitation, rules or standards may relate to sources or emissions of noise or noise pollution, to the quality or composition of noises in the natural environment, or to any other matter relevant to the prevention, abatement, or control of noise pollution.

As to any matters subject to this chapter, local units of government may set emission regulations with respect to stationary sources which are more stringent than those set by the pollution control agency.

Pursuant to chapter 14, the pollution control agency may adopt, amend, and rescind rules and standards having the force of law relating to any purpose within the provisions of this chapter for generators of hazardous waste, the management, identification, labeling, classification, storage, collection, treatment, transportation, processing, and disposal of hazardous waste and the location of hazardous waste facilities. A rule or standard may be of general application throughout the state or may be limited as to time, places, circumstances, or conditions. In implementing its hazardous waste rules, the pollution control agency shall give high priority to providing planning and technical assistance to hazardous waste generators. The agency shall assist generators in investigating the availability and feasibility of both interim and long term hazardous waste management methods. The methods shall include waste reduction, waste separation, waste processing, resource recovery, and temporary storage.

The pollution control agency shall give highest priority in the consideration of permits to authorize disposal of diseased shade trees by open burning at designated sites to evidence concerning economic costs of transportation and disposal of diseased shade trees by alternative methods.

*[For text of subds 4a and 4b, see M.S.1982]*

Subd. 4c. [Repealed, 1983 c 373 s 72]

Subd. 4d. **Permit fees.** The agency may collect permit fees in amounts not greater than those necessary to cover the reasonable costs of reviewing and acting upon applications for agency permits and implementing and enforcing the conditions of the permits pursuant to agency rules. Permit fees shall not include the costs of litigation. The agency shall adopt rules establishing the amounts and methods of collection of any permit fees collected under this subdivision. Any money collected under this subdivision shall be deposited in the general fund.

Subd. 4e. **Hazardous waste processing facilities; agreements; financial responsibility.** When the agency issues a permit for a facility for the processing of hazardous waste, the agency may approve as a condition of the permit an agreement by which the permittee indemnifies the generators of hazardous waste

accepted by the facility for part or all of any liability which may accrue to the generators as a result of a release or threatened release of a hazardous waste from the facility. The agency may approve an agreement under this subdivision only if the agency determines that the permittee has demonstrated financial responsibility to carry out the agreement during the term of the permit. If a generator of hazardous waste accepted by a permitted processing facility is held liable for costs or damages arising out of a release of a hazardous waste from the facility, and the permittee is subject to an agreement approved under this subdivision, the generator is liable to the extent that the costs or damages were not paid under this agreement.

*[For text of subs 5 and 6, see M.S.1982]*

**Subd. 7. Counties; processing of applications for animal lot permits.** Any Minnesota county board may, by resolution, with approval of the pollution control agency, assume responsibility for processing applications for permits required by the pollution control agency under this section for livestock feedlots, poultry lots or other animal lots. The responsibility for permit application processing, if assumed by a county, may be delegated by the county board to any appropriate county officer or employee.

For the purposes of this subdivision, the term "processing" includes:

(a) the distribution to applicants of forms provided by the pollution control agency;

(b) the receipt and examination of completed application forms, and the certification, in writing, to the pollution control agency either that the animal lot facility for which a permit is sought by an applicant will comply with applicable rules and standards, or, if the facility will not comply, the respects in which a variance would be required for the issuance of a permit; and

(c) rendering to applicants, upon request, assistance necessary for the proper completion of an application.

For the purposes of this subdivision, the term "processing" may include, at the option of the county board:

(d) issuing, denying, modifying, imposing conditions upon, or revoking permits pursuant to the provisions of this section or rules promulgated pursuant to it, subject to review, suspension, and reversal by the pollution control agency. The pollution control agency shall, after written notification, have 15 days to review, suspend, modify, or reverse the issuance of the permit. After this period, the action of the county board is final, subject to appeal as provided in chapter 14.

The pollution control agency shall adopt rules governing the issuance and denial of permits for livestock feedlots, poultry lots or other animal lots pursuant to this section. These rules apply both to permits issued by counties and to permits issued by the pollution control agency directly.

The pollution control agency shall exercise supervising authority with respect to the processing of animal lot permit applications by a county.

*[For text of subd 8, see M.S.1982]*

**Subd. 9. Orders; investigations.** The agency shall have the following powers and duties for the enforcement of any provision of this chapter, relating to air contamination or waste:

(a) to adopt, issue, reissue, modify, deny, revoke, enter into or enforce reasonable orders, schedules of compliance and stipulation agreements;

(b) to require the owner or operator of any emission facility, air contaminant treatment facility, potential air contaminant storage facility, or any system or facility related to the storage, collection, transportation, processing, or disposal of waste to establish and maintain records; to make reports; to install, use, and maintain monitoring equipment or methods; and to make tests, including testing for odor where a nuisance may exist, in accordance with methods, at locations, at intervals, and in a manner as the agency shall prescribe; and to provide other information as the agency may reasonably require;

(c) to conduct investigations, issue notices, public and otherwise, and order hearings as it may deem necessary or advisable for the discharge of its duties under this chapter, including but not limited to the issuance of permits; and to authorize any member, employee, or agent appointed by it to conduct the investigations and issue the notices.

**History:** 1983 c 247 s 51; 1983 c 301 s 112-114; 1983 c 373 s 44,45

### 116.11 EMERGENCY POWERS.

If there is imminent and substantial danger to the health and welfare of the people of the state, or of any of them, as a result of the pollution of air, land, or water, the agency may by emergency order direct the immediate discontinuance or abatement of the pollution without notice and without a hearing or at the request of the agency, the attorney general may bring an action in the name of the state in the appropriate district court for a temporary restraining order to immediately abate or prevent the pollution. The agency order or temporary restraining order shall remain effective until notice, hearing, and determination pursuant to other provisions of law, or, in the interim, as otherwise ordered. A final order of the agency in these cases shall be appealable in accordance with chapter 14.

**History:** 1983 c 247 s 52

### 116.12 HAZARDOUS WASTE ADMINISTRATION FEES.

**Subdivision 1. Fee schedules.** The agency shall establish the fees provided in subdivisions 2 and 3 in the manner provided in section 16A.128 to cover the amount appropriated from the general fund to the agency for that year for permitting, monitoring, inspection and enforcement expenses of the hazardous waste activities of the agency.

The legislature may appropriate additional amounts that need not be covered by fees or may provide that the fees shall cover only a portion of the general fund appropriation for the hazardous waste activities of the agency, in order to assure adequate funding for the regulatory and enforcement functions of the agency related to hazardous waste. All fees collected by the agency under this section shall be deposited in the general fund.

**Subd. 2. Hazardous waste generator fee.** Each generator of hazardous waste shall pay a fee on the hazardous waste which he generates. The agency shall compute the amount of the fee due based on the hazardous waste disclosures submitted by the generators and other information available to the agency. The agency shall annually prepare a statement of the amount of the fee due from each generator. The fee shall be paid annually commencing with the first day of the calendar quarter after the date of the statement.

The agency may exempt generators of small quantities of hazardous wastes otherwise subject to the fee if it finds that the cost of administering a fee on those generators is excessive relative to the proceeds of the fee. The fee shall consist of

a minimum fee for each generator not exempted by the agency and an additional fee based on the quantity of wastes generated by the generator.

If any metropolitan counties recover the costs of administering county hazardous waste regulations by charging fees, the fees charged by the agency outside of those counties shall not exceed the fees charged by those counties. The agency shall not charge a fee in any metropolitan county which charges such a fee. The agency shall impose a fee calculated as a surcharge on the fees charged by the metropolitan counties and by the agency to reflect the agency's expenses in carrying out its statewide hazardous waste regulatory responsibilities. The surcharge imposed on the fees charged by the metropolitan counties shall be collected by the metropolitan counties in the manner in which the counties collect their generator fees. Metropolitan counties shall remit the proceeds of the surcharge to the agency by the last day of the month following the month in which they were collected.

**Subd. 3. Facility fees.** The agency shall charge an original permit fee, a reissuance fee and an annual operator's fee for any hazardous waste facility regulated by the agency. The agency may include reasonable and necessary costs of any environmental review required under chapter 116D in the original permit fee for any hazardous waste facility.

**History:** 1983 c 121 s 25

#### 116.16 MINNESOTA STATE WATER POLLUTION CONTROL FUND.

*[For text of subs 1 to 9, see M.S.1982]*

**Subd. 10. Costs.** To the extent the agency administers or engages in activities necessary for administering any aspects of the federal water pollution control act as amended, 33 U.S.C. 1251 et seq., the agency may assess the costs of such administrative activities, in an amount not to exceed that allowed by federal law, against the federal construction grant funds allotted to the state.

**History:** 1983 c 301 s 115

#### 116.17 MINNESOTA STATE WATER POLLUTION CONTROL BONDS.

*[For text of subd 1, see M.S.1982]*

**Subd. 2. Issuance of bonds.** Upon request by resolution of the agency and upon authorization as provided in subdivision 1 the commissioner of finance shall sell and issue Minnesota state water pollution control bonds in the aggregate amount requested, upon sealed bids and upon such notice, at such price, in such form and denominations, bearing interest at a rate or rates, maturing in amounts and on dates, with or without option of prepayment upon notice and at specified times and prices, payable at a bank or banks within or outside the state, with provisions, if any, for registration, conversion, and exchange and for the issuance of temporary bonds or notes in anticipation of the sale or delivery of definitive bonds, and in accordance with further provisions, as the commissioner of finance shall determine, subject to the approval of the attorney general, but not subject 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 bonds shall be executed by the commissioner of finance and attested by the state treasurer under their official seals. The signatures of the officers on the bonds and any appurtenant interest coupons and their seals may be printed, lithographed, engraved, stamped, or otherwise reproduced thereon, except that each bond shall be authenticated by the manual signature on its face of one of the

officers or of an authorized representative of a bank designated by the commissioner as registrar or other authenticating agent. The commissioner of finance shall ascertain and certify to the purchasers of the bonds the performance and existence of all acts, conditions, and things necessary to make them valid and binding general obligations of the state of Minnesota, subject to the approval of the attorney general.

*[For text of subds 3 to 6, see M.S.1982]*

**History:** 1983 c 301 s 116

### **116.18 WATER POLLUTION CONTROL FUNDS; APPROPRIATIONS AND BONDS.**

**Subdivision 1. Appropriation from the fund.** The sum of \$155,000,000, or so much thereof as may be necessary, is appropriated from the Minnesota state water pollution control fund in the state treasury to the pollution control agency, for the period commencing on July 23, 1971 and ending June 30, 1985, to be granted and disbursed to municipalities and agencies of the state in aid of the construction of projects conforming to section 116.16, in accordance with the rules, priorities, and criteria therein described. Except as otherwise provided in this subdivision and in subdivision 2, these state funds shall be expended at 15 per centum of the eligible cost of construction and shall be expended only for projects tendered a grant of federal funds under section 201(g), section 202, section 203 or section 206(f) of the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1314 et seq., at 75 per centum of the eligible cost for construction of the treatment works; provided, that not less than ten percent of the cost shall be paid by the municipality or agency constructing the project. In the event that a municipality is tendered federal and state grants in a percentage cumulatively exceeding 90 per centum of the eligible cost of construction, the state pollution control agency shall reduce the grant to the municipality under this chapter to the extent necessary to assure that not less than ten percent of the cost shall be paid by the municipality. It is the purpose of this appropriation that a grant of state funds for each project approved in each of the fiscal years ending June 30, 1971 through 1985, shall be made in an amount not less than that required in federal law and regulations as a condition for the grant of federal funds for the project and for all other water pollution control projects for which federal grants are allocated in the same year, in the maximum amount permissible under law and regulations.

Notwithstanding any other provision, the agency may, in its discretion, and after consideration of the amount of state funds required to match federal funds, make a grant of state funds not exceeding 15 per centum to a municipality that would qualify for a grant of federal funds but desires to initiate construction of a project without a federal grant. The agency may limit the scope and eligible cost of the project.

If a municipality is tendered a grant of federal funds under section 201, paragraph (g), section 202, section 203 or section 206, paragraph (f) of the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1314 et seq., at 85 percent of the eligible cost for construction of treatment works utilizing innovative or alternative wastewater treatment processes and techniques, state funds shall be expended at nine percent of the eligible cost of construction; provided, that not less than six percent of the eligible cost of construction shall be paid by the municipality or agency constructing the project. In the event that a municipality is tendered federal and state grants in a percentage cumulatively exceeding 94 percent of the eligible cost of construction, the state pollution control agency shall

reduce the grant to the municipality under this chapter to the extent necessary to assure that the municipality receives no more than 94 percent of the eligible cost of construction.

*[For text of subs 2 to 6, see M.S.1982]*

**History:** 1983 c 301 s 117

#### **116.41 WASTE AND WASTE FACILITIES CLASSIFICATION; TRAINING AND CERTIFICATION.**

Subdivision 1. [Repealed, 1983 c 373 s 72]

Subd. 1a. [Repealed, 1983 c 373 s 72]

Subd. 2. **Training and certification programs.** The agency shall develop standards of competence for persons operating and inspecting various classes of disposal facilities. The agency shall conduct training programs for persons operating facilities for the disposal of waste and for inspectors of such facilities, and may charge such fees as are necessary to cover the actual costs of the training programs. All fees received shall be paid into the state treasury and credited to the account created in section 115.03, subdivision 1, clause (j), for training water pollution control personnel, and are appropriated to the agency to pay expenses relating to the training of disposal facility personnel.

The agency shall require operators and inspectors of such facilities to obtain from the agency a certificate of competence. The agency shall conduct examinations to test the competence of applicants for certification, and shall require that certificates be renewed at reasonable intervals. The agency may charge such fees as are necessary to cover the actual costs of receiving and processing applications, conducting examinations, and issuing and renewing certificates. Certificates shall not be required for a private individual for landspreading and associated interim and temporary storage of sewage sludge on property owned or farmed by that individual.

*[For text of subs 3 and 4, see M.S.1982]*

**History:** 1983 c 301 s 118