

MINNESOTA STATUTES 1992

WATER POLLUTION CONTROL; SANITARY DISTRICTS 115.01

Environmental Protection

CHAPTER 115

WATER POLLUTION CONTROL; SANITARY DISTRICTS

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WATER POLLUTION CONTROL ACT

115.01 DEFINITIONS.

Subdivision 1. **Applicability.** The following words and phrases when used in this chapter and, with respect to the pollution of the waters of the state, in chapter 116, unless the context clearly indicates otherwise, shall have the meanings ascribed to them in this section.

Subd. 2. MS 1990 [Renumbered subd 17]

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Subd. 2. **Agency.** "Agency" means the Minnesota pollution control agency.

Subd. 3. MS 1990 [Renumbered subd 8]

Subd. 3. **Depository.** "Depository" means: (a) a disposal facility or stabilization and containment facility for hazardous waste as defined in section 115A.03; and (b) a radioactive waste management facility as defined in section 116C.71, subdivision 7.

Subd. 4. MS 1990 [Renumbered subd 9]

Subd. 4. **Discharge.** "Discharge" means the addition of any pollutant to the waters of the state or to any disposal system.

Subd. 5. MS 1990 [Renumbered subd 13]

Subd. 5. **Disposal system.** "Disposal system" means a system for disposing of sewage, industrial waste and other wastes, and includes sewer systems and treatment works.

Subd. 6. MS 1990 [Renumbered subd 18]

Subd. 6. **Groundwater.** "Groundwater" means water contained below the surface of the earth in the saturated zone including, without limitation, all waters whether under confined, unconfined, or perched conditions, in near-surface unconsolidated sediment or regolith, or in rock formations deeper underground.

Subd. 7. MS 1990 [Renumbered subd 21]

Subd. 7. **Hazardous waste.** "Hazardous waste" means waste as defined in section 116.06, subdivision 11.

Subd. 8. MS 1990 [Renumbered subd 5]

Subd. 8. **Industrial waste.** "Industrial waste" means any liquid, gaseous or solid waste substance resulting from any process of industry, manufacturing trade or business or from the development of any natural resource.

Subd. 9. MS 1990 [Renumbered subd 22]

Subd. 9. **Other wastes.** "Other wastes" mean garbage, municipal refuse, decayed wood, sawdust, shavings, bark, lime, sand, ashes, offal, oil, tar, chemicals, dredged spoil, solid waste, incinerator residue, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, cellar dirt or municipal or agricultural waste, and all other substances not included within the definitions of sewage and industrial waste set forth in this chapter which may pollute or tend to pollute the waters of the state.

Subd. 10. **Person.** "Person" means the state or any agency or institution thereof, any municipality, governmental subdivision, public or private corporation, individual, partnership, or other entity, including, but not limited to, association, commission or any interstate body, and includes any officer or governing or managing body of any municipality, governmental subdivision, or public or private corporation, or other entity.

Subd. 11. MS 1990 [Renumbered subd 2]

Subd. 11. **Point source.** "Point source" means any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged.

Subd. 12. MS 1990 [Renumbered subd 4]

Subd. 12. **Pollutant.** "Pollutant" means any "sewage," "industrial waste," or "other wastes," as defined in this chapter, discharged into a disposal system or to waters of the state.

Subd. 13. MS 1990 [Renumbered subd 12]

Subd. 13. **Pollution of water, water pollution, pollute the water.** "Pollution of water," "water pollution," or "pollute the water" means: (a) the discharge of any pollutant into any waters of the state or the contamination of any waters of the state so as to create a nuisance or render such waters unclean, or noxious, or impure so as to be

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actually or potentially harmful or detrimental or injurious to public health, safety or welfare, to domestic, agricultural, commercial, industrial, recreational or other legitimate uses, or to livestock, animals, birds, fish or other aquatic life; or (b) the alteration made or induced by human activity of the chemical, physical, biological, or radiological integrity of waters of the state.

Subd. 14. MS 1990 [Renumbered subd 20]

Subd. 14. **Potable water.** "Potable water" means water which is or may be used as a source of supply for human consumption including drinking, culinary use, food processing, and other similar purposes, and which is suitable for such uses in its untreated state or when treated using generally recognized treatment methods.

Subd. 15. MS 1990 [Renumbered subd 11]

Subd. 15. **Radioactive waste.** "Radioactive waste" means high-level radioactive waste as defined in section 116C.71, subdivision 2f, and low-level radioactive waste as defined in article II of the Midwest Interstate Low-Level Radioactive Waste Compact, as enacted by section 116C.831.

Subd. 16. MS 1990 [Renumbered subd 19]

Subd. 16. **Schedule of compliance.** "Schedule of compliance" means a schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with an effluent limitation, other limitation, prohibition, or standard.

Subd. 17. MS 1990 [Renumbered subd 16]

Subd. 17. **Sewage.** "Sewage" means the water-carried waste products from residences, public buildings, institutions or other buildings, or any mobile source, including the excrementitious or other discharge from the bodies of human beings or animals, together with such ground water infiltration and surface water as may be present.

Subd. 18. MS 1990 [Renumbered subd 7]

Subd. 18. **Sewer system.** "Sewer system" means pipelines or conduits, pumping stations, and force mains, and all other constructions, devices, and appliances appurtenant thereto, used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.

Subd. 19. MS 1990 [Renumbered subd 15]

Subd. 19. **Standards.** "Standards" means effluent standards, effluent limitations, standards of performance for new sources, water quality standards, pretreatment standards, and prohibitions.

Subd. 20. MS 1990 [Renumbered subd 14]

Subd. 20. **Toxic pollutants.** "Toxic pollutants" means those pollutants, or combinations of pollutants, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will, on the basis of information available to the agency, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions, including malfunctions in reproduction, or physical deformation, in such organisms or their offspring.

Subd. 21. MS 1990 [Renumbered subd 6]

Subd. 21. **Treatment works.** "Treatment works" means any plant, disposal field, lagoon, dam, pumping station, constructed drainage ditch or surface water intercepting ditch, incinerator, area devoted to sanitary land fills, or other works not specifically mentioned herein, installed for the purpose of treating, stabilizing or disposing of sewage, industrial waste, or other wastes.

Subd. 22. MS 1990 [Renumbered subd 3]

Subd. 22. **Waters of the state.** "Waters of the state" means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

History: 1945 c 395 s 1; 1963 c 874 s 2,3; 1969 c 9 s 16; 1973 c 374 s 1-6; 1986 c 425 s 1-5; 1986 c 444

115.02 [Repealed, 1967 c 882 s 11]**115.03 POWERS AND DUTIES.**

Subdivision 1. **Generally.** The agency is hereby given and charged with the following powers and duties:

(a) To administer and enforce all laws relating to the pollution of any of the waters of the state;

(b) To investigate the extent, character, and effect of the pollution of the waters of this state and to gather data and information necessary or desirable in the administration or enforcement of pollution laws, and to make such classification of the waters of the state as it may deem advisable;

(c) To establish and alter such reasonable pollution standards for any waters of the state in relation to the public use to which they are or may be put as it shall deem necessary for the purposes of this chapter and, with respect to the pollution of waters of the state, chapter 116;

(d) To encourage waste treatment, including advanced waste treatment, instead of stream low-flow augmentation for dilution purposes to control and prevent pollution;

(e) To adopt, issue, reissue, modify, deny, or revoke, enter into or enforce reasonable orders, permits, variances, standards, rules, schedules of compliance, and stipulation agreements, under such conditions as it may prescribe, in order to prevent, control or abate water pollution, or for the installation or operation of disposal systems or parts thereof, or for other equipment and facilities;

(1) Requiring the discontinuance of the discharge of sewage, industrial waste or other wastes into any waters of the state resulting in pollution in excess of the applicable pollution standard established under this chapter;

(2) Prohibiting or directing the abatement of any discharge of sewage, industrial waste, or other wastes, into any waters of the state or the deposit thereof or the discharge into any municipal disposal system where the same is likely to get into any waters of the state in violation of this chapter and, with respect to the pollution of waters of the state, chapter 116, or standards or rules promulgated or permits issued pursuant thereto, and specifying the schedule of compliance within which such prohibition or abatement must be accomplished;

(3) Prohibiting the storage of any liquid or solid substance or other pollutant in a manner which does not reasonably assure proper retention against entry into any waters of the state that would be likely to pollute any waters of the state;

(4) Requiring the construction, installation, maintenance, and operation by any person of any disposal system or any part thereof, or other equipment and facilities, or the reconstruction, alteration, or enlargement of its existing disposal system or any part thereof, or the adoption of other remedial measures to prevent, control or abate any discharge or deposit of sewage, industrial waste or other wastes by any person;

(5) Establishing, and from time to time revising, standards of performance for new sources taking into consideration, among other things, classes, types, sizes, and categories of sources, processes, pollution control technology, cost of achieving such effluent reduction, and any nonwater quality environmental impact and energy requirements. Said standards of performance for new sources shall encompass those standards for the control of the discharge of pollutants which reflect the greatest degree of effluent reduction which the agency determines to be achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, where practicable, a standard permitting no discharge of pollutants. New sources shall encompass buildings, structures, facilities, or installations from which there is or may be the discharge of pollutants, the construction of which is commenced after the publication by the agency of proposed rules prescribing a standard of performance which will be applicable to such source. Notwithstanding any other provision of the law of this state, any point source the construction of which is

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commenced after May 20, 1973, and which is so constructed as to meet all applicable standards of performance for new sources shall, consistent with and subject to the provisions of section 306(d) of the Amendments of 1972 to the Federal Water Pollution Control Act, not be subject to any more stringent standard of performance for new sources during a ten-year period beginning on the date of completion of such construction or during the period of depreciation or amortization of such facility for the purposes of section 167 or 169, or both, of the Federal Internal Revenue Code of 1954, whichever period ends first. Construction shall encompass any placement, assembly, or installation of facilities or equipment, including contractual obligations to purchase such facilities or equipment, at the premises where such equipment will be used, including preparation work at such premises;

(6) Establishing and revising pretreatment standards to prevent or abate the discharge of any pollutant into any publicly owned disposal system, which pollutant interferes with, passes through, or otherwise is incompatible with such disposal system;

(7) Requiring the owner or operator of any disposal system or any point source to establish and maintain such records, make such reports, install, use, and maintain such monitoring equipment or methods, including where appropriate biological monitoring methods, sample such effluents in accordance with such methods, at such locations, at such intervals, and in such a manner as the agency shall prescribe, and providing such other information as the agency may reasonably require;

(8) Notwithstanding any other provision of this chapter, and with respect to the pollution of waters of the state, chapter 116, requiring the achievement of more stringent limitations than otherwise imposed by effluent limitations in order to meet any applicable water quality standard by establishing new effluent limitations, based upon section 115.01, subdivision 13, clause (b), including alternative effluent control strategies for any point source or group of point sources to insure the integrity of water quality classifications, whenever the agency determines that discharges of pollutants from such point source or sources, with the application of effluent limitations required to comply with any standard of best available technology, would interfere with the attainment or maintenance of the water quality classification in a specific portion of the waters of the state. Prior to establishment of any such effluent limitation, the agency shall hold a public hearing to determine the relationship of the economic and social costs of achieving such limitation or limitations, including any economic or social dislocation in the affected community or communities, to the social and economic benefits to be obtained and to determine whether or not such effluent limitation can be implemented with available technology or other alternative control strategies. If a person affected by such limitation demonstrates at such hearing that, whether or not such technology or other alternative control strategies are available, there is no reasonable relationship between the economic and social costs and the benefits to be obtained, such limitation shall not become effective and shall be adjusted as it applies to such person;

(9) Modifying, in its discretion, any requirement or limitation based upon best available technology with respect to any point source for which a permit application is filed after July 1, 1977, upon a showing by the owner or operator of such point source satisfactory to the agency that such modified requirements will represent the maximum use of technology within the economic capability of the owner or operator and will result in reasonable further progress toward the elimination of the discharge of pollutants;

(f) To require to be submitted and to approve plans and specifications for disposal systems or point sources, or any part thereof and to inspect the construction thereof for compliance with the approved plans and specifications thereof;

(g) To prescribe and alter rules, not inconsistent with law, for the conduct of the agency and other matters within the scope of the powers granted to and imposed upon it by this chapter and, with respect to pollution of waters of the state, in chapter 116, provided that every rule affecting any other department or agency of the state or any person other than a member or employee of the agency shall be filed with the secretary of state;

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(h) To conduct such investigations, issue such notices, public and otherwise, and hold such hearings as are necessary or which it may deem advisable for the discharge of its duties under this chapter and, with respect to the pollution of waters of the state, under chapter 116, including, but not limited to, the issuance of permits, and to authorize any member, employee, or agent appointed by it to conduct such investigations or, issue such notices and hold such hearings;

(i) For the purpose of water pollution control planning by the state and pursuant to the Federal Water Pollution Control Act, as amended, to establish and revise planning areas, adopt plans and programs and continuing planning processes, including, but not limited to, basin plans and areawide waste treatment management plans, and to provide for the implementation of any such plans by means of, including, but not limited to, standards, plan elements, procedures for revision, intergovernmental cooperation, residual treatment process waste controls, and needs inventory and ranking for construction of disposal systems;

(j) To train water pollution control personnel, and charge such fees therefor as are necessary to cover the agency's costs. All such fees received shall be paid into the state treasury and credited to the pollution control agency training account;

(k) To impose as additional conditions in permits to publicly owned disposal systems appropriate measures to insure compliance by industrial and other users with any pretreatment standard, including, but not limited to, those related to toxic pollutants, and any system of user charges ratably as is hereby required under state law or said Federal Water Pollution Control Act, as amended, or any regulations or guidelines promulgated thereunder;

(l) To set a period not to exceed five years for the duration of any National Pollutant Discharge Elimination System permit;

(m) To require each governmental subdivision identified as a permittee for a wastewater treatment works to annually evaluate the condition of its existing system and identify future capital improvements that will be needed to attain or maintain compliance with a national pollutant discharge elimination system or state disposal system permit; and

(n) To train individual sewage treatment system personnel, including persons who design, construct, install, inspect, service, and operate individual sewage treatment systems, and charge fees as necessary to pay the agency's costs. All fees received must be paid into the state treasury and credited to the agency's training account. Money in the account is appropriated to the agency to pay expenses related to training.

The information required in clause (m) must be submitted annually to the commissioner on a form provided by the commissioner. The commissioner shall provide technical assistance if requested by the governmental subdivision.

Subd. 2. Hearing or investigation. In any hearing or investigation conducted pursuant to this chapter and chapters 116 and 116F, any employee or agent thereto authorized by the agency, may administer oaths, examine witnesses and issue, in the name of the agency, subpoenas requiring the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in any such hearing or investigation. Witnesses shall receive the same fees and mileage as in civil actions.

Subd. 3. Contempt of court. In case of contumacy or refusal to obey a subpoena issued under this section, the district court of the county where the proceeding is pending or in which the person guilty of such contumacy or refusal to obey is found or resides, shall have jurisdiction upon application of the agency or its authorized member, employee or agent to issue to such person an order requiring the person to appear and testify or produce evidence, as the case may require, and any failure to obey such order of the court may be punished by said court as a contempt thereof.

Subd. 4. Building permits. It is unlawful for any person to issue or grant a building permit for, or otherwise permit, the construction, enlargement, or relocation of a commercial or industrial building to be used as the place of employment of more than 12 persons, or any other commercial or industrial building to house a process producing

industrial or other wastes, unless the sewage or industrial or other waste originating in such buildings is or will be discharged into a disposal system for which a permit has first been granted by the agency unless the agency has cause not to apply this requirement, provided that this subdivision shall not apply to building permits issued for buildings, which have an estimated value of less than \$500,000, located or to be located within an incorporated municipality. After January 1, 1975, such permits shall be acted upon by the agency within 90 days after submitted, provided that the agency, for good cause, may order said 90 day period to be extended for a reasonable time.

Subd. 5. Agency authority; National Pollutant Discharge Elimination System. Notwithstanding any other provisions prescribed in or pursuant to this chapter and, with respect to the pollution of waters of the state, in chapter 116, or otherwise, the agency shall have the authority to perform any and all acts minimally necessary including, but not limited to, the establishment and application of standards, procedures, rules, orders, variances, stipulation agreements, schedules of compliance, and permit conditions, consistent with and, therefore not less stringent than the provisions of the Federal Water Pollution Control Act, as amended, applicable to the participation by the state of Minnesota in the National Pollutant Discharge Elimination System (NPDES); provided that this provision shall not be construed as a limitation on any powers or duties otherwise residing with the agency pursuant to any provision of law.

Subd. 5a. Public notice for National Pollutant Discharge Elimination System permit application. The commissioner must give public notice of a completed National Pollutant Discharge Elimination System permit application for new municipal discharges in the official county newspaper of the county where the discharge is proposed.

Subd. 6. Certification statement; pollution control equipment loan. (a) In addition to its other powers and duties, the agency shall prepare the certification statement required to be submitted by an applicant for a pollution control equipment loan under the provisions of section 7(g) of the Small Business Act and section 8 of the Federal Water Pollution Control Act, as amended.

(b) The agency certification shall state whether the loan applicant's proposed additions to, or alterations in, equipment facilities or methods of operation are necessary and adequate to comply with the requirements established under the Federal Water Pollution Control Act, as amended. The agency's certification statement shall comply with the requirements of Code of Federal Regulations, title 40, part 21.

(c) The agency may identify small businesses eligible for loans under section 7(g) of the Small Business Act and section 8 of the Federal Water Pollution Control Act, as amended and assist in the preparation of loan application.

(d) No fee shall be required of an applicant for any assistance provided under this subdivision.

Subd. 7. Pollution control facility revenue bonds. In addition to its other powers and duties, the agency shall disseminate information and provide assistance regarding the small business administration program to guarantee payments or rentals on pollution control facility revenue bonds pursuant to Public Law Number 94-305 (June 4, 1976). The agency shall also encourage and assist governmental units to coordinate the joint or cooperative issuance of bonds guaranteed under this program to the end that the total amount of the bonds is sufficient in size to allow convenient sale.

History: 1945 c 395 s 3; 1969 c 9 s 21; 1969 c 931 s 6; 1973 c 374 s 7-9; 1973 c 412 s 12; 1976 c 76 s 1; 1979 c 147 s 1; 1984 c 597 s 41; 1985 c 248 s 70; 1Sp1985 c 13 s 229; 1986 c 444; 1987 c 186 s 15; 1989 c 335 art 1 s 127; art 4 s 33; 1992 c 601 s 2

115.04 DISPOSAL SYSTEMS AND POINT SOURCES.

Subdivision 1. Information. Any person operating or installing a disposal system or other point source, or portion thereof, when requested by the agency, or any member, employee or agent thereof, when authorized by it, shall furnish to it any information which that person may have or which is relevant to the subject of this chapter and, with respect to the pollution of waters of the state, of chapter 116.

Subd. 2. **Examination of records.** The agency or any member, employee or agent thereof, when authorized by it, upon presentation of credentials, may examine and copy any books, papers, records or memoranda pertaining to the installation, maintenance, or operation or discharge, including, but not limited to, monitoring data, of disposal systems or other point sources, in accordance with the purposes of this chapter and, with respect to the pollution of waters of the state, chapter 116.

Subd. 3. **Access to premises.** Whenever it shall be necessary for the purposes of this chapter and, with respect to pollution of waters of the state, chapter 116, the agency or any member, employee, or agent thereof, when authorized by it, upon presentation of credentials, may enter upon any property, public or private, for the purpose of obtaining information or examination of records or conducting surveys or investigations.

History: 1945 c 395 s 4; 1969 c 9 s 21; 1973 c 374 s 10; 1986 c 444

115.05 JUDICIAL REVIEW.

Subdivision 1. [Repealed, 1976 c 76 s 8]

Subd. 2. [Repealed, 1973 c 374 s 22]

Subd. 3. [Repealed, 1976 c 76 s 8]

Subd. 4. [Repealed, 1976 c 76 s 8]

Subd. 5. [Repealed, 1976 c 76 s 8]

Subd. 6. [Repealed, 1976 c 76 s 8]

Subd. 7. [Repealed, 1976 c 76 s 8]

Subd. 8. [Repealed, 1976 c 76 s 8]

Subd. 9. [Repealed, 1976 c 76 s 8]

Subd. 10. [Repealed, 1976 c 76 s 8]

Subd. 11. **Judicial review.** Any person aggrieved by any final decision for which judicial review is not provided in chapter 14 may obtain judicial review thereof pursuant to sections 14.63 to 14.69.

History: 1945 c 395 s 5; 1959 c 461 s 1; 1969 c 9 s 21; 1969 c 931 s 1,2; 1973 c 374 s 11; 1976 c 76 s 2; 1982 c 424 s 130; 1987 c 384 art 2 s 1

115.06 COOPERATION.

Subdivision 1. **With other sovereign states.** The agency, so far as it is not inconsistent with its duties under the laws of this state, may assist and cooperate with any agency of another state, of the United States of America or of the Dominion of Canada or any province thereof in any matter relating to water pollution control.

Subd. 2. **Funds received from persons or agencies.** The agency may receive and accept money, property, or services from any person or from any agency described in subdivision 1 or from any other source for any purpose within the scope of its functions under this chapter, chapter 116, or 116F, and all money so received are hereby appropriated for such purposes in like manner and subject to like provisions of law as the corresponding appropriations of state funds.

Subd. 3. **By governmental subdivisions.** It shall be the duty of each city, county, town, sanitary district, public corporation, or other governmental subdivision to cooperate with the agency in obtaining compliance with the provisions of this chapter and to enforce within its jurisdiction all standards, orders, rules, or permit requirements adopted by the agency thereunder.

History: 1945 c 395 s 6; 1969 c 9 s 21; 1969 c 931 s 3; 1973 c 123 art 5 s 7; 1978 c 568 s 1; 1985 c 248 s 70

115.061 DUTY TO NOTIFY AND AVOID WATER POLLUTION.

It is the duty of every person to notify the agency immediately of the discharge, accidental or otherwise, of any substance or material under its control which, if not

recovered, may cause pollution of waters of the state, and the responsible person shall recover as rapidly and as thoroughly as possible such substance or material and take immediately such other action as may be reasonably possible to minimize or abate pollution of waters of the state caused thereby.

History: 1969 c 931 s 4

115.063 HAZARDOUS AND RADIOACTIVE WASTE; STATE POTABLE WATER PROTECTION POLICY.

The legislature finds that:

(1) the waters of the state, because of their abundant quantity and high natural quality, constitute a unique natural resource of immeasurable value which must be protected and conserved for the benefit of the health, safety, welfare, and economic well-being of present and future generations of the people of the state;

(2) the actual or potential use of the waters of the state for potable water supply is the highest priority use of that water and deserves maximum protection by the state; and

(3) the disposal of hazardous waste and radioactive waste in Minnesota may pose a serious risk of pollution of the waters of the state, particularly potable water.

It is therefore the policy of the state of Minnesota, consistent with the state's primary responsibility and rights to prevent, reduce, and eliminate water pollution and to plan for the preservation of water resources, that depositories for hazardous waste or radioactive waste should not be located in any place or be constructed or operated in any manner that can reasonably be expected to cause pollution of potable water.

History: 1986 c 425 s 6

115.065 PROHIBITION OF DISPOSAL.

The location, construction, or operation of any depository for hazardous waste or radioactive waste, whether generated within or outside of the state, in any place or in any manner that can reasonably be expected to cause the pollution of potable water is prohibited.

History: 1986 c 425 s 7

115.067 BELOW GRADE DISPOSAL SYSTEMS; PROHIBITION; EXCEPTION.

The construction or operation of a depository for hazardous waste or radioactive waste in whole or in part below the natural grade of the land where it is located is prohibited unless the person proposing to construct or operate the depository demonstrates that the depository cannot reasonably be expected to cause the pollution of potable water.

History: 1986 c 425 s 8

115.069 RADIONUCLIDE POLLUTION; HIGH-LEVEL NUCLEAR WASTE DEPOSITORY.

The determination of whether the location, construction, or operation of a depository for spent nuclear fuel or high-level radioactive waste can reasonably be expected to cause radionuclide pollution of potable groundwater in violation of section 115.065 shall be made in accordance with the provisions of section 116C.76.

History: 1986 c 425 s 9

115.07 VIOLATIONS AND PROHIBITIONS.

Subdivision 1. **Obtain permit.** It shall be unlawful for any person to construct, install or operate a disposal system, or any part thereof, until plans therefor shall have been submitted to the agency unless the agency shall have waived the submission thereof to it and a written permit therefor shall have been granted by the agency.

For disposal systems operated on streams with extreme seasonal flows, the agency

must allow seasonal permit limits based on a fixed or variable effluent limit when the municipality operating the disposal system requests them and is in compliance with agency water quality standards.

Subd. 2. [Repealed, 1973 c 374 s 22]

Subd. 3. **Permission for extension.** It shall be unlawful for any person to make any change in, addition to or extension of any existing disposal system or point source, or part thereof, to effect any facility expansion, production increase, or process modification which results in new or increased discharges of pollutants, or to operate such system or point source, or part thereof as so changed, added to, or extended until plans and specifications therefor shall have been submitted to the agency unless the agency shall have waived the submission thereof to it and a written permit therefor shall have been granted by the agency.

Subd. 4. [Repealed, 1973 c 374 s 22]

Subd. 5. [Repealed, 1963 c 798 s 16]

Subd. 6. [Repealed, 1973 c 374 s 22]

History: 1945 c 395 s 8-10; 1969 c 9 s 21; 1969 c 931 s 5; 1973 c 374 s 12; 1986 c 465 art 3 s 1

115.071 ENFORCEMENT.

Subdivision 1. **Remedies available.** The provisions of sections 103F.701 to 103F.761, chapters 115 and 116 and all rules, standards, orders, stipulation agreements, schedules of compliance, and permits adopted or issued by the agency thereunder or under any other law now in force or hereafter enacted for the prevention, control, or abatement of pollution may be enforced by any one or any combination of the following: criminal prosecution; action to recover civil penalties; injunction; action to compel performance; or other appropriate action, in accordance with the provisions of said chapters and this section.

Subd. 2. **Criminal penalties.** (a) **Violations of laws; orders; permits.** Except as provided in section 609.671, any person who willfully or negligently violates any provision of this chapter or chapter 116, or any standard, rule, variance, order, stipulation agreement, schedule of compliance or permit issued or adopted by the agency thereunder shall upon conviction be guilty of a misdemeanor.

(b) **Duty of law enforcement officials.** It shall be the duty of all county attorneys, sheriffs and other peace officers, and other officers having authority in the enforcement of the general criminal laws to take all action to the extent of their authority, respectively, that may be necessary or proper for the enforcement of said provisions, rules, standards, orders, stipulation agreements, variances, schedule of compliance, or permits.

Subd. 2a. [Repealed, 1987 c 267 s 5]

Subd. 2b. [Repealed, 1987 c 267 s 5]

Subd. 3. **Civil penalties.** Any person who violates any provision of this chapter or chapter 116, except any provisions of chapter 116 relating to air and land pollution caused by agricultural operations which do not involve National Pollutant Discharge Elimination System permits, or of (1) any effluent standards and limitations or water quality standards, (2) any permit or term or condition thereof, (3) any National Pollutant Discharge Elimination System filing requirements, (4) any duty to permit or carry out inspection, entry or monitoring activities, or (5) any rules, stipulation agreements, variances, schedules of compliance, or orders issued by the agency, shall forfeit and pay to the state a penalty, in an amount to be determined by the court, of not more than \$10,000 per day of violation except that if the violation relates to hazardous waste the person shall forfeit and pay to the state a penalty, in an amount to be determined by the court, of not more than \$25,000 per day of violation.

In addition, in the discretion of the court, the defendant may be required to:

(a) forfeit and pay to the state a sum which will adequately compensate the state

for the reasonable value of cleanup and other expenses directly resulting from unauthorized discharge of pollutants, whether or not accidental;

(b) forfeit and pay to the state an additional sum to constitute just compensation for any loss or destruction to wildlife, fish or other aquatic life and for other actual damages to the state caused by an unauthorized discharge of pollutants.

As a defense to any of said damages, the defendant may prove that the violation was caused solely by (1) an act of God, (2) an act of war, (3) negligence on the part of the state of Minnesota, or (4) an act or failure to act which constitutes sabotage or vandalism, or any combination of the foregoing clauses.

The civil penalties and damages provided for in this subdivision may be recovered by a civil action brought by the attorney general in the name of the state.

Subd. 4. Injunctions. Any violation of the provisions, rules, standards, orders, stipulation agreements, variances, schedules of compliance, or permits specified in this chapter and chapter 116 shall constitute a public nuisance and may be enjoined as provided by law in an action, in the name of the state, brought by the attorney general.

Subd. 5. Actions to compel performance. In any action to compel performance of an order of the agency for any purposes relating to the prevention, control or abatement of pollution under this chapter and chapter 116, the court may require any defendant adjudged responsible to do and perform any and all acts and things within the defendant's power which are reasonably necessary to accomplish the purposes of the order. In case a municipality or its governing or managing body or any of its officers is a defendant, the court may require it to exercise its powers, without regard to any limitation of any requirement for an election or referendum imposed thereon by law and without restricting the powers of the agency to do any or all of the following, without limiting the generality hereof: to levy taxes, levy special assessments, prescribe service or use charges, borrow money, issue bonds, employ assistance, acquire real or personal property, let contracts or otherwise provide for the doing of work or the construction, installation, maintenance, or operation of facilities, and do all other acts and things reasonably necessary to accomplish the purposes of the order, but the court shall grant the municipality the opportunity to determine the appropriate financial alternatives to be utilized in complying with the court imposed requirements.

Subd. 6. Administrative penalties. A provision of law that may be enforced under this section may also be enforced under section 116.072.

History: 1973 c 374 s 13; 1976 c 76 s 3; 1983 c 373 s 1-4; 1984 c 628 art 3 s 11; 1984 c 655 art 1 s 18; 1985 c 248 s 70; 1986 c 444; 1987 c 267 s 1; 1988 c 553 s 1; 1990 c 391 art 10 s 3; 1991 c 347 art 1 s 2

115.072 RECOVERY OF LITIGATION COSTS AND EXPENSES.

In any action brought by the attorney general, in the name of the state, pursuant to the provisions of this chapter and chapter 116, for civil penalties, injunctive relief, or in an action to compel compliance, if the state shall finally prevail, and if the proven violation was willful, the state, in addition to other penalties provided in this chapter, may be allowed an amount determined by the court to be the reasonable value of all or a part of the litigation expenses incurred by the state. In determining the amount of such litigation expenses to be allowed, the court shall give consideration to the economic circumstances of the defendant.

Amounts recovered under the provisions of this section and section 115.071, subdivisions 3 to 5, shall be paid into the environmental fund in the state treasury to the extent provided in section 115.073.

History: 1973 c 374 s 14; 1991 c 347 art 1 s 3

115.073 ENFORCEMENT FUNDING.

Except as provided in sections 115B.20, subdivision 4, clause (2); 115C.05; and 473.845, subdivision 8, all money recovered by the state under this chapter and chapters 115A and 116, including civil penalties and money paid under an agreement, stipu-

lation, or settlement, excluding money paid for past due fees or taxes, up to the amount appropriated for implementation of Laws 1991, chapter 347, must be deposited in the state treasury and credited to the environmental fund.

History: 1991 c 347 art 1 s 4

115.075 INFORMATION AND MONITORING.

A person may not:

(1) make a false material statement, representation, or certification in; omit material information from; or alter, conceal, or fail to file or maintain a notice, application, record, report, plan, manifest, or other document required under section 103F.701 or this chapter or chapter 115A or 116; or

(2) falsify, tamper with, render inaccurate, or fail to install a monitoring device or method required to be maintained or followed for the purpose of compliance with sections 103F.701 to 103F.761 or this chapter or chapter 115A or 116.

History: 1991 c 347 art 1 s 5

115.076 BACKGROUND OF PERMIT APPLICANTS.

Subdivision 1. Authority of commissioner. The agency may refuse to issue or to authorize the transfer of a hazardous waste facility permit or a solid waste facility permit to construct or operate a commercial waste facility as defined in section 115A.03, subdivision 6, if the agency determines that the permit applicant does not possess sufficient expertise and competence to operate the facility in conformance with the requirements of this chapter and chapter 116, or if other circumstances exist that demonstrate that the permit applicant may not operate the facility in conformance with the requirements of this chapter and chapter 116. In making this determination, the agency may consider:

(1) the experience of the permit applicant in constructing or operating commercial waste facilities;

(2) the expertise of the permit applicant;

(3) the past record of the permit applicant in operating commercial waste facilities in Minnesota and other states;

(4) any criminal convictions of the permit applicant in state or federal court during the past five years that bear on the likelihood that the permit applicant will operate the facility in conformance with the requirements of this chapter and chapter 116; and

(5) in the case of a corporation or business entity, any criminal convictions in state or federal court during the past five years of any of the permit applicant's officers, partners, or facility managers that bear on the likelihood that the facility will be operated in conformance with the requirements of this chapter and chapter 116.

Subd. 2. Permit applicant. For purposes of this section, a permit applicant includes a natural person, a partnership and its owners, and a corporation and its parent.

Subd. 3. Investigation. The commissioner may conduct an investigation to assist in making determinations under subdivision 1. The reasonable costs of any investigation must be paid by the permit applicant.

Subd. 4. Notice of permit denial. The agency may not refuse to issue or transfer a permit under this section without first providing the permit applicant with the relevant information and with an opportunity to respond by commenting on the information and submitting additional information regarding the circumstances surrounding the conviction, corrective measures to prevent recurrence, the applicant's rehabilitation, and technical and managerial experience. In making a final decision on the permit, the agency shall consider the permit applicant's response prior to making a final decision on the permit.

Subd. 5. Hearing. If the agency proposes to deny a permit under this section, the permit applicant may request a hearing under chapter 14. The permit applicant may request that the hearing be held under Minnesota Rules, parts 1400.8510 to 1400.8612.

History: 1991 c 347 art 1 s 6

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115.08 INTERPRETATION.

Sections 115.01 to 115.09 shall not be construed as repealing any of the provisions of law relating to the pollution of any waters of the state, but shall be held and construed as supplementing the same and in addition to the laws now in force, except as the same may be in direct conflict herewith.

History: 1945 c 395 s 7

115.09 CITATION, WATER POLLUTION CONTROL ACT.

Sections 115.01 to 115.09 may be cited as the state water pollution control act.

History: 1945 c 395 s 11

115.091 [Repealed, 1990 c 391 art 10 s 4]

115.092 [Repealed, 1990 c 391 art 10 s 4]

115.093 [Repealed, 1990 c 391 art 10 s 4]

115.094 [Repealed, 1990 c 391 art 10 s 4]

115.095 [Repealed, 1990 c 391 art 10 s 4]

115.096 [Repealed, 1990 c 391 art 10 s 4]

115.097 [Repealed, 1990 c 391 art 10 s 4]

115.098 [Repealed, 1990 c 391 art 10 s 4]

115.099 [Repealed, 1990 c 391 art 10 s 4]

115.10 [Repealed, 1990 c 391 art 10 s 4]

115.101 [Repealed, 1990 c 391 art 10 s 4]

115.102 [Repealed, 1990 c 391 art 10 s 4]

115.103 [Repealed, 1990 c 391 art 10 s 4]

115.15 Subdivision 1. [Repealed, 1Sp1981 c 4 art 1 s 188]

Subd. 2. [Repealed, 1969 c 9 s 20; 1Sp 1981 c 4 art 1 s 188]

Subd. 3. [Repealed, 1Sp1981 c 4 art 1 s 188]

Subd. 4. [Repealed, 1Sp1981 c 4 art 1 s 188]

Subd. 5. [Repealed, 1Sp1981 c 4 art 1 s 188]

115.16 [Repealed, 1Sp1981 c 4 art 1 s 188]

115.17 [Repealed, 1975 c 61 s 26]

SANITARY DISTRICTS

115.18 SANITARY DISTRICTS; DEFINITIONS.

Subdivision 1. **Applicability.** As used in sections 115.18 to 115.37, the terms defined in this section have the meanings given them except as otherwise provided or indicated by the context.

Subd. 2. [Repealed, 1969 c 9 s 20]

Subd. 3. MS 1990 [Renumbered subd 6]

Subd. 3. **Additional terms.** The terms defined in section 115.01, as now in force or hereafter amended, have the meanings given them therein.

Subd. 4. MS 1990 [Renumbered subd 5]

Subd. 4. **Agency.** "Agency" means the Minnesota pollution control agency.

Subd. 5. MS 1990 [Renumbered subd 10]

Subd. 5. **Board.** "Board" means the board of managers of a sanitary district.

Subd. 6. MS 1990 [Renumbered subd 8]

Subd. 6. **District.** "District" means a sanitary district created under the provisions of sections 115.18 to 115.37.

Subd. 7. MS 1990 [Renumbered subd 9]

Subd. 7. **Municipality.** "Municipality" means a city, however organized.

Subd. 8. MS 1990 [Renumbered subd 7]

Subd. 8. **Related governmental subdivision or body.** "Related governmental subdivision" means a municipality or organized town wherein there is a territorial unit of a district, or, in the case of an unorganized area, the county. "Related governing body" means the governing body of a related governmental subdivision, and, in the case of an organized town, means the town board.

Subd. 9. MS 1990 [Renumbered subd 3]

Subd. 9. **Statutory city.** "Statutory city" means a city organized as provided by chapter 412, under the plan other than optional.

Subd. 10. MS 1990 [Renumbered subd 4]

Subd. 10. **Territorial unit.** "Territorial unit" means all that part of the territory of a district situated within a single municipality, a single organized town outside of any municipality, or, in the case of an unorganized area, within a single county.

History: *Ex1961 c 20 s 4; 1969 c 9 s 18; 1973 c 123 art 5 s 7*

115.19 CREATION; PURPOSE; EXCEPTIONS.

A sanitary district may be created under the provisions of sections 115.18 to 115.37 for any territory embracing an area or a group of two or more adjacent areas, whether contiguous or separate, but not situated entirely within the limits of a single municipality, for the purpose of promoting the public health and welfare by providing an adequate and efficient system and means of collecting, conveying, pumping, treating and disposing of domestic sewage and garbage and industrial wastes within the district, in any case where the agency finds that there is need throughout the territory for the accomplishment of these purposes, that these purposes can be effectively accomplished on an equitable basis by a district if created, and that the creation and maintenance of such a district will be administratively feasible and in furtherance of the public health, safety, and welfare; but subject to the following exceptions:

No district shall be created within 25 miles of the boundary of any city of the first class without the approval of the governing body thereof and the approval of the governing body of each and every municipality in the proposed district by resolution filed with the agency.

History: *Ex1961 c 20 s 5; 1969 c 9 s 21; 1992 c 601 s 3*

115.20 PROCEEDING TO CREATE DISTRICT.

Subdivision 1. (a) A proceeding for the creation of a district may be initiated by a petition to the agency, filed with its secretary, containing the following:

- (1) A request for creation of the proposed district;
- (2) The name proposed for the district, to include the words "sanitary district";
- (3) A description of the territory of the proposed district;
- (4) A statement showing the existence in such territory of the conditions requisite for creation of a district as prescribed in section 115.19;
- (5) A statement of the territorial units represented by and the qualifications of the respective signers;

(6) The post office address of each signer, given under the signer's signature. A petition may consist of separate writings of like effect, each signed by one or more qualified persons, and all such writings, when filed, shall be considered together as a single petition.

(b) A public meeting must be held to inform citizens of the proposed creation of the district. At the meeting, information must be provided, including a description of the district's proposed structure, bylaws, territory, ordinances, budget, and charges. Notice of the meeting must be published for two successive weeks in a qualified newspaper published within the territory of the proposed district or, if there is no qualified

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newspaper published within the territory, in a qualified newspaper of general circulation in the territory, and by posting for two weeks in each territorial unit of the proposed district. A record of the meeting must be submitted to the agency with the petition.

Subd. 2. Every petition shall be signed as follows:

(1) For each municipality wherein there is a territorial unit of the proposed district, by an authorized officer or officers pursuant to a resolution of the municipal governing body;

(2) For each organized town wherein there is a territorial unit of the proposed district, by an authorized officer or officers pursuant to a resolution of the town board;

(3) For each county wherein there is a territorial unit of the proposed district consisting of an unorganized area, by an authorized officer or officers pursuant to a resolution of the county board, or by at least 20 percent of the voters residing and owning land within the unit.

Each resolution shall be published in the official newspaper of the governing body adopting it and shall become effective 40 days after publication, unless within said period there shall be filed with the governing body a petition signed by qualified electors of a territorial unit of the proposed district, equal in number to five percent of the number of such electors voting at the last preceding election of the governing body, requesting a referendum on the resolution, in which case the resolution may not become effective until approved by a majority of the qualified electors voting at a regular election or special election which the governing body may call. The notice of any election and the ballot to be used shall contain the text of the resolution followed by the question: "Shall the above resolution be approved?"

If any signer is alleged to be a landowner in a territorial unit, a statement as to the signer's landowner status as shown by the county auditor's tax assessment records, certified by the auditor, shall be attached to or endorsed upon the petition.

Subd. 3. At any time before publication of the public notice required in subdivision 4, or before the public hearing, if required under subdivision 4, additional signatures may be added to the petition or amendments of the petition may be made to correct or remedy any error or defect in signature or otherwise except a material error or defect in the description of the territory of the proposed district. No proceeding shall be invalidated on account of any error or defect in the petition unless questioned by an interested party before the reception of evidence begins at the hearing except a material error or defect in the description of the territory of the proposed district. If the qualifications of any signer of a petition are challenged, the agency or its agent shall determine the challenge forthwith on the allegations of the petition, the county auditor's certificate of land ownership, and such other evidence as may be received.

Subd. 4. (a) Upon receipt of a petition and the record of the public meeting required under subdivision 1, the agency shall publish a notice in the State Register and mail a copy to each property owner in the affected territory at the owner's address as given by the county auditor. The mailed copy must state the date that the notice will appear in the State Register. Copies need not be sent by registered mail. The notice must:

- (1) describe the petition for creation of the district;
- (2) describe the territory affected by the petition;
- (3) allow 30 days for submission of written comments on the petition;
- (4) state that a person who objects to the petition may submit a written request for hearing to the agency within 30 days of the publication of the notice in the State Register; and

(5) state that if a timely request for hearing is not received, the agency may make a decision on the petition at a future meeting of the agency.

(b) If 25 or more timely requests for hearing are received, the agency must hold a hearing on the petition in accordance with the contested case provisions of chapter 14.

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Subd. 5. After the public notice period or the public hearing, if required under subdivision 4, and based on the petition, any public comments received, and, if a hearing was held, the hearing record, the agency shall make findings of fact and conclusions determining whether or not the conditions requisite for the creation of a district exist in the territory described in the petition. If the agency finds that conditions exist, it may make an order creating a district for the territory described in the petition under the name proposed in the petition or such other name, including the words "sanitary district," as the agency deems appropriate.

Subd. 6. If the agency, after the conclusion of the public notice period or the holding of a hearing, if required, determines that the creation of a district in the territory described in the petition is not warranted, it shall make an order denying the petition. The secretary of the agency shall give notice of such denial by mail to each signer of the petition. No petition for the creation of a district consisting of the same territory shall be entertained within a year after the date of an order, but this shall not preclude action on a petition for the creation of a district embracing part of the territory with or without other territory.

Subd. 7. Notice of the making of every order of the agency creating a sanitary district, referring to the date of the order and describing the territory of the district, shall be given by the secretary in like manner as for notice of the hearing on the petition for creation of the district.

Subd. 8. An appeal may be taken from an order of the agency creating or dissolving a district, annexing territory to or detaching territory from a district, or denying a petition for any such action, as now or hereafter provided for appeals from other orders of the agency except that the giving of notice of the order as provided in subdivision 7 shall be deemed notice thereof to all interested parties, and the time for appeal by any party shall be limited to 30 days after completion of the mailing of copies of the order or after expiration of the prescribed period of posting or publication, whichever is latest. The validity of the creation of a district shall not be otherwise questioned.

Subd. 9. Upon expiration of the time for appeal from an order of the agency creating a district, or, in case of an appeal, upon the taking effect of a final judgment of a court of competent jurisdiction sustaining the order, the secretary of the agency shall deliver a certified copy of the order to the secretary of state for filing. Thereupon the creation of the district shall be deemed complete, and it shall be conclusively presumed that all requirements of law relating thereto have been complied with. The secretary of the agency shall also transmit a certified copy of the order for filing to the county auditor of each county and the clerk or recorder of each municipality and organized town wherein any part of the territory of the district is situated and to the secretary of the district board when elected.

History: *Ex1961 c 20 s 6; 1969 c 9 s 21; 1982 c 424 s 130; 1986 c 444; 1992 c 601 s 4-9*

115.21 ANNEXATION, DETACHMENT, AND DISSOLUTION.

Subdivision 1. An area adjacent to an existing district may be annexed thereto upon a petition to the agency stating the grounds therefor as hereinafter provided, signed by an authorized officer or officers of the district pursuant to a resolution of the board, also signed with respect to the area proposed for annexation in like manner as provided for a petition for creation of a district. Except as otherwise provided, a proceeding for annexation shall be governed by the provisions now or hereafter in force relating to proceedings for the creation of districts, so far as applicable. For the purpose of giving the required notices the territory involved shall comprise the area proposed for annexation together with the entire territory of the district. If the agency determines that the requisite conditions exist in the area proposed for annexation together with the territory of the district, it may make an order for annexation accordingly. All taxable property within the annexed area shall be subject to taxation for any existing bonded indebtedness or other indebtedness of the district for the cost of acquisition, construction, or improvement of any disposal system or other works or facilities beneficial to

the annexed area to such extent as the agency may determine to be just and equitable, to be specified in the order for annexation. The proper officers shall levy further taxes on such property accordingly.

Subd. 2. An area within a district may be detached therefrom upon a petition to the agency stating the grounds therefor as hereinafter provided, signed by an authorized officer or officers of the district pursuant to a resolution of the board, also signed with respect to the area proposed for detachment in like manner as provided for a petition for creation of a district. Except as otherwise provided, a proceeding for detachment shall be governed by the provisions now or hereafter in force relating to proceedings for the creation of districts, so far as applicable. For the purpose of giving the required notices the territory involved shall comprise the entire territory of the district. If the agency determines that the requisite conditions for inclusion in a district no longer exist in the area proposed for detachment, it may make an order for detachment accordingly. All taxable property within the detached area shall remain subject to taxation for any existing bonded indebtedness of the district to such extent as it would have been subject thereto if not detached, and shall also remain subject to taxation for any other existing indebtedness of the district incurred for any purpose beneficial to such area to such extent as the agency may determine to be just and equitable, to be specified in the order for detachment. The proper officers shall levy further taxes on such property accordingly.

Subd. 3. Different areas may be annexed to and detached from a district in a single proceeding upon a joint petition therefor and upon compliance with the provisions of subdivisions 1 and 2 with respect to the area affected so far as applicable.

Subd. 4. A district may be dissolved upon a petition to the agency stating the grounds for dissolution as hereinafter provided, signed by an authorized officer or officers of the district pursuant to a resolution of the board, and containing a proposal for distribution of the remaining funds of the district, if any, among the related governmental subdivisions. Except as otherwise provided, a proceeding for dissolution shall be governed by the provisions now or hereafter in force relating to proceedings for the creation of districts, so far as applicable. If the commission determines that the conditions requisite for the creation of the district no longer exist therein, that all indebtedness of the district has been paid, and that all property of the district except funds has been disposed of, it may make an order dissolving the district and directing the distribution of its remaining funds, if any, among the related governmental subdivisions on such basis as the agency determines to be just and equitable, to be specified in the order. Certified copies of the order for dissolution shall be transmitted and filed as provided for an order creating a district. The secretary of the agency shall also transmit a certified copy of the order to the treasurer of the district, who shall thereupon distribute the remaining funds of the district as directed by the order, and shall be responsible for such funds until so distributed.

History: *Ex1961 c 20 s 7; 1969 c 9 s 21*

115.22 PETITIONERS TO PAY EXPENSES.

Expenses of the preparation and submission of petitions in proceedings under sections 115.19 to 115.21 shall be paid by the petitioners. Expenses of hearings therein shall be paid out of any available funds appropriated for the agency.

History: *Ex1961 c 20 s 8; 1969 c 9 s 21*

115.23 BOARD OF MANAGERS OF DISTRICT.

Subdivision 1. The governing body of each district shall be a board of managers of five members, who shall be voters residing in the district, and who may but need not be officers, members of governing bodies, or employees of the related governmental subdivisions, except that where there are more than five territorial units in a district there shall be one board member for each unit.

Subd. 2. The terms of the first board members elected after creation of a district

shall be so arranged and determined by the electing body as to expire on the first business day in January as follows:

(1) The terms of two members in the second calendar year after the year in which they were elected;

(2) The terms of two other members in the third calendar year after the year in which they were elected;

(3) The term of the remaining member in the fourth calendar year after the year in which the member was elected. In case a board has more than five members the additional members shall be assigned to the groups hereinbefore provided for so as to equalize such groups as far as practicable. Thereafter board members shall be elected successively for regular terms beginning on expiration of the preceding terms and expiring on the first business day in January of the third calendar year thereafter. Each board member shall serve until a successor is elected and has qualified.

Subd. 3. In a district having only one territorial unit all the members of the board shall be elected by the related governing body. In a district having more than one territorial unit the members of the board shall be elected by the members of the related governing bodies in joint session except as otherwise provided. The electing bodies concerned shall meet and elect the first board members of a new district as soon as practicable after creation of the district, and shall meet and elect board members for succeeding regular terms as soon as practicable after November 1 next preceding the beginning of the terms to be filled, respectively.

Subd. 4. Upon the creation of a district having more than one territorial unit the agency, on the basis of convenience for joint meeting purposes, shall designate one of the related governing bodies as the central related governing body in the order creating the district or in a subsequent special order, of which the secretary of the agency shall notify the clerks or recorders of all the related governing bodies. Upon receipt of such notification, the clerk or recorder of the central related governing body shall immediately transmit the same to the presiding officer of such body. Such officer shall thereupon call a joint meeting of the members of all the related governing bodies to elect board members, to be held at such time as the officer shall fix at the regular meeting place of the officer's governing body or at such other place in the district as the officer shall determine. At least ten days' notice of the meeting shall be given by mail by the clerk or recorder of such body to the clerks or recorders of all the other related governing bodies, who shall immediately transmit such notice to all the members of such bodies, respectively. Subsequent joint meetings to elect board members for regular terms shall be called and held in like manner. The presiding officer and the clerk or recorder of the central related governing body shall act respectively as chair and secretary of the joint electing body at any meeting thereof, but in case of the absence or disability of either of them such body may elect a temporary substitute. A majority of the members of each related governing body shall be required for a quorum at any meeting of the joint electing body.

Subd. 5. Nominations for board members may be made by petitions, each signed by ten or more voters residing and owning land in the district, filed with the clerk, recorder, or secretary of the electing body before the election meeting. No person shall sign more than one petition. The electing body shall give due consideration to all such nominations but shall not be limited thereto.

Subd. 6. In the case of an electing body consisting of a single related governing body, a majority vote of all the members shall be required for an election. In the case of a joint electing body, a majority vote of the members present shall be required for an election. In case of lack of a quorum or failure to elect, a meeting of an electing body may be adjourned to a stated time and place without further notice.

Subd. 7. In any district having more than one territorial unit the related governing bodies, instead of meeting in joint session, may elect a board member by resolutions adopted by all of them separately, concurring in the election of the same person. A majority vote of all the members of each related governing body shall be required for the adoption of any such resolution. The clerks or recorders of the other related govern-

ing bodies shall transmit certified copies of such resolutions to the clerk or recorder of the central related governing body. Upon receipt of concurring resolutions from all the related governing bodies, the presiding officer and clerk or recorder of the central related governing body shall certify the results and furnish certificates of election as provided for a joint meeting.

Subd. 8. Any vacancy in the membership of a board shall be filled for the unexpired term in like manner as provided for the regular election of board members.

Subd. 9. The presiding and recording officers of the electing body shall certify the results of each election to the secretary of the agency, to the county auditor of each county wherein any part of the district is situated, and to the clerk or recorder of each related governing body, and shall make and transmit to each board member elected a certificate of the board member's election. Upon electing the first board members of a district, the presiding officer of the electing body shall designate one of them to serve as temporary chair for the purposes of initial organization of the board, and the recording officer of the body shall include written notice thereof to all the board members with their certificates of election.

History: *Ex1961 c 20 s 9; 1969 c 9 s 21; 1986 c 444*

115.24 ORGANIZATION AND PROCEDURE OF BOARD.

Subdivision 1. As soon as practicable after the election of the first board members of a district they shall meet at the call of the temporary chair to elect officers and take other appropriate action for organization and administration of the district. Each board shall hold a regular annual meeting at the call of the chair or otherwise as it shall prescribe on or as soon as practicable after the first business day in January of each year, and such other regular and special meetings as it shall prescribe.

Subd. 2. The officers of each district shall be a chair and a vice-chair, who shall be members of the board, and a secretary and a treasurer, who may but need not be members of the board. The board of a new district at its initial meeting or as soon thereafter as practicable shall elect the officers to serve until the first business day in January next following. Thereafter the board shall elect the officers at each regular annual meeting for terms expiring on the first business day in January next following. Each officer shall serve until a successor is elected and has qualified.

Subd. 3. The board at its initial meeting or as soon thereafter as practicable shall provide for suitable places for board meetings and for offices of the district officers, and may change the same thereafter as it deems advisable. Such meeting place and offices may be the same as those of any related governing body, with the approval of such body. The secretary of the board shall notify the secretary of state, the secretary of the agency, the county auditor of each county wherein any part of the district is situated, and the clerk or recorder of each related governing body of the locations and post office addresses of such meeting place and offices and any changes therein.

Subd. 4. At any time before the proceeds of the first tax levy in a district become available the district board may prepare a budget comprising an estimate of the expenses of organizing and administering the district until such proceeds are available, with a proposal for apportionment of the estimated amount among the related governmental subdivisions, and may request the governing bodies thereof to advance funds in accordance with the proposal. Such governing bodies may authorize advancement of the requested amounts, or such part thereof as they respectively deem proper, from any funds available in their respective treasuries. The board shall include in its first tax levy after receipt of any such advancements a sufficient sum to cover the same and shall cause the same to be repaid, without interest, from the proceeds of taxes as soon as received.

History: *Ex1961 c 20 s 10; 1969 c 9 s 21; 1986 c 444*

115.25 STATUS AND POWERS OF DISTRICT.

Subdivision 1. Every district shall be a public corporation and a governmental sub-

division of the state, and shall be deemed to be a municipality or municipal corporation for the purpose of obtaining federal or state grants or loans or otherwise complying with any provision of federal or state law or for any other purpose relating to the powers and purposes of the district for which such status is now or hereafter required by law.

Subd. 2. Every district shall have the powers and purposes prescribed by sections 115.18 to 115.37 and such others as may now or hereafter be prescribed by law. No express grant of power or enumeration of powers herein shall be deemed to limit the generality or scope of any grant of power.

Subd. 3. Except as otherwise provided, a power or duty vested in or imposed upon a district or any of its officers, agents, or employees shall not be deemed exclusive and shall not supersede or abridge any power or duty vested in or imposed upon any other agency of the state or any governmental subdivision thereof, but shall be supplementary thereto.

Subd. 4. All the powers of a district shall be exercised by its board of managers except so far as approval of any action by popular vote or by any other authority may be expressly required by law.

Subd. 5. A district may sue and be sued and may enter into any contract necessary or proper for the exercise of its powers or the accomplishment of its purposes.

Subd. 6. A district may acquire by purchase, gift, or condemnation or may lease or rent any real or personal property within or without the district which may be necessary for the exercise of its powers or the accomplishment of its purposes, may hold such property for such purposes, and may lease or rent out or sell or otherwise dispose of any such property so far as not needed for such purposes.

Subd. 7. A district may accept gifts, grants, or loans of money or other property from the United States, the state, or any person, corporation, or other entity for district purposes, may enter into any agreement required in connection therewith, and may hold, use, and dispose of such money or property in accordance with the terms of the gift, grant, loan, or agreement relating thereto.

History: *Ex1961 c 20 s 11*

115.26 SPECIFIC PURPOSES AND POWERS.

Subdivision 1. A district may construct, install, improve, maintain, and operate any system, works, or facilities within or without the district required to control and prevent pollution of any waters of the state within its territory.

Subd. 2. A district may construct, install, improve, maintain, and operate any system, works, or facilities within or without the district required to provide for, regulate, and control the disposal of sewage, industrial waste and other waste originating within its territory. The district may require any person upon whose premises there is any source of sewage, industrial waste, or other waste within the district to connect the same with the disposal system, works, or facilities of the district whenever reasonable opportunity therefor is provided.

Subd. 3. A district may construct, install, improve, maintain, and operate any system, works, or facilities within or without the district required to provide for, regulate, and control the disposal of garbage or refuse originating within the district, and may require any person upon whose premises any garbage or refuse is produced or accumulated to dispose thereof through the system, works, or facilities of the district whenever reasonable opportunity therefor is provided.

Subd. 4. A district may procure supplies of water so far as necessary for any purpose under subdivisions 1, 2, and 3, and may construct, install, improve, maintain, and operate any system, works, or facilities required therefor within or without the district.

History: *Ex1961 c 20 s 12*

115.27 DISTRICT PROJECTS AND FACILITIES.

Subdivision 1. For the purpose of constructing, improving, maintaining, or operat-

ing any system, works, or facilities designed or used for any purpose under section 115.26, a district, its officers, agents, employees, and contractors may enter, occupy, excavate, and otherwise operate it, upon, under, through, or along any public highway, including a state trunk highway, or any street, park, or other public grounds so far as necessary for such work, with the approval of the governing body or other authority in charge of the public property affected and on such terms as may be agreed upon with such governing body or authority respecting interference with public use, restoration of previous conditions, compensation for damages, and other pertinent matters. If such an agreement cannot be reached after reasonable opportunity therefor, the district may acquire the necessary rights, easements, or other interests in such public property by condemnation, subject to all applicable provisions of law as in case of taking private property, upon condition that the court shall determine that there is paramount public necessity for such acquisition.

Subd. 2. A district may, upon such terms as may be agreed upon with the respective governing bodies or authorities concerned, provide for connecting with or using or may lease or acquire and take over any system, works, or facilities for any purpose under section 115.26 belonging to any other governmental subdivision or other public agency.

Subd. 3. A district may, upon such terms as may be agreed upon with the respective governing bodies or authorities concerned, authorize the use by any other governmental subdivision or other public agency of any system, works, or facilities of the district constructed for any purpose under section 115.26 so far as the capacity thereof is sufficient beyond the needs of the district. A district may extend any such system, works, or facilities and permit the use thereof by persons outside the district, so far as the capacity thereof is sufficient beyond the needs of the district, upon such terms as the board may prescribe.

Subd. 4. A district may be a party to a joint cooperative project, undertaking, or enterprise with any one or more other governmental subdivisions or other public agencies for any purpose under section 115.26 upon such terms as may be agreed upon between the governing bodies or authorities concerned. Without limiting the effect of the foregoing provision or any other provisions of sections 115.18 to 115.37, a district, with respect to any of said purposes, may act under and be subject to the provisions of section 471.59, as now in force or hereafter amended, or any other appropriate law now in force or hereafter enacted providing for joint or cooperative action between governmental subdivisions or other public agencies.

History: *Ex1961 c 20 s 13*

115.28 CONTROL OF SANITARY FACILITIES.

A district may regulate and control the construction, maintenance, and use of privies, cesspools, septic tanks, toilets, and other facilities and devices for the reception or disposal of human or animal excreta or other domestic wastes within its territory so far as necessary to prevent nuisances or pollution or to protect the public health, safety, and welfare, and may prohibit the use of any such facilities or devices not connected with a district disposal system, works, or facilities whenever reasonable opportunity for such connection is provided; provided, that the authority of a district under this section shall not extend or apply to the construction, maintenance, operation, or use by any person other than the district of any disposal system or part thereof within the district under and in accordance with a valid and existing permit heretofore or hereafter issued by the agency.

History: *Ex1961 c 20 s 14; 1969 c 9 s 21*

115.29 DISTRICT PROGRAMS, SURVEYS, AND STUDIES.

A district may develop general programs and particular projects within the scope of its powers and purposes, and may make all surveys, studies, and investigations necessary therefor.

History: *Ex1961 c 20 s 15*

115.30 GENERAL AND STATUTORY CITY POWERS.

A district may do and perform all other acts and things necessary or proper for the effectuation of its powers and the accomplishment of its purposes. Without limiting the effect of the foregoing provision or any other provision of sections 115.18 to 115.37, a district, with respect to each and all of said powers and purposes, shall have like powers as are vested in statutory cities with respect to any similar purposes, and the exercise of such powers by a district and all matters pertaining thereto shall be governed by the provisions of law relating to the exercise of similar powers by statutory cities and matters pertaining thereto, so far as applicable, with like force and effect, except as otherwise provided.

History: *Ex1961 c 20 s 16; 1973 c 123 art 5 s 7*

115.31 ADVISORY COMMITTEE.

The board may appoint an advisory committee with such membership and duties as it may prescribe.

History: *Ex1961 c 20 s 17*

115.32 POWERS OF BOARD.

Subdivision 1. The board of managers of every district shall have charge and control of all the funds, property, and affairs of the district. With respect thereto, the board shall have like powers and duties as are provided by law for a statutory city council with respect to similar statutory city matters, except as otherwise provided. Except as otherwise provided, the chair, vice-chair, secretary, and treasurer of the district shall have like powers and duties, respectively, as the mayor, acting mayor, clerk, and treasurer of a statutory city. Except as otherwise provided the exercise of the powers and the performance of the duties of the board and officers of the district and all other activities, transactions, and procedures of the district or any of its officers, agents, or employees, respectively, shall be governed by the provisions of law relating to similar matters in a statutory city, so far as applicable, with like force and effect.

Subd. 2. The board may enact ordinances, prescribe regulations, adopt resolutions, and take other appropriate action relating to any matter within the powers and purposes of the district, and may do and perform all other acts and things necessary or proper for the effectuation of said powers and the accomplishment of said purposes. The board may provide that violation of any ordinance shall be a penal offense and may prescribe penalties therefor, not exceeding those prescribed by law for violation of statutory city ordinances.

Subd. 3. **Arrest; prosecution.** Violations of district ordinances may be prosecuted before any court having jurisdiction of misdemeanors. Any constable or other peace officer may make arrests for violations committed anywhere within the district in the same manner as for violations of city ordinances or for statutory misdemeanors.

All fines collected shall be deposited in the treasury of the district.

History: *Ex1961 c 20 s 18; 1973 c 123 art 5 s 7; 1983 c 359 s 6; 1986 c 444*

115.33 TAX LEVIES, ASSESSMENTS, AND SERVICE CHARGES.

Subdivision 1. The board may levy taxes for any district purpose on all property taxable within the district, and for a period of five years from June 5, 1971, the same shall not be subject to any limitation and shall be excluded in computing amounts subject to any limitation on tax levies.

Subd. 2. In the case where a particular area within the district, but not the entire district, is benefited by a system, works, or facilities of the district, the board, after holding a public hearing as provided by law for levying assessments on benefited property, shall by ordinance establish such area as a taxing subdistrict, to be designated by number, and shall levy special taxes on all the taxable property therein, to be accounted for separately and used only for the purpose of paying the cost of construction, improvement, acquisition, maintenance, or operation of such system, works, or facilities, or

paying the principal and interest on bonds issued to provide funds therefor and expense incident thereto. Such hearing may be held jointly with a hearing for the purpose of levying assessments on benefited property within the proposed taxing subdistrict.

Subd. 3. The board shall levy assessments on benefited property to provide funds for payment of the cost of construction, improvement, or acquisition of any system, works, or facilities designed or used for any district purpose, or for payment of the principal of and interest on any bonds issued therefor and expenses incident thereto.

Subd. 4. The board shall prescribe service, use, or rental charges for persons or premises connecting with or making use of any system, works, or facilities of the district, prescribe the method of payment and collection of such charges, and provide for the collection thereof for the district by any related governmental subdivision or other public agency on such terms as may be agreed upon with the governing body or other authority thereof.

History: *Ex1961 c 20 s 19; 1971 c 826 s 1*

115.34 BORROWING POWERS; BONDS.

Subdivision 1. The board may authorize the borrowing of money for any district purpose and provide for the repayment thereof, subject to chapter 475. The taxes initially levied by any district in accordance with section 475.61 for the payment of its bonds, upon property within each municipality included in the district, shall be included in computing the levy of such municipality.

Subd. 2. The board may authorize the issuance of bonds or obligations of the district to provide funds for the construction, improvement, or acquisition of any system, works, or facilities for any district purpose, or for refunding any prior bonds or obligations issued for any such purpose, and may pledge the full faith and credit of the district or the proceeds of tax levies or assessments or service, use, or rental charges, or any combination thereof, to the payment of such bonds or obligations and interest thereon or expenses incident thereto. An election or vote of the people of the district shall be required to authorize the issuance of any such bonds or obligations. Except as otherwise provided in sections 115.18 to 115.37, the forms and procedures for issuing and selling bonds and provisions for payment thereof shall comply with the provisions of chapter 475, as now in force or hereafter amended.

History: *Ex1961 c 20 s 20; 1Sp1981 c 4 art 1 s 72; 1Sp1989 c 1 art 5 s 4*

115.35 FUNDS; DISTRICT TREASURY.

The proceeds of all tax levies, assessments, service, use, or rental charges, and other income of the district shall be deposited in the district treasury and shall be held and disposed of as the board may direct for district purposes, subject to any pledges or dedications made by the board for the use of particular funds for the payment of bonds or interest thereon or expenses incident thereto or for other specific purposes.

History: *Ex1961 c 20 s 21*

115.36 EFFECT OF DISTRICT ORDINANCES AND FACILITIES.

In any case where an ordinance is enacted or a regulation adopted by a district board relating to the same subject matter and applicable in the same area as an existing ordinance or regulation of a related governmental subdivision for the district, the district ordinance or regulation, to the extent of its application, shall supersede the ordinance or regulation of the related governmental subdivision. In any case where an area within a district is served for any district purpose by a system, works, or facilities of the district, no system, works, or facilities shall be constructed, maintained, or operated for the same purpose in the same area by any related governmental subdivision or other public agency except as approved by the district board.

History: *Ex1961 c 20 s 22*

115.37 APPLICATION.

The provisions of sections 115.18 to 115.37 shall not abridge or supersede any provision of sections 115.01 to 115.09, or any authority of the Minnesota pollution control agency or the state commissioner of health, but shall be subject and supplementary thereto. Districts and members of district boards shall be subject to the authority of the agency and shall have no power or authority to abate or control pollution which is permitted by and in accord with any classification of waters, standards of water quality, or permit established, fixed, or issued by the agency.

History: *Ex 1961 c 20 s 23; 1969 c 9 s 21; 1977 c 305 s 45; 1987 c 384 art 2 s 1*

MUNICIPAL WATER POLLUTION CONTROL**115.41 DEFINITIONS.**

Subdivision 1. **Applicability.** The definitions given in this section shall obtain for the purposes of Laws 1963, chapter 874, except as otherwise expressly provided or indicated by the context.

Subd. 2. MS 1990 [Renumbered subd 5]

Subd. 2. **Additional terms.** The definitions given in Minnesota Statutes 1961, section 115.01, as now in force or hereby or hereafter amended, shall govern for the purposes of Laws 1963, chapter 874, except as otherwise expressly provided or indicated by the context.

Subd. 3. [Repealed, 1969 c 9 s 20]

Subd. 4. MS 1990 [Renumbered subd 6]

Subd. 4. **Agency.** "Agency" means the Minnesota pollution control agency.

Subd. 5. MS 1990 [Renumbered subd 2]

Subd. 5. **Commissioner.** "Commissioner" means the commissioner of administration.

Subd. 6. MS 1990 [Renumbered subd 4]

Subd. 6. **Municipality.** "Municipality" means a city, sanitary district, or other governmental subdivision or public corporation.

History: *1963 c 874 s 1; 1969 c 9 s 19; 1973 c 123 art 5 s 7*

115.42 POLICY; LONG-RANGE PLAN; PURPOSE.

It is the policy of the state to provide for the prevention, control, and abatement of pollution of all waters of the state, so far as feasible and practical, in furtherance of conservation of such waters and protection of the public health and in furtherance of the development of the economic welfare of the state. The agency shall prepare a long-range plan and program for the effectuation of said policy, and shall make a report of progress thereon to the legislature by November 15 of each even numbered year, with recommendations for action in furtherance of such program during the ensuing biennium. It is the purpose of Laws 1963, chapter 874, to safeguard the waters of the state from pollution by: (a) preventing any new pollution; and (b) abating pollution existing when Laws 1963, chapter 874, become effective, under a program consistent with the declaration of policy above stated.

History: *1963 c 874 s 4; 1969 c 9 s 21; 1974 c 406 s 63*

115.43 POWERS.

Subdivision 1. In addition to the other powers prescribed by law, the agency shall have the powers and duties prescribed in this section. In exercising all such powers the agency shall give due consideration to the establishment, maintenance, operation and expansion of business, commerce, trade, industry, traffic and other economic factors and other material matters affecting the feasibility and practicability of any proposed action, including, but not limited to, the burden on a municipality of any tax which may

result therefrom and shall take or provide for such action as may be reasonable, feasible and practical under the circumstances.

Subd. 2. Acting within the scope of the policy and purposes of Laws 1963, chapter 874, the agency may adopt, promulgate, amend, or rescind rules in the manner provided by law, as may be necessary or proper to carry into effect the provisions of Laws 1963, chapter 874.

Subd. 3. [Repealed, 1973 c 374 s 22]

History: 1963 c 874 s 5; 1969 c 9 s 21; 1969 c 931 s 7; 1985 c 248 s 70

115.44 CLASSIFICATION OF WATERS; STANDARDS OF QUALITY AND PURITY.

Subdivision 1. It is recognized that, due to variable factors, no single standard of quality and purity of the waters is applicable to all waters of the state or to different segments of the same waters.

Subd. 2. In order to attain the objectives of Laws 1963, chapter 874, the agency after proper study, and after conducting public hearing upon due notice, shall, as soon as practicable, group the designated waters of the state into classes, and adopt classifications and standards of purity and quality therefor. Such classification shall be made in accordance with considerations of best usage in the interest of the public and with regard to the considerations mentioned in subdivision 3 hereof.

Subd. 3. In adopting the classification of waters and the standards of purity and quality above mentioned, the agency shall give consideration to:

(a) The size, depth, surface area covered, volume, direction and rate of flow, stream gradient and temperature of the water;

(b) The character of the district bordering said waters and its peculiar suitability for the particular uses, and with a view to conserving the value of the same and encouraging the most appropriate use of lands bordering said waters, for residential, agricultural, industrial, or recreational purposes;

(c) The uses which have been made, are being made, or may be made of said waters for transportation, domestic and industrial consumption, bathing, fishing and fish culture, fire prevention, the disposal of sewage, industrial wastes and other wastes or other uses within this state, and, at the discretion of the agency, any such uses in another state on interstate waters flowing through or originating in this state;

(d) The extent of present defilement or fouling of said waters which has already occurred or resulted from past discharges therein;

(e) The need for standards for effluent from disposal systems entering waters of the state;

(f) Such other considerations as the agency deems proper.

Subd. 4. The agency, after proper study, and after conducting public hearings upon due notice, shall adopt and design standards of quality and purity for each such classification necessary for the public use or benefit contemplated by such classification. Such standards shall prescribe what qualities and properties of water shall indicate a polluted condition of the waters of the state which is actually or potentially deleterious, harmful, detrimental or injurious to the public health, safety or welfare, to terrestrial or aquatic life or to the growth and propagation thereof, or to the use of such waters for domestic, commercial and industrial, agricultural, recreational or other reasonable purposes, with respect to the various classes established pursuant to subdivision 2 hereof, and may contain such other provisions as the agency deems proper. Wherever practicable and advisable the agency shall establish standards for effluent of disposal systems entering classified waters.

Subd. 5. In establishing such standards, consideration should be given to the following factors:

(a) The extent, if any, to which floating solids may be permitted in the water;

(b) The extent to which suspended solids, colloids or a combination of solids with other substances suspended in water, may be permitted;

(c) The extent to which organism of the coliform group (intestinal bacilli) or any other bacteriological organisms may be permitted in the water;

(d) The extent of the oxygen demand which may be permitted in the receiving waters;

(e) Such other chemical or biological properties necessary for the attainment of the objectives of this chapter and, with respect to pollution of the waters of the state, chapter 116.

(f) Wherever deemed practicable and advisable by the agency, standards specifying the quality and purity, or maximum permissible pollutional content, of effluent entering waters of the state may be established without respect to water quality standards; provided, however, that whenever the owner or operator of any point source, after opportunity for public hearing, can demonstrate to the satisfaction of the agency that any effluent limitation proposed for the control of the heat component of any discharge from such source will require effluent limitations more stringent than necessary to assure the protection and propagation of a balanced, indigenous population of fish and wildlife in and on the body of water into which the discharge is to be made, the agency may impose an effluent limitation for such plan, with respect to the heat component of such discharge, taking into account the interaction of such heat component with other pollutants, that will assure the protection and propagation of a balanced, indigenous population of fish and wildlife in and on that body of water; and provided further that notwithstanding any other provision of this chapter and, with respect to the pollution of the waters of the state, chapter 116, any point source of a discharge having a heat component, the modification of which point source is commenced after May 20, 1973, and which, as modified, meets applicable effluent limitations, and which effluent limitations will assure protection and propagation of a balanced, indigenous population of fish and wildlife in or on the water into which the discharge is made, shall not be subject to any more stringent effluent limitation with respect to the heat component of its discharge during a ten year period beginning on the date of completion of such modification or during the period of depreciation or amortization of such facility for the purpose of section 167 or 169, or both, of the Internal Revenue Code of 1954, whichever period ends first.

Subd. 6. The adoption, alteration or modification of the standards of quality and purity, above prescribed, shall be made by the agency only after public hearing on due notice.

Subd. 7. Notices of public hearing for the consideration, adoption, modification, alteration or amendment of the classification of waters and standards of purity and quality thereof shall specify the time, date and place of hearing, and the waters concerning which classification is sought to be made or for which standards are sought to be adopted or modified.

Copies of said notice shall:

(a) Be published at least twice in a newspaper regularly published or circulated in the county or counties bordering or through which the waters sought to be classified, or for which standards are sought to be adopted, flow, the first date of publication of which shall not be more than 30 days nor less than 20 days before the date fixed for such hearing; and

(b) Be mailed at least 30 days before such hearing to the governing body of each municipality bordering or through which said waters, for which standards are sought to be adopted, flow, and to such other persons as the agency has reason to believe may be affected by the proposed standards.

Subd. 8. If the agency finds in order to comply with the federal water pollution control act or any other federal law or rule or regulation promulgated thereunder that it is impracticable to comply with the requirements of this section in classifying waters or adopting standards or in meeting any of the requirements thereof, compliance with the requirements of such section are waived to the extent necessary to enable the agency to comply with federal laws and rules and regulations promulgated thereunder. The

agency may classify waters and adopt criteria and standards in such form and based upon such evidence as it may deem necessary and sufficient for the purposes of meeting requirements of such federal laws, notwithstanding any provisions in this chapter or any other state law to the contrary. In the event waters are classified and criteria and standards are adopted to meet the requirements of federal law, the agency shall thereafter proceed to otherwise comply with the provisions of this section which were waived as rapidly as is practicable. This authority shall extend to proceedings pending before the agency on May 20, 1973.

Notwithstanding the provisions of subdivision 4, wherever advisable and practicable the agency may establish standards for effluent or disposal systems discharging into waters of the state regardless of whether such waters are or are not classified.

History: 1963 c 874 s 6; 1967 c 203 s 1; 1969 c 9 s 21; 1969 c 931 s 8,9; 1973 c 374 s 15,16

115.45 VIOLATIONS.

Subdivision 1. It is the duty of every person affected to comply with the provisions of Laws 1963, chapter 874, and of Minnesota Statutes, sections 115.01 to 115.09, comprising the state water pollution control act, as now in force or hereafter amended, and all rules, orders, and permits adopted or issued by the agency thereunder, and to do and perform all acts and things within that person's power required to effectuate, carry out, and accomplish the purposes of such provisions, rules, orders, and permits.

Subd. 2. [Repealed, 1973 c 374 s 22]

History: 1963 c 874 s 7; 1969 c 9 s 21; 1969 c 931 s 10; 1985 c 248 s 70; 1986 c 444

115.46 TAXATION BY MUNICIPALITY.

Subdivision 1. Any taxes, special assessments, levied or to be levied, and any bonds or other evidences of indebtedness issued or to be issued for the construction, installation, maintenance, or operation by a municipality of any disposal system or part thereof, shall not be subject to any limitation and shall be excluded in computing amounts subject to any limitation on tax levies, special assessments, bonded indebtedness or other indebtedness and the governing or managing body and the proper officers of the municipality concerned shall have the power and, to comply with any order of the agency, it shall be their duty to levy such taxes and special assessments and issue such bonds and take such other lawful actions as may be appropriate and necessary to provide funds to meet the cost of such construction or work, notwithstanding any such limit and without any election or referendum therefor. A recital in any bond, tax levy, or assessment that the same is issued or made for the purposes of a disposal system or any part thereof ordered by the agency and is not subject to any provisions of law prescribing limits or requiring an election or referendum therefor shall be prima facie evidence thereof and that all requirements of law relating thereto have been complied with. In any suit, action, or proceedings involving the validity or enforceability of any bonds of a municipality or the security therefor, any such bond reciting in substance that it has been issued by the municipality to aid in financing a sewage disposal system or part thereof, shall be conclusively deemed to have been issued for such purpose, and in compliance with all requirements of the law relating thereto.

Subd. 2. For the same purposes as the purposes for which a tax may be levied under subdivision 1, a municipality may levy taxes in anticipation of need and the provision of subdivision 1 shall be applicable so far as appropriate to any such anticipatory levy. If such a tax is levied in anticipation of need, the purpose must be specified in the resolution of the governing body directing the levy, and proceeds of the tax must be used only for that purpose, and until used the proceeds shall be retained in a separate fund or invested as surplus in a sinking fund may be invested under section 475.66.

History: 1963 c 874 s 8; 1969 c 9 s 21

115.47 [Repealed, 1973 c 374 s 22]

115.48 ASSUMPTION OF POWER BY AGENCY.

Subdivision 1. In lieu of enforcement action as provided by section 115.071, the agency, in case of failure by any municipality or its governing or managing body or officers to comply with any order of the agency for the construction, installation, maintenance, or operation of a disposal system or part thereof, may by resolution assume the powers of the legislative authority of the municipality and confer on the commissioner the powers of the administrative officers of the municipality relating to the construction, installation, maintenance, or operation of a disposal system, or part thereof, or issuing bonds and levying taxes therefor, after holding a hearing on the case as provided by Minnesota Statutes 1961, sections 115.03 and 115.05, upon notice specifying the particulars of the alleged failure to comply with the order and the powers proposed to be assumed for the purpose of remedying such failure. The resolution shall include or have attached thereto a copy of the order, shall set forth the findings of the agency as to failure of compliance therewith after the hearing thereon, and shall set forth the powers assumed and determine the action to be taken. Certified copies of the resolution and order shall be transmitted by the secretary of the agency to the commissioner and to the clerk or other recording officer of the municipality concerned. The resolution and order and certified copies thereof shall be prima facie evidence that the order is reasonable and valid, that all requirements of law relating thereto and to the hearing thereon have been complied with by the agency, that the municipality and its governing or managing body and officers have failed to comply with the order as set forth in the resolution, and that the powers so assumed are vested in the agency and the commissioner as therein set forth. Thereupon the agency and the commissioner shall have charge of the case, and all other proceedings for enforcement of the order shall be suspended until the authority of the commissioner in the case has been terminated as hereinafter provided. At this stage of the case there is a right of judicial review, and the resolution and attached order shall be deemed a final order for the purpose of judicial review, but failure at this stage to seek judicial review does not preclude judicial relief at a subsequent stage where, and in a manner, otherwise appropriate.

Subd. 2. Upon the assumption of powers as provided in subdivision 1, all the powers of the municipality and its governing or managing body and officers with respect to the subject matter of the order shall thereby be forthwith transferred to and vested in the agency and the commissioner, and they shall thereafter exercise the same in the name of the municipality or its governing or managing body or officers, as the case may require, until terminated as hereinafter provided. Such powers shall include, without limitation, the power to levy taxes, to certify such taxes for collection, to levy assessments on benefited property, to prescribe service or use charges, to borrow money, to issue bonds, to employ necessary assistance, to acquire necessary real or personal property, to let contracts or otherwise provide for the doing of work or the construction, installation, maintenance, or operation of facilities, and to do and perform for the municipality or its governing or managing body or officers all other acts and things required to effectuate, carry out, and accomplish the purposes of the order and which might have been done or performed by the municipality or its governing or managing body or officers. The exercise of any and all such powers by the agency and the commissioner shall have like force and effect as if the same had been exercised by the municipality or by its governing or managing body or officers. All such acts or things done or performed by the agency or the commissioner shall be prima facie lawful and valid, and it shall be presumed that all requirements of law or charter relating thereto have been complied with. Any bond pursuant to this section in the hands of a holder in good faith and for value reciting that such bond is issued for the purposes of a disposal system, or part thereof, pursuant to the order of the agency under this section shall be conclusively deemed to have been issued for such purpose and in compliance with all requirements of law relating thereto and shall be a valid and binding instrument enforceable against the municipality in accordance with its terms. The impact on a municipality of taxes or special assessments which are likely to result from compliance with an order made under section 115.43, subdivision 3, clause (1), weighed against the urgency of the need for compliance in the light of public health and the policy and purposes of this

act shall be a relevant consideration in any judicial inquiry into the reasonableness of the order.

Subd. 3. Except as otherwise provided herein, all proceedings of the agency or the commissioner under subdivision 2 shall be governed by the laws or charter provisions governing like proceedings of the governing or managing body or administrative officers of the municipality, so far as applicable, and they shall have like powers and duties with respect thereto as the governing or managing body, the mayor or other presiding officer, the clerk or other recording officer, and any other officer of the municipality having authority in the matter, respectively. In any case where the governing or managing body of the municipality is required to act by motion, resolution, or ordinance, the adoption thereof by resolution or order of the agency shall have like force and effect as adoption by the governing or managing body and approval by the mayor or other presiding officer of the municipality, if required.

Subd. 4. If at any time while the agency and the commissioner have charge of a case as provided in this section, the governing or managing body or the officers or the municipality concerned shall offer to exercise their powers and perform their duties with respect to the subject matter in accordance with the order of the agency, the agency may by order, of which certified copies shall be transmitted to the secretary of the agency and to the clerk or other recording officer of the municipality, reinstate such powers to the extent and subject to any conditions specified in the order, and the governing or managing body or officers of the municipality may thereupon exercise such powers accordingly. Such reinstatement may be revoked by the agency by order in like manner in case it shall determine that the affected powers have not been properly or effectively exercised by the governing or managing body or the officers of the municipality.

Subd. 5. If, at any time while the agency and the commissioner have charge of a case hereunder, the agency shall determine that the further exercise of the powers of the municipality assumed in the case will not be feasible or will not be the most effective procedure for accomplishing the purposes of the agency's order involved, it may by order so declare. Certified copies of the order shall be transmitted by the secretary of the agency to the commissioner and the clerk or other recording officer of the municipality concerned. Thereupon the powers assumed shall be revested in the municipality, and the agency may proceed with the enforcement of its order in such manner as may be authorized by law.

History: 1963 c 874 s 10; 1969 c 9 s 21; 1976 c 2 s 51

115.49 COOPERATION BETWEEN MUNICIPALITIES; CONTRACTS.

Subdivision 1. If the agency determines after a hearing on the subject matter that cooperation between two or more municipalities is necessary to provide for areawide waste management and treatment, in accordance with the Federal Water Pollution Control Act, as amended, or to prevent, control, or abate pollution, it may adopt a resolution so declaring and determining whether it will be feasible to secure such cooperation by contract between the municipalities concerned.

Subd. 2. If the agency determines that procedure by contract will be feasible it may issue an order so declaring, setting forth the general purposes and terms of a proposed contract under any applicable law, determining, among other things, which of the municipalities concerned shall have charge of any facilities constructed, and directing the municipalities concerned to formulate and execute such contract within such time as the agency may specify in the order, but not less than 90 days from the date of mailing copies of the order to the clerks or other recording officers of such municipalities or service thereof upon them. If a contract approved by the agency as sufficient for the purposes set forth in the order is not made within the time therein specified, the agency may refer the case to the commissioner as provided in section 115.48. Thereupon and thereby all the appropriate contractual powers of each municipality concerned and its governing or managing body and officers shall be transferred to and vested in the commissioner. The commissioner may then formulate a contract in accordance with the

agency's order, with necessary counterparts, and execute the same in the name of each municipality concerned, with like force and effect as if executed by their officers as provided by law or charter. An executed counterpart of the contract shall be delivered or sent by certified mail by the commissioner to the clerk or other recording officer of each municipality concerned, and the contract shall thereupon take effect and be binding on such municipalities.

Subd. 3. Any contract for disposal of sewage, industrial wastes, or other wastes or for the construction, maintenance, or operation of any facilities therefor heretofore or hereafter executed between two or more municipalities may be renegotiated, reviewed, and revised or modified with respect to rates or charges or any other provision by agreement of the parties to the contract, any provision of law, charter, or the contract to the contrary notwithstanding.

Subd. 4. Any municipality which is a party to a contract for any of the purposes specified in subdivision 3 and which operates a plant for the disposal of sewage, industrial wastes, or other wastes, or which is a city of the first class comprising a part of a sanitary district under chapter 445 may, upon written notice to the other party or parties, fix new rates and charges for the service performed under the contract, notwithstanding any provision of law, charter, or the contract to the contrary. Any other party or parties to such a contract with a municipality which operates such a plant, or with a city of the first class comprising a part of a sanitary district under chapter 445 may, upon written notice to such municipality, demand that new rates and charges be fixed for service performed under the contract, notwithstanding any provision of law, charter, or the contract to the contrary. Whenever notice is given as provided herein, it shall be the duty of the municipality operating the plant for the disposal of sewage, industrial wastes, or other wastes, or a city of the first class comprising a part of a sanitary district under chapter 445, to hold a hearing for the determination of proper rates and charges. A valid notice given under this subdivision of a demand to fix new rates and charges as to any contract precludes another such notice by any party as to that contract for a period of five years from the time of the notice, or the time of dismissal of proceedings under a notice, or the time of determination of rates and charges by the affected agencies or by judgment, as the case may be, whichever of these events is last, but there may always be a contract change under subdivision 3; provided there can be no such demand as of right within the first five years of a contract. A municipality which may be affected by determination of new rates and charges in such a proceeding may participate in the proceeding as an interested third party by filing a notice of its intention to so participate with the clerk of the municipality to which the original notice was directed. If any party to the contract involved in the proceeding initiated by notice of demand for new rates and charges is dissatisfied with the rates and charges as set in the proceeding it may within 30 days after such determination by written notice given to the other party or parties elect to submit the matters in dispute to a board of arbitration which shall be created as follows: The municipality making such written election shall in such written election appoint a referee; the other municipality shall within ten days after such election and appointment also appoint a referee; the two referees shall appoint a third referee, or if they fail for ten days to do so, unless the municipalities mutually extend the time for them to do so the district court of a judicial district which is mutually agreeable to the municipalities shall make the appointment of the third referee. A decision of the majority of the board shall be a decision of the board. Each municipality shall pay the compensation of the referee appointed by it, and one-half of the compensation of the third referee, such compensation to be at the rate usually charged by such person for services in the person's profession or occupation. The hearing initiated by the notice of demand to fix new rates and charges and all proceedings in connection therewith shall be in conformity with sections 14.57 to 14.62 and the municipality conducting the hearing is an agency as such term is used in such sections. Any party to the contract aggrieved by the decision or order made in conformity with such provisions shall be entitled to judicial review in the district court in the county in which such decision or order was made and in the manner provided in subdivision 5. The new rates and charges established by the agency upon the initial demand will

continue until the proper rates and charges are finally determined, notwithstanding submission to arbitration or judicial review, but the order or judgment which finally determines legality will provide for adjustment of overpayment or underpayment, if any, during the period after the new rates and charges were initially fixed.

All records of any municipality relating to such rates and charges shall be available at all reasonable times for examination by any municipality.

Subd. 5. Appeals. Any party to the contract aggrieved by a decision or order shall be entitled to judicial review by serving a petition for review upon the municipality making the decision or order, and filing it with proof of service in the office of the court administrator within 30 days after the decision or order has been made and the parties notified of it. The petition shall state the nature of the petitioner's interest, and the ground or grounds upon which the petitioner contends the decision or order should be reversed or modified. The petition may be amended by leave of court, though the time for serving it has expired.

Within 20 days after service of the petition for review, the municipality shall serve upon the petitioner an answer stating its position with reference to the reversal or modification of the order or decision under review. The answer, with proof of service, shall be filed with the clerk of the district court within ten days after service. No further pleadings shall be necessary. The review shall be noticed for trial as in the case of a civil action and shall take precedence over other civil cases for trial.

The institution of the proceeding for review shall not stay enforcement of the order or decision, but the court may order a stay upon such terms as it deems proper.

Within 30 days after service of the petition for review upon the municipality, or within such further time as the court may allow, the municipality shall transmit to the court the original or a certified copy of the entire record of the proceedings in which the order or decision under review was made. By stipulation of the parties to the review proceeding, the record may be shortened by eliminating any portion of it. The record may be typewritten or printed and the exhibits may be typewritten, photostated or otherwise reproduced, or upon motion of any party, or by order of the court, the original exhibits shall accompany the record. The court may require or permit substantial corrections or additions to the record when deemed desirable.

If, before the date set for trial, an application is made to the court for leave to present additional evidence on the issues in the case, and it is shown to the satisfaction of the court that the additional evidence is material, the court may order that the additional evidence be taken upon terms the court deems proper.

The review shall be conducted by the court without a jury. The court may affirm, reverse or modify the order or decision if the substantial rights of the petitioner have been prejudiced as a result of the order or decision being:

- (a) contrary to constitutional rights or privileges;
- (b) in excess of the statutory authority or jurisdiction of the agency, or affected by other error of law;
- (c) made or promulgated upon unlawful procedure;
- (d) unsupported by substantial evidence in view of the entire record as submitted;

or

- (e) arbitrary or capricious.

Any party may appeal from the final judgment of the district court as in other civil cases.

No party to the review in any court is entitled to recover costs, attorney's fees, witness fees, or any other disbursement.

Subd. 6. All rates and charges shall be reasonable and shall be sufficient to compensate for all costs of devoting the sewage disposal plant, equipment, its collector system, and personnel to the accomplishment of the purpose of the service to be rendered but shall not include profit. When the sewer system of any municipality or any part thereof is devoted to the use of another municipality, all charges for such use shall be reason-

able and shall be sufficient to compensate for all costs of such use, but shall not include profit.

Subd. 7. Nothing in subdivision 4 shall preclude the fixing of rates and charges by agreement of the parties under subdivision 3.

Subd. 8. Any case referred to the commissioner under this section may be remanded to the agency as provided in section 115.48, subdivision 5.

Subd. 9. Any contract ordered by the agency pursuant to this section may be reformed or terminated upon: (a) mutual agreement among all parties to the contract as exhibited by a joint written application to the agency, and approval thereof by the agency; or (b) unilateral application to the agency by certified mail by any party to such a contract, with a copy thereof served by certified mail upon all other parties to the contract, and subsequent order of reformation or termination of the agreement by the agency. The applicant may in its application for reformation or termination seek other relief in addition to said order of reformation or termination, including, but not limited to, an order directing the refund by the municipality operating the disposal system of overpayments made by the municipality being served during the life of the contract, or the further payment by the municipality being served to the municipality operating the disposal system made necessary by the inadequacy of payments made by the municipality being served to the municipality operating the disposal system during the life of the contract. In the event of a unilateral application to the agency, the agency may, after 30 days written notice, hold a public hearing for the purpose of hearing evidence relating to the application. Pursuant to an application under this subdivision, the agency may enter its order reforming or terminating the contract, ordering a refundment of overpayment or payment of underpayment, as aforesaid, or granting any further relief that is reasonable under the circumstances. Any party aggrieved by the agency's decision may thereafter appeal to district court from the agency's order.

History: 1963 c 874 s 11; 1969 c 9 s 21; 1973 c 374 s 17,18; 1978 c 674 s 60; 1982 c 424 s 130; 1983 c 247 s 50; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 1990 c 426 art 1 s 14

115.50 TOWNS, POWERS TO ACT.

For the purposes of carrying out the policy and purposes of Laws 1963, chapter 874, and of Minnesota Statutes, sections 115.01 to 115.09, there is hereby conferred upon all towns of this state the power and authority to construct, install, acquire, maintain and operate disposal systems and parts thereof, and to levy taxes, and special assessments, to issue bonds and to do all other things necessary or convenient for such construction, installation, acquisition, maintenance and operation in the same manner and extent and subject to the same limitations as statutory cities.

History: 1963 c 874 s 12; 1973 c 123 art 5 s 7

115.51 ENFORCEMENT OF CONTRACTS BETWEEN MUNICIPALITIES.

The provisions of any contract between two or more municipalities for any purpose relating to the prevention, control, or abatement of pollution, whether now in force or hereafter consummated as provided in section 115.49 or otherwise, may be enforced by action to compel performance brought by any municipality which is a party to the contract or by the attorney general in the name of the state at the request of the agency. In any such action the court shall have like powers as provided in section 115.071, subdivision 5, for enforcement of an order of the agency.

History: 1963 c 874 s 13; 1969 c 9 s 21; 1976 c 2 s 52

115.52 SEVERABILITY.

The provisions of Laws 1963, chapter 874 shall be severable and the invalidity of any section or subdivision or part thereof shall not make void any other section or subdivision or part thereof.

History: 1963 c 874 s 14

115.53 MODIFICATION OF CLASSIFICATION OR STANDARDS.

In any case where the agency has heretofore adopted and established a classification or standards for any waters as then provided by law, the agency, at any hearing held pursuant to the provisions of this section for the purpose of modification, alteration, or amendment of such classification or standards or the adoption and establishment of any classification or standards for the same waters or any part thereof as required by Laws 1963, chapter 874, may receive and consider for any such purpose any testimony received at such previous hearing, as reported in the stenographic transcript thereof, and any exhibits received at such previous hearing, which are relevant, with like force and effect and subject to like objections, if any, as if such testimony or exhibits had been produced at the hearing hereunder, together with any further testimony or exhibits which may be submitted and received at the hearing hereunder.

History: 1963 c 874 s 15; 1969 c 9 s 21

115.54 TECHNICAL ADVISORY COMMITTEE.

The agency shall adopt and revise rules governing waste water treatment control under this chapter or chapter 116 only with the advice of a technical advisory committee of nine members. One member of the committee shall be selected by each of the following: the state consulting engineers council, the University of Minnesota division of environmental engineering, the state association of general contractors, the state wastewater treatment plant operators association, the metropolitan waste control commission created by section 473.503, the association of metropolitan municipalities, the state association of small cities, and two members from the league of Minnesota cities. The technical advisory committee may review and advise the agency on any rule or technical requirements governing the wastewater treatment grant or loan program and may review the work of other professional persons working on a wastewater treatment project and make recommendations to those persons, the agency, and the concerned municipality, in order for the agency to ensure that water quality treatment standards will be met. The committee shall meet at least once a year, or at the call of the chair, and shall elect its chair. The agency must provide staff support for the committee, prepare committee minutes and provide information to the committee it may request. A quorum is a simple majority and official action must be by a majority vote of the quorum. The committee expires as provided in section 15.059, subdivision 5.

History: 1986 c 444; 1986 c 465 art 3 s 2; 1988 c 629 s 17

REGIONAL SANITARY SEWER DISTRICTS**115.61 AUTHORITY OF DISTRICT.**

A sanitary sewer district, when created as contemplated by sections 115.61 to 115.67, shall be a municipal corporation and governmental subdivision of the state, responsible for acquiring, constructing, improving, extending, operating, and maintaining facilities for the collection, treatment, and disposal of sewage and industrial and other wastes received from the sewer systems of all municipalities within its corporate limits, for the purpose of preventing pollution of public waters in excess of such reasonable standards of purity and quality as may be established by state regulatory agencies pursuant to law. For this purpose it shall have perpetual succession; may sue and be sued; may acquire real and personal property, including easements, within or outside its corporate limits, by purchase, gift, devise, condemnation, lease, or otherwise, which property, while held, used, or occupied by it, shall be exempt from taxation; may manage, control, sell, convey, lease, and otherwise dispose of such property; may make contracts, borrow money, issue bonds, levy taxes and special assessments, and establish and collect charges for services furnished or made available; and may exercise all powers granted any municipality by chapters 117, 412, 429, and 475, sections 471.59, 444.075, and 115.46, and, without limitation by the foregoing, all municipal power necessary or expedient to accomplish said purpose, whether or not necessarily implied from any power herein expressly granted.

History: 1965 c 895 s 1

115.62 BOARD; MEMBERSHIP; TERM; QUORUM; OFFICERS; COMPENSATION.

All powers of the district shall be exercised by or under authority of resolutions of its board of directors, consisting of one member appointed by the governing body of each municipality situated wholly or partly within its corporate limits, who may but need not be a member of that governing body. The term of each member shall extend to January 1 in the year following appointment, or until a successor is appointed and qualified, or until the member's earlier death, disability, or absence of more than 90 days from the member's municipality. Any resolution may be passed by a majority of the votes cast thereon at a meeting attended by a majority of the members of the board, unless a larger majority or further notice is required by its bylaws, which shall be adopted or amended only by the vote of a majority of all members of the board. The board shall elect a president and vice-president at its first meeting in each year, to serve until the following January 1 or until their respective successors are selected and qualify. Each member of the board shall be reimbursed for actual and necessary expense in the performance of the member's duty and may receive compensation in an amount determined by the board to be reasonable, not exceeding \$25 per day or part thereof for each meeting and not exceeding \$1,000 in any one year.

History: 1965 c 895 s 2; 1986 c 444

115.63 MANAGER, AUTHORITY; EMPLOYEES.

The chief executive officer of the district shall be a manager who shall be chosen by the board of directors and hold office on the same basis, possess the same qualifications, and have the same powers and duties with reference to the management of the affairs of the district, as the manager of a statutory city under sections 412.641 to 412.751, except that all appointments of subordinate officers and employees and all employment of professional consultants shall be subject to approval by the board. The district shall comply with the provisions of chapter 353 to permit membership of the manager and all employees in the public employees retirement association.

History: 1965 c 895 s 3; 1973 c 123 art 5 s 7

115.64 ACQUISITION OF PROPERTY.

The acquisition and use of real and personal property by a district created as herein contemplated shall not be subject to restriction or control by any other local government or authority, except by the exercise of police powers under section 169.04.

History: 1965 c 895 s 4

115.65 PURPOSE; DUTIES OF DISTRICT; ANNEXATION OF TERRITORY.

Sanitary sewer districts may be created by or under authority of laws referring to sections 115.61 to 115.67 and enumerating the cities or towns, or portions thereof, which are or may be included therein. The purpose of sections 115.61 to 115.67 is to provide a method by which municipalities in a drainage area designated by law may join together to prevent water pollution in excess of reasonable standards in that area. Each district created as contemplated herein shall be responsible for planning collection, treatment, and disposal facilities for all municipalities in its drainage area, whether or not initially included within its boundaries. Any municipality, by resolution adopted by a majority of all members of its governing body, may request the annexation of all or part of its territory to the district, and the annexation shall become effective when approved by resolution adopted by a majority of all members of the board of directors of the district with the approval of the Minnesota pollution control agency, or by order of the Minnesota pollution control agency made under authority of Laws 1963, chapter 874. Nothing in sections 115.61 to 115.67 shall be construed as abrogating any statutory authority or responsibility of the Minnesota pollution control agency. All territory annexed shall be subject to taxation by the district like other property within its boundaries for the support of its facilities and for the payment of principal

and interest thereafter becoming due on its indebtedness, whether authorized or incurred before or after the annexation.

History: 1965 c 895 s 5; 1969 c 9 s 21; 1973 c 123 art 5 s 7

115.66 SEVERABILITY.

If any provision of sections 115.61 to 115.67 or the application thereof to any person or circumstances is held to be invalid, such invalidity shall not affect other provisions or applications of sections 115.61 to 115.67 which can be given effect without the invalid provision or application, and to this end the provisions of sections 115.61 to 115.67 and the various applications thereof are declared to be severable.

History: 1965 c 895 s 6

115.67 CITATION.

Sections 115.61 to 115.67 may be cited as the "regional sanitary sewer district law."

History: 1965 c 895 s 7

CLASSIFICATION OF WATER FACILITIES AND CERTIFICATION OF OPERATORS

115.71 DEFINITIONS.

Subdivision 1. **Applicability.** As used in sections 115.71 to 115.82, the terms defined in this section have the meanings given them.

Subd. 2. **Commissioner of health.** "Commissioner of health" means the state commissioner of health.

Subd. 3. **Commissioner of the pollution control agency.** "Commissioner of the pollution control agency" means the commissioner of the Minnesota pollution control agency.

Subd. 3a. **Community water supply system.** "Community water supply system" means a public water supply system as defined in section 144.382, subdivision 4, and which serves at least 15 service connections or living units used by year-round residents, or regularly serves at least 25 year-round residents.

Subd. 4. **Council.** "Council" means the water and wastewater treatment operators certification council established by section 115.74.

Subd. 5. MS 1990 [Renumbered subd 9]

Subd. 5. **Wastewater certificate.** "Wastewater certificate" means a certificate of competency issued by the commissioner of the pollution control agency stating that the wastewater treatment facility operator has met the requirements for the specified operator classification of the certification program.

Subd. 6. MS 1990 [Renumbered subd 5]

Subd. 6. **Wastewater treatment facility.** "Wastewater treatment facility" means any plant, disposal field, lagoon, or other works not specifically mentioned herein, installed for the purpose of collecting, pumping, treating, stabilizing or disposing of sewage, as defined in section 115.01, subdivision 17, which is actually used or intended for use by the public or by any considerable number of persons.

Subd. 7. [Repealed, 1991 c 202 s 42]

Subd. 8. MS 1990 [Renumbered subd 6]

Subd. 8. **Wastewater treatment facility operator.** "Wastewater treatment facility operator" means a person who has direct responsibility for the operation of a wastewater treatment facility.

Subd. 9. MS 1991 SUPP [Renumbered subd 10]

Subd. 9. **Water certificate.** "Water certificate" means a certificate of competency

issued by the commissioner of health stating that the water supply system operator has met the requirements for the specified operator classification of the certification program.

Subd. 10. MS 1990 [Renumbered subd 8]

Subd. 10. **Water supply system operator.** "Water supply system operator" means a person who has direct responsibility for the operation of a community water supply system or such parts of the system as would affect the quality and safety of the water.

History: 1971 c 828 s 1; 1975 c 271 s 4; 1976 c 149 s 21; 1977 c 66 s 9; 1977 c 305 s 45; 1987 c 186 s 15; 1991 c 202 s 2,3

115.72 CLASSIFICATION.

Subdivision 1. The commissioner of health shall classify all water supply systems actually used or intended for use by the public or by any considerable number of persons. The classes shall be based on the degree of hazard to public health together with the type and loading of plant and the population affected.

Subd. 2. The commissioner of the pollution control agency shall classify all wastewater treatment facilities actually used or intended for use by the public or by any considerable number of persons. The classes shall be based on the degree of hazard to public health together with the type and loading of plant and the population served or the average population equivalent of the sewage handled.

History: 1971 c 828 s 2; 1977 c 305 s 45; 1987 c 186 s 15

115.73 CERTIFICATION.

The commissioners of health and the pollution control agency shall certify water supply system operators and wastewater treatment facility operators, respectively, as to their qualifications to supervise the operation of water supply systems and wastewater treatment facilities based upon the recommendation of the council.

History: 1971 c 828 s 3; 1976 c 149 s 62 subd 6; 1977 c 305 s 45; 1987 c 186 s 15

115.74 WATER SUPPLY AND WASTEWATER TREATMENT OPERATORS CERTIFICATION COUNCIL.

Subdivision 1. The water and wastewater treatment operators certification council shall be composed of six members. The commissioner of health shall appoint two members as follows: A currently employed water supply system operator holding a valid certificate issued by the commissioner of health; and a representative of the league of Minnesota cities. The commissioner of the pollution control agency shall appoint two members as follows: a currently employed wastewater treatment facility operator holding a valid certificate issued by the commissioner of the pollution control agency; and a university or college faculty member whose major field is related to water supply or wastewater collection and treatment. The remainder of the council shall be composed of the following persons: A representative of the state department of health who is either the director of the division of environmental health or a qualified member of the division staff; the commissioner of the Minnesota pollution control agency or a qualified member of the agency staff. In the case of the first council, the appointments of a water supply system operator and a wastewater treatment facility operator shall be made from currently employed operators holding valid certificates under the voluntary certification program administered by the state department of health and the Minnesota pollution control agency.

Subd. 2. The council shall expire and membership terms, compensation of members, removal of members, and the filling of membership vacancies, shall be as provided in sections 15.014 and 15.059.

Subd. 3. When new members are appointed to the council a chair shall be elected at the next council meeting. The state department of health representative or other representative designated by the council shall serve as secretary of the council, except that the secretary shall be responsible for maintaining records relating to certification of

water supply system operators and the Minnesota pollution control agency shall be responsible for maintaining records relating to certification of wastewater treatment facility operators.

Subd. 4. The council shall cause at least one examination to be held each year for the purpose of examining candidates for certification at a time and place designated by the council. Those applicants whose competency is acceptable to the council shall be recommended to the commissioner or the director for certification. Additional meetings may be called by the chair as may be necessary to carry out the provisions of sections 115.71 to 115.82. Four members shall constitute a quorum.

History: 1971 c 828 s 4; 1975 c 136 s 74; 1975 c 271 s 5; 1976 c 149 s 22,62 subd 6; 1977 c 305 s 45; 1985 c 285 s 6; 1986 c 444; 1987 c 186 s 15

115.75 OPERATOR CERTIFICATES.

Subdivision 1. The commissioners of health and the pollution control agency shall upon recommendation of the council issue certificates to water supply system operators and wastewater treatment facility operators respectively, attesting to the competency of the operators. The certificate shall indicate the classification of the system or facility which the operator is qualified to supervise.

Subd. 2. Certificates shall be prominently displayed in the office of the operator or other appropriate place on the premises of the plant or treatment facility.

Subd. 3. Certificates shall continue in effect for a period of three years unless revoked by the commissioner of health or the commissioner of the pollution control agency prior to that time. Certificates may be renewed upon application to the commissioner of health or the commissioner of the pollution control agency.

Subd. 4. The commissioners may revoke the certificate of any operator under their respective jurisdictions following a hearing before the commissioner of health or the commissioner of the pollution control agency or a representative designated by the commissioners of health or the pollution control agency, when it is found that the operator has practiced fraud, or deception; that the operator was guilty of gross negligence or misconduct in the performance of the operator's duties; or that the operator is incompetent or unable properly to perform those duties.

Subd. 5. The certificates of operators who terminate their employment at a water supply system or wastewater treatment facility will remain valid for the unexpired term of the certificate. Operators whose certificates expire under this section may be issued new certificates of a like classification provided appropriate proof of competency is presented to the council. Successful completion of an examination may be required at the discretion of the council.

History: 1971 c 828 s 5; 1976 c 149 s 62 subd 6; 1977 c 305 s 45; 1986 c 444; 1987 c 186 s 15

115.76 CERTIFICATES GIVEN WITHOUT EXAMINATION.

The commissioner of health in the case of water supply system operators and the commissioner of the pollution control agency, in the case of wastewater treatment facility operators, upon application therefor, and recommendation of the council, may issue certificates without examination, in a comparable classification to any person who holds a certificate in any state, territory, or possession of the United States or any country, providing the requirements for certification of operators under which the person's certificate was issued do not conflict with the provisions of sections 115.71 to 115.82 and are of a standard not lower than that specified by rules adopted under sections 115.71 to 115.82.

History: 1971 c 828 s 6; 1976 c 149 s 62 subd 6; 1977 c 305 s 45; 1985 c 248 s 70; 1987 c 186 s 15

115.77 FEES.

Subdivision 1. **Establishment of fee schedule.** The council with the advice and

approval of the state department of health and the Minnesota pollution control agency shall establish a schedule of fees for the filing of applications and the issuance of certificates by an appropriate rule promulgated in accordance with applicable state laws. The fees so established shall be reasonable and shall be related to the actual cost of the certification program.

Subd. 2. Fees paid to state treasurer. All fees established pursuant to subdivision 1 shall be paid to the state department of health in the case of water supply system operators and to the Minnesota pollution control agency in the case of wastewater treatment facility operators. The fees received by these agencies shall be deposited in the state treasury.

History: 1971 c 828 s 7; 1976 c 149 s 62 subd 6

115.78 ISSUANCE OF CERTIFICATION.

Subdivision 1. Certificates in appropriate classifications shall be issued to operators who, on July 1, 1971, hold certificates of competency attained by examination under the voluntary certification program now being administered by the state department of health and the Minnesota pollution control agency.

Subd. 2. Certificates of proper classification may be issued upon application and without examination to the person or persons certified by the governing body or owner to have been in direct responsible charge of the water supply system or wastewater treatment facility on July 1, 1972. A certificate so issued will be valid only for that particular water supply system or wastewater treatment facility.

History: 1971 c 828 s 8

115.79 POWER OF THE COUNCIL.

The council, with the advice and approval of the state department of health and the Minnesota pollution control agency, and in accordance with any other appropriate state laws shall make such rules as are necessary to carry out the intent of sections 115.71 to 115.82. The rules shall include but are not limited to, provisions establishing the bases for classification of water supply systems and wastewater treatment facilities in accordance with section 115.72 and provisions establishing qualifications of applicants and procedures for examination of candidates and such other provisions as are necessary for the administration of sections 115.71 to 115.82.

History: 1971 c 828 s 9; 1976 c 149 s 62 subd 6; 1985 c 248 s 70

115.80 VIOLATION DATE.

On or after July 1, 1972, it shall be unlawful for any person, firm, or corporation, either municipal or private, operating a water supply system or wastewater treatment facility which serves the public or any considerable number of persons to operate same unless the competency of the operator is duly certified to by the commissioner of health or the commissioner of the pollution control agency under provisions of sections 115.71 to 115.82. Furthermore, it shall be unlawful for any person to perform the duties of an operator without being duly certified under the provisions of sections 115.71 to 115.82.

History: 1971 c 828 s 10; 1977 c 305 s 45; 1987 c 186 s 15

115.81 [Repealed, 1973 c 374 s 22]

115.82 VOLUNTARY CERTIFICATION TO CONTINUE.

The voluntary certification program now being administered by the state department of health and the Minnesota pollution control agency may continue to certify water supply system operators and wastewater treatment facility operators until such time as the council of certification created by sections 115.71 to 115.82 terminates said voluntary certification program.

History: 1971 c 828 s 12; 1976 c 149 s 62 subd 6

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WATER POLLUTION CONTROL; SANITARY DISTRICTS

115.83 [Expired]

NOTE: See Laws 1978, Chapter 614, Section 2.