CHAPTER 116

POLLUTION CONTROL AGENCY

116.011 ANNUAL POLLUTION REPORT.

A goal of the pollution control agency is to reduce the amount of pollution that is emitted in the state. The pollution control agency shall include in its annual performance report information detailing the best estimate of the agency of the total volume of water and air pollution that was emitted in the state in the previous calendar year. The agency shall report its findings for both water and air pollution:

(1) in gross amounts, including the percentage increase or decrease over the previous calendar year; and

(2) in a manner which will demonstrate the magnitude of the various sources of water and air pollution.

History: *1995 c 247 art 1 s 36*

116.02 POLLUTION CONTROL AGENCY, CREATION.

Subdivision 1. A pollution control agency, designated as the Minnesota pollution control agency, is hereby created. The agency shall consist of the commissioner and eight members appointed by the governor, by and with the advice and consent of the senate. One of such members shall be a person knowledgeable in the field of agriculture.

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

Subd. 3. The membership of the pollution control agency shall be broadly representative of the skills and experience necessary to effectuate the policy of sections 116.01 to 116.075, except that no member other than the commissioner shall be an officer or employee of the state or federal government. Only two members at one time may be officials or employees of a municipality or any governmental subdivision, but neither may be a member ex officio or otherwise on the management board of a municipal sanitary sewage disposal system.

Subd. 4. The commissioner shall serve as chair of the agency. The agency shall elect such other officers as it deems necessary.

Subd. 5. The pollution control agency is the successor of the water pollution control commission, and all powers and duties now vested in or imposed upon said commission by chapter 115, or any act amendatory thereof or supplementary thereto, are hereby transferred to, imposed upon, and vested in the Minnesota pollution control agency, except as to those matters pending before the commission in which hearings have been held and evidence has been adduced. The water pollution commission shall complete its action in such pending matters not later than six months from May 26, 1967. The water pollution control commis-

sion, as heretofore constituted, is hereby abolished, (a) effective upon completion of its action in the pending cases, as hereinbefore provided for; or (b) six months from May 26, 1967, whichever is the earlier.

History: *1995 c 168 s 7*

116.03 COMMISSIONER.

[For text of subd 1, see M.S.1994]

Subd. 2. The commissioner shall organize the agency and employ such assistants and other officers, employees and agents as the commissioner may deem necessary to discharge the functions of the commissioner's office, define the duties of such officers, employees and agents, and delegate to them any of the commissioner's powers, duties, and responsibilities, subject to the commissioner's control and under such conditions as the commissioner may prescribe. The commissioner may also contract with persons, firms, corporations, the federal government and any agency or instrumentality thereof, the water research center of the University of Minnesota or any other instrumentality of such university, for doing any of the work of the commissioner's office, and none of the provisions of chapter 16B, relating to bids, shall apply to such contracts. All personnel employed and all contracts entered into pursuant to this subdivision shall be subject to the approval of the pollution control agency. Agreements to exercise delegated powers shall be by written order filed with the secretary of state. An employee of the state commissioner of health engaged in environmental sanitation work may transfer to the pollution control agency with the approval of the commissioner. Under such a transfer the employee shall be assigned to a position of similar responsibility and pay without loss of seniority, vacation, sick leave, or other benefits under the state civil service act.

Subd. 2a. **Mission; efficiency.** It is part of the agency's mission that within the agency's resources the commissioner and the members of the agency shall endeavor to:

(1) prevent the waste or unnecessary spending of public money;

(2) use innovative fiscal and human resource practices to manage the state's resources and operate the agency as efficiently as possible;

(3) coordinate the agency's activities wherever appropriate with the activities of other governmental agencies;

(4) use technology where appropriate to increase agency productivity, improve customer service, increase public access to information about government, and increase public participation in the business of government;

(5) utilize constructive and cooperative labor–management practices to the extent otherwise required by chapters 43A and 179A;

(6) include specific objectives in the performance report required under section 15.91 to increase the efficiency of agency operations, when appropriate; and

(7) recommend to the legislature, in the performance report of the agency required under section 15.91, appropriate changes in law necessary to carry out the mission of the agency.

[For text of subds 3 to 6, see M.S.1994]

History: *1995 c 186 s 31; 1995 c 248 art 11 s 7*

116.07 POWERS AND DUTIES.

[For text of subds 1 and 2, see M.S.1994]

Subd. 2a. **Exemptions from standards.** No standards adopted by any state agency for limiting levels of noise in terms of sound pressure which may occur in the outdoor atmosphere shall apply to (1) segments of trunk highways constructed with federal interstate substitution money, provided that all reasonably available noise mitigation measures are employed to abate noise, (2) an existing or newly constructed segment of a highway, provided that all reasonably available noise mitigation measures, as approved by the commis-

sioners of the department of transportation and pollution control agency, are employed to abate noise, (3) skeet, trap or shooting sports clubs, or (4) motor vehicle race events conducted at a facility specifically designed for that purpose that was in operation on or before July 1, 1983. Nothing herein shall prohibit a local unit of government or a public corporation with the power to make rules for the government of its real property from regulating the location and operation of skeet, trap or shooting sports clubs, or motor vehicle race events conducted at a facility specifically designed for that purpose that was in operation on or before July 1, 1983.

[For text of subd 3, see M.S.1994]

Subd. 4. **Rules and standards.** Pursuant and subject to the provisions of chapter 14, and the provisions hereof, the pollution control agency may adopt, amend and rescind rules and standards having the force of law relating to any purpose within the provisions of Laws 1967, chapter 882, for the prevention, abatement, or control of air pollution. Any such rule or standard may be of general application throughout the state, or may be limited as to times, places, circumstances, or conditions in order to make due allowance for variations therein. Without limitation, rules or standards may relate to sources or emissions of air contamination or air pollution, to the quality or composition of such emissions, or to the quality of or composition of the ambient air or outdoor atmosphere or to any other matter relevant to the prevention, abatement, or control of air pollution.

Pursuant and subject to the provisions of chapter 14, and the provisions hereof, the pollution control agency may adopt, amend, and rescind rules and standards having the force of law relating to any purpose within the provisions of Laws 1969, chapter 1046, for the collection, transportation, storage, processing, and disposal of solid waste and the prevention, abatement, or control of water, air, and land pollution which may be related thereto, and the deposit in or on land of any other material that may tend to cause pollution. The agency shall adopt such rules and standards for sewage sludge, addressing the intrinsic suitability of land, the volume and rate of application of sewage sludge of various degrees of intrinsic hazard, design of facilities, and operation of facilities and sites. The agency shall promulgate emergency rules for sewage sludge pursuant to sections 14.29 to 14.36. Notwithstanding the provisions of sections 14.29 to 14.36, the emergency rules shall be effective until permanent rules are promulgated or March 1, 1982, whichever is earlier. Any such rule or standard may be of general application throughout the state or may be limited as to times, places, circumstances, or conditions in order to make due allowance for variations therein. Without limitation, rules or standards may relate to collection, transportation, processing, disposal, equipment, location, procedures, methods, systems or techniques or to any other matter relevant to the prevention, abatement or control of water, air, and land pollution which may be advised through the control of collection, transportation, processing, and disposal of solid waste and sewage sludge, and the deposit in or on land of any other material that may tend to cause pollution. By January 1, 1983, the rules for the management of sewage sludge shall include an analysis of the sewage sludge determined by the commissioner of agriculture to be necessary to meet the soil amendment labeling requirements of section 18C.215.

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

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

Pursuant to chapter 14, the pollution control agency may adopt, amend, and rescind rules and standards having the force of law relating to any purpose within the provisions of this chapter for generators of hazardous waste, the management, identification, labeling,

classification, storage, collection, treatment, transportation, processing, and disposal of hazardous waste and the location of hazardous waste facilities. A rule or standard may be of general application throughout the state or may be limited as to time, places, circumstances, or conditions. In implementing its hazardous waste rules, the pollution control agency shall give high priority to providing planning and technical assistance to hazardous waste generators. The agency shall assist generators in investigating the availability and feasibility of both interim and long-term hazardous waste management methods. The methods shall include waste reduction, waste separation, waste processing, resource recovery, and temporary storage.

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

Subd. 4a. **Permits.** (a) The pollution control agency may issue, continue in effect or deny permits, under such conditions as it may prescribe for the prevention of pollution, for the emission of air contaminants, or for the installation or operation of any emission facility, air contaminant treatment facility, treatment facility, potential air contaminant storage facility, or storage facility, or any part thereof, or for the sources or emissions of noise pollution.

The pollution control agency may also issue, continue in effect or deny permits, under such conditions as it may prescribe for the prevention of pollution, for the storage, collection, transportation, processing, or disposal of waste, or for the installation or operation of any system or facility, or any part thereof, related to the storage, collection, transportation, processing, or disposal of waste.

The pollution control agency may revoke or modify any permit issued under this subdivision and section 116.081 whenever it is necessary, in the opinion of the agency, to prevent or abate pollution.

(b) The pollution control agency has the authority for approval over the siting, expansion, or operation of a solid waste facility with regard to environmental issues. However, the agency's issuance of a permit does not release the permittee from any liability, penalty, or duty imposed by any applicable county ordinances. Nothing in this chapter precludes, or shall be construed to preclude, a county from enforcing land use controls, regulations, and ordinances existing at the time of the permit application and adopted pursuant to sections 366.10 to 366.181, 394.21 to 394.37, or 462.351 to 462.365, with regard to the siting, expansion, or operation of a solid waste facility.

Subd. 4b. **Permits; hazardous waste facilities.** (a) The agency shall provide to the office of environmental assistance established in section 115A.055, copies of each permit application for a hazardous waste facility immediately upon its submittal to the agency. The agency shall request recommendations on each permit application from the office and shall consult with the office on the agency's intended disposition of the recommendations. Except as otherwise provided in sections 115A.18 to 115A.30, the agency shall commence any environmental review required under chapter 116D within 120 days of its acceptance of a completed permit application. The agency shall respond to a permit application for a hazardous waste facility within 120 days following a decision not to prepare environmental documents or following the acceptance of a negative declaration notice or an environmental impact statement. Except as otherwise provided in sections 115A.18 to 115A.30, within 60 days following the submission of a final permit application for a hazardous waste facility, unless a time extension is agreed to by the applicant, the agency shall issue or deny all permits needed for the construction of the proposed facility.

(b) The agency shall promulgate rules pursuant to chapter 14 for all hazardous waste facilities. After the report of the office of environmental assistance required by section 115A.08, subdivision 5a, has been submitted to the legislature, the agency shall review its rules for hazardous waste facilities and shall consider whether any of the rules should be modified or if new rules should be adopted based on the recommendations in the report. The rules shall require:

(1) contingency plans for all hazardous waste facilities which provide for effective containment and control in any emergency condition;

(2) the establishment of a mechanism to assure that money to cover the costs of closure and postclosure monitoring and maintenance of hazardous waste facilities will be available;

(3) the maintenance of liability insurance by the owner or operator of hazardous waste facilities during the operating life of the facility.

Subd. 4d. **Permit fees.** (a) The agency may collect permit fees in amounts not greater than those necessary to cover the reasonable costs of reviewing and acting upon applications for agency permits and implementing and enforcing the conditions of the permits pursuant to agency rules. Permit fees shall not include the costs of litigation. The agency shall adopt rules under section 16A.1285 establishing a system for charging permit fees collected under this subdivision. The fee schedule must reflect reasonable and routine permitting, implementation, and enforcement costs. The agency may impose an additional enforcement fee to be collected for a period of up to two years to cover the reasonable costs of implementing and enforcing the conditions of a permit under the rules of the agency. Any money collected under this paragraph shall be deposited in the special revenue account.

(b) Notwithstanding paragraph (a), and section 16A.1285, subdivision 2, the agency shall collect an annual fee from the owner or operator of all stationary sources, emission facilities, emissions units, air contaminant treatment facilities, treatment facilities, potential air contaminant storage facilities, or storage facilities subject to the requirement to obtain a permit under subchapter V of the federal Clean Air Act, United States Code, title 42, section 7401 et seq., or section 116.081. The annual fee shall be used to pay for all direct and indirect reasonable costs, including attorney general costs, required to develop and administer the permit program requirements of subchapter V of the federal Clean Air Act, United States Code, title 42, section 7401 et seq., and sections of this chapter and the rules adopted under this chapter related to air contamination and noise. Those costs include the reasonable costs of reviewing and acting upon an application for a permit; implementing and enforcing statutes, rules, and the terms and conditions of a permit; emissions, ambient, and deposition monitoring; preparing generally applicable regulations; responding to federal guidance; modeling, analyses, and demonstrations; preparing inventories and tracking emissions; providing information to the public about these activities.

(c) The agency shall adopt fee rules in accordance with the procedures in section 16A.1285, subdivision 5, that will result in the collection, in the aggregate, from the sources listed in paragraph (b), of the following amounts:

(1) an amount not less than $25 per ton of each volatile organic compound; pollutant regulated under United States Code, title 42, section 7411 or 7412 (section 111 or 112 of the federal Clean Air Act); and each pollutant, except carbon monoxide, for which a national primary ambient air quality standard has been promulgated; and

(2) the agency fee rules may also result in the collection, in the aggregate, from the sources listed in paragraph (b), of an amount not less than $25 per ton of each pollutant not listed in clause (1) that is regulated under this chapter or air quality rules adopted under this chapter.

The agency must not include in the calculation of the aggregate amount to be collected under the fee rules any amount in excess of 4,000 tons per year of each air pollutant from a source.

(d) To cover the reasonable costs described in paragraph (b), the agency shall provide in the rules promulgated under paragraph (c) for an increase in the fee collected in each year by the percentage, if any, by which the Consumer Price Index for the most recent calendar year ending before the beginning of the year the fee is collected exceeds the Consumer Price Index for the calendar year 1989. For purposes of this paragraph the Consumer Price Index for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the United States Department of Labor, as of the close of the 12-month period ending on August 31 of each calendar year. The revision of the Consumer Price Index that is most consistent with the Consumer Price Index for calendar year 1989 shall be used.

(e) Any money collected under paragraphs (b) to (d) must be deposited in an air quality account in the environmental fund and must be used solely for the activities listed in paragraph (b).

(f) Persons who wish to construct or expand an air emission facility may offer to reimburse the agency for the costs of staff overtime or consultant services needed to expedite per-

mit review. The reimbursement shall be in addition to fees imposed by paragraphs (a) to (d). When the agency determines that it needs additional resources to review the permit application in an expedited manner, and that expediting the review would not disrupt air permitting program priorities, the agency may accept the reimbursement. Reimbursements accepted by the agency are appropriated to the agency for the purpose of reviewing the permit application. Reimbursement by a permit applicant shall precede and not be contingent upon issuance of a permit and shall not affect the agency's decision on whether to issue or deny a permit, what conditions are included in a permit, or the application of state and federal statutes and rules governing permit determinations.

[For text of subds 4e to 4i, see M.S.1994]

Subd. 4j. **Permits; solid waste facilities.** (a) The agency may not issue a permit for new or additional capacity for a mixed municipal solid waste resource recovery or disposal facility as defined in section 115A.03 unless each county using or projected in the permit to use the facility has in place a solid waste management plan approved under section 115A.46 or 473.803 and amended as required by section 115A.96, subdivision 6. The agency shall issue the permit only if the capacity of the facility is consistent with the needs for resource recovery or disposal capacity identified in the approved plan or plans. Consistency must be determined by the office of environmental assistance. Plans approved before January 1, 1990, need not be revised if the capacity sought in the permit is consistent with the approved plan or plans.

(b) The agency shall require as part of the permit application for a waste incineration facility identification of preliminary plans for ash management and ash leachate treatment or ash utilization. The permit issued by the agency must include requirements for ash management and ash leachate treatment.

(c) Within 30 days of receipt by the agency of a permit application for a solid waste facility, the commissioner shall notify the applicant in writing whether the application is complete and if not, what items are needed to make it complete, and shall give an estimate of the time it will take to process the application. Within 180 days of receipt of a completed application, the agency shall approve, disapprove, or delay decision on the application, with reasons for the delay, in writing.

[For text of subds 4k to 6, see M.S.1994]

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

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

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

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

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

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

(c) For the purpose of administration of rules adopted under this subdivision, the commissioner and the agency may provide exceptions for cases where the owner of a feedlot has

specific written plans to close the feedlot within five years. These exceptions include waiving requirements for major capital improvements.

(d) For purposes of this subdivision, a discharge caused by an extraordinary natural event such as a precipitation event of greater magnitude than the 25–year, 24–hour event, tornado, or flood in excess of the 100–year flood is not a "direct discharge of pollutants."

(e) In adopting and enforcing rules under this subdivision, the commissioner shall cooperate closely with other governmental agencies.

(f) The pollution control agency shall work with the Minnesota extension service, the department of agriculture, the board of water and soil resources, producer groups, local units of government, as well as with appropriate federal agencies such as the Soil Conservation Service and the Agricultural Stabilization and Conservation Service, to notify and educate producers of rules under this subdivision at the time the rules are being developed and adopted and at least every two years thereafter.

(g) The pollution control agency shall adopt rules governing the issuance and denial of permits for livestock feedlots, poultry lots or other animal lots pursuant to this section. A feedlot permit is not required for livestock feedlots with more than ten but less than 50 animal units; provided they are not in shoreland areas. These rules apply both to permits issued by counties and to permits issued by the pollution control agency directly.

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

[For text of subds 8 and 9, see M.S.1994]

Subd. 10. **Solid waste generator assessments.** (a) For the purposes of this subdivision:

(1) "assessed waste" means mixed municipal solid waste as defined in section 115A.03, subdivision 21, infectious waste as defined in section 116.76, subdivision 12, pathological waste as defined in section 116.76, subdivision 14, industrial waste as defined in section 115A.03, subdivision 13a, and construction debris as defined in section 115A.03, subdivision 7; provided that all types of assessed waste listed in this clause do not include materials that are separated for recycling by the generator and that are collected separately from other waste and delivered to a waste facility for the purpose of recycling and recycled, and it also does not include waste generated outside of Minnesota;

(2) "noncompacted cubic yard" means a loose cubic yard of assessed waste;

(3) "nonresidential customer" means:

(i) an owner or operator of a business, including a home operated business, industry, church, nursing home, nonprofit organization, school, or any other commercial or institutional enterprise;

(ii) an owner of a building or site containing multiple residences, including a townhome or manufactured home park, where no resident has separate trash pickup, and no resident is separately assessed for such service; and

(iii) any other generator of assessed waste that is not a residential customer as defined in clause (6);

(4) "periodic waste collection" means each time a waste container is emptied by the person that collects the assessed waste;

(5) "person that collects assessed waste" means each person that is required to pay sales tax on solid waste collection services under section 297A.45, or would pay sales tax under that section if the assessed waste was mixed municipal solid waste; and

(6) "residential customer" means:

(i) a detached single family residence that generates only household mixed municipal solid waste; and

(ii) a person residing in a building or at a site containing multiple residences, including a townhome or a manufactured home park, where each resident either (A) is separately assessed for waste collection or (B) has separate waste collection for each resident, even if the resident pays to the owner or an association a monthly maintenance fee which includes the expense of waste collection, and the owner or association pays the waste collector for waste collection in one lump sum.

(b) A person that collects assessed waste shall collect and remit to the commissioner of revenue a solid waste generator assessment from each of the person's customers as provided in paragraphs (c) and (d). A waste management facility that accepts assessed waste shall collect and remit to the commissioner of revenue the solid waste assessment as provided in paragraph (e).

(c) Except as provided in paragraph (f), the amount of the assessment for each residential customer is $2 per year. Each person that collects assessed waste shall collect the assessment annually from each residential customer that is receiving mixed municipal solid waste collection service on July 1 of each year and shall remit the amount actually collected along with the person's first remittance of the sales tax on solid waste collection services, described in section 297A.45, made after October 1 of each year. For buildings or sites that contain multiple residences that are not separately billed for collection services, the person who collects assessed waste shall collect the assessment for all the residences from the person who is billed for the collection service. Any amount of the assessment that is received by the person that collects assessed waste after October 1 of each year must be remitted along with the person's next remittance of sales tax after receipt of the assessment.

(d) The amount of the assessment for each nonresidential customer is 60 cents per noncompacted cubic yard of periodic waste collection capacity purchased by the customer, based on the size of the container for the assessed waste. For a residential customer that generates assessed waste that is not mixed municipal solid waste, the amount of the assessment is 60 cents per noncompacted cubic yard of collection capacity purchased for the waste that is not mixed municipal solid waste, based on the size of the container for the waste. If the capacity purchased is for compacted cubic yards of mixed municipal solid waste, the noncompacted capacity purchased is based on the compaction ratio of 3:1. The commissioner of revenue, after consultation with the commissioner of the pollution control agency, shall determine, and may publish by notice, compaction rates for other types of waste where they exist and conversion schedules for waste that is managed by measurements other than cubic yards. Each person that collects assessed waste shall collect the assessment from each nonresidential customer as part of each statement for payment of waste collection charges and shall remit the amount actually collected along with the next remittance of sales tax after receipt of the assessment.

(e) A person who transports assessed waste generated by that person or by another person without compensation shall pay an assessment of 60 cents per noncompacted cubic yard or the equivalent to the operator of the waste management facility to which the waste is delivered. The operator shall remit the assessments actually collected under this paragraph to the commissioner of revenue. This subdivision does not apply to a person who transports industrial waste generated by that person to a facility owned and operated by that person.

(f) The amount of the assessment for each residential customer that is subject to a mixed municipal solid waste collection service for which the customer pays, based on the volume of waste collected, by purchasing specific collection bags or stickers from the waste collector, municipality, or other vendor is either:

(1) determined by a method developed by the waste collector or municipality and approved by the commissioner of revenue, which yields the equivalent of approximately a $2 annual assessment per household; or

(2) three cents per each 35 gallon unit or less. If the per unit fee method under this clause is used, it is the responsibility of the waste collector or the municipality who is selling the bags or stickers to remit the amount of the assessment to the department of revenue, according to a payment schedule provided by the commissioner of revenue. The collection service and assessment under this clause shall be included in the price of the bag or sticker.

(g) The commissioner of revenue shall redesign sales tax forms for persons that collect assessed waste to accommodate payment of the assessment. The amounts remitted under this subdivision must be deposited in the state treasury and credited to the solid waste fund established in section 115B.42.

(h) For persons that collect assessed waste and operators of waste management facilities who are required to collect the solid waste generator assessments under this subdivision, and persons who are required to remit the assessment under paragraph (f), and who do not collect and remit the sales tax on solid waste collection services under section 297A.45, the commis-

sioner of revenue shall determine when and in what manner the persons and operators must remit the assessment amounts actually collected.

(i) For the purposes of this subdivision, the requirement to "collect" the solid waste generator assessment under paragraph (b) means that the person to whom the requirement applies shall:

(i) include the amount of the assessment in the appropriate statement of charges for waste collection services and in any action to enforce payment on delinquent accounts;

(ii) accurately account for assessments received;

(iii) indicate to generators that payment of the assessment by the waste generator is required by law and inform generators, using information supplied by the commissioner of the agency, of the purposes for which revenue from the assessment will be spent; and

(iv) cooperate fully with the commissioner of revenue to identify generators of assessed waste who fail to remit payment of the assessment.

(j) The audit, penalty, enforcement, and administrative provisions applicable to taxes imposed under chapter 297A apply to the assessments imposed under this subdivision.

(k) If less than $25,000,000 is projected to be available for new encumbrances in any fiscal year after fiscal year 1996 from all existing dedicated revenue sources for landfill cleanup and reimbursement costs under sections 115B.39 to 115B.46, by April 1 before the next fiscal year in which the shortfall is projected the commissioner of the agency shall certify to the commissioner of revenue the amount of the shortfall. To provide for the shortfall, the commissioner of revenue shall increase the assessment under paragraphs (d) and (e) by an amount sufficient to generate revenue equal to the amount of the shortfall effective the following July 1 and shall provide notice of the increased assessment by May 1 following certification to persons who are required to collect and remit the solid waste generator assessments under this subdivision.

Subd. 11. **Permits; landfarming contaminated soil.** (a) If the agency receives an application for a permit to spread soil contaminated by a harmful substance as defined in section 115B.25, subdivision 7a, on land in an organized or unorganized township other than the township of origin of the soil, the agency must notify the board of the organized township, or the county board of the unorganized township where the spreading would occur at least 60 days prior to issuing the permit.

(b) The agency must not issue a permit to spread contaminated soil on land outside the township of origin if, by resolution, the township board of the organized township, or the county board of the unorganized township where the soil is to be spread requests that the agency not issue a permit.

History: *1995 c 111 s 1; 1995 c 220 s 104,130; 1995 c 233 art 1 s 7,8; art 2 s 49; 1995 c 247 art 1 s 37,38; art 2 s 54; 1995 c 250 s 1; 1995 c 265 art 2 s 14*

116.071 CAUSE OF ACTION FOR ABANDONMENT OF HAZARDOUS WASTE ON PROPERTY OF ANOTHER.

(a) If an owner of property on which containers of hazardous waste or material which is hazardous waste is abandoned by another disposes of the waste in compliance with all applicable laws and at the owner's expense, the property owner is entitled to recover from any person responsible for the waste that was abandoned damages of twice the costs incurred for removal, processing, and disposal of the waste, together with the costs and losses that result from the abandonment and court costs. If, before the waste is properly disposed of, the property owner knows the identity and location of a person responsible for the waste that was abandoned, the property owner is not entitled to recover against that person under this section unless:

(1) the property owner requests in writing that the person responsible for the waste that was abandoned remove and properly dispose of the abandoned waste and allows the responsible person 30 days after the request is mailed to remove the waste;

(2) the property owner allows the person responsible for the waste that was abandoned reasonable access to the owner's property to remove the waste within the 30–day period after giving the notice; and

(3) the person responsible for the waste that was abandoned fails to remove all of the waste within the 30–day period.

(b) A person who is purchasing property on a contract for deed is a property owner for the purposes of this section.

History: *1995 c 119 s 1*

116.072 ADMINISTRATIVE PENALTIES.

Subdivision 1. **Authority to issue penalty orders.** (a) The commissioner may issue an order requiring violations to be corrected and administratively assessing monetary penalties for violations of this chapter and chapters 115, 115A, 115D, and 115E, any rules adopted under those chapters, and any standards, limitations, or conditions established in an agency permit; and for failure to respond to a request for information under section 115B.17, subdivision 3. The order must be issued as provided in this section.

(b) A county board may adopt an ordinance containing procedures for the issuance of administrative penalty orders and may issue orders beginning August 1, 1996. Before adopting ordinances, counties shall work cooperatively with the agency to develop an implementation plan for the orders that substantially conforms to a model ordinance developed by the counties and the agency. After adopting the ordinance, the county board may issue orders requiring violations to be corrected and administratively assessing monetary penalties for violations of county ordinances adopted under section 400.16, 400.161, or 473.811 or chapter 115A that regulate solid and hazardous waste and any standards, limitations, or conditions established in a county license issued pursuant to these ordinances. For violations of ordinances relating to hazardous waste, a county's penalty authority is described in subdivisions 2 to 5. For violations of ordinances relating to solid waste, a county's penalty authority is described in subdivision 5a. Subdivisions 6 to 11 apply to violations of ordinances relating to both solid and hazardous waste.

(c) Monetary penalties collected by a county must be used to manage solid and hazardous waste. A county board's authority is limited to violations described in paragraph (b). Its authority to issue orders under this section expires August 1, 1999.

Subd. 2. **Amount of penalty; considerations.** (a) The commissioner or county board may issue an order assessing a penalty up to $10,000 for all violations identified during an inspection or other compliance review.

(b) In determining the amount of a penalty the commissioner or county board may consider:

(1) the willfulness of the violation;

(2) the gravity of the violation, including damage to humans, animals, air, water, land, or other natural resources of the state;

(3) the history of past violations;

(4) the number of violations;

(5) the economic benefit gained by the person by allowing or committing the violation; and

(6) other factors as justice may require, if the commissioner or county board specifically identifies the additional factors in the commissioner's or county board's order.

(c) For a violation after an initial violation, the commissioner or county board shall, in determining the amount of a penalty, consider the factors in paragraph (b) and the:

(1) similarity of the most recent previous violation and the violation to be penalized;

(2) time elapsed since the last violation;

(3) number of previous violations; and

(4) response of the person to the most recent previous violation identified.

Subd. 3. **Contents of order.** An order assessing an administrative penalty under this section shall include:

(1) a concise statement of the facts alleged to constitute a violation;

(2) a reference to the section of the statute, rule, ordinance, variance, order, stipulation agreement, or term or condition of a permit or license that has been violated;

(3) a statement of the amount of the administrative penalty to be imposed and the factors upon which the penalty is based; and

(4) a statement of the person's right to review of the order.

Subd. 4. **Corrective order.** (a) The commissioner or county board may issue an order assessing a penalty and requiring the violations cited in the order to be corrected within 30 calendar days from the date the order is received.

(b) The person to whom the order was issued shall provide information to the commissioner or county board before the 31st day after the order was received demonstrating that the violation has been corrected or that appropriate steps toward correcting the violation have been taken. The commissioner or county board shall determine whether the violation has been corrected and notify the person subject to the order of the commissioner's or county board's determination.

Subd. 5. **Penalty.** (a) Except as provided in paragraph (b), if the commissioner or county board determines that the violation has been corrected or appropriate steps have been taken to correct the action, the penalty must be forgiven. Unless the person requests review of the order under subdivision 6 or 7 before the penalty is due, the penalty in the order is due and payable:

(1) on the 31st day after the order was received, if the person subject to the order fails to provide information to the commissioner or county board showing that the violation has been corrected or that appropriate steps have been taken toward correcting the violation; or

(2) on the 20th day after the person receives the commissioner's or county board's determination under subdivision 4, paragraph (b), if the person subject to the order has provided information to the commissioner or county board that the commissioner or county board determines is not sufficient to show the violation has been corrected or that appropriate steps have been taken toward correcting the violation.

(b) For a repeated or serious violation, the commissioner or county board may issue an order with a penalty that will not be forgiven after the corrective action is taken. The penalty is due by 31 days after the order was received unless review of the order under subdivision 6, 7, or 8 has been sought.

(c) Interest at the rate established in section 549.09 begins to accrue on penalties under this subdivision on the 31st day after the order with the penalty was received.

Subd. 5a. **County penalty authority for solid waste violations.** (a) A county board's authority to issue a corrective order and assess a penalty for all violations relating to solid waste that are identified during an inspection or other compliance review is as described in this subdivision. The model ordinance described in subdivision 1, paragraph (b), must include provisions for letters or warnings that may be issued following the inspection and before proceeding under paragraph (b).

(b) For all violations described in paragraph (a), a county attorney or county department with responsibility for environmental enforcement may first issue a notice of violation that complies with the requirements of subdivision 4, except that no penalty may be assessed unless, in the opinion of the county board, the gravity of the violation and its potential for damage to, or actual damage to, public health or the environment is such that a penalty under paragraph (c) or (d) is warranted. In that case the county attorney or department may proceed directly to paragraph (c) or (d).

(c) If the violations are not corrected, if appropriate steps have not been taken to correct them, or if the county board has determined that the gravity of the violations are such that action under this paragraph is warranted, a county board may issue a corrective order as described in subdivision 4, except that the penalty may not exceed $2,000.

(d) If the violations are still not corrected, if appropriate steps have not been taken to correct them, or if the county board has determined that the gravity of the violations are such that action under this paragraph is warranted, a county board may issue a corrective order as described in subdivision 4, except that the penalty may not exceed $5,000.

(e) In determining the amount of the penalty in paragraph (c) or (d), the county board shall be governed by subdivision 2, paragraphs (b) and (c). The penalty assessed under paragraph (c) or (d) shall be due and payable, forgiven, or assessed without forgiveness as described in subdivision 5.

Subd. 6. **Expedited administrative hearing.** (a) Within 30 days after receiving an order or within 20 days after receiving notice that the commissioner or county board has determined that a violation has not been corrected or appropriate steps have not been taken, the person subject to an order under this section may request an expedited hearing, utilizing the procedures of Minnesota Rules, parts 1400.8510 to 1400.8612, to review the commissioner's or county board's action. The hearing request must specifically state the reasons for seeking review of the order. The person to whom the order is directed and the commissioner or county board are the parties to the expedited hearing. The commissioner or county board must notify the person to whom the order is directed of the time and place of the hearing at least 20 days before the hearing. The expedited hearing must be held within 30 days after a request for hearing has been filed with the commissioner or county board unless the parties agree to a later date.

(b) All written arguments must be submitted within ten days following the close of the hearing. The hearing shall be conducted under Minnesota Rules, parts 1400.8510 to 1400.8612, as modified by this subdivision. The office of administrative hearings may, in consultation with the agency, adopt rules specifically applicable to cases under this section.

(c) The administrative law judge shall issue a report making recommendations about the commissioner's or county board's action to the commissioner or county board within 30 days following the close of the record. The administrative law judge may not recommend a change in the amount of the proposed penalty unless the administrative law judge determines that, based on the factors in subdivision 2, the amount of the penalty is unreasonable.

(d) If the administrative law judge makes a finding that the hearing was requested solely for purposes of delay or that the hearing request was frivolous, the commissioner or county board may add to the amount of the penalty the costs charged to the agency by the office of administrative hearings for the hearing.

(e) If a hearing has been held, the commissioner or county board may not issue a final order until at least five days after receipt of the report of the administrative law judge. The person to whom an order is issued may, within those five days, comment to the commissioner or county board on the recommendations and the commissioner or county board will consider the comments. The final order may be appealed in the manner provided in sections 14.63 to 14.69.

(f) If a hearing has been held and a final order issued by the commissioner or county board, the penalty shall be paid by 30 days after the date the final order is received unless review of the final order is requested under sections 14.63 to 14.69. If review is not requested or the order is reviewed and upheld, the amount due is the penalty, together with interest accruing from 31 days after the original order was received at the rate established in section 549.09.

Subd. 7. **District court hearing.** (a) Within 30 days after the receipt of an order from the commissioner or a county board or within 20 days of receipt of notice that the commissioner or a county board has determined that a violation has not been corrected or appropriate steps have not been taken, the person subject to an order under this section may file a petition in district court for review of the order in lieu of requesting an administrative hearing under subdivision 6. The petition shall be filed with the court administrator with proof of service on the commissioner or county board. The petition shall be captioned in the name of the person making the petition as petitioner and the commissioner or county board as respondent. The petition shall state with specificity the grounds upon which the petitioner seeks rescission of the order, including the facts upon which each claim is based.

(b) At trial, the commissioner or county board must establish by a preponderance of the evidence that a violation subject to this section occurred, the petitioner is responsible for the violation, a penalty immediately assessed as provided for under subdivision 5, paragraph (b) or (c), is justified by the violation, and the factors listed in subdivision 2 were considered when the penalty amount was determined and the penalty amount is justified by those factors.

Subd. 8. **Mediation.** In addition to review under subdivision 6 or 7, the commissioner or county board is authorized to enter into mediation concerning an order issued under this section if the commissioner or county board and the person to whom the order is issued both agree to mediation.

Subd. 9. **Enforcement.** (a) The attorney general on behalf of the state, or the county attorney on behalf of the county, may proceed to enforce penalties that are due and payable under this section in any manner provided by law for the collection of debts.

(b) The attorney general or county attorney may petition the district court to file the administrative order as an order of the court. At any court hearing, the only issues parties may contest are procedural and notice issues. Once entered, the administrative order may be enforced in the same manner as a final judgment of the district court.

(c) If a person fails to pay the penalty, the attorney general or county attorney may bring a civil action in district court seeking payment of the penalties, injunctive, or other appropriate relief including monetary damages, attorney fees, costs, and interest.

Subd. 10. **Revocation and suspension of permit.** If a person fails to pay a penalty owed under this section, the agency or county board has grounds to revoke or refuse to reissue or renew a permit or license issued by the agency or county board.

Subd. 11. **Cumulative remedy.** The authority of the agency or county board to issue a corrective order assessing penalties is in addition to other remedies available under statutory or common law, except that the state or county board may not seek civil penalties under any other provision of law for the violations covered by the administrative penalty order. The payment of a penalty does not preclude the use of other enforcement provisions, under which penalties are not assessed, in connection with the violation for which the penalty was assessed.

Subd. 12. **Report; administrative penalty order.** (a) All counties that have adopted ordinances allowing them to issue administrative penalty orders shall report to the legislative auditor by September 1, 1998, on administrative penalty activity through August 1, 1998. The reports must include at least the following information: the nature and number of orders and penalties issued or forgiven, the nature and outcome of appeals taken, how much revenue was collected from penalties and how it was spent, and any other information a county board finds relevant.

(b) The legislative audit commission is requested to direct the legislative auditor to evaluate the data and report to the legislative commission on waste management by January 1, 1999, on at least the following matters: the degree to which penalties were suitable to the gravity of the violation, compliance with the implementation plan, and any other information the auditor finds relevant. In preparing the report, the auditor shall solicit information from counties and the regulated community and shall make recommendations as to whether the administrative penalty authority should be continued, discontinued, or continued with modifications and make any other recommendations the auditor wishes to propose as a result of the study.

History: *1995 c 247 art 1 s 39*

116.101 HAZARDOUS WASTE CONTROL AND SPILL CONTINGENCY PLAN.

The pollution control agency shall study and investigate the problems of hazardous waste control and shall develop a statewide hazardous waste spill contingency plan detailing the location of hazardous waste facilities and storage sites throughout the state and the needs relative to the interstate transportation of hazardous waste.

The statewide hazardous waste spill contingency plan shall be incorporated into the statewide hazardous waste management plans of the office of environmental assistance established by section 115A.055. The pollution control agency shall develop an informational reporting system of hazardous waste quantities generated, processed, and disposed of in the state.

History: *1995 c 247 art 2 s 54*

116.12 HAZARDOUS WASTE ADMINISTRATION FEES.

Subdivision 1. **Fee schedules.** The agency shall establish the fees provided in subdivisions 2 and 3 in the manner provided in section 16A.1285 to cover expenditures of amounts appropriated from the environmental fund to the agency for permitting, monitoring, inspection, and enforcement expenses of the hazardous waste activities of the agency.

[For text of subds 2 and 3, see M.S.1994]

History: *1995 c 220 s 105*

116.125 NOTIFICATION OF FEE INCREASES.

Before the pollution control agency adopts a fee increase to cover an unanticipated shortfall in revenues, the commissioner shall give written notice of the proposed increase to the chairs of the senate committee on finance, the house of representatives committee on ways and means, the senate and house of representatives environment and natural resources committees, the finance division of the senate committee on environment and natural resources, and the house of representatives committee on environment and natural resources finance.

History: *1995 c 220 s 106*

116.16 MINNESOTA STATE WATER POLLUTION CONTROL PROGRAM.

[For text of subds 1 to 4, see M.S.1994]

Subd. 5. **Rules.** (a) The agency shall promulgate permanent rules for the administration of grants and loans authorized to be made under the water pollution control program, which rules, however, shall not be applicable to the issuance of bonds by the commissioner of finance as provided in section 116.17. The rules shall contain as a minimum:

(1) procedures for application by municipalities;

(2) conditions for the administration of the grant or loan;

(3) criteria for the ranking of projects in order of priority for grants or loans, based on factors including the extent and nature of pollution, technological feasibility, assurance of proper operation, maintenance and replacement, and participation in multimunicipal systems; and

(4) such other matters as the agency and the commissioner find necessary to the proper administration of the grant program.

(b) For purposes of awarding independent state grants, the agency may by rule waive the federal 20–year planning requirement for municipalities with a population of less than 1,500.

[For text of subds 8 to 12, see M.S.1994]

History: *1995 c 233 art 2 s 56*

116.162 STATE FINANCIAL ASSISTANCE PROGRAM FOR COMBINED SEWER OVERFLOW.

[For text of subds 1 to 7, see M.S.1994]

Subd. 8. **Rules.** The agency shall promulgate permanent rules for the administration of the financial assistance program established by this section. The rules must contain as a minimum:

(1) procedures for application;

(2) criteria for eligibility of combined sewer overflow abatement projects;

(3) conditions for use of the financial assistance;

(4) procedures for the administration of financial assistance; and

(5) other matters that the agency finds necessary for the proper administration of the program.

History: *1995 c 233 art 2 s 56*

116.17 MINNESOTA STATE WATER POLLUTION CONTROL BONDS.

[For text of subd 1, see M.S.1994]

Subd. 2. **Issuance of bonds.** Upon request by resolution of the agency and upon authorization as provided in subdivision 1 the commissioner of finance shall sell and issue Minnesota state water pollution control bonds in the aggregate amount requested, upon sealed bids and upon such notice, at such price, in such form and denominations, bearing interest at a rate or rates, maturing in amounts and on dates, with or without option of prepayment upon notice and at specified times and prices, payable at a bank or banks within or outside the state, with provisions, if any, for registration, conversion, and exchange and for the issuance of temporary bonds or notes in anticipation of the sale or delivery of definitive bonds, and in accordance with further provisions, as the commissioner of finance shall determine, subject to the approval of the attorney general, but not subject to the provisions of sections 14.02, 14.04 to 14.28, 14.38, 14.44 to 14.45, and 14.57 to 14.62. The bonds shall be executed by the commissioner of finance and attested by the state treasurer under their official seals. The signatures of the officers on the bonds and any appurtenant interest coupons and their seals may be printed, lithographed, engraved, stamped, or otherwise reproduced thereon, except that each bond shall be authenticated by the manual signature on its face of one of the officers or of an authorized representative of a bank designated by the commissioner as registrar or other authenticating agent. The commissioner of finance shall ascertain and certify to the purchasers of the bonds the performance and existence of all acts, conditions, and things necessary to make them valid and binding general obligations of the state of Minnesota, subject to the approval of the attorney general.

[For text of subds 3 to 6, see M.S.1994]

History: *1995 c 233 art 2 s 56*

116.181 CORRECTIVE ACTION GRANTS.

[For text of subds 1 to 5, see M.S.1994]

Subd. 6. **Rules of the agency.** The agency shall promulgate permanent rules for the administration of the corrective action grant program. The rules must contain at a minimum:

(1) the method for determining the amount of the corrective action grant;

(2) application requirements;

(3) criteria for determining which municipalities will be awarded grants when there are more applicants than money;

(4) conditions for use of the grant funds;

(5) identification of eligible costs;

(6) the amount that must be reimbursed to the authority in the event funds are recovered by the municipality from the responsible person; and

(7) other matters that the agency finds necessary for proper administration of the program.

[For text of subd 7, see M.S.1994]

History: *1995 c 233 art 2 s 56*

116.481 MONITORING.

Subdivision 1. **Measurement of tank capacity.** (a) By September 1, 1996, all aboveground tanks of 2,000 gallons or more used for storage and subsequent resale of petroleum products must be equipped with:

(1) a gauge in working order that shows the current level of product in the tank; or

(2) an audible or visual alarm which alerts the person delivering fuel into the tank that the tank is within 100 gallons of capacity.

(b) In lieu of the equipment specified in paragraph (a), the owner or operator of a tank may use a manual method of measurement which accurately determines the amount of product in the tank and the amount of capacity available to be used. This information must be readily available to anyone delivering fuel into the tank prior to delivery. Documentation that a tank has the available capacity for the amount of product to be delivered must be transmitted to the person making the delivery.

Subd. 2. **Contents labeled.** (a) By December 1, 1995, all aboveground tanks governed by this section must be numbered and labeled as to the tank contents, total capacity, and capacity in volume increments of 500 gallons or less.

(b) Piping connected to the tank must be labeled with the product carried at the point of delivery and at the tank inlet. Manifolded delivery points must have all valves labeled as to product distribution.

Subd. 3. **Site diagram.** (a) All tanks at a facility shall be shown on a site diagram which is permanently mounted in an area accessible to delivery personnel. The diagram shall show the number, capacity, and contents of tanks and the location of piping, valves, storm sewers, and other information necessary for emergency response, including the facility owner's or operator's telephone number.

(b) Prior to delivering product into an underground or aboveground tank, delivery personnel shall:

(1) consult the site diagram, where applicable, for proper delivery points, tank and piping locations, and valve settings;

(2) visually inspect the tank, piping, and valve settings to determine that the product being delivered will flow only into the appropriate tank; and

(3) determine, using equipment and information available at the site, that the available capacity of the tank is sufficient to hold the amount being delivered.

Delivery personnel must remain in attendance during delivery.

Subd. 4. **Capacity of tank.** A tank may not be filled from a transport vehicle compartment containing more than the available capacity of the tank, unless the hose of the transport vehicle is equipped with a manually operated shut–off nozzle.

Subd. 5. **Exemption.** Aboveground and underground tanks located at refineries, pipeline terminals, and river terminals are exempt from this section.

History: *1995 c 240 art 1 s 13*

116.61 INSPECTION REQUIRED.

Subdivision 1. **Requirement.** (a) Except as described in subdivision 1a, each motor vehicle registered to an owner residing in the metropolitan area and each motor vehicle customarily domiciled in the metropolitan area but exempt from registration under section 168.012 or 473.448 must be inspected annually for air pollution emissions as provided in sections 116.60 to 116.65.

(b) The inspections must take place at a public or fleet inspection station. The inspections must take place within 90 days prior to the registration deadline for the vehicle or, for vehicles that are exempt from license fees under section 168.012 or 473.448, at a time set by the agency.

(c) The registration on a motor vehicle subject to paragraph (a) may not be renewed unless the vehicle has been inspected for air pollution emissions as provided in sections 116.60 to 116.65 and received a certificate of compliance or a certificate of waiver.

Subd. 1a. **Exception for new vehicles.** A vehicle need not be inspected until the year in which it is being registered is five years more than its model year.

[For text of subd 2, see M.S.1994]

History: *1995 c 204 s 1,2*

116.62 MOTOR VEHICLE INSPECTION PROGRAM.

[For text of subds 1 to 5, see M.S.1994]

Subd. 5a. **Temporary registration.** The commissioner, in consultation with the commissioner of public safety, shall adopt a procedure for granting temporary registrations to persons whose vehicle registrations have expired or will shortly expire. Upon request of the vehicle owner, the commissioner shall issue a letter of temporary registration, valid for one day, that allows the owner to drive to an inspection station to have the vehicle inspected.

[For text of subds 6 to 8, see M.S.1994]

Subd. 9. **Advertising by contractor.** Any advertisement or promotional material relating to the motor vehicle inspection program that is paid for by the contractor selected under subdivision 3 must clearly display a disclaimer stating that the advertisement or promotional material was not paid for by the state.

History: *1995 c 204 s 3,4*

116.64 INSPECTION FEE.

Subdivision 1. **Amount.** Beginning August 1, 1995, an annual fee established in accordance with the rules of the agency, not to exceed $8, is imposed for the cost of the inspection of a motor vehicle at a public inspection station and such reinspections as the rules of the agency allow, the cost of the contract entered under section 116.62, subdivision 3, and the administrative costs of the agency and the department.

[For text of subds 2 and 3, see M.S.1994]

History: *1995 c 204 s 5*

116.66 MOTOR VEHICLE SALVAGE FACILITIES.

[For text of subd 1, see M.S.1994]

Subd. 2. **Facility evaluations; environmental assessment.** (a) The commissioner of the pollution control agency shall conduct facility evaluations to evaluate ongoing waste management practices and shall provide technical assistance for corrective action at motor vehicle salvage facilities.

(b) The commissioner may conduct environmental assessments at motor vehicle salvage facilities to determine the extent and magnitude of any contamination and environmental impacts, develop criteria, determine appropriate cleanup methods, and set priorities for cleanup actions at motor vehicle salvage facility sites, under the criteria in Minnesota Rules, chapter 7044.

[For text of subd 3, see M.S.1994]

Subd. 4. **Repealer.** This section is repealed on June 30, 1999.

History: *1995 c 247 art 1 s 40,41*

116.67 COST–SHARING PROGRAM; CLEANUP OF CERTAIN MOTOR VEHICLE SALVAGE FACILITIES.

The pollution control agency may enter into cost–sharing agreements with owners and operators of motor vehicle salvage facilities for the cleanup of motor vehicle salvage facility sites, based on the findings of the environmental assessment of motor vehicle salvage facilities conducted under section 116.66, subdivision 2. An agreement under this section must provide that the agency will be responsible for paying 90 percent of the costs of removal and remedial actions at the site, and the owner or operator of the motor vehicle salvage facility must pay the remaining ten percent of the costs. For the purposes of this section, the terms "removal" and "remedial actions" have the meanings given in section 115B.02, subdivisions 16 and 17.

History: *1995 c 247 art 1 s 42*

116.731 REQUIREMENTS TO RECYCLE CFCS.

[For text of subd 1, see M.S.1994]

Subd. 2. **Refrigeration equipment.** A person processing scrap refrigerators, air conditioning units, dehumidifiers, heat pumps, under–the–counter ice makers, vending machines, drinking water coolers, chillers, commercial refrigeration, industrial process refrigeration, or freezers must remove and recycle, destroy, or properly dispose of the CFCs.

[For text of subd 3, see M.S.1994]

Subd. 4. **Servicing and recycling of appliances.** (a) A person servicing or recycling refrigerators, air conditioning units, dehumidifiers, heat pumps, under–the–counter ice makers, vending machines, drinking water coolers, chillers, commercial refrigeration, industrial process refrigeration, or freezers must:

(1) recapture CFCs, provide storage for recaptured CFCs, and transfer recaptured CFCs to a recycler; or

(2) recapture CFCs and recycle the CFCs to an allowed use.

(b) The recovered CFCs may be properly disposed of or destroyed.

Subd. 4a. **Venting.** A person may not knowingly vent or otherwise release into the environment any CFC used as a refrigerant.

[For text of subds 5 and 6, see M.S.1994]

History: *1995 c 147 s 1–3*

116.735 TRAINING AND CERTIFICATION.

The agency shall develop standards of competence for persons who engage in activities relating to products that may contain CFCs, as described in section 116.731, subdivisions 1 to 4, and the commissioner may conduct training programs for these persons. The persons shall obtain from the commissioner a certificate of competence or equivalent federal certification that has been approved by the commissioner.

The agency may adopt rules to implement this section.

History: *1995 c 147 s 4*

116.87 DEFINITIONS.

[For text of subd 1, see M.S.1994]

Subd. 2. **Residence.** The term "residence" has the meaning given in rules adopted under sections 144.9501 to 144.9509.

History: *1995 c 213 art 1 s 2*

116.92 MERCURY EMISSIONS REDUCTION.

[For text of subds 1 to 3, see M.S.1994]

Subd. 4. **Removal from service; products containing mercury.** (a) When an item listed in subdivision 3 is removed from service the mercury in the item must be reused, recycled, or otherwise managed to ensure compliance with section 115A.932.

(b) A person who is in the business of replacing or repairing an item listed in subdivision 3 in households shall ensure, or deliver the item to a facility that will ensure, that the mercury contained in an item that is replaced or repaired is reused or recycled or otherwise managed in compliance with section 115A.932.

(c) A person may not crush a motor vehicle unless the person has first made a good faith effort to remove all of the mercury switches in the motor vehicle.

[For text of subds 5 to 9, see M.S.1994]

History: *1995 c 247 art 1 s 43*

116.94 [Repealed, 1995 c 247 art 1 s 67]

116.96 DEFINITIONS.

[For text of subds 1 to 4, see M.S.1994]

Subd. 5. **Regulated pollutant.** "Regulated pollutant" means:

(1) a volatile organic compound that participates in atmospheric photochemical reactions;

(2) a pollutant for which a national ambient air quality standard has been promulgated;

(3) a pollutant that is addressed by a standard promulgated under section 7411 or 7412 of the Clean Air Act; or

(4) any pollutant that is regulated under this chapter or air quality rules adopted under this chapter.

[For text of subd 6, see M.S.1994]

History: *1995 c 220 s 107*

116.99 SMALL BUSINESS AIR QUALITY COMPLIANCE ADVISORY COUNCIL.

[For text of subds 1 and 2, see M.S.1994]

Subd. 3. **Membership.** The council consists of the following members:

(1) two members appointed by the governor who represent the general public and are not owners or representatives of owners who are small business stationary sources;

(2) the commissioner or the commissioner's designee, who shall represent the agency;

(3) four members appointed by the legislature who are owners or representatives of owners of small business stationary sources;

(4) the director of the office of environmental assistance or the director's designee; and

(5) the commissioner of trade and economic development or the commissioner's designee.

The majority and minority leaders of the house of representatives and the senate shall each appoint one of the members listed in clause (3).

[For text of subds 4 to 8, see M.S.1994]

History: *1995 c 247 art 2 s 54*

116.991 SMALL BUSINESS ENVIRONMENTAL LOAN PROGRAM.

Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this section.

(b) "Clean Air Act" means the federal Clean Air Act, United States Code, title 42, section 7401 et seq.

(c) "Commissioner" means the commissioner of the pollution control agency.

Subd. 2. **Establishment.** A small business environmental revolving loan program is established to provide loans to small businesses for purposes of complying with the Clean Air Act.

Subd. 3. **Eligible borrower.** To be eligible for a loan under this section, a borrower must:

(1) need to make a process change or equipment purchase to comply with the Clean Air Act;

(2) have less than 50 full–time employees;

(3) have an after–tax profit of less than $500,000; and

(4) have a net worth of less than $1,000,000.

Subd. 4. **Loan application procedure.** An eligible borrower may apply for a loan after the commissioner determines the business is subject to Clean Air Act requirements and approves the process change or equipment needed to achieve compliance. The commissioner shall consider the order in which applications are received in awarding loans and may give priority to applicants that are subject to standards adopted under United States Code, title 42, section 7412. The commissioner shall decide whether to award a loan to an eligible borrower based on:

(1) the applicant's financial need;

(2) the applicant's ability to repay the loan; and

(3) the expected environmental benefit.

Subd. 5. **Limitation on loan obligation.** A loan made under this section is limited to the money available in the small business environmental loan account.

Subd. 6. **Loan conditions.** A loan made under this section must:

(1) have an interest rate that is the lesser of four percent or 50 percent of prime rate;

(2) have a term of payment of not more than seven years; and

(3) be in an amount not less than $1,000 or more than $50,000.

History: *1995 c 220 s 108*

116.992 SMALL BUSINESS ENVIRONMENTAL LOAN ACCOUNT.

The small business environmental loan account is established in the environmental fund. Repayments of loans made under section 116.991 must be credited to this account.

History: *1995 c 220 s 109*