

CHAPTER 116

POLLUTION CONTROL AGENCY

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116.03 COMMISSIONER.

[For text of subd 1, see M.S.2002]

Subd. 2. **Organization of office.** 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, and enter into grant agreements 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. None of the provisions of chapter 16C, relating to bids, shall apply to such contracts.

[For text of subs 2a and 3, see M.S.2002]

History: 2003 c 128 art 2 s 36

116.07 POWERS AND DUTIES.

[For text of subs 1 to 4b, see M.S.2002]

Subd. 4d. **Permit fees.** (a) The agency may collect permit fees in amounts not greater than those necessary to cover the reasonable costs of developing, 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 fee schedule must reflect reasonable and routine direct and indirect costs associated with permitting, implementation, and enforcement. 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 environmental fund.

(b) Notwithstanding paragraph (a), 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 regula-

tions; responding to federal guidance; modeling, analyses, and demonstrations; preparing inventories and tracking emissions; and providing information to the public about these activities.

(c) The agency shall set fees that:

(1) will 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 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;

(2) may 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; and

(3) shall collect, in the aggregate, from the sources listed in paragraph (b), the amount needed to match grant funds received by the state under United States Code, title 42, section 7405 (section 105 of the federal Clean Air Act).

The agency must not include in the calculation of the aggregate amount to be collected under clauses (1) and (2) any amount in excess of 4,000 tons per year of each air pollutant from a source. The increase in air permit fees to match federal grant funds shall be a surcharge on existing fees. The commissioner may not collect the surcharge after the grant funds become unavailable. In addition, the commissioner shall use nonfee funds to the extent practical to match the grant funds so that the fee surcharge is minimized.

(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 the environmental fund and must be used solely for the activities listed in paragraph (b).

(f) Persons who wish to construct or expand a facility may offer to reimburse the agency for the costs of staff overtime or consultant services needed to expedite permit review. The reimbursement shall be in addition to fees imposed by law. 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 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.

(g) The fees under this subdivision are exempt from section 16A.1285.

[For text of subs 4e to 4g, see M.S.2002]

Subd. 4h. Financial responsibility rules. (a) The agency shall adopt rules requiring the operator or owner of a solid waste disposal facility to submit to the agency proof of the operator's or owner's financial capability to provide reasonable and necessary response during the operating life of the facility and for 30 years after closure for a mixed municipal solid waste disposal facility or for a minimum of 20 years after closure,

as determined by agency rules, for any other solid waste disposal facility, and to provide for the closure of the facility and postclosure care required under agency rules. Proof of financial responsibility is required of the operator or owner of a facility receiving an original permit or a permit for expansion after adoption of the rules. Within 180 days of the effective date of the rules or by July 1, 1987, whichever is later, proof of financial responsibility is required of an operator or owner of a facility with a remaining capacity of more than five years or 500,000 cubic yards that is in operation at the time the rules are adopted. Compliance with the rules and the requirements of paragraph (b) is a condition of obtaining or retaining a permit to operate the facility.

(b) A municipality, as defined in section 475.51, subdivision 2, including a sanitary district, that owns or operates a solid waste disposal facility that was in operation on May 15, 1989, may meet its financial responsibility for all or a portion of the contingency action portion of the reasonable and necessary response costs at the facility by pledging its full faith and credit to meet its responsibility.

The pledge must be made in accordance with the requirements in chapter 475 for issuing bonds of the municipality, and the following additional requirements:

(1) The governing body of the municipality shall enact an ordinance that clearly accepts responsibility for the costs of contingency action at the facility and that reserves, during the operating life of the facility and for the time period required in paragraph (a) after closure, a portion of the debt limit of the municipality, as established under section 475.53 or other law, that is equal to the total contingency action costs.

(2) The municipality shall require that all collectors that haul to the facility implement a plan for reducing solid waste by using volume-based pricing, recycling incentives, or other means.

(3) When a municipality opts to meet a portion of its financial responsibility by relying on its authority to issue bonds, it shall also begin setting aside in a dedicated long-term care trust fund money that will cover a portion of the potential contingency action costs at the facility, the amount to be determined by the agency for each facility based on at least the amount of waste deposited in the disposal facility each year, and the likelihood and potential timing of conditions arising at the facility that will necessitate response action. The agency may not require a municipality to set aside more than five percent of the total cost in a single year.

(4) A municipality shall have and consistently maintain an investment grade bond rating as a condition of using bonding authority to meet financial responsibility under this section.

(5) The municipality shall file with the commissioner of revenue its consent to have the amount of its contingency action costs deducted from state aid payments otherwise due the municipality and paid instead to the remediation fund created in section 116.155, if the municipality fails to conduct the contingency action at the facility when ordered by the agency. If the agency notifies the commissioner that the municipality has failed to conduct contingency action when ordered by the agency, the commissioner shall deduct the amounts indicated by the agency from the state aids in accordance with the consent filed with the commissioner.

(6) The municipality shall file with the agency written proof that it has complied with the requirements of paragraph (b).

(c) The method for proving financial responsibility under paragraph (b) may not be applied to a new solid waste disposal facility or to expansion of an existing facility, unless the expansion is a vertical expansion. Vertical expansions of qualifying existing facilities cannot be permitted for a duration of longer than three years.

[For text of subs 4i to 6, see M.S.2002]

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. For permit applications filed after October 1, 2001, section 15.99 applies to feedlot permits issued by the agency or a county pursuant to this subdivision.

(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 Natural Resources Conservation Service and the Farm Service Agency, 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. Pastures are exempt from the rules authorized under this paragraph. 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. A livestock feedlot permit does not become required solely because of a change in the ownership of the buildings, grounds, or feedlot. 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.

(i) Any new rules or amendments to existing rules proposed under the authority granted in this subdivision, or to implement new fees on animal feedlots, must be submitted to the members of legislative policy and finance committees with jurisdiction over agriculture and the environment prior to final adoption. The rules must not become effective until 90 days after the proposed rules are submitted to the members.

(j) Until new rules are adopted that provide for plans for manure storage structures, any plans for a liquid manure storage structure must be prepared or

approved by a registered professional engineer or a United States Department of Agriculture, Natural Resources Conservation Service employee.

(k) A county may adopt by ordinance standards for animal feedlots that are more stringent than standards in Pollution Control Agency rules.

(l) After January 1, 2001, a county that has not accepted delegation of the feedlot permit program must hold a public meeting prior to the agency issuing a feedlot permit for a feedlot facility with 300 or more animal units, unless another public meeting has been held with regard to the feedlot facility to be permitted.

(m) After the proposed rules published in the State Register, volume 24, number 25, are finally adopted, the agency may not impose additional conditions as a part of a feedlot permit, unless specifically required by law or agreed to by the feedlot operator.

(n) For the purposes of feedlot permitting, a discharge from land-applied manure or a manure stockpile that is managed according to agency rule must not be subject to a fine for a discharge violation.

(o) For the purposes of feedlot permitting, manure that is land applied, or a manure stockpile that is managed according to agency rule, must not be considered a discharge into waters of the state, unless the discharge is to waters of the state, as defined by section 103G.005, subdivision 17, except type 1 or type 2 wetlands, as defined in section 103G.005, subdivision 17b, and does not meet discharge standards established for feedlots under agency rule.

(p) Unless the upgrade is needed to correct an immediate public health threat under section 145A.04, subdivision 8, or the facility is determined to be a concentrated animal feeding operation under Code of Federal Regulations, title 40, section 122.23, in effect on April 15, 2003, the agency may not require a feedlot operator:

(1) to spend more than \$3,000 to upgrade an existing feedlot with less than 300 animal units unless cost-share money is available to the feedlot operator for 75 percent of the cost of the upgrade; or

(2) to spend more than \$10,000 to upgrade an existing feedlot with between 300 and 500 animal units, unless cost-share money is available to the feedlot operator for 75 percent of the cost of the upgrade or \$50,000, whichever is less.

(q) For the purposes of this section, "pastures" means areas, including winter feeding areas as part of a grazing area, where grass or other growing plants are used for grazing and where the concentration of animals allows a vegetative cover to be maintained during the growing season except that vegetative cover is not required:

(1) in the immediate vicinity of supplemental feeding or watering devices;

(2) in associated corrals and chutes where livestock are gathered for the purpose of sorting, veterinary services, loading and unloading trucks and trailers, and other necessary activities related to good animal husbandry practices; and

(3) in associated livestock access lanes used to convey livestock to and from areas of the pasture.

Subd. 7a. Notice of application for livestock feedlot permit. (a) A person who applies to the Pollution Control Agency or a county board for a permit to construct or expand a feedlot with a capacity of 500 animal units or more shall, not less than 20 business days before the date on which a permit is issued, provide notice to each resident and each owner of real property within 5,000 feet of the perimeter of the proposed feedlot. The notice may be delivered by first class mail, in person, or by the publication in a newspaper of general circulation within the affected area and must include information on the type of livestock and the proposed capacity of the feedlot. Notification under this subdivision is satisfied under an equal or greater notification requirement of a county conditional use permit.

(b) The agency or a county board must verify that notice was provided as required under paragraph (a) prior to issuing a permit.

[For text of subds 7b to 12, see M.S.2002]

History: 2003 c 107 s 29; 2003 c 128 art 2 s 37,38; art 3 s 39

116.073 FIELD CITATIONS.

Subdivision 1. **Authority to issue.** (a) Pollution Control Agency staff designated by the commissioner and Department of Natural Resources conservation officers may issue citations to a person who:

(1) disposes of solid waste as defined in section 116.06, subdivision 22, at a location not authorized by law for the disposal of solid waste without permission of the owner of the property;

(2) fails to report or recover discharges as required under section 115.061;

(3) fails to take discharge preventive or preparedness measures required under chapter 115E; or

(4) fails to install or use vapor recovery equipment during the transfer of gasoline from a transport delivery vehicle to an underground storage tank as required in section 116.49, subdivisions 3 and 4.

(b) In addition, Pollution Control Agency staff designated by the commissioner may issue citations to owners and operators of facilities dispensing petroleum products who violate sections 116.46 to 116.50 and Minnesota Rules, chapters 7150 and 7151 and parts 7001.4200 to 7001.4300. A citation issued under this subdivision must include a requirement that the person cited remove and properly dispose of or otherwise manage the waste or discharged oil or hazardous substance, reimburse any government agency that has disposed of the waste or discharged oil or hazardous substance and contaminated debris for the reasonable costs of disposal, or correct any storage tank violations.

(c) Until June 1, 2004, citations for violation of sections 115E.045 and 116.46 to 116.50 and Minnesota Rules, chapters 7150 and 7151, may be issued only after the owners and operators have had a 90-day period to correct violations stated in writing by Pollution Control Agency staff, unless there is a discharge associated with the violation or the violation is of Minnesota Rules, part 7151.6400, subpart 1, item B, or 7151.6500.

Subd. 2. **Penalty amount.** The citation must impose the following penalty amounts:

(1) \$100 per major appliance, as defined in section 115A.03, subdivision 17a, up to a maximum of \$2,000;

(2) \$25 per waste tire, as defined in section 115A.90, subdivision 11, up to a maximum of \$2,000;

(3) \$25 per lead acid battery governed by section 115A.915, up to a maximum of \$2,000;

(4) \$1 per pound of other solid waste or \$20 per cubic foot up to a maximum of \$2,000;

(5) up to \$200 for any amount of waste that escapes from a vehicle used for the transportation of solid waste if, after receiving actual notice that waste has escaped the vehicle, the person or company transporting the waste fails to immediately collect the waste;

(6) \$50 per violation of rules adopted under section 116.49, relating to underground storage tank system design, construction, installation, and notification requirements, up to a maximum of \$2,000;

(7) \$250 per violation of rules adopted under section 116.49, relating to upgrading of existing underground storage tank systems, up to a maximum of \$2,000;

(8) \$100 per violation of rules adopted under section 116.49, relating to underground storage tank system general operating requirements, up to a maximum of \$2,000;

(9) \$250 per violation of rules adopted under section 116.49, relating to underground storage tank system release detection requirements, up to a maximum of \$2,000;

(10) \$50 per violation of rules adopted under section 116.49, relating to out-of-service underground storage tank systems and closure, up to a maximum of \$2,000;

(11) \$50 per violation of sections 116.48 to 116.491 relating to underground storage tank system notification, monitoring, environmental protection, and tank installers training and certification requirements, up to a maximum of \$2,000;

(12) \$25 per gallon of oil or hazardous substance discharged which is not reported or recovered under section 115.061, up to a maximum of \$2,000;

(13) \$1 per gallon of oil or hazardous substance being stored, transported, or otherwise handled without the prevention or preparedness measures required under chapter 115E, up to a maximum of \$2,000;

(14) \$250 per violation of Minnesota Rules, parts 7001.4200 to 7001.4300 or chapter 7151, related to aboveground storage tank systems, up to a maximum of \$2,000; and

(15) \$250 per delivery made in violation of section 116.49, subdivision 3 or 4, levied against:

(i) the retail location if vapor recovery equipment is not installed or maintained properly;

(ii) the carrier if the transport delivery vehicle is not equipped with vapor recovery equipment; or

(iii) the driver for failure to use supplied vapor recovery equipment.

[For text of subs 3 to 5, see M.S.2002]

History: 2003 c 128 art 1 s 138,139

116.155 REMEDIATION FUND.

Subdivision 1. **Creation.** The remediation fund is created as a special revenue fund in the state treasury to provide a reliable source of public money for response and corrective actions to address releases of hazardous substances, pollutants or contaminants, agricultural chemicals, and petroleum, and for environmental response actions at qualified landfill facilities for which the agency has assumed such responsibility, including perpetual care of such facilities. The specific purposes for which the general portion of the fund may be spent are provided in subdivision 2. In addition to the general portion of the fund, the fund contains two accounts described in subdivisions 4 and 5.

Subd. 2. **Appropriation.** (a) Money in the general portion of the remediation fund is appropriated to the agency and the commissioners of agriculture and natural resources for the following purposes:

(1) to take actions related to releases of hazardous substances, or pollutants or contaminants as provided in section 115B.20;

(2) to take actions related to releases of hazardous substances, or pollutants or contaminants, at and from qualified landfill facilities as provided in section 115B.42, subdivision 2;

(3) to provide technical and other assistance under sections 115B.17, subdivision 14, 115B.175 to 115B.179, and 115C.03, subdivision 9;

(4) for corrective actions to address incidents involving agricultural chemicals, including related administrative, enforcement, and cost recovery actions pursuant to chapter 18D; and

(5) together with any amount approved for transfer to the agency from the petroleum tank fund by the commissioner of finance, to take actions related to releases of petroleum as provided under section 115C.08.

(b) The commissioner of finance shall allocate the amounts available in any biennium to the agency, and the commissioners of agriculture and natural resources for the purposes provided in this subdivision based upon work plans submitted by the agency and the commissioners of agriculture and natural resources, and may adjust those allocations upon submittal of revised work plans. Copies of the work plans shall be submitted to the chairs of the environment and environment finance committees of the senate and house of representatives.

Subd. 3. **Revenues.** The following revenues shall be deposited in the general portion of the remediation fund:

(1) response costs and natural resource damages related to releases of hazardous substances, or pollutants or contaminants, recovered under sections 115B.17, subdivisions 6 and 7, 115B.443, 115B.444, or any other law;

(2) money paid to the agency or the Agriculture Department by voluntary parties who have received technical or other assistance under sections 115B.17, subdivision 14, 115B.175 to 115B.179, and 115C.03, subdivision 9;

(3) money received in the form of gifts, grants, reimbursement, or appropriation from any source for any of the purposes provided in subdivision 2, except federal grants; and

(4) interest accrued on the fund.

Subd. 4. **Dry cleaner environmental response and reimbursement account.** The dry cleaner environmental response and reimbursement account is as described in sections 115B.47 to 115B.51.

Subd. 5. **Metropolitan landfill contingency action trust account.** The metropolitan landfill contingency action trust account is as described in section 473.845.

Subd. 6. **Other sources of the fund.** The remediation fund shall also be supported by transfers as may be authorized by the legislature from time to time from the environmental fund.

History: 2003 c 128 art 2 s 39

116.16 MINNESOTA STATE WATER POLLUTION CONTROL PROGRAM.

[For text of subs 1 and 2, see M.S.2002]

Subd. 3. **Receipts.** The commissioner of finance shall deposit in the state treasury and credit to a separate account in the bond proceeds fund as received all proceeds of Minnesota water pollution control bonds, except accrued interest and premiums received upon the sale thereof. All money granted to the state for such purposes by the federal government or any agency thereof must be credited to a separate account in the federal fund. All such receipts are annually appropriated for the permanent construction and improvement purposes of the water pollution control program, and shall be and remain available for expenditure in accordance with this section and federal law until the purposes for which such appropriations were made have been accomplished or abandoned.

Subd. 4. **Disbursements.** Disbursements for the water pollution control program shall be made by the commissioner of finance at the times and in the amounts requested by the agency or the Minnesota Public Facilities Authority in accordance with the applicable state and federal law governing such disbursements; except that no appropriation or loan of state funds for any project shall be disbursed to any municipality until and unless the agency has by resolution determined the total estimated cost of the project, and ascertained that financing of the project is assured by:

(1) a grant to the municipality by an agency of the federal government within the amount of funds then appropriated to that agency and allocated by it to projects within the state; or

(2) a grant of funds appropriated by state law; or

(3) a loan authorized by state law; or

(4) the appropriation of proceeds of bonds or other funds of the municipality to a fund for the construction of the project; or

(5) any or all of the means referred to in clauses (1) to (4); and

(6) an irrevocable undertaking, by resolution of the governing body of the municipality, to use all funds so made available exclusively for the construction of the project, and to pay any additional amount by which the cost of the project exceeds the

estimate, by the appropriation to the construction fund of additional municipal funds or the proceeds of additional bonds to be issued by the municipality; and

(7) conformity of the project and of the loan or grant application with the state water pollution control plan as certified to the federal government and with all other conditions under applicable state and federal law for a grant of state or federal funds of the nature and in the amount involved.

[For text of subd 5, see M.S.2002]

Subd. 8. Loans. Each loan made to a municipality from the proceeds of state bonds, when authorized by law, shall be evidenced by resolutions adopted by the agency and by the governing body of the municipality, obligating the municipality to repay the loan to the commissioner of finance, for credit to the water pollution control bond account in the state bond fund, in annual installments including both principal and interest, each in an amount sufficient to pay the principal amount within such period as may be provided by the agency in accordance with the law authorizing the loan, with interest on the declining balance thereof at a rate not less than the average annual interest rate on state bonds of the issue from the proceeds of which the loan was made, and obligating the municipality to provide money for such repayment from user charges, taxes, special assessments, or other funds available to it. For the purpose of repaying such loans the municipality by resolution of its governing body may undertake to fix rates and charges for disposal system service and enter into contracts for the payment by others of costs of construction, maintenance, and use of the project in accordance with section 444.075, and may pledge the revenues derived therefrom, and the agency may condition any such loans upon the establishment of rates and charges or the execution of contracts sufficient to produce the revenues pledged.

[For text of subds 9 to 12, see M.S.2002]

History: 2003 c 112 art 2 s 16,50

116.17 MINNESOTA STATE WATER POLLUTION CONTROL BONDS.

[For text of subd 1, see M.S.2002]

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 chapter 14, including section 14.386. The bonds shall be executed by the commissioner of finance under official seal. The signature of the commissioner on the bonds and any appurtenant interest coupons and the seal 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 the commissioner 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 subd 3, see M.S.2002]

Subd. 4. State water pollution control bond account in the state bond fund. The commissioner of finance shall maintain in the state bond fund a separate bookkeeping account which shall be designated as the state water pollution control bond account, to

record receipts and disbursements of money transferred to the fund to pay Minnesota state water pollution control bonds and income from the investment of such money, which income shall be credited to the account in each fiscal year in an amount equal to the approximate average return that year on all funds invested by the commissioner of finance, as determined by the commissioner of finance, times the average balance in the account that year.

Subd. 5. **Appropriations to bond account.** The premium and accrued interest received on each issue of Minnesota state water pollution control bonds, and all loan payments received under the provisions of section 116.16, subdivision 5, shall be credited to the bond account. All income from the investment of Minnesota state water pollution control bond proceeds, shall also be credited to the bond account. In order to reduce the amount of taxes otherwise required to be levied, there shall also be credited to the bond account therein from the general fund in the state treasury, on November 1 in each year, a sum of money sufficient in amount, when added to the balance then on hand therein, to pay all Minnesota water pollution control bonds and interest thereon due and to become due to and including July 1 in the second ensuing year. All money so credited and all income from the investment thereof is annually appropriated to the bond account for the payment of such bonds and interest thereon, and shall be available in the bond account prior to the levy of the tax in any year required by the Constitution, article XI, section 7. The commissioner of finance is directed to make the appropriate entries in the accounts of the respective funds.

[For text of subd 6, see M.S.2002]

History: 2003 c 112 art 2 s 17,50

116.18 WATER POLLUTION CONTROL FUNDS; APPROPRIATIONS AND BONDS.

[For text of subs 1 to 3a, see M.S.2002]

Subd. 3b. **Capital cost component grant.** (a) The definitions of "capital cost component," "capital cost component grant," "service fee," "service contract," and "private vendor" in section 471A.02 apply to this subdivision.

(b) Beginning in fiscal year 1989, up to \$1,500,000 of the money to be awarded as grants under subdivision 3a in any single fiscal year may be set aside for the award of capital cost component grants to municipalities on the municipal needs list for part of the capital cost component of the service fee under a service contract for a term of at least 20 years with a private vendor for the purpose of constructing and operating wastewater treatment facilities.

(c) The amount granted to a municipality shall be 50 percent of the average total eligible costs of municipalities of similar size recently awarded state and federal grants under the provisions of subdivisions 2a and 3a and the Federal Water Pollution Control Act, United States Code, title 33, sections 1281 to 1299. Federal and state eligibility requirements for determining the amount of grant dollars to be awarded to a municipality are not applicable to municipalities awarded capital cost component grants. Federal and state eligibility requirements for determining which cities qualify for state and federal grants are applicable, except as provided in this subdivision.

(d) Except as provided in this subdivision, municipalities receiving capital cost component grants shall not be required to comply with federal and state regulations regarding facilities planning and procurement contained in sections 116.16 to 116.18, except those necessary to issue a National Pollutant Discharge Elimination System permit or State Disposal System permit and those necessary to assure that the proposed facilities are reasonably capable of meeting the conditions of the permit over 20 years. The municipality and the private vendor shall be parties to the permit. Municipalities receiving capital cost component grants may also be exempted by rules of the agency from other state and federal regulations relating to the award of state and federal grants for wastewater treatment facilities, except those necessary to protect the state from fraud or misuse of state funds.

(e) Funds shall be distributed from the set-aside to municipalities that apply for the funds in accordance with these provisions in the order of their ranking on the municipal needs list.

(f) The authority shall award capital cost component grants to municipalities selected by the state pollution control commissioner upon certification by the state pollution control commissioner that the municipalities' projects and applications have been reviewed and approved in accordance with this subdivision and agency rules adopted under paragraph (g).

(g) The agency shall adopt permanent rules to provide for the administration of grants awarded under this subdivision.

(h) The commissioner of employment and economic development may adopt rules containing procedures for administration of the authority's duties as set forth in paragraph (f).

[For text of subs 3c to 6, see M.S.2002]

History: *1Sp2003 c 4 s 1*

116.181 CORRECTIVE ACTION GRANTS.

[For text of subs 1 to 6, see M.S.2002]

Subd. 7. **Rules of the authority.** The commissioner of employment and economic development may adopt rules containing procedures for administration of the authority's duties as set forth in subdivision 5.

History: *1Sp2003 c 4 s 1*

116.46 DEFINITIONS.

[For text of subs 1 to 7, see M.S.2002]

Subd. 7a. **Retail location.** "Retail location" means a facility located in the metropolitan area as defined in section 473.121, subdivision 2, where gasoline is offered for sale to the general public for use in automobiles and trucks.

Subd. 7b. **Transport delivery vehicle.** "Transport delivery vehicle" means a liquid fuel cargo tank used to deliver gasoline into underground storage tanks.

[For text of subd 8, see M.S.2002]

Subd. 10. **Vapor recovery system.** "Vapor recovery system" means a system which transfers vapors from underground storage tanks during the filling operation to the storage compartment of the transport vehicle delivering gasoline.

History: *2003 c 128 art 1 s 140-142*

116.49 ENVIRONMENTAL PROTECTION REQUIREMENTS.

[For text of subs 1 to 2, see M.S.2002]

Subd. 3. **Vapor recovery system.** Every underground gasoline storage tank at a retail location must be fitted with vapor recovery equipment by January 1, 2006. The equipment must be certified by the manufacturer as capable of collecting 95 percent of hydrocarbons emitted during gasoline transfers from a transport delivery vehicle to an underground storage tank. Product delivery and vapor recovery access points must be on the same side of the transport vehicle when the transport vehicle is positioned for delivery into the underground tank. After January 1, 2006, no gasoline may be delivered to a retail location that is not equipped with a vapor recovery system.

Subd. 4. **Vapor recovery on transports.** All transport delivery vehicles that deliver gasoline into underground storage tanks in the metropolitan area as defined in section 473.121, subdivision 2, must be fitted with vapor recovery equipment. The equipment must recover and manage 95 percent of hydrocarbons emitted during the transfer of gasoline from the underground storage tank and the transport delivery vehicle by

January 1, 2006. After January 1, 2006, no gasoline may be delivered to a retail location by a transport vehicle that is not fitted with vapor recovery equipment.

History: 2003 c 128 art 1 s 143,144

116.50 PREEMPTION.

Sections 116.46 to 116.49 preempt conflicting local and municipal rules or ordinances requiring notification or establishing environmental protection requirements for underground storage tanks. A state agency or local unit of government may not adopt rules or ordinances establishing or requiring vapor recovery for underground storage tanks.

History: 2003 c 128 art 1 s 145

116.99 SMALL BUSINESS AIR QUALITY COMPLIANCE ADVISORY COUNCIL.

[For text of subds 1 and 2, see M.S.2002]

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 employment 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.2002]

History: 1Sp2003 c 4 s 1

116.994 SMALL BUSINESS ENVIRONMENTAL IMPROVEMENT LOAN ACCOUNTING.

Repayments of loans made under section 116.993 must be credited to the environmental fund. Money deposited in the fund under section 116.993 is appropriated to the commissioner for loans under section 116.993.

History: 2003 c 128 art 2 s 40