

CHAPTER 116

POLLUTION CONTROL AGENCY

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116.07 POWERS AND DUTIES.

[For text of subs 1 and 2, see M.S.2006]

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 commissioners of the Department of Transportation and Pollution Control Agency, are employed to abate noise, (3) except for the cities of Minneapolis and St. Paul, an existing or newly constructed segment of a road, street, or highway under the jurisdiction of a road authority of a town, statutory or home rule charter city, or county, except for roadways for which full control of access has been acquired, (4) skeet, trap or shooting sports clubs, or (5) motor vehicle race events conducted at a facility specifically designed for that purpose that was in operation on or before July 1, 1996. 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, 1996.

[For text of subs 2b to 12, see M.S.2006]

History: 2007 c 131 art 1 s 75

116.0714 NEW OPEN AIR SWINE BASINS.

The commissioner of the Pollution Control Agency or a county board shall not approve any permits for the construction of new open air swine basins, except that existing facilities may use one basin of less than 1,000,000 gallons as part of a permitted waste treatment program for resolving pollution problems or to allow conversion of an existing basin of less than 1,000,000 gallons to a different animal type, provided all standards are met. This section expires June 30, 2012.

History: 2007 c 45 art 1 s 56

116.182 FINANCIAL ASSISTANCE PROGRAM.

[For text of subs 1 to 4, see M.S.2006]

Subd. 5. **Rules.** (a) The agency shall adopt rules for the administration of the financial assistance program. For wastewater treatment projects, the rules must include:

- (1) application requirements;
- (2) criteria for the ranking of projects in order of priority based on factors including the type of project and the degree of environmental impact, and scenic and wild river standards; and
- (3) criteria for determining essential project components.

(b) Notwithstanding Minnesota Rules, chapter 7077, the agency shall apply the following criteria to Minnesota Rules, part 7077.0119:

(1) ten points shall be assigned if the municipality proposing the project holds a NPDES permit for a municipal separate storm sewer system and is implementing a storm water pollution prevention plan pursuant to Code of Federal Regulations, title 40, section 122.34, that addresses requirements resulting from a USEPA-approved TMDL for an impaired water listed under United States Code, title 33, section 303(d), of the Clean Water Act; and

(2) up to ten points shall be assigned to a municipal storm water project by multiplying 20 times the ratio of the project area's impervious surface area to the total project area to be served by the proposed best management practices. A maximum of ten points shall be awarded and any fraction of a point shall be rounded up to the nearest whole number.

(c) Paragraph (b) expires on June 30, 2012.

[For text of subd 6, see M.S.2006]

History: 2007 c 96 art 2 s 1

116.23 PROHIBITION AND RESTRICTIONS.

Subdivision 1. **Nutrient concentrations.** No person shall manufacture for use or sale in Minnesota or import into Minnesota for resale any cleaning agent or chemical water conditioner which contains a prescribed nutrient in a concentration that is greater than the prescribed maximum permissible concentration of that nutrient in that cleaning agent or chemical water conditioner.

Subd. 2. **Residential dishwasher detergent.** No person shall sell, distribute, offer, or expose for sale at retail any household dishwasher detergent that contains more than 0.5 percent phosphorus by weight. This subdivision does not apply to the sale or distribution of detergents for commercial or institutional dishwashing purposes.

History: 2007 c 131 art 1 s 76

NOTE: The amendment to this section by Laws 2007, chapter 131, article 1, section 76, is effective July 1, 2010. Laws 2007, chapter 131, article 1, section 76, the effective date.

116.87 DEFINITIONS.

[For text of subd 1, see M.S.2006]

Subd. 2. **Residence.** The term "residence" has the meaning given in rules adopted under sections 144.9501 to 144.9512.

History: 2007 c 147 art 16 s 20

116.92 MERCURY EMISSIONS REDUCTION.

[For text of subs 1 and 2, see M.S.2006]

Subd. 3. **Labeling; products containing mercury.** (a) A manufacturer or wholesaler may not sell and a retailer may not knowingly sell any of the following items in this state that contain mercury unless the item is labeled in a manner to clearly inform a purchaser or consumer that mercury is present in the item and that the item may not be placed in the garbage until the mercury is removed and reused, recycled, or otherwise managed to ensure that it does not become part of solid waste or wastewater:

- (1) a thermostat or thermometer;
- (2) an electric switch, individually or as part of another product, other than a motor vehicle;
- (3) an appliance;
- (4) a medical or scientific instrument;
- (5) an electric relay or other electrical device;
- (6) a fluorescent or high-intensity discharge lamp, individually or as part of another product; and

(7) laboratory chemicals, reagents, fixatives, and electrodes.

(b) Labeling of items in accordance with mercury product labeling plans approved by another state that is a member of the Interstate Mercury Education and Reduction Clearing-house (IMERC) shall be considered to be in compliance with this section. The manufacturer shall provide a copy of the labeling plan to the agency and shall notify the agency if the approval is modified.

(c) Manufacturers of products that contain a mercury-containing lamp not intended to be replaceable by the user or consumer shall meet the product labeling requirements of this section by placing the label on the product or in the care and use manual or product instructions.

[For text of subs 4 to 7, see M.S.2006]

Subd. 7a. Fluorescent and high-intensity discharge lamps; residential applications. (a) Any information regarding fluorescent and high-intensity discharge lamps containing mercury that is sent by a utility to a customer, present on a utility's Web site, or contained in a utility's print, radio, or video advertisement, must:

- (1) state that the lamps contain mercury;
- (2) state that mercury is harmful to the environment;
- (3) state that placing the lamps in garbage is illegal; and
- (4) provide a toll-free telephone number or Web site that customers can access to learn how to lawfully dispose of the lamps.

(b) The information under paragraph (a) must be:

- (1) provided in a minimum of 12-point type in print or online media; and
- (2) provided in a manner that the ordinary consumer will understand that fluorescent and high-intensity discharge lamps contain mercury and must not be placed in garbage in Minnesota.

(c) A television or radio advertisement regarding fluorescent and high-intensity discharge lamps containing mercury must prominently convey the information that the lamps contain mercury and must be recycled.

[For text of subs 8 and 8a, see M.S.2006]

Subd. 8b. Ban; mercury-containing sphygmomanometers. After August 1, 2007, a person may not sell, offer for sale, distribute, install, or reinstall in the state a sphygmomanometer containing mercury.

Subd. 8c. Ban; mercury-containing gastrointestinal devices. After August 1, 2007, a person may not sell, offer for sale, distribute, or use in the state an esophageal dilator, bougie tube, gastrointestinal tube, feeding tube, or similar device containing mercury.

Subd. 8d. Ban; mercury-containing thermostats. After August 1, 2007, a person may not sell, offer for sale, distribute, install, or reinstall in the state a product or device that uses a mercury switch to sense and control room temperature through communication with heating, ventilating, or air-conditioning equipment. This subdivision does not apply to a thermostat used to sense and control temperature as part of a manufacturing process.

Subd. 8e. Ban; mercury-containing switches and relays. (a) After August 1, 2007, a person may not sell, offer for sale, or distribute in the state a mercury switch or mercury relay individually or as part of another product.

(b) For the purposes of this subdivision:

(1) "mercury relay" means a mercury-containing product or device that opens or closes electrical contacts to affect the operation of other devices in the same or another electrical circuit and includes, but is not limited to, mercury displacement relays, mercury wetted reed relays, and mercury contact relays; and

(2) "mercury switch" means a mercury-containing product or device that opens or closes an electrical circuit or gas valve and includes, but is not limited to, mercury float

switches actuated by rising or falling liquid levels, mercury tilt switches actuated by a change in the switch position, mercury pressure switches actuated by a change in pressure, mercury temperature switches actuated by a change in temperature, and mercury flame sensors. A mercury switch does not include a mercury-added thermostat or a mercury diostat.

(c) A manufacturer shall be in compliance with this subdivision if:

(1) it has received an exclusion or exemption from a state that is a member of the Interstate Mercury Education and Reduction Clearinghouse (IMERC) for replacement parts or for a use where no feasible alternative is available;

(2) it submits a copy of the approved exclusion or exemption to the commissioner; and

(3) it meets all of the requirements in the approved exclusion or exemption for its activities within the state.

Subd. 8f. Ban; mercury diostats. After January 1, 2008, a person may not sell, offer for sale, or distribute a new gas oven, range, or stove containing a mercury-containing switch that controls a gas valve in an oven or oven portion of a gas range or stove.

Subd. 8g. Ban; mercury-containing barometers, manometers, and pyrometers. After January 1, 2008, a person may not sell, offer for sale, or distribute in the state a mercury-containing device used for measuring atmospheric pressure or for measuring pressure of liquids and gases or a mercury-containing device used for measuring the temperature of extremely hot materials, individually or as part of another product.

Subd. 8h. Ban; mercury in over-the-counter pharmaceuticals. After January 1, 2008, a person may not sell, offer for sale, or distribute in the state for human use an over-the-counter pharmaceutical product containing mercury.

Subd. 8i. Ban; mercury in cosmetics, toiletries, and fragrances. After January 1, 2008, a person may not sell, offer for sale, or distribute in the state a cosmetic, toiletry, or fragrance product containing mercury.

Subd. 8j. Exclusion for existing equipment. The prohibitions in subdivisions 8b to 8g do not apply if a switch, relay, or measuring device is used to replace a switch, relay, or measuring device that is a component of a larger product in use prior to January 1, 2008, provided the owner of that equipment has made every reasonable effort to determine that no compatible nonmercury replacement component exists.

[For text of subd 9, see M.S.2006]

Subd. 10. Definition of mercury-containing. For the purposes of this section, "mercury-containing" or "containing mercury" means that the product, component of a product, or chemical formulation contains intentionally added mercury.

History: 2007 c 109 s 2-13

116.921 MULTISTATE CLEARINGHOUSE.

The agency is authorized to participate in the Interstate Mercury Education and Reduction Clearinghouse (IMERC) to assist in carrying out the requirements and coordinating any other activities related to the administration of statutes governing the purchase, sale, use, labeling, disposal, and management of mercury and mercury-containing products.

History: 2007 c 109 s 14

116.93 LAMP RECYCLING FACILITIES.

[For text of subd 1, see M.S.2006]

Subd. 2. Lamp recycling facility; permits or licenses; reporting. (a) A person may not operate a lamp recycling facility without obtaining a permit or license for the facility from the agency. The permit or license must require:

(1) a plan for response to releases, including emergency response;

(2) proof of financial responsibility for closure and any necessary postclosure care at the facility which may include a performance bond or other insurance;

(3) liability insurance or another financial mechanism that provides proof of financial responsibility for response actions required under chapter 115B; and

(4) by March 1 each year, beginning in 2008, an annual report to the agency on the number and type of lamps received from businesses and households in the state and total number of lamps received from all generators outside of the state.

The agency shall specify the format for the report under clause (4) and make the reported information available on the agency's Web site.

(b) A lamp recycling facility that is licensed or permitted by a county under section 473.811, subdivision 5b, complies with this subdivision if the license or permit held by the facility contains at least all the terms and conditions required by the agency for a license or permit issued under this subdivision.

(c) A lamp recycling facility with a demonstrated capability for recycling that is in operation prior to adoption of rules for a licensing or permitting process for the facility by the agency may continue to operate in accordance with a compliance agreement or other approval by the commissioner until a license or permit is issued by the agency under this subdivision.

History: 2007 c 109 s 15