

116.02 POLLUTION CONTROL AGENCY, CREATION AND POWERS.

Subdivision 1. **Creation.** 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 and one shall be representative of organized labor.

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

Subd. 3. **Membership.** 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. **Chair.** The commissioner shall serve as chair of the agency. The agency shall elect such other officers as it deems necessary.

Subd. 5. **Agency is successor to commission.** 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 Commission, 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.

Subd. 6. **Required decisions.** The agency shall make final decisions on the following matters:

(1) a petition for the preparation of an environmental assessment worksheet, if the project proposer or a person commenting on the proposal requests that the decision be made by the agency and the agency requests that it make the decision under subdivision 8;

(2) the need for an environmental impact statement following preparation of an environmental assessment worksheet under applicable rules, if:

- (i) the agency has received a request for an environmental impact statement;
 - (ii) the project proposer or a person commenting on the proposal requests that the declaration be made by the agency and the agency requests that it make the decision under subdivision 8; or
 - (iii) the commissioner is recommending preparation of an environmental impact statement;
- (3) the scope and adequacy of environmental impact statements;
- (4) issuance, reissuance, modification, or revocation of a permit if:
- (i) a variance is sought in the permit application or a contested case hearing request is pending; or
 - (ii) the permit applicant, the permittee, or a person commenting on the permit action requests that the decision be made by the agency and the agency requests that it make the decision under subdivision 8;
- (5) final adoption or amendment of agency rules for which a public hearing is required under section 14.25 or for which the commissioner decides to proceed directly to a public hearing under section 14.14, subdivision 1;
- (6) approval or denial of an application for a variance from an agency rule if:
- (i) granting the variance request would change an air, soil, or water quality standard;
 - (ii) the commissioner has determined that granting the variance would have a significant environmental impact; or
 - (iii) the applicant or a person commenting on the variance request requests that the decision be made by the agency and the agency requests that it make the decision under subdivision 8; and
- (7) whether to reopen, rescind, or reverse a decision of the agency.

Subd. 7. **Additional decisions.** The commissioner may request that the agency make additional decisions or provide advice to the commissioner.

Subd. 8. **Other actions.** Any other action not specifically within the authority of the commissioner shall be made by the agency if:

- (1) prior to the commissioner's final decision on the action, one or more members of the agency notify the commissioner of their request that the decision be made by the agency; or
- (2) any person submits a petition to the commissioner requesting that the decision be made by the agency and the commissioner grants the petition.

If the commissioner denies a petition submitted under clause (2), the commissioner shall advise the agency and the petitioner of the reasons for the denial.

Subd. 9. **Informing public.** The commissioner shall inform interested persons as appropriate in public notices and other public documents of their right to request the agency to make decisions in specific matters provided in subdivision 6 and the right of agency members to request that decisions be made by the agency as provided in subdivision 8. The commissioner shall also regularly inform the agency of activities that have broad policy implications or potential environmental significance and of activities in which the public has exhibited substantial interest.

Subd. 10. **Changing decisions.** (a) The agency must not reopen, rescind, or reverse a decision of the agency except upon:

(1) the affirmative vote of two-thirds of the agency; or

(2) a finding that there was an irregularity in a hearing related to the decision, an error of law, or a newly discovered material issue of fact.

(b) The requirements in paragraph (a) are minimum requirements and do not limit the agency's authority under sections 14.06 and 116.07, subdivision 3, to adopt rules:

(1) applying the requirement in paragraph (a), clause (1) or (2), to certain decisions of the agency; or

(2) establishing additional or more stringent requirements for reopening, rescinding, or reversing decisions of the agency.

History: 1967 c 882 s 2; 1969 c 1038 s 1,2; 1973 c 35 s 27; 1976 c 134 s 25-27; 1980 c 509 s 26; 1Sp1981 c 4 art 1 s 73; 1986 c 444; 1995 c 168 s 7; 1996 c 348 s 1; 1996 c 405 s 1-5