

CHAPTER 453 — S.F.No. 1258

An act relating to the environment; requiring an agreement between the state and federal government prior to test drilling of geologic structures for disposal of high level radioactive waste and notification of results; regulating transportation of high level radioactive waste in the state; providing penalties; amending Minnesota Statutes 1982, sections 116C.71, subdivision 1, and by adding subdivisions; and 116C.74; proposing new law coded in Minnesota Statutes, chapter 116C.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. [116C.705] FINDINGS.

The legislature finds that the disposal and transportation of high level radioactive waste is of vital concern to the health, safety, and welfare of the people of Minnesota, and to the economic and environmental resources of Minnesota. To ensure the health, safety, and welfare of the people, and to protect the air, land, water, and other natural resources in the state from pollution, impairment, or destruction, it is necessary for the state to regulate and control, under the laws of the United States, the exploration for high level radioactive waste disposal within the state of Minnesota. It is the intent of the legislature to exercise all legal authority for the purpose of regulating the disposal and transportation of high level radioactive waste.

Sec. 2. Minnesota Statutes 1982, section 116C.71, is amended by adding a subdivision to read:

Subd. 10. AREA CHARACTERIZATION PLAN. "Area characterization plan" means the official plan prepared by the department of energy for a specific geographic area outlining the proposed laboratory or field activities to be undertaken to establish the geologic, environmental, social, and economic characteristics of the area.

Sec. 3. Minnesota Statutes 1982, section 116C.71, is amended by adding a subdivision to read:

Subd. 11. AREA RECOMMENDATION REPORT. "Area recommendation report" means the official report prepared by the department of energy identifying specific geographic areas within a state for further evaluation as a repository for radioactive waste.

Sec. 4. Minnesota Statutes 1982, section 116C.71, is amended by adding a subdivision to read:

Subd. 12. BOARD. "Board" means the Minnesota environmental quality board.

Sec. 5. Minnesota Statutes 1982, section 116C.71, is amended by adding a subdivision to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subd. 13. CHAIRMAN. “Chairman” means chairman of the board.

Sec. 6. Minnesota Statutes 1982, section 116C.71, is amended by adding a subdivision to read:

Subd. 14. CONSULTATION AND COOPERATION AGREEMENT. “Consultation and cooperation agreement” means the formal agreement, as defined in the Nuclear Waste Policy Act, United States Code, title 42, section 10137(c), between a state and the federal government setting forth procedures for information exchanges, state consultation, and other matters related to repository siting and construction.

Sec. 7. Minnesota Statutes 1982, section 116C.71, is amended by adding a subdivision to read:

Subd. 15. DEPARTMENT OF ENERGY. “Department of energy” means the United States department of energy.

Sec. 8. Minnesota Statutes 1982, section 116C.71, is amended by adding a subdivision to read:

Subd. 16. DISPOSE, DISPOSAL. “Dispose” or “disposal” means the permanent or temporary placement of high level radioactive waste at a site within the state other than a point of generation.

Sec. 9. Minnesota Statutes 1982, section 116C.71, is amended by adding a subdivision to read:

Subd. 17. HIGH LEVEL RADIOACTIVE WASTE. “High level radioactive waste” means:

(1) irradiated reactor fuel;

(2) liquid wastes resulting from reprocessing irradiated reactor fuel;

(3) solids into which the liquid wastes have been converted;

(4) transuranic wastes, meaning any radioactive waste containing alpha emitting transuranic elements that is not acceptable for near-surface disposal as defined in the Code of Federal Regulations, title 10, section 61.55;

(5) any other highly radioactive materials that the nuclear regulatory commission or department of energy determines by law to require permanent isolation; or

(6) any byproduct material as defined in section 11e (2) of the Atomic Energy Act of 1954, United States Code, title 42, section 2014, as amended.

Sec. 10. Minnesota Statutes 1982, section 116C.71, is amended by adding a subdivision to read:

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Subd. 18. POTENTIALLY IMPACTED AREA. "Potentially impacted area" means the area designated or described in a draft or final area recommendation report or area characterization plan for study or consideration.

Sec. 11. [116C.721] PUBLIC PARTICIPATION.

Subdivision 1. INFORMATION MEETINGS. The board shall conduct public information meetings within an area designated in a draft area recommendation report, final area recommendation report, draft area characterization plan, or final area characterization plan. Information meetings shall be held within 30 days after the board receives each of the reports.

Subd. 2. NOTICE. The board shall notify the public of information meetings and the availability of the area recommendation reports and the area characterization plans. Copies of the reports shall be made available for public review and distribution at the board office, the Minnesota geological survey office, regional development commission offices in regions that include a part of the potentially impacted areas, county courthouses in counties that include a part of a potentially impacted area, and other appropriate places determined by the board to provide public accessibility.

Subd. 3. TRANSMITTAL OF PUBLIC CONCERNS. The board shall transmit public concerns expressed at public information meetings to the department of energy.

Sec. 12. [116C.722] LEGAL AND TECHNICAL ASSISTANCE TO INDIAN TRIBES.

If an Indian tribal council that has jurisdiction over part of a potentially impacted area within the state requests legal or technical assistance, the board shall provide assistance.

Sec. 13. [116C.723] DISPOSAL STUDIES.

Unless the state has executed a consultation and cooperation agreement, a person may not make a study or test of a specific area or site related to disposal including an exploratory drilling, a land survey, an aerial mapping, a field mapping, a waste suitability study, or other surface or subsurface geologic, hydrologic, or environmental testing or mapping.

Sec. 14. [116C.724] CONSULTATION AND COOPERATION AGREEMENT.

Subdivision 1. REQUIREMENT. Upon notice from the department of energy that Minnesota contains a potentially impacted area, the board shall negotiate a consultation and cooperation agreement with the federal government.

Subd. 2. CONDITIONS. (a) The consultation and cooperation agreement shall include but not be limited to the conditions specified in this subdivision.

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(b) A permit shall be required for all geologic and hydrologic drilling. Conditions of obtaining and retaining the permit shall require:

(1) compliance with state drilling and drill hole restoration regulations as an exploratory boring under chapter 156A;

(2) proof that access to the test site has been obtained by a negotiated agreement or other legal process;

(3) the permittee to pay a fee covering the costs of processing and monitoring drilling activities;

(4) unrestricted access by the commissioner of health, the commissioner of natural resources, the director of the pollution control agency, the director of the Minnesota geological survey, the county health officer, and their employees and agents to the drilling sites to inspect and monitor the drill holes, drilling operations, and abandoned sites, and to sample air and water that may be affected by drilling;

(5) submission of splits or portions of a core sample, requested by the commissioner of natural resources or director of the Minnesota geological survey, except that the commissioner or director may accept certified data on the sample in lieu of a sample if certain samples are required in their entirety by the permittee; and

(6) that a sample submitted may become property of the state.

(c) A person who conducts geologic, hydrologic, or geophysical testing or studies shall provide unrestricted access to both raw and interpretive data to the chairman and the director of the Minnesota geological survey or their designated representatives. The raw and interpretive data includes core samples, well logs, water samples and chemical analyses, survey charts and graphs, and predecisional reports. Studies and data shall be made available within 90 days of a formal request by the chairman.

(d) A person proposing to investigate shall hold at least one public meeting before a required permit is issued, and during the investigation at least once every six months, within the potentially impacted area. The meetings shall provide the public with current information on progress of the investigation. The person investigating shall respond in writing to the board about concerns and issues raised at the public meetings.

(e) Before a person engages in negotiations regarding property interests in land or water, or permitting activities, the person shall notify the chairman in writing. Copies of terms and agreements shall also be provided to the chairman.

Sec. 15. [116C.731] TRANSPORTATION OF HIGH LEVEL RADIOACTIVE WASTE.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subdivision 1. NOTIFICATION. Before a shipment of high level radioactive waste is transported in the state, the shipper shall notify the commissioner of public safety. The notice shall include the route, date, and time of the shipment in addition to information required under Code of Federal Regulations, title 10, sections 71.5a and 73.37(f).

Subd. 2. HIGHWAY ROUTE DETERMINATION. Pursuant to Code of Federal Regulations, title 49, part 177, the commissioner may require preferred routes, dates, or times for transporting high level radioactive waste if the commissioner determines, in accordance with United States Department of Transportation "Guidelines for Selecting Preferred Highway Routes for Large Quantity Shipments of Radioactive Materials," that alternatives are safer than those proposed. On an annual basis the commissioner shall review federally approved highway routes for transporting high level radioactive waste in the state and select new state-designated routes in accordance with Code of Federal Regulations, title 49, part 177, if safety considerations indicate the alternate routes would be preferable. The state does not incur any liability by requiring the alternate routes, dates, or times to be used.

Subd. 3. TRANSPORTATION FEE. A person who intends to transport high level radioactive waste shall submit a transportation fee to the commissioner of public safety in the amount of \$1,000 for each vehicle carrying high level radioactive waste in each shipment with the information required in subdivision 1. The fees shall be deposited by the commissioner into the general fund.

Subd. 4. EMERGENCY RESPONSE PLAN. The commissioner of public safety shall consult with the commissioners of health and transportation, the director of the pollution control agency, and representatives of the federal nuclear regulatory commission, the federal emergency management agency, and the United States department of transportation and before December 1, 1984, shall prepare a plan for emergency response to a high level radioactive waste transportation accident, including plans for evacuation and cleanup. The commissioner of public safety shall report by January 1 of each year to the legislature on the status of the plan and the ability of the state to respond adequately to an accident.

Subd. 5. APPLICABILITY. This section does not apply to radioactive materials shipped by or for the United States government for military, national security, or national defense purposes. This section does not require disclosure of defense information or restricted data as defined in the Atomic Energy Act of 1954, United States Code, title 42, section 2014, as amended.

Sec. 16. Minnesota Statutes 1982, section 116C.74, is amended to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

116C.74 PENALTIES.

Subdivision 1. PENALTIES. Any person who violates section 116C.72 or who causes radioactive wastes to be shipped in violation of section 116C.73 shall be guilty of a gross misdemeanor and subject to a fine of not more than \$10,000 or a sentence of imprisonment of not more than one year, or both.

Subd. 2. VIOLATIONS; PENALTIES. (a) A person who violates section 13, 14, or 15 is:

(1) guilty of a misdemeanor and is subject to a fine of not more than \$10,000; and

(2) subject to a civil penalty of not more than \$10,000 for each day of violation, payable to the state, and may be ordered by the court to pay to the state an additional sum as compensation for cleanup and for pollution, destruction, or impairment of the environment, including but not limited to contamination of water supplies or water aquifers.

(b) A violation of section 13, 14, or 15 may be enjoined as provided by law in an action in the name of the state brought by the attorney general.

(c) This subdivision does not limit other remedies otherwise available to either the state or private parties for violations of section 13, 14, or 15.

Sec. 17. EFFECTIVE DATE.

This act is effective the day following final enactment.

Approved April 24, 1984

CHAPTER 454 — S.F.No. 1622

An act relating to peace officers; increasing the compensation for dependents of peace officers killed in the line of duty; amending Minnesota Statutes 1982, section 352E.04.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1982, section 352E.04, is amended to read:

352E.04 DISBURSEMENTS.

Upon certification to the governor by the administrator of any state or governmental subdivision employing peace officers that a peace officer employed by that state or governmental subdivision within this state has been killed in the line of duty, leaving a spouse or one or more eligible dependents, the commission-

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