

## CHAPTER 116

## POLLUTION CONTROL AGENCY

Sec.	
116.01	Policy
116.02	Pollution control agency, creation
116.03	Director
116.04	Executive secretary
116.05	Cooperation
116.06	Definitions

Sec.	
116.07	Powers and duties
116.08	Enforcement
116.10	Policy; long-range plan; purpose
116.11	Emergency powers
116.15	Crystal waters act

**116.01 POLICY.** To meet the variety and complexity of problems relating to water, air and land pollution in the areas of the state affected thereby, and to achieve a reasonable degree of purity of water, air and land resources of the state consistent with the maximum enjoyment and use thereof in furtherance of the welfare of the people of the state, it is in the public interest that there be established a pollution control agency.

[1967 c 882 s 1; 1969 c 1046 s 1]

**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 nine members appointed by the governor, by and with the advice and consent of the senate, each for a four year term beginning on February 15, and until his successor is duly appointed and qualifies. One of such members shall be a person knowledgeable in the field of agriculture. A vacancy in the office of a member of the agency shall be filled by the governor, but with the advice and consent of the senate, for the unexpired term.

Subd. 2. The first pollution control agency shall consist of two members whose term shall expire on February 15, 1969, two members whose term shall expire on February 15, 1970, one member whose term shall expire on February 15, 1971, and two members whose terms shall expire on February 15, 1972. After July 1, 1969 two additional members shall be appointed, one whose term shall expire on February 15, 1971 and one whose term shall expire on February 15, 1973. Thereafter each member shall be appointed for a four year term as provided in subdivision 1.

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 116.09, except that no member appointed 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 agency shall elect a chairman and such other officers as it deems necessary. Each member shall receive as compensation for his services the sum of \$35 per day for each day or fraction thereof spent in attending meetings of the agency or in performing other duties required by law, and each member of the agency shall be reimbursed for actual and necessary expenses incurred in the performance of his duties in the same manner and in the same amount as other members are reimbursed therefor.

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 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.

[1967 c 882 s 2; 1969 c 1038 s 1, 2]

**116.03 DIRECTOR.** Subdivision 1. (a) The office of director of the pollution control agency is created and is under the supervision and control of the director, who is appointed by the governor by and with the consent of the senate for a four year term, which shall coincide with the term of the governor, and until his successor is duly appointed and qualifies. The governor may remove the director at any time at his pleasure. A vacancy in the office of director shall be filled by the governor by and with the consent of the senate, for the unexpired portion of the term.

(b) In order to expedite the establishing and functioning of the pollution control agency, the governor shall forthwith appoint an acting director, who shall have all the powers and duties of the director as provided in sections 116.01 to 116.09. The acting director may be a person in the service of the state at the time of his appointment, and who while serving as acting director is on leave of absence from his regular office or position in the state service. The acting director shall serve as such until the director is appointed and qualifies as such director. Pending the abolishment of the water pollution control commission as specified in section 116.02, subdivision 5, the director or acting director, as the case may be, is the secretary of such commission in lieu of the secretary and executive officer of the state board of health.

Subd. 2. The director shall organize the agency and employ such assistants and other officers, employees and agents as he may deem necessary to discharge the functions of his office, define the duties of such officers, employees and agents, and delegate to them any of his powers, duties, and responsibilities, subject to his control and under such conditions as he may prescribe. The director 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 his office, and none of the provisions of chapter 16, 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 board of health engaged in environmental sanitation work may transfer to the pollution control agency with the approval of the director. 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. 3. The director of the pollution control agency is the state agent to apply for, receive, and disburse federal funds made available to the state by federal law or rules and regulations promulgated thereunder for any purpose related to the powers and duties of the pollution control agency or the director. He shall comply with any and all requirements of such federal law or such rules and regulations promulgated thereunder to enable him to apply for, receive, and disburse such funds. All such moneys received by the director shall be deposited in the state treasury and are hereby annually appropriated to him for the purposes for which they are received. None of such moneys in the state treasury shall cancel and they shall be available for expenditure in accordance with the requirements of federal law.

No application for federal funds under this subdivision shall be submitted to federal authorities for approval unless the proposed budget for the expenditure of federal funds is approved by the governor and reported to the legislative committees designated in section 16.165 and, when the legislature is not in session, reported to the standing committee on finance of the senate and the standing committee on appropriations of the house of representatives.

Subd. 4. Before entering upon the duties of his office the director of the pollution control agency shall take and subscribe an oath and give his bond to the state of Minnesota, to be approved by the governor and filed with the secretary of state, in the sum of \$25,000, conditioned for the faithful performance of his duties.

Subd. 5. The salary of the director of the pollution control agency shall be prescribed by the governor, unless otherwise fixed by law.

Subd. 6. The term of the first director of the pollution control agency shall expire with the term of the governor expiring in January, 1971. Thereafter, the term of the director shall be in conformity with the provisions of this section.

[1967 c 882 s 3]

**116.04 EXECUTIVE SECRETARY.** The director of the pollution control agency is the executive secretary and chief executive officer of the Minnesota pol-

lution control agency and is responsible for performing the executive duties of such agency prescribed by law.

[1967 c 882 s 4]

**116.05 COOPERATION.** Subdivision 1. All state departments and agencies are hereby directed to cooperate with the pollution control agency and its director and assist them in the performance of their duties, and the pollution control agency is authorized to cooperate with other departments and agencies of the state, with municipalities, with other states, with the federal government and its agencies and instrumentalities, in the public interest and in order to control pollution.

Subd. 2. Upon the request of the pollution control agency the governor may, by order, require any department or agency of the state to furnish such assistance to the agency or its director in the performance of its duties or in the exercise of his powers imposed by law, as the governor may, in his order, designate or specify; and with the consent of the department or agency concerned, the governor may direct all or part of the cost or expense for the amount of such assistance to be paid from the pollution control agency fund or appropriation in such amount as he may deem just and proper.

Subd. 3. The pollution control agency through its director may designate air quality control regions which shall as far as practical follow regional boundaries designated by state statutes or executive order, and consider other jurisdictional boundaries, urban-industrial concentrations and other factors including atmospheric conditions and necessary procedures to provide adequate implementation of air quality standards. Within a designated air quality control region the pollution control agency may by contract delegate its administrative powers to local governmental authorities to be exercised by such authorities within the region and within their own jurisdictional boundaries.

With the approval of the pollution control agency, local governmental authorities with jurisdiction wholly or in part within a designated region may enter into an agreement as provided by chapter 471 to exercise jointly all or some of the powers delegated by agreement with the pollution control agency. The term "local governmental authorities" as used herein includes every city, village, borough, county, town or other political subdivision and any agency of the state of Minnesota, or subdivision thereof, having less than state wide jurisdiction.

[1967 c 882 s 5; 1969 c 1046 s 2]

**116.06 DEFINITIONS.** Subdivision 1. The definitions given in this section shall obtain for the purposes of sections 116.01 to 116.09 except as otherwise expressly provided or indicated by the context.

Subd. 2. "Air contaminant" or "air contamination" means the presence in the outdoor atmosphere of any dust, fume, mist, smoke, vapor, gas, or other gaseous, fluid, or particulate substance differing in composition from or exceeding in concentration the natural components of the atmosphere.

Subd. 3. "Air pollution" means the presence in the outdoor atmosphere of any air contaminant or combination thereof in such quantity, of such nature and duration, and under such conditions as would be injurious to human health or welfare, to animal or plant life, or to property, or to interfere unreasonably with the enjoyment of life or property.

Subd. 4. "Emission" means a release or discharge into the outdoor atmosphere of any air contaminant or combination thereof.

Subd. 5. "Emission facility" means any structure, work, equipment, machinery, device, apparatus, or other means whereby an emission is caused to occur.

Subd. 6. "Air contaminant treatment facility" or "treatment facility" means any structure, work, equipment, machinery, device, apparatus, or other means for treatment of an air contaminant or combination thereof to prevent, abate, or control air pollution.

Subd. 7. "Potential air contaminant storage facility" or "Storage facility" means any structure, work, equipment, device, apparatus, tank, container, or other means for the storage or confinement, either stationary or in transit, of any substance which, if released or discharged into the outdoor atmosphere, might cause air contamination or air pollution.

Subd. 8. "Person" means any human being, any municipality or other govern-

mental or political subdivision or other public agency, any public or private corporation, any partnership, firm, association, or other organization, any receiver, trustee, assignee, agent, or other legal representative of any of the foregoing, or any other legal entity, but does not include the pollution control agency.

Subd. 9. "Land pollution" means the presence in or on the land of any solid waste in such quantity, of such nature and duration, and under such condition as would affect injuriously any waters of the state, create air contaminants or cause air pollution.

Subd. 10. "Solid waste" means garbage, refuse and other discarded solid materials, except animal waste used as fertilizer including solid waste materials resulting from industrial, commercial and agricultural operations, and from community activities, but does not include earthen fill, boulders, rock and other materials normally handled in construction operations, solids or dissolved material in domestic sewage or other significant pollutants in water resources, such as silt, dissolved or suspended solids in industrial waste water effluents, dissolved materials in irrigation return flows, or other common water pollutants.

[1967 c 882 s 6; 1969 c 1046 s 3, 4]

**116.07 POWERS AND DUTIES.** Subdivision 1. **Generally.** In addition to any powers or duties otherwise prescribed by law and without limiting the same, the pollution control agency shall have the powers and duties hereinafter specified.

Subd. 2. **Adoption of standards.** The pollution control agency shall adopt standards of air quality, including maximum allowable standards of emission of air contaminants from motor vehicles, recognizing that due to variable factors, no single standard of purity of air is applicable to all areas of the state. In adopting standards the pollution control agency shall give due recognition to the fact that the quantity or characteristics of air contaminants or the duration of their presence in the atmosphere, which may cause air pollution in one area of the state, may cause less or not cause any air pollution in another area of the state, and it shall take into consideration in this connection such factors, including others which it may deem proper, as existing physical conditions, zoning classifications, topography, prevailing wind directions and velocities, and the fact that a standard of air quality which may be proper as to an essentially residential area of the state, may not be proper as to a highly developed industrial area of the state. Such standards of air quality shall be premised upon scientific knowledge of causes as well as effects based on technically substantiated criteria and commonly accepted practices. No local government unit shall set standards of air quality which are more stringent than those set by the pollution control agency.

The pollution control agency shall also adopt standards for the control of the collection, transportation and disposal of solid waste for the prevention and abatement of water, air and land pollution, recognizing that due to variable factors, no single standard of solid waste control is applicable to all areas of the state. In adopting standards, the pollution control agency shall give due recognition to the fact that elements of control which may be reasonable and proper in densely populated areas of the state may be unreasonable and improper in sparsely populated or remote areas of the state, and it shall take into consideration in this connection such factors, including others which it may deem proper, as existing physical conditions, topography, soils and geology, climate, transportation, and land use. Such standards of solid waste control shall be premised on technical criteria and commonly accepted practices.

Subd. 3. **Administrative rules.** Pursuant and subject to the provisions of chapter 15, and the provisions hereof, the pollution control agency may adopt, amend, and rescind rules governing its own administration and procedure and its staff and employees.

Subd. 4. **Regulations and standards.** Pursuant and subject to the provisions of chapter 15, and the provisions hereof, the pollution control agency may adopt, amend and rescind regulations and standards having the force of law relating to any purpose within the provisions of Laws 1969, Chapter 1046, for the prevention, abatement, or control of air pollution. Any such regulation 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, regulations or standards may relate to sources or emissions of air contamination or air pollution, to the quality or composition of such emis-

sions, 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 15, and the provisions hereof, the pollution control agency may adopt, amend, and rescind regulations and standards having the force of law relating to any purpose within the provisions of Laws 1969, Chapter 1046, for the collection, transportation, 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. Any such regulation 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, regulations or standards may relate to collection, transportation, 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, and disposal of solid waste, and the deposit in or on land of any other material that may tend to cause pollution.

**Subd. 5. Variances.** The pollution control agency may grant variances from the requirements of regulations or standards upon such procedure and conditions as it may by regulation prescribe in order to avoid undue hardship and promote the effective and reasonable application and enforcement of laws, regulations, and standards for prevention, abatement and control of water, air, and land pollution.

**Subd. 6. Pollution control agency; exercise of powers.** In exercising all its powers the pollution control agency shall give due consideration to the establishment, maintenance, operation and expansion of business, commerce, trade, industry, traffic, and other economic factors and other material matters affecting the feasibility and practicability of any proposed action, including, but not limited to, the burden on a municipality of any tax which may result therefrom, and shall take or provide for such action as may be reasonable, feasible, and practical under the circumstances.

[1967 c 882 s 7; 1969 c 1046 s 5-7]

**116.08 ENFORCEMENT.** Subdivision 1. **Violations; penalties.** It shall be the duty of every person affected to comply with the provisions of sections 116.01 to 116.09 as now in force or hereafter amended, relating to sources of air contamination or air pollution, emissions, emission facilities, treatment facilities, storage facilities, and other means, operations, act or omissions causing air contamination or air pollution, or any thereof, and with the provisions of every regulation or standard of the pollution control agency relating thereto.

It shall also be the duty of every person affected to comply with the provisions of sections 116.01 to 116.09 as now in force or hereafter amended, relating to the pollution of land originating from the collection, transportation and disposal of solid waste or other means, operations, acts, or omissions causing land pollution, and with the provisions of every regulation or standard of the pollution control agency relating thereto, and the deposit in or on land of any other material that may tend to cause pollution.

Violation of any such provision shall be a misdemeanor, punishable by a fine of not exceeding \$100 or imprisonment for not exceeding 90 days. Each day of any such violation shall constitute a separate offense. It shall be the duty of all county attorneys, sheriffs and other peace officers, and other officers having authority in the enforcement of the general criminal laws to take all action to the extent of their authority, respectively, that may be necessary or proper for the enforcement of said provisions.

**Subd. 2. Civil actions.** The provisions of law, regulations, or standards specified in subdivision 1 or any thereof may be enforced by injunction, action to compel performance, or other appropriate action in the district court of any county wherein the applicable provision takes effect. Without limitation, the maintenance, operation, or allowance or any emission, emission facility, treatment facility, or storage facility contrary to any provision of sections 116.01 to 116.09 or any regulation or standard thereunder or the maintenance, operation, or allowance of any other source or means causing air contamination or air pollution in violation of any such provision, including, without limitation, the maintenance, operation, or allowance

# MINNESOTA STATUTES 1969

1407

## POLLUTION CONTROL AGENCY 116.15

of any collection, transportation, or disposal of solid waste contrary to any provision of sections 116.01 to 116.09 or any regulation or standard thereunder or the pollution of any land which may originate from or relate to the collection, transportation, or disposal of solid waste in violation of any such provision, shall be a public nuisance, and may be enjoined and abated as such by appropriate action in the district court of the county in which the subject matter or any part thereof is situated. The attorney general or the county attorney of the county of original venue as hereinbefore provided shall bring and maintain any action specified in this subdivision on request of the pollution control agency.

[1967 c 882 s 8; 1969 c 1046 s 8, 9]

### **116.09 [Repealed, 1969 c 1046 s 12]**

NOTE: Section 116.09 is also amended by Laws 1969, Chapter 540, Section 5, to read:

"116.09 **Study and reports.** Subdivision 1. The pollution control agency shall investigate and study problems relating to air pollution in the areas of the state affected thereby and report to the governor and the legislature on or before November 15 in each even numbered year, in regard thereto. Such report shall contain an analysis of the problem as it exists and recommendations for the solution thereof, including standards to minimize air pollution promulgated hereunder.

Subd. 2. The pollution control agency shall study and investigate problems of solid waste control and problems concerning the uses of land in areas of the state which are affected by the pollution of air and water, and report to the governor and the legislature in regard thereto not later than November 15 in each even numbered year. Such report shall contain an analysis of these problems as they may exist, recommendations for the solution thereof, including proposed standards.

Subd. 3. The recommendations of the pollution control agency may include a comprehensive plan for the control, abatement, or prevention of air pollution.

Subd. 4. The recommendations of the pollution control agency may include a comprehensive plan covering standards of land use in places where such land use increases the problem of pollution."

**116.10 POLICY; LONG-RANGE PLAN; PURPOSE.** Consistent with the policy announced herein and the purposes of Laws 1963, Chapter 874, the pollution control agency shall, before November 15 of each even numbered year, prepare a long-range plan and program for the effectuation of said policy, and shall make a report also of progress on abatement and control of air and land pollution during each biennium to the legislature with recommendations for action in furtherance of the air and land pollution and solid waste programs.

[1969 c 1046 s 10]

**116.11 EMERGENCY POWERS.** In the event that there is imminent danger to the health and welfare of the people of the state, or of any part thereof, as a result of the pollution of air, land or water; upon such finding, the agency may by emergency order direct the abatement of such pollution without notice and without a hearing. Such order shall be appealable to the appropriate district court and the provisions of chapter 15 shall govern the procedure and scope of review on such appeal.

[1969 c 1046 s 11]

**116.15 CRYSTAL WATERS ACT.** Subdivision 1. Upon determination by the pollution control agency, on application by any other public agency or political subdivision of the state responsible for the acquisition or betterment and financing of any water pollution control project, comprising treatment works, interceptors, sewers, or appurtenant facilities, that the project is eligible under federal statutes and regulations for a grant of funds by any agency of the federal government in aid of the completion thereof, a state grant in aid for the payment of interest may be made from the appropriation made by this section in anticipation of the receipt of the federal grant, upon the conditions and in the manner stated in this section. Such determination may be made before the actual commitment of federal funds, if the federal agency concerned has stated that the project falls under possible grant reimbursement provisions of federal law, and if in the judgment of the pollution control agency a federal grant offer should be recommended when grant funds can be certified as available for the project.

Subd. 2. The director shall certify to the pollution control agency, and shall receive from the applicant copies of all such documents as the agency considers necessary and proper to establish:

(1) The general nature, location, and estimated total cost of the land, buildings, or capital improvements constituting the project;

(2) The federal agency to which the grant application has been submitted, the approval or determination of eligibility of the project by that agency, whether preliminary or final, the nature and probable cost of the facilities considered to be eligible for the grant, and the estimated amount of the grant;

(3) As to any project eligible for a grant of federal funds appropriated to the

pollution control agency under section 116.03, subdivision 3, its priority of need relative to other such projects;

(4) The amounts and sources of funds of the applicant which are appropriated and available or are authorized to be borrowed to pay the cost of the project in excess of the grant;

(5) The probable dates of site acquisition and contracts for and completion of phases of construction; and

(6) The probable dates and amounts of disbursement of the federal grant.

Subd. 3. The pollution control agency may make the state grant in aid for the payment of interest on funds borrowed for any project in an amount not exceeding the amount that the project is eligible, after consideration of the following factors, no one of which shall necessarily control its decision:

(1) The probability and probable time of approval of a federal grant in a specific amount for disbursement from appropriated funds allocated to the project;

(2) The priority of need for the project in relation to other projects eligible for grants subject to approval by the pollution control agency;

(3) The readiness of the responsible agency or subdivision to proceed with the project; and

(4) The ability of the responsible agency or subdivision to finance the eligible cost of the project itself without state costs.

Subd. 4. All expenses of the pollution control agency in administering the appropriation made by this section are payable therefrom.

Subd. 5. There is appropriated to the pollution control agency from the general fund in the state treasury the sum of \$1,500,000 for the purpose of carrying out the terms and provisions of subdivisions 1 to 4.

None of such funds shall cancel but shall be available for the purposes of making state grants in aid for the payment of interest to those eligible therefor until the full amount has been expended.

Subd. 6. This section may be cited as the *Crystal Waters Act*.

[1969 c 825 s 1-3]