

# MINNESOTA STATUTES 1977 SUPPLEMENT

## ENVIRONMENTAL QUALITY BOARD 116C.53

### CHAPTER 116C. ENVIRONMENTAL QUALITY BOARD

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#### 116C.52 Definitions.

[For text of subds 1 and 2, see M.S.1976]

Subd. 3. "High voltage transmission line" means a conductor of electric energy and associated facilities designed for and capable of operation at a nominal voltage of 200 kilovolts or more, except that the board, by rule, may exempt lines pursuant to section 116C.57, subdivision 5.

[For text of subds 4 to 6, see M.S.1976]

Subd. 7. "Construction" means any clearing of land, excavation, or other action that would adversely affect the natural environment of the site or route but does not include changes needed for temporary use of sites or routes for nonutility purposes, or uses in securing survey or geological data, including necessary borings to ascertain foundation conditions.

Subd. 8. "Route" means the location of a high voltage transmission line between two end points. The route may have a variable width of up to 1.25 miles.

Subd. 9. "Site" means the location of a large electric power generating plant.

Subd. 10. "Large electric power facilities" means high voltage transmission lines and large electric power generating plants.

[ 1977 c 439 s 1-5 ]

#### 116C.53 Siting authority.

Subdivision 1. **Policy.** The legislature hereby declares it to be the policy of the state to locate large electric power facilities in an orderly manner compatible with environmental preservation and the efficient use of resources. In accordance with this policy the board shall choose locations that minimize adverse human and environmental impact while insuring continuing electric power system reliability and integrity and insuring that electric energy needs are met and fulfilled in an orderly and timely fashion.

Subd. 2. **Jurisdiction.** The board is hereby given the authority to provide for site and route selection.

Subd. 3. **Interstate routes.** If a route is proposed in two or more states, the board shall attempt to reach agreement with affected states on the entry and exit points prior to authorizing the construction of the route. The board, in discharge of its duties pursuant to sections 116C.51 to 116C.69 may make joint investigations, hold joint hearings within or without the state, and issue joint or concurrent orders in conjunction or concurrence with any official or agency of any state or of the United States. The board may negotiate and enter into any agreements or compacts with agencies of other states, pursuant to any consent of congress, for cooperative

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efforts in certifying the construction, operation, and maintenance of large electric power facilities in accord with the purposes of sections 116C.51 to 116C.69 and for the enforcement of the respective state laws regarding such facilities.

[ 1977 c 439 s 6 ]

### **116C.54 Advance forecasting.**

Every utility which owns or operates, or plans within the next 15 years to own or operate large electric power generating plants or high voltage transmission lines shall develop forecasts as specified in this section. On or before July 1 of each even-numbered year, every such utility shall submit a report of its forecast to the board. The report may be appropriate portions of a single regional forecast or may be jointly prepared and submitted by two or more utilities and shall contain the following information:

(1) Description of the tentative regional location and general size and type of all large electric power generating plants and high voltage transmission lines to be owned or operated by the utility during the ensuing 15 years or any longer period the board deems necessary;

(2) Identification of all existing generating plants and transmission lines projected to be removed from service during any 15 year period or upon completion of construction of any large electric power generating plants and high voltage transmission lines;

(3) Statement of the projected demand for electric energy for the ensuing 15 years and the underlying assumptions for this forecast, such information to be as geographically specific as possible where this demand will occur;

(4) Description of the capacity of the electric power system to meet projected demands during the ensuing 15 years;

(5) Description of the utility's relationship to other utilities and regional associations, power pools or networks; and

(6) Other relevant information as may be requested by the board.

On or before July 1 of each odd-numbered year, a utility shall verify or submit revisions to items (1) and (2).

[ 1977 c 439 s 7 ]

### **116C.55 Development of power plant study areas criteria; public hearings; inventory.**

Subdivision 1. [ Repealed, 1977 c 439 s 27 ]

Subd. 2. **Inventory criteria; public hearings.** The board shall promptly initiate a public planning process where all interested persons can participate in developing the criteria and standards to be used by the board in preparing an inventory of large electric power generating plant study areas and to guide the site and route suitability evaluation and selection process. The participatory process shall include, but should not be limited to public hearings. Before substantial modifications of the initial criteria and standards are adopted, additional public hearings shall be held. All hearings conducted under this subdivision shall be conducted pursuant to the rulemaking provisions of chapter 15.

Subd. 3. **Inventory of large electric power generating plant study areas.** On or before January 1, 1979, the board shall adopt an inventory of large electric power generating plant study areas and publish an inventory report. The inventory report shall specify the planning policies, criteria and standards used in developing the inventory. After completion of its initial inventory the board shall have a continuing responsibility to evaluate, update and publish its inventory.

[ 1977 c 439 s 8,9 ]

**116C.56** [ Repealed, 1977 c 439 s 27 ]

**116C.57 Designation of sites and routes; procedures; considerations; emergency certification; exemption.**

Subdivision 1. **Designation of sites suitable for specific facilities; reports.** A utility must apply to the board in a form and manner prescribed by the board for designation of a specific site for a specific size and type of facility. The application

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shall contain at least two proposed sites. In the event a utility proposes a site not included in the board's inventory of study areas, the utility shall specify the reasons for the proposal and shall make an evaluation of the proposed site based upon the planning policies, criteria and standards specified in the inventory. Pursuant to sections 116C.57 to 116C.60, the board shall study and evaluate any site proposed by a utility and any other site the board deems necessary which was proposed in a manner consistent with rules adopted by the board concerning the form, content, and timeliness of proposals for alternate sites. No site designation shall be made in violation of the site selection standards established in section 116C.55. The board shall indicate the reasons for any refusal and indicate changes in size or type of facility necessary to allow site designation. Within a year after the board's acceptance of a utility's application, the board shall decide in accordance with the criteria specified in section 116C.55, subdivision 2, the responsibilities, procedures and considerations specified in section 116C.57, subdivision 4, and the considerations in chapter 116D which proposed site is to be designated. The board may extend for just cause the time limitation for its decision for a period not to exceed six months. When the board designates a site, it shall issue a certificate of site compatibility to the utility with any appropriate conditions. The board shall publish a notice of its decision in the state register within 30 days of site designation. No large electric power generating plant shall be constructed except on a site designated by the board.

**Subd. 2. Designation of routes; procedure.** A utility shall apply to the board in a form and manner prescribed by the board for a permit for the construction of a high voltage transmission line. The application shall contain at least two proposed routes. Pursuant to sections 116C.57 to 116C.60, the board shall study, and evaluate the type, design, routing, right-of-way preparation and facility construction of any route proposed in a utility's application and any other route the board deems necessary which was proposed in a manner consistent with rules adopted by the board concerning the form, content, and timeliness of proposals for alternate routes provided, however, that the board shall identify the alternative routes prior to the commencement of public hearings thereon pursuant to section 116C.58. Within one year after the board's acceptance of a utility's application, the board shall decide in accordance with the criteria and standards specified in section 116C.55, subdivision 2, and the considerations specified in section 116C.57, subdivision 4, which proposed route is to be designated. The board may extend for just cause the time limitation for its decision for a period not to exceed 90 days. When the board designates a route, it shall issue a permit for the construction of a high voltage transmission line specifying the type, design, routing, right-of-way preparation and facility construction it deems necessary and with any other appropriate conditions. The board may order the construction of high voltage transmission line facilities which are capable of expansion in transmission capacity through multiple circuiting or design modifications. The board shall publish a notice of its decision in the state register within 30 days of issuance of the permit. No high voltage transmission line shall be constructed except on a route designated by the board, unless it was exempted pursuant to subdivision 5.

**Subd. 3. Emergency certification.** Any utility whose electric power system requires the immediate construction of a large electric power generating plant or high voltage transmission line may make application to the board for an emergency certificate of site compatibility or permit for the construction of high voltage transmission lines, which certificate or permit shall be issued in a timely manner no later than 195 days after the board's acceptance of the application and upon a finding by the board that a demonstrable emergency exists which requires immediate construction, and that adherence to the procedures and time schedules specified in sections 116C.54, 116C.56 and this section would jeopardize the utility's electric power system or would jeopardize the utility's ability to meet the electric needs of its customers in an orderly and timely manner. A public hearing to determine if an emergency exists shall be held within 90 days of the application. The board shall, after notice and hearing, promulgate rules specifying the criteria for emergency certification.

**Subd. 4. Considerations in designating sites and routes.** To facilitate the study, research, evaluation and designation of sites and routes, the board shall be guided

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by, but not limited to, the following responsibilities, procedures, and considerations:

(1) Evaluation of research and investigations relating to the effects on land, water and air resources of large electric power generating plants and high voltage transmission line routes and the effects of water and air discharges and electric fields resulting from such facilities on public health and welfare, vegetation, animals, materials and aesthetic values, including base line studies, predictive modeling, and monitoring of the water and air mass at proposed and operating sites and routes, evaluation of new or improved methods for minimizing adverse impacts of water and air discharges and other matters pertaining to the effects of power plants on the water and air environment;

(2) Environmental evaluation of sites and routes proposed for future development and expansion and their relationship to the land, water, air and human resources of the state;

(3) Evaluation of the effects of new electric power generation and transmission technologies and systems related to power plants designed to minimize adverse environmental effects;

(4) Evaluation of the potential for beneficial uses of waste energy from proposed large electric power generating plants;

(5) Analysis of the direct and indirect economic impact of proposed sites and routes including, but not limited to, productive agricultural land lost or impaired;

(6) Evaluation of adverse direct and indirect environmental effects which cannot be avoided should the proposed site and route be accepted;

(7) Evaluation of alternatives to the applicant's proposed site or route proposed pursuant to subdivisions 1 and 2;

(8) Evaluation of potential routes which would use or parallel existing railroad and highway rights-of-way;

(9) Evaluation of governmental survey lines and other natural division lines of agricultural land so as to minimize interference with agricultural operations;

(10) Evaluation of the future needs for additional high voltage transmission lines in the same general area as any proposed route, and the advisability of ordering the construction of structures capable of expansion in transmission capacity through multiple circuiting or design modifications;

(11) Evaluation of irreversible and irretrievable commitments of resources should the proposed site or route be approved; and

(12) Where appropriate, consideration of problems raised by other state and federal agencies and local entities.

(13) If the board's rules are substantially similar to existing rules and regulations of a federal agency to which the utility in the state is subject, the federal rules and regulations shall be applied by the board.

(14) No site or route shall be designated which violates state agency rules.

**Subd. 5. Exemption of certain routes.** A utility may apply to the board in a form and manner prescribed by the board to exempt the construction of any proposed high voltage transmission line from sections 116C.51 to 116C.69. Within 15 days of the board's receipt of the exemption application, the utility shall publish a notice and description of the exemption application in a legal newspaper of general circulation in each county in which the route is proposed and send a copy of the exemption application by certified mail to the chief executive of any regional development commission, county, incorporated municipality and organized town in which the route is proposed and shall send a notice and description of the exemption application to each owner over whose property the line may run, together with an understandable description of the procedures the owner must follow should he desire to object. For the purpose of giving mailed notice under this subdivision, owners shall be those shown on the records of the county auditor or, in any county where tax statements are mailed by the county treasurer, on the records of the county treasurer; but other appropriate records may be used for this purpose. Except as to the owners of tax exempt property or property taxes on a gross earnings basis, every property owner whose name does not appear on the records of the county auditor or the county treasurer shall be deemed to have waived such mailed

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notice unless he has requested in writing that the county auditor or county treasurer, as the case may be, include his name on the records for such purpose. The failure to give mailed notice to a property owner, or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with this subdivision has been made. If any person who owns real property crossed by the proposed route, or any person owning property adjacent to property crossed by the proposed route, or any affected political subdivision files an objection with the board within 60 days after the board's receipt of the exemption application, the board shall either deny the exemption application or conduct a public hearing. If the board determines that the proposed high voltage transmission line will not create significant human or environmental impact, it may exempt the proposed transmission line with any appropriate conditions, but the utility shall comply with any applicable state rule and any applicable zoning, building and land use rules, regulations and ordinances of any regional, county, local and special purpose government in which the route is proposed. The board may by rule require a fee to pay expenses incurred in processing exemptions. Any fee charged is subject to the conditions of section 116C.69, subdivision 2a.

Subd. 6. **Recording of survey points.** The permanent location of monuments or markers found or placed by a utility in a survey of right-of-way for a route shall be placed on record in the office of the county recorder or registrar of titles. No fee shall be charged to the utility for recording this information.

[ 1977 c 439 s 10 ]

### 116C.58 Public hearings; notice.

The board shall hold an annual public hearing at a time and place prescribed by rule in order to afford interested persons an opportunity to be heard regarding its inventory of study areas and any other aspects of the board's activities and duties or policies specified in sections 116C.51 to 116C.69. The board shall hold at least one public hearing in each county where a site or route is being considered for designation pursuant to section 116C.57. Notice and agenda of public hearings and public meetings of the board held in each county shall be given by the board at least ten days in advance but no earlier than 45 days prior to such hearings or meetings. Notice shall be by publication in a legal newspaper of general circulation in the county in which the public hearing or public meeting is to be held and by certified mailed notice to chief executives of the regional development commissions, counties, organized towns and the incorporated municipalities in which a site or route is proposed. All hearings held for designating a site or route or for exempting a route shall be conducted by a hearing examiner from the office of hearing examiners pursuant to the contested case procedures of chapter 15. Any person may appear at the hearings and present testimony and exhibits and may question witnesses without the necessity of intervening as a formal party to the proceedings.

[ 1977 c 439 s 11 ]

### 116C.59 Public participation.

Subdivision 1. **Advisory committee.** The board shall appoint one or more advisory committees to assist it in carrying out its duties. Committees appointed to evaluate sites or routes considered for designation shall be comprised of as many persons as may be designated by the board, but at least one representative from each of the following: Regional development commissions, counties and municipal corporations and one town board member from each county in which a site or route is proposed to be located. No officer, agent or employee of a utility shall serve on an advisory committee. Reimbursement for expenses incurred shall be made pursuant to the rules governing state employees.

[For text of subd 2, see M.S.1976]

Subd. 3. **Public advisor.** The board shall designate one staff person for the sole purpose of assisting and advising those affected and interested citizens on how to effectively participate in site or route proceedings.

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Subd. 4. **Scientific advisory committee.** The board may appoint one or more advisory committee composed of technical and scientific experts to conduct research and make recommendations concerning generic issues such as health and safety, underground routes, double circuiting and long range route and site planning. Reimbursement for expenses incurred shall be made pursuant to the rules governing reimbursement of state employees.

[ 1977 c 439 s 12,13 ]

### **116C.61 Local regulation; state permits; state agency participation.**

[For text of subd 1, see M.S.1976]

Subd. 2. **Facility licensing.** Notwithstanding anything herein to the contrary, utilities shall obtain state permits that may be required to construct and operate large electric power generating plants and high voltage transmission lines. A state agency in processing a utility's facility permit application shall be bound to the decisions of the board, with respect to the site or route designation, and with respect to other matters for which authority has been granted to the board by sections 116C.51 to 116C.69.

Subd. 3. **State agency participation.** State agencies authorized to issue permits required for construction or operation of large electric power generating plants or high voltage transmission lines shall participate in and present the position of the agency at public hearings and all other activities of the board on specific site or route designations of the board, which position shall clearly state whether the site or route being considered for designation or permit approval for a certain size and type of facility will be in compliance with state agency standards, regulations or policies.

[ 1977 c 439 s 14,15 ]

### **116C.62 Improvement of sites and routes.**

Utilities which have acquired a site or route in accordance with sections 116C.51 to 116C.69 may proceed to construct or improve the site or route for the intended purposes at any time, subject to section 116C.61, subdivision 2, provided that if the construction and improvement commences more than four years after a certificate or permit for the site or route has been issued then the utility must certify to the board that the site or route continues to meet the conditions upon which the certificate of site compatibility or transmission line construction permit was issued.

[ 1977 c 439 s 16 ]

### **116C.63 Eminent domain powers; right of condemnation.**

Subdivision 1. Nothing in this section shall invalidate the right of eminent domain vested in utilities by statute or common law existing as of May 24, 1973, except to the extent modified herein. The right of eminent domain shall continue to exist for utilities and may be used according to law to accomplish any of the purposes and objectives of sections 116C.51 to 116C.69, including acquisition of the right to utilize existing high voltage transmission facilities which are capable of expansion or modification to accommodate both existing and proposed conductors. Notwithstanding any law to the contrary, all easement interests shall revert to the then fee owner if a route is not used for high voltage transmission line purposes for a period of five years.

Subd. 2. In eminent domain proceedings by a utility for the acquisition of real property proposed for construction of a route or a site, the proceedings shall be conducted in the manner prescribed in chapter 117, except as otherwise specifically provided in this section.

Subd. 3. When such property is acquired by eminent domain proceedings or voluntary purchase and the amount the owner shall receive for the property is fi-

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nally determined, the owner who is entitled to payment may elect to have the amount paid in not more than ten annual installments, with interest on the deferred installments, at the rate of eight percent per annum on the unpaid balance, by submitting a written request to the utility before any payment has been made. After the first installment is paid the petitioner may make its final certificate, as provided by law, in the same manner as though the entire amount had been paid.

Subd. 4. When property defined as class 3, 3b, 3c, 3cc, 3d, or 3f pursuant to section 273.13 is proposed to be acquired for the construction of a site or route by eminent domain proceedings, the property owner shall have the option to require the utility to condemn a fee interest in any amount of contiguous land which he owns and elects in writing to transfer to the utility within 60 days after his receipt of the petition filed pursuant to section 117.055. The required acquisition of land contiguous to, but outside the designated right-of-way of a route or the boundary of a site, shall be considered an acquisition for a public purpose and for use in the utility's business, for purposes of chapter 117D and section 500.24, respectively; provided that a utility shall divest itself completely of all such lands used for farming or capable of being used for farming within five years within the date of acquisition, or such land shall be sold at a public sale in the manner prescribed by law for the foreclosure of a mortgage by action.

Subd. 5. A utility shall notify by certified mail each person who has transferred any interest in real property to the utility after July 1, 1974, but prior to the effective date of Laws 1977, Chapter 439, for the purpose of a site or route that he may elect in writing within 90 days after receipt of notice to require the utility to acquire any remaining contiguous parcel of land pursuant to this section or to return any payment to the utility and require it to make installment payments pursuant to this section.

[ 1977 c 439 s 17 ]

### 116C.635 Annual payments.

A utility shall annually pay to the owners of land defined as class 3, 3b, 3c, 3cc, 3d, or 3f pursuant to section 273.13 listed on records of the county auditor or treasurer over which runs a high voltage transmission line as defined in section 116C.52, subdivision 3, an amount determined by multiplying a fraction, the numerator of which is the length of high voltage transmission line which runs over that parcel and the denominator of which is the total length of that particular line running over all property within the county, by ten percent of the transmission and distribution line tax revenue derived from the tax on that line pursuant to section 273.42. Prior to August 1 of each year, the auditor of each county shall send a statement to the utility specifying the amount of the payment the utility must make to each qualifying owner of land within the county pursuant to this section. Where a right-of-way width is shared by more than one property owner, the numerator shall be adjusted by multiplying the length of line on the parcel by the proportion of the total width on the parcel owned by that property owner. The amount of payment for which the property qualifies pursuant to this subdivision shall not exceed 20 percent of the total gross tax on the parcel prior to deduction of the state paid agricultural credit and the state paid homestead credit. The payments of this section shall be made to each affected landowner by the appropriate utility on or before October 1 of each year after 1977 based upon the tax levied in the previous year and shall not reduce any payment pursuant to a voluntary agreement or eminent domain proceeding.

[ 1977 c 439 s 18 ]

NOTE: This section is effective January 1, 1978.

### 116C.64 Failure to act.

If the board fails to act within the times specified in section 116C.57, any affected utility may seek an order of the district court requiring the board to designate or refuse to designate a site or route.

[ 1977 c 439 s 19 ]

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### 116C.645 Revocation or suspension.

A site certificate or construction permit may be revoked or suspended by the board after adequate notice of the alleged grounds for revocation or suspension and a full and fair hearing in which the affected utility has an opportunity to confront any witness and respond to any evidence against it and to present rebuttal or mitigating evidence upon a finding by the board of:

(1) Any false statement knowingly made in the application or in accompanying statements or studies required of the applicant, if a true statement would have warranted a change in the board's findings;

(2) Failure to comply with material conditions of the site certificate or construction permit, or failure to maintain safety standards; or

(3) Any material violation of the provisions of sections 116C.51 to 116C.69, any rule promulgated pursuant thereto, or any order of the board.

[ 1977 c 439 s 20 ]

### 116C.65 Judicial review.

Any utility, party or person aggrieved by the issuance of a certificate or emergency certificate of site compatibility or transmission line construction permit from the board or a certification of continuing suitability filed by a utility with the board or by a final order in accordance with any rules promulgated by the board, may appeal therefrom to any district court where such a site or route is to be located. The appeal shall be filed within 60 days after the publication in the state register of notice of the issuance of the certificate or permit by the board or certification filed with the council or the filing of any final order by the board. The notice of appeal to the district court shall be filed with the clerk of the district court and a copy thereof mailed to the board and affected utility. Any utility, party or person aggrieved by a final order or judgment rendered on appeal to the district court may appeal therefrom to the supreme court in the manner provided in civil actions. The scope of judicial review shall be as prescribed in section 15.024.

[ 1977 c 439 s 21 ]

### 116C.66 Rules.

The board, in order to give effect to the purposes of sections 116C.51 to 116C.69, shall prior to January 1, 1978, adopt rules consistent with sections 116C.51 to 116C.69, including promulgation of site and route designation criteria, the description of the information to be furnished by the utilities, establishment of minimum guidelines for public participation in the development, revision, and enforcement of any rule, plan or program established by the board, procedures for the revocation or suspension of a construction permit or a certificate of site compatibility, the procedure and timeliness for proposing alternative routes and sites, and route exemption criteria and procedures. No rule adopted by the board shall grant priority to state owned wildlife management areas over agricultural lands in the designation or route avoidance areas. The provisions of chapter 15 shall apply to the appeal of rules adopted by the board to the same extent as it applies to review of rules adopted by any other agency of state government.

The chief hearing examiner shall, prior to January 1, 1978, adopt procedural rules for public hearings relating to the site and route designation process and to the route exemption process. The rules shall attempt to maximize citizen participation in these processes.

[ 1977 c 439 s 22 ]

### 116C.67 Savings clause.

The provisions of sections 116C.51 to 116C.69 shall not apply to any site evaluated and recommended by the governor's environmental quality council prior to the date of enactment, and to any high voltage transmission lines, the construction of which will commence prior to July 1, 1974.

[ 1977 c 439 s 23 ]



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### 116C.68 Enforcement, penalties.

Subdivision 1. Any person who violates sections 116C.51 to 116C.69 or any rule promulgated hereunder, or knowingly submits false information in any report required by sections 116C.51 to 116C.69 is guilty of a misdemeanor for the first offense and a gross misdemeanor for the second and each subsequent offense. Each day of violation shall constitute a separate offense.

Subd. 2. The provisions of sections 116C.51 to 116C.69 or any rules promulgated hereunder may be enforced by injunction, action to compel performance or other appropriate action in the district court of the county wherein the violation takes place. The attorney general shall bring any action under this subdivision upon the request of the board.

Subd. 3. When the court finds that any person has violated sections 116C.51 to 116C.69, any rule hereunder, knowingly submitted false information in any report required by sections 116C.51 to 116C.69 or has violated any court order issued under sections 116C.51 to 116C.69, the court may impose a civil penalty of not more than \$10,000 for each violation. These penalties shall be paid to the general fund in the state treasury.

[ 1977 c 439 s 24 ]

### 116C.69 Biennial report; application fees; appropriation; funding.

Subdivision 1. **Biennial report.** Before November 15 of each even-numbered year the board shall prepare and submit to the legislature a report of its operations, activities, findings and recommendations concerning sections 116C.51 to 116C.69. The report shall also contain information on the board's biennial expenditures, its proposed budget for the following biennium, and the amounts paid in certificate and permit application fees pursuant to subdivisions 2 and 2a and in assessments pursuant to subdivision 3. The proposed budget for the following biennium shall be subject to legislative review.

Subd. 2. **Site application fee.** Every applicant for a site certificate shall pay to the board a fee in an amount equal to \$500 for each \$1,000,000 of production plant investment in the proposed installation as defined in the Federal Power Commission Uniform System of Accounts. The board shall specify the time and manner of payment of the fee. If any single payment requested by the board is in excess of 25 percent of the total estimated fee, the board shall show that the excess is reasonably necessary. The applicant shall pay within 30 days of notification any additional fees reasonably necessary for completion of the site evaluation and designation process by the board. In no event shall the total fees required of the applicant under this subdivision exceed an amount equal to 0.001 of said production plant investment (\$1,000 for each \$1,000,000). All money received pursuant to this subdivision shall be deposited in the general fund. So much money as is necessary is annually appropriated from the general fund to pay expenses incurred in processing applications for certificates in accordance with sections 116C.51 to 116C.69 and in the event the expenses are less than the fee paid, to refund the excess to the applicant. This annual appropriation shall not exceed the fees to be paid during each period.

Subd. 2a. **Route application fee.** Every applicant for a transmission line construction permit shall pay to the board a base fee of \$35,000 plus a fee in an amount equal to \$1,000 per mile length of the longest proposed route. The board shall specify the time and manner of payment of the fee. If any single payment requested by the board is in excess of 25 percent of the total estimated fee, the board shall show that the excess is reasonably necessary. In the event the actual cost of processing an application up to the board's final decision to designate a route exceeds the above fee schedule, the board may assess the applicant any additional fees necessary to cover the actual costs, not to exceed an amount equal to \$500 per mile length of the longest proposed route. All money received pursuant to this subdivision shall be deposited in the general fund. So much money as is necessary is annually appropriated from the general fund to pay expenses incurred in processing applications for construction permits in accordance with sections 116C.51 to 116C.69 and in the event the expenses are less than the fee paid, to refund the ex-

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cess to the applicant. This annual appropriation shall not exceed the fees to be paid during each period.

Subd. 3. **Funding; assessment.** The board shall finance its base line studies, general environmental studies, development of criteria, inventory preparation, monitoring of conditions placed on site certificates and construction permits, and all other work, other than specific site and route designation from an assessment made annually by the board against all utilities. Each share shall be determined as follows: (1) the ratio that the annual retail kilowatt-hour sales in the state of each utility bears to the annual total retail kilowatt-hour sales in the state of all such utilities, multiplied by 0.667, plus (2) the ratio that the annual gross revenue from retail kilowatt-hour sales in the state of each utility bears to the annual total gross revenues from retail kilowatt-hour sales in the state of all such utilities, multiplied by 0.333, as determined by the board. The assessment shall be credited to the general fund and shall be paid to the state treasury within 30 days after receipt of the bill, which shall constitute notice of said assessment and demand of payment thereof. The total amount which may be assessed to the several utilities under authority of this subdivision shall not exceed the annual budget of the board for carrying out the purposes of this subdivision.

[ 1977 c 439 s 25 ]

### 116C.71 Definitions.

Subdivision 1. For the purposes of sections 116C.71 to 116C.74, the terms defined in this section have the meaning given them.

Subd. 2. "By-product nuclear material" means any material, except special nuclear material, yielded in or made radioactive by:

- (a) Exposure to the radiation incident to the process of producing or utilizing special nuclear material; or
- (b) Exposure to radiation produced or accelerated in an atomic or sub-atomic particle accelerating machine.

Subd. 3. "Person" means any individual, corporation, partnership or other unincorporated association or governmental agency.

Subd. 4. "Radiation" means any or all of the following: alpha rays, beta rays, gamma rays, high energy neutrons or protons or electrons, and other atomic particles; but not x-rays and electromagnetic radiations of wavelengths greater than 2,000 Angstrom units and sound waves.

Subd. 5. "Radioactive material" means any matter which emits radiation. Radioactive material includes special nuclear material, source nuclear material, and by-product nuclear material.

Subd. 6. "Radioactive waste" means:

- (a) Useless or unwanted capturable radioactive residues produced incidental to the use of radioactive material; or
- (b) Useless or unwanted radioactive material; or
- (c) Otherwise non-radioactive material made radioactive by contamination with radioactive material.

Radioactive waste does not include discharges of radioactive effluents to air or surface water when subject to applicable federal or state regulations or excreta from persons undergoing medical diagnosis or therapy with radioactive material or naturally occurring radioactive isotopes.

Subd. 7. "Radioactive waste management facility" means a geographic site, including buildings, structures, and equipment in or upon which radioactive waste is retrievably or irretrievably disposed by burial in soil or permanently stored.

Subd. 8. "Source nuclear material" means:

- (a) Uranium or thorium or any combination thereof, in any physical or chemical form; or
- (b) Ores which contain by weight one-twentieth of one percent or more of uranium, thorium, or any combination thereof. Source nuclear material does not include special nuclear material.

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Subd. 9. "Special nuclear material" means:

(a) Plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the Nuclear Regulatory Commission, pursuant to the Atomic Energy Act of 1954 as amended, determines to be special nuclear material; or

(b) Any material artificially enriched by any of the materials described in clause (a). Special nuclear material does not include source nuclear material.

[ 1977 c 416 s 1 ]

### 116C.72 Radio active waste management facility.

Notwithstanding any provision of chapter 116H, to the contrary, no person shall construct or operate a radioactive waste management facility within Minnesota unless expressly authorized by the Minnesota legislature.

[ 1977 c 416 s 2 ]

### 116C.73 Transportation of radioactive wastes into state.

Notwithstanding any provision of chapter 116H, to the contrary, no person shall transport radioactive wastes into the state of Minnesota for the purpose of disposal by burial in soil or permanent storage within Minnesota unless expressly authorized by the Minnesota legislature, except that radioactive wastes may be transported into the state for temporary storage in accordance with applicable federal and state law for up to 12 months pending transportation out of the state.

[ 1977 c 416 s 3 ]

### 116C.74 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.

[ 1977 c 416 s 4 ]

## CHAPTER 116F. RECYCLING OF SOLID WASTE

Sec.  
116F.21 Milk packaging; policy. [New]

Sec.  
116F.22 Prohibitions; penalty. [New]

### 116F.21 Milk packaging; policy.

The legislature finds that the use of nonreturnable, nonrefillable containers for the packaging of milk and other milk products presents a solid waste management problem for the state, promotes energy waste and depletes natural resources. The legislature therefore, in furtherance of the policies stated in section 116F.01, determines that the use of nonreturnable, nonrefillable containers for packaging milk and other milk products should be discouraged and that the use of returnable and reusable packaging for these products is preferred and should be encouraged.

[ 1977 c 268 s 1 ]

NOTE: Laws 1977, Chapter 455, Section 96 reads as follows:

"Sec. 96. Notwithstanding any law to the contrary, no prohibition on the retail sale or the offer for retail sale of milk in nonreturnable, nonrefillable plastic containers shall be effective prior to July 1, 1978. This section is effective the day following final enactment."

### 116F.22 Prohibitions; penalty.

Subdivision 1. No person shall sell at retail or offer for sale at retail in this state any milk or fluid milk product as defined in section 32.391, other than sour cream, cottage cheese and yogurt, in a nonreturnable, nonrefillable rigid or semi-rigid container at least 50 percent of which is plastic.