

CHAPTER 116

POLLUTION CONTROL AGENCY

<p>116.07 Powers and duties.</p> <p>116.072 Administrative penalties for hazardous waste violations.</p> <p>116.14 Hazardous waste facilities; liability of guarantor.</p> <p>116.16 Minnesota state water pollution control fund.</p> <p>116.167 Repealed.</p> <p>116.18 Water pollution control funds; appropriations and bonds.</p>	<p>116.181 Corrective action grants.</p> <p>116.41 Waste and waste facilities classification; training and certification.</p> <p>116.46 Definitions.</p> <p>116.47 Exemptions.</p> <p>116.48 Notification requirements.</p> <p>116.491 Tank installers training and certification.</p> <p>116.55 Waste tire recycling loans and grants.</p>
--	---

116.07 POWERS AND DUTIES.

[For text of subds 1 to 4a, see M.S.1986]

Subd. 4b. **Permits; hazardous waste facilities.** (a) The agency shall provide to the waste management board established in section 115A.04, copies of each permit application for a hazardous waste facility immediately upon its submittal to the agency. The agency shall request recommendations on each permit application from the board and shall consult with the board on the agency's intended disposition of the recommendations. Except as otherwise provided in sections 115A.18 to 115A.30, the agency shall commence any environmental review required under chapter 116D within 120 days of its acceptance of a completed permit application. The agency shall respond to a permit application for a hazardous waste facility within 120 days following a decision not to prepare environmental documents or following the acceptance of a negative declaration notice or an environmental impact statement. Except as otherwise provided in sections 115A.18 to 115A.30, within 60 days following the submission of a final permit application for a hazardous waste facility, unless a time extension is agreed to by the applicant, the agency shall issue or deny all permits needed for the construction of the proposed facility.

(b) The agency shall promulgate rules pursuant to chapter 14 for all hazardous waste facilities. After the report of the waste management board required by section 115A.08, subdivision 5a, has been submitted to the legislature, the agency shall review its rules for hazardous waste facilities and shall consider whether any of the rules should be modified or if new rules should be adopted based on the recommendations in the report. The rules shall require:

(1) contingency plans for all hazardous waste facilities which provide for effective containment and control in any emergency condition;

(2) the establishment of a mechanism to assure that money to cover the costs of closure and postclosure monitoring and maintenance of hazardous waste facilities will be available;

(3) the maintenance of liability insurance by the owner or operator of hazardous waste facilities during the operating life of the facility.

[For text of subds 4d to 9, see M.S.1986]

History: 1987 c 348 s 30

116.072 ADMINISTRATIVE PENALTIES FOR HAZARDOUS WASTE VIOLATIONS.

Subdivision 1. **Authority to issue penalty orders.** The director may issue an order requiring violations to be corrected and administratively assessing monetary penalties for hazardous waste violations under sections 115.061 and 116.07, and Minnesota Rules, chapter 7045. The order must be issued as provided in this section.

Subd. 2. **Amount of penalty; considerations.** (a) The director may issue an order assessing a penalty up to \$10,000 for all violations identified during an inspection.

(b) In determining the amount of a penalty the director may consider:

- (1) the willfulness of the violation;
- (2) the gravity of the violation, including damage to humans, animals, air, water, land, or other natural resources of the state;
- (3) the history of past violations;
- (4) the number of violations;
- (5) the economic benefit gained by the person by allowing or committing the violation; and
- (6) other factors as justice may require, if the director specifically identifies the additional factors in the director's order.

(c) For a violation after an initial violation, the director shall, in determining the amount of a penalty, consider the factors in paragraph (b) and the:

- (1) similarity of the most previous violation and the violation to be penalized;
- (2) time elapsed since the last violation;
- (3) number of previous violations; and
- (4) response of the person to the most previous violation identified.

Subd. 3. Contents of order. An order assessing an administrative penalty under this section shall include:

- (1) a concise statement of the facts alleged to constitute a violation;
- (2) a reference to the section of the statute, rule, variance, order, stipulation agreement, or term or condition of a permit that has been violated;
- (3) a statement of the amount of the administrative penalty to be imposed and the factors upon which the penalty is based; and
- (4) a statement of the person's right to review of the order.

Subd. 4. Corrective order. (a) The director may issue an order assessing a penalty and requiring the violations cited in the order to be corrected within 30 calendar days from the date the order is received.

(b) The person to whom the order was issued shall provide information to the director before the 31st day after the order was received demonstrating that the violation has been corrected or that appropriate steps toward correcting the violation have been taken. The director shall determine whether the violation has been corrected and notify the person subject to the order of the director's determination.

Subd. 5. Penalty. (a) Except as provided in paragraph (b), if the director determines that the violation has been corrected or appropriate steps have been taken to correct the action, the penalty must be forgiven. Unless the person requests review of the order under subdivision 6 or 7 before the penalty is due, the penalty in the order is due and payable:

- (1) on the 31st day after the order was received, if the person subject to the order fails to provide information to the director showing that the violation has been corrected or that appropriate steps have been taken toward correcting the violation; or
- (2) on the 20th day after the person receives the director's determination under subdivision 4, paragraph (b), if the person subject to the order has provided information to the director that the director determines is not sufficient to show the violation has been corrected or that appropriate steps have been taken toward correcting the violation.

(b) For a repeated or serious violation, the director may issue an order with a penalty that will not be forgiven after the corrective action is taken. The penalty is due by 31 days after the order was received unless review of the order under subdivision 6, 7, or 8 has been sought.

(c) Interest at the rate established in section 549.09 begins to accrue on penalties under this subdivision on the 31st day after the order with the penalty was received.

Subd. 6. Expedited administrative hearing. (a) Within 30 days after receiving an order or within 20 days after receiving notice that the director has determined that a

violation has not been corrected or appropriate steps have not been taken, the person subject to an order under this section may request an expedited hearing to review the director's action. The person to whom the order is directed and the director are the parties to the expedited hearing. The director must notify the person to whom the order is directed of the time and place of the hearing at least 20 days before the hearing. The expedited hearing must be held within 30 days after a request for hearing has been filed with the director unless the parties agree to a later date.

(b) All written arguments must be submitted within ten days following the close of the hearing. The hearing shall be conducted under the conference contested case rules of the office of administrative hearings, as modified by this subdivision. The office of administrative hearings may, in consultation with the agency, adopt rules specifically applicable to cases under this section.

(c) The administrative law judge shall issue a report making recommendations about the director's action to the director within 30 days following the close of the record. The administrative law judge may not recommend a change in the amount of the proposed penalty unless the administrative law judge determines that, based on the factors in subdivision 2, the amount of the penalty is unreasonable.

(d) If the administrative law judge makes a finding that the hearing was requested solely for purposes of delay or that the hearing request was frivolous, the director may add to the amount of the penalty the costs charged to the agency by the office of administrative hearings for the hearing.

(e) If a hearing has been held, the director may not issue a final order until at least five days after receipt of the report of the administrative law judge. The person to whom an order is issued may, within those five days, comment to the director on the recommendations and the director will consider the comments. The final order may be appealed in the manner provided in sections 14.63 to 14.69.

(f) If a hearing has been held and a final order issued by the director, the penalty shall be paid by 30 days after the date the final order is received unless review of the final order is requested under sections 14.63 to 14.69. If review is not requested or the order is reviewed and upheld, the amount due is the penalty, together with interest accruing from 31 days after the original order was received at the rate established in section 549.09.

Subd. 7. District court hearing. (a) Within 30 days after the receipt of an order or within 20 days of receipt of notice that the director has determined that a violation has not been corrected or appropriate steps have not been taken, the person subject to an order under this section may file a petition in district court for review of the order in lieu of requesting an administrative hearing under subdivision 6. The petition shall be filed with the court administrator with proof of service on the director. The petition shall be captioned in the name of the person making the petition as petitioner and the director as respondent. The petition shall state with specificity the grounds upon which the petitioner seeks rescission of the order, including the facts upon which each claim is based.

(b) At trial, the director must establish by a preponderance of the evidence that a violation subject to this section occurred, the petitioner is responsible for the violation, a penalty immediately assessed as provided for under subdivision 5, paragraph (b) or (c), is justified by the violation, and the factors listed in subdivision 2 were considered when the penalty amount was determined and the penalty amount is justified by those factors.

Subd. 8. Mediation. In addition to review under subdivision 6 or 7, the director is authorized to enter into mediation concerning an order issued under this section if the director and the person to whom the order is issued both agree to mediation.

Subd. 9. Enforcement. (a) The attorney general may proceed on behalf of the state to enforce penalties that are due and payable under this section in any manner provided by law for the collection of debts.

(b) The attorney general may petition the district court to file the administrative

order as an order of the court. At any court hearing, the only issues parties may contest are procedural and notice issues. Once entered, the administrative order may be enforced in the same manner as a final judgment of the district court.

(c) If a person fails to pay the penalty, the attorney general may bring a civil action in district court seeking payment of the penalties, injunctive, or other appropriate relief including monetary damages, attorney fees, costs, and interest.

Subd. 10. **Revocation and suspension of permit.** If a person fails to pay a penalty owed under this section, the agency has grounds to revoke or refuse to reissue or renew a hazardous waste permit issued by the agency.

Subd. 11. **Cumulative remedy.** The authority of the agency to issue a corrective order assessing penalties is in addition to other remedies available under statutory or common law. The payment of a penalty does not preclude the use of other enforcement provisions in connection with the violation for which the penalty was assessed.

History: 1987 c 174 s 1

116.14 HAZARDOUS WASTE FACILITIES; LIABILITY OF GUARANTOR.

If the owner or operator of a hazardous waste facility is in bankruptcy, reorganization, or arrangement under the Federal Bankruptcy Code or if jurisdiction in any state or federal court cannot with reasonable diligence be obtained over an owner or operator likely to be solvent at the time of judgment, a person having a claim arising from conduct for which evidence of financial responsibility must be provided under the rules adopted under section 116.07, subdivision 4b, may bring the claim directly against the guarantor providing the evidence of financial responsibility. For the purposes of this section, "guarantor" means any person other than the owner or operator who provides evidence of financial responsibility for that owner or operator. In an action against a guarantor under this section, the guarantor is entitled to invoke the rights and defenses that would have been available to the owner or operator if the action had been brought against the owner or operator and that would have been available to the guarantor if an action had been brought against the guarantor by the owner or operator. In an action under this section, the total liability of a guarantor is limited to the aggregate amount that the guarantor has provided as evidence of financial responsibility to the owner or operator under the rules. Nothing in this section shall be construed to limit any other state or federal statutory, contractual, or common law liability of a guarantor to its owner or operator including the liability of the guarantor for bad faith either in negotiating or in failing to negotiate the settlement of any claim. Nothing in this section shall be construed to diminish the liability of any person under chapter 115B or the federal Superfund Act, United States Code, title 42, section 9601 et seq., or other applicable law.

History: 1987 c 391 s 1

116.16 MINNESOTA STATE WATER POLLUTION CONTROL FUND.

[For text of subd 1, see M.S.1986]

Subd. 2. **Definitions.** In this section and sections 116.17 and 116.18:

- (1) Agency means the Minnesota pollution control agency created by this chapter;
- (2) Municipality means any county, city, and town, the metropolitan waste control commission established in chapter 473 and the metropolitan council when acting under the provisions of that chapter or an Indian tribe or an authorized Indian tribal organization, and any other governmental subdivision of the state responsible by law for the prevention, control, and abatement of water pollution in any area of the state;
- (3) Pollution control fund means the Minnesota state water pollution control fund created by subdivision 1;
- (4) Bond account means the Minnesota state water pollution control bond account created in the state bond fund by section 116.17, subdivision 4;

(5) Terms defined in section 115.01 have the meanings therein given them;

(6) The eligible cost of any municipal project, except as otherwise provided in clauses (7) and (8), includes (a) preliminary planning to determine the economic, engineering, and environmental feasibility of the project; (b) engineering, architectural, legal, fiscal, economic, sociological, project administrative costs of the agency and the municipality, and other investigations and studies; (c) surveys, designs, plans, working drawings, specifications, procedures, and other actions necessary to the planning, design, and construction of the project; (d) erection, building, acquisition, alteration, remodeling, improvement, and extension of disposal systems; (e) inspection and supervision of construction; and (f) all other expenses of the kinds enumerated in section 475.65;

(7) For state independent grant and matching grant purposes hereunder, the eligible cost for grant applicants shall be the eligible cost as determined by the United States environmental protection agency under the Federal Water Pollution Control Act, United States Code, title 33, sections 1281 to 1299;

(8) Notwithstanding clause (7), for state grants under the state independent grants program, the eligible cost includes the acquisition of land for stabilization ponds, the construction of collector sewers for totally unsewered statutory and home rule charter cities and towns described under section 368.01, subdivision 1 or 1a, that are in existence on January 1, 1985, and the provision of reserve capacity sufficient to serve the reasonable needs of the municipality for 20 years in the case of treatment works and 40 years in the case of sewer systems. Notwithstanding clause (7), for state grants under the state independent grants program, the eligible cost does not include the provision of service to seasonal homes, or cost increases from contingencies that exceed three percent of as-bid costs or cost increases from unanticipated site conditions that exceed an additional two percent of as-bid costs;

(9) Authority means the Minnesota public facilities authority established in section 446A.03.

[For text of subd 3, see M.S.1986]

Subd. 4. Disbursements. Disbursements from the fund shall be made by the state treasurer upon order of the commissioner of finance at the times and in the amounts requested by the agency or the Minnesota public facilities authority in accordance with the applicable state and federal law governing such disbursements; except that no appropriation or loan of state funds for any project shall be disbursed to any municipality until and unless the agency has by resolution determined the total estimated cost of the project, and ascertained that financing of the project is assured by:

(1) a grant to the municipality by an agency of the federal government within the amount of funds then appropriated to that agency and allocated by it to projects within the state; or

(2) a grant of funds appropriated by state law; or

(3) a loan authorized by state law; or

(4) the appropriation of proceeds of bonds or other funds of the municipality to a fund for the construction of the project; or

(5) any or all of the means referred to in paragraphs (1) to (4); and

(6) an irrevocable undertaking, by resolution of the governing body of the municipality, to use all funds so made available exclusively for the construction of the project, and to pay any additional amount by which the cost of the project exceeds the estimate, by the appropriation to the construction fund of additional municipal funds or the proceeds of additional bonds to be issued by the municipality; and

(7) conformity of the project and of the loan or grant application with the state water pollution control plan as certified to the federal government and with all other conditions under applicable state and federal law for a grant of state or federal funds of the nature and in the amount involved.

Subd. 5. Rules. (a) The agency shall promulgate permanent rules and may promul-

gate emergency rules for the administration of grants and loans authorized to be made from the fund or from federal funds under the Federal Water Pollution Control Act, which rules, however, shall not be applicable to the issuance of bonds by the commissioner of finance as provided in section 116.17. The rules shall contain as a minimum:

- (1) procedures for application by municipalities;
- (2) conditions for the administration of the grant or loan;
- (3) criteria for the ranking of projects in order of priority for grants or loans, based on factors including the extent and nature of pollution, technological feasibility, assurance of proper operation, maintenance and replacement, and participation in multimunicipal systems; and
- (4) such other matters as the agency and the director find necessary to the proper administration of the grant program.

(b) Except as otherwise provided in sections 116.16 to 116.18, the rules for the administration of state independent grants must comply, to the extent practicable, with provisions relating directly to protection of the environment contained in the Federal Water Pollution Control Act, as amended, and regulations and guidelines of the United States environmental protection agency promulgated under the act, except provisions regarding allocation contained in section 205 of the act and regulations and guidelines promulgated under section 205 of the act. This provision does not require approval from federal agencies for the issuance of grants or for the construction of projects under the state independent grants program.

(c) For purposes of awarding independent state grants, the agency may by rule waive the federal 20-year planning requirement for municipalities with a population of less than 1,500.

[For text of subd 8, see M.S.1986]

Subd. 9. Applications. Applications by municipalities for grants or loans from the fund shall be made to the authority on forms requiring information prescribed by rules of the agency. The authority shall send the application to the agency within ten days of receipt. The director shall certify to the authority those applications which appear to meet the criteria set forth in sections 116.16 to 116.18 and the rules promulgated hereunder, and the authority shall award the grants or loans on the basis of the criteria and priorities established by the agency in its rules and in sections 116.16 to 116.18. A municipality that is designated under agency rules to receive state or federal funding for a project and that does not make a timely application for or that refuses the funding is not eligible for either state or federal funding for that project in that fiscal year or the subsequent year.

[For text of subds 9a and 10, see M.S.1986]

Subd. 11. Awards of grants and loans. Upon certification by the director of the pollution control agency, the authority shall notify a municipality that is to receive a grant or loan and advise the municipality of the grant agreement or loan form or other document that must be executed to complete the grant or loan. Upon certification from the director that the work has been completed and that payment is proper, the authority shall pay to the municipality the periodic grant or loan payment.

Subd. 12. Amendments. A municipality that seeks an amendment to a previously awarded grant or loan shall follow the procedure in subdivision 9 for applying to the authority. The request for a grant or loan amendment must be forwarded by the authority to the director of the pollution control agency for consideration, and the authority shall process a grant or loan amendment that is approved by the director.

History: 1987 c 386 art 3 s 1-6

NOTE: Subdivisions 2, 4, 9, 11, and 12, as amended by Laws 1987, chapter 386, article 3, sections 1, 2, 4, 5, and 6 respectively, are effective July 1, 1988. See Laws 1987, chapter 386, article 3, section 32.

116.167 [Repealed, 1987 c 386 art 3 s 30]

116.18 WATER POLLUTION CONTROL FUNDS; APPROPRIATIONS AND BONDS.

[For text of subd 1, see M.S.1986]

Subd. 2a. **State matching grants program beginning October 1, 1987.** For projects tendered, on or after October 1, 1987, a grant of federal money under section 201(g), section 202, 203, or 206(f) of the Federal Water Pollution Control Act, as amended, United States Code, title 33, sections 1251 to 1376, at 55 percent or more of the eligible cost for construction of the treatment works, state money appropriated under subdivision 1 must be expended for 50 percent of the nonfederal share of the eligible cost of construction for municipalities with populations of 25,000 or less.

Subd. 3a. **State independent grants program.** (a) The Minnesota public facilities authority may award independent grants for projects certified by the state pollution control director for 50 percent or, if the population of the municipality is 25,000 or less, 80 percent of the eligible cost of construction. These grants may be awarded in separate steps for planning and design in addition to actual construction. Until December 31, 1990, not more than 20 percent of the total amount of grants awarded under this subdivision in any single fiscal year may be awarded to a single grantee.

(b) Up to ten percent of the money to be awarded as grants under this subdivision in any single fiscal year shall be set aside for municipalities having substantial economic development projects that cannot come to fruition without municipal wastewater treatment improvements. The agency shall forward its municipal needs list to the authority at the beginning of each fiscal year, and the authority shall review the list and identify those municipalities having substantial economic development projects. After the first 90 percent of the total available money is allocated to municipalities in accordance with agency priorities, the set-aside shall be used by the authority to award grants to remaining municipalities that have been identified.

(c) Grants may also be awarded under this subdivision to reimburse municipalities willing to proceed with projects and be reimbursed in a subsequent year conditioned upon appropriation of sufficient money under subdivision 1 for that year.

(d) A municipality that applies for a state independent grant to be reimbursed for a project must receive an additional five percent of the total eligible cost of construction beyond the normal percentage to which the municipality is entitled under paragraph (a).

Subd. 3b. **Capital cost component grant.** (a) The definitions of "capital cost component," "capital cost component grant," "service fee," "service contract," and "private vendor" in section 471A.02 apply to this subdivision.

(b) Beginning in fiscal year 1989, up to \$1,500,000 of the money to be awarded as grants under subdivision 3a in any single fiscal year may be set aside for the award of capital cost component grants to municipalities on the municipal needs list for part of the capital cost component of the service fee under a service contract for a term of at least 20 years with a private vendor for the purpose of constructing and operating wastewater treatment facilities.

(c) The amount granted to a municipality shall be 50 percent of the average total eligible costs of municipalities of similar size recently awarded state and federal grants under the provisions of subdivisions 2a and 3a and the Federal Water Pollution Control Act, United States Code, title 33, sections 1281 to 1289. Federal and state eligibility requirements for determining the amount of grant dollars to be awarded to a municipality are not applicable to municipalities awarded capital cost component grants. Federal and state eligibility requirements for determining which cities qualify for state and federal grants are applicable, except as provided in this subdivision.

(d) Except as provided in this subdivision, municipalities receiving capital cost component grants shall not be required to comply with federal and state regulations regarding facilities planning and procurement contained in sections 116.16 to 116.18, except those necessary to issue a National Pollutant Discharge Elimination System

permit or state disposal system permit and those necessary to assure that the proposed facilities are reasonably capable of meeting the conditions of the permit over 20 years. The municipality and the private vendor shall be parties to the permit. Municipalities receiving capital cost component grants may also be exempted by rules of the agency from other state and federal regulations relating to the award of state and federal grants for wastewater treatment facilities, except those necessary to protect the state from fraud or misuse of state funds.

(e) Funds shall be distributed from the set-aside to municipalities that apply for the funds in accordance with these provisions in the order of their ranking on the municipal needs list.

(f) The authority shall award capital cost component grants to municipalities selected by the state pollution control director upon certification by the state pollution control director that the municipalities' projects and applications have been reviewed and approved in accordance with this subdivision and agency rules adopted under paragraph (g).

(g) The agency shall adopt permanent rules to provide for the administration of grants awarded under this subdivision.

(h) The commissioner of energy and economic development may adopt rules containing procedures for administration of the authority's duties as set forth in paragraph (f).

Subd. 3c. Individual on-site treatment systems program. (a) Beginning in fiscal year 1989, up to ten percent of the money to be awarded as grants under subdivision 3a in any single fiscal year, up to a maximum of \$1,000,000, may be set aside for the award of grants by the authority to municipalities to reimburse owners of individual on-site wastewater treatment systems for a part of the costs of upgrading or replacing the systems.

(b) An individual on-site treatment system is a wastewater treatment system, or part thereof, serving one or two dwellings or other establishments, which utilizes subsurface soil treatment and disposal.

(c) Municipalities may apply yearly for grants of up to 50 percent of the cost of replacing or upgrading individual on-site treatment systems within their jurisdiction. Upon application for a grant, a municipality must certify that:

(1) it has adopted and is enforcing the requirements of Minnesota Rules governing individual sewage treatment systems;

(2) the existing systems for which application is made do not conform to those rules, were constructed prior to January 1, 1977, do not serve seasonal residences, and were not constructed with state or federal funds; and

(3) that the costs requested do not include planning and engineering costs, administrative costs, and costs for improvements or replacements made before the application is submitted to the authority unless it pertains to the plan finally adopted.

(d) The federal and state regulations regarding the award of state and federal wastewater treatment grants do not apply to municipalities or systems funded under this subdivision, except as provided in this subdivision.

(e) The authority shall award individual on-site wastewater treatment grants to municipalities selected by the state pollution control director upon certification by the state pollution control director that the municipalities' applications have been reviewed and approved in accordance with this subdivision and agency rules adopted under paragraph (f).

(f) The agency shall adopt permanent rules regarding priorities, distribution of funds, payments, inspections, and other matters that the agency finds necessary for proper administration of grants awarded under this subdivision.

(g) The commissioner of energy and economic development may adopt rules containing procedures for administration of the authority's duties as set forth in paragraph (e).

[For text of subs 4 to 6, see M.S.1986]

History: 1987 c 277 s 1,2; 1987 c 386 art 3 s 7,8

NOTE: Subdivision 3a, as amended by Laws 1987, chapter 386, article 3, section 8, is effective July 1, 1988. See Laws 1987, chapter 386, article 3, section 32.

116.181 CORRECTIVE ACTION GRANTS.

Subdivision 1. **Definitions.** (a) The definitions in section 116.16, subdivision 2, apply to this section.

(b) "Corrective action" means action taken to upgrade or correct wastewater treatment facilities, funded under the Federal Water Pollution Control Act or the independent state grants program, that have failed to meet performance standards, and includes engineering, design, construction, legal assistance, and other action as the agency may allow.

Subd. 2. **Set aside.** In any fiscal year, up to ten percent of the money available for independent state grants, up to a maximum of \$1,000,000, may be set aside for the award of grants to municipalities for corrective action.

Subd. 3. **Grant limitations.** The amount of a corrective action grant awarded to a municipality shall not exceed \$500,000. In no event shall the grant amount exceed the cost of the corrective action. Construction costs that were not eligible under the original grant are not eligible under a corrective action grant.

Subd. 4. **Repayment.** Any municipality that is awarded a corrective action grant shall seek recovery from any person who is responsible for the failure of the facility to perform. The municipality shall reimburse the state in the event the municipality recovers any funds from responsible persons. Any repayments must be deposited in the Minnesota state water pollution control fund.

Subd. 5. **Award of grants.** Until June 30, 1988, the agency shall award corrective action grants. On July 1, 1988, the authority shall award corrective action grants to municipalities selected by the state pollution control director upon certification by the state pollution control director that the municipalities' projects and applications have been reviewed and approved in accordance with this section and agency rules adopted under subdivision 6.

Subd. 6. **Rules of the agency.** The agency shall promulgate permanent rules and may promulgate emergency rules for the administration of the corrective action grant program. The rules must contain at a minimum:

- (1) the method for determining the amount of the corrective action grant;
- (2) application requirements;
- (3) criteria for determining which municipalities will be awarded grants when there are more applicants than money;
- (4) conditions for use of the grant funds;
- (5) identification of eligible costs;
- (6) the amount that must be reimbursed to the authority in the event funds are recovered by the municipality from the responsible person; and
- (7) other matters that the agency finds necessary for proper administration of the program.

Subd. 7. **Rules of the authority.** The commissioner of energy and economic development may adopt rules containing procedures for administration of the authority's duties as set forth in subdivision 5.

History: 1987 c 277 s 3

116.41 WASTE AND WASTE FACILITIES CLASSIFICATION; TRAINING AND CERTIFICATION.

Subd. 2. **Training and certification programs.** The agency shall develop standards of competence for persons operating and inspecting various classes of disposal facili-

ties. The agency shall conduct training programs for persons operating facilities for the disposal of waste and for inspectors of such facilities, and may charge such fees as are necessary to cover the actual costs of the training programs. All fees received shall be paid into the state treasury and credited to a separate waste disposal training account and are appropriated to the agency to pay expenses relating to the training of disposal facility personnel.

The agency shall require operators and inspectors of such facilities to obtain from the agency a certificate of competence. The agency shall conduct examinations to test the competence of applicants for certification, and shall require that certificates be renewed at reasonable intervals. The agency may charge such fees as are necessary to cover the actual costs of receiving and processing applications, conducting examinations, and issuing and renewing certificates. Certificates shall not be required for a private individual for landspreading and associated interim and temporary storage of sewage sludge on property owned or farmed by that individual.

[For text of subs 3 and 4, see M.S.1986]

History: 1987 c 348 s 31; 1987 c 404 s 146

116.46 DEFINITIONS.

[For text of subs 1 and 2, see M.S.1986]

Subd. 2a. **Installer.** "Installer" means a person who places, constructs, or repairs an aboveground or underground tank, or permanently takes an aboveground or underground tank out of service.

[For text of subs 3 to 8, see M.S.1986]

Subd. 9. **Aboveground storage tank.** "Aboveground storage tank" means any one or a combination of containers, vessels, and enclosures, including structures and appurtenances connected to them, that is used to contain or dispense regulated substances, and that is not an underground storage tank.

History: 1987 c 389 s 11,12

116.47 EXEMPTIONS.

Sections 116.48, 116.49, and 116.491 do not apply to:

(1) farm or residential tanks of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes; tanks of 1,100 gallons or less capacity used for storing heating oil for consumptive use on the premises where stored;

(2) pipeline facilities, including gathering lines, regulated under the Natural Gas Pipeline Safety Act of 1968, United States Code, title 49, chapter 24, or the Hazardous Liquid Pipeline Safety Act of 1979, United States Code, title 49, chapter 29;

(3) surface impoundments, pits, ponds, or lagoons;

(4) storm water or waste water collection systems;

(5) flow-through process tanks;

(6) tanks located in an underground area, including basements, cellars, mineworkings, drifts, shafts, or tunnels, if the storage tank is located upon or above the surface of the floor; or

(7) septic tanks.

History: 1987 c 389 s 13

116.48 NOTIFICATION REQUIREMENTS.

[For text of subs 1 to 3, see M.S.1986]

Subd. 4. **Deposit information.** Beginning on January 1, 1986, and until July 1, 1987, a person who transfers the title to regulated substances to be placed directly into

an underground storage tank must inform the owner or operator in writing of the notification requirement of this section.

[For text of subd 5, see M.S.1986]

History: 1987 c 389 s 14

116.491 TANK INSTALLERS TRAINING AND CERTIFICATION.

Subdivision 1. **Requirement.** (a) After the effective date of rules adopted under subdivision 3, a person may not install, repair, or take an aboveground or underground tank permanently out of service without first obtaining a certification of competence issued by the agency.

(b) The agency shall conduct examinations to test the competence of applicants for certification, issue documentation of certification, and require certification to be renewed at reasonable intervals. The agency may conduct training programs for installers.

Subd. 2. **Fees.** The agency may charge fees as are necessary to cover the actual costs of processing applications, conducting examinations, issuing and renewing certificates, and providing training programs. The fees received under this section must be credited to the petroleum tank release cleanup fund.

Subd. 3. **Rules.** The agency shall adopt rules containing standards of competence for installers and to implement this section.

History: 1987 c 389 s 15

116.55 WASTE TIRE RECYCLING LOANS AND GRANTS.

The pollution control agency may make waste tire recycling loans to businesses. Applications for the loans are not complete unless the waste tire recycling project for which the loan is to be made is certified to be technically feasible by the director of the pollution control agency. The agency may make grants from the waste tire recycling account for studies necessary to demonstrate the technical and economic feasibility of a proposed waste tire recycling project. A grant must be less than \$30,000 and may not exceed 75 percent of the costs of the study. The agency shall adopt rules for administration of waste tire recycling grants and loans.

History: 1987 c 386 art 5 s 3