CHAPTER 116

POLLUTION CONTROL AGENCY

116.07 POWERS AND DUTIES.

[For text of subd 1, see M.S.1988]

Subd. 2. **Adoption of standards.** The pollution control agency shall improve air quality by promoting, in the most practicable way possible, the use of energy sources and waste disposal methods which produce or emit the least air contaminants consistent with the agency's overall goal of reducing all forms of pollution. The agency shall also 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 promote solid waste disposal control by encouraging the updating of collection systems, elimination of open dumps, and improvements in incinerator practices. The agency shall also adopt standards for the control of the collection, transportation, storage, processing, and disposal of solid waste and sewage sludge for the prevention and abatement of water, air, and land pollution, recognizing that due to variable factors, no single standard of 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 control shall be premised on technical criteria and commonly accepted practices.

The pollution control agency shall also adopt standards describing the maximum levels of noise in terms of sound pressure level which may occur in the outdoor atmosphere, recognizing that due to variable factors no single standard of sound pressure is applicable to all areas of the state. Such standards shall give due considera-

tion to such factors as the intensity of noises, the types of noises, the frequency with which noises recur, the time period for which noises continue, the times of day during which noises occur, and such other factors as could affect the extent to which noises may be injurious to human health or welfare, animal or plant life, or property, or could interfere unreasonably with the enjoyment of life or property. In adopting standards, the pollution control agency shall give due recognition to the fact that the quantity or characteristics of noise or the duration of its presence in the outdoor atmosphere, which may cause noise pollution in one area of the state, may cause less or not cause any noise 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, meteorological conditions and the fact that a standard which may be proper in an essentially residential area of the state, may not be proper as to a highly developed industrial area of the state. Such noise standards shall be premised upon scientific knowledge as well as effects based on technically substantiated criteria and commonly accepted practices. No local governing unit shall set standards describing the maximum levels of sound pressure which are more stringent than those set by the pollution control agency.

The pollution control agency shall adopt standards for the identification of hazardous waste and for the management, identification, labeling, classification, storage, collection, transportation, processing, and disposal of hazardous waste, recognizing that due to variable factors, a single standard of hazardous waste control may not be applicable to all areas of the state. In adopting standards, the pollution control agency shall recognize 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. The agency shall consider existing physical conditions, topography, soils, and geology, climate, transportation and land use. Standards of hazardous waste control shall be premised on technical knowledge, and commonly accepted practices. No local government unit shall set standards of hazardous waste control which are in conflict or inconsistent with those set by the pollution control agency.

A person who generates less than 100 kilograms of hazardous waste per month is exempt from the agency hazardous waste rules relating to transportation, manifesting, storage, and labeling for photographic fixer and X-ray negative wastes that are hazardous solely because of silver content. Nothing in this paragraph exempts the generator from the agency's rules relating to on-site accumulation or outdoor storage. A political subdivision or other local unit of government may not adopt management requirements that are more restrictive than this paragraph.

[For text of subds 2a and 3, see M.S.1988]

Subd. 4. **Rules and standards.** Pursuant and subject to the provisions of chapter 14, and the provisions hereof, the pollution control agency may adopt, amend and rescind rules 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 rule 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, rules or standards may relate to sources or emissions of air contamination or air pollution, to the quality or composition of such emissions, 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 14, and the provisions hereof, the pollution control agency may adopt, amend, and rescind rules and standards having the force of law relating to any purpose within the provisions of Laws 1969, chapter 1046, for the collection, transportation, storage, processing, 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. The agency shall adopt such rules and standards for sewage sludge, addressing the intrinsic suitability of land, the volume and rate of application of sewage sludge of various degrees of intrinsic hazard, design of facilities, and operation of facilities and sites. The agency shall promulgate emergency rules for sewage sludge pursuant to sections 14.29 to 14.36. Notwithstanding the provisions of sections 14.29 to 14.36, the emergency rules shall be effective until permanent rules are promulgated or March 1, 1982, whichever is earlier. Any such rule 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, rules or standards may relate to collection, transportation, processing, 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, processing, and disposal of solid waste and sewage sludge, and the deposit in or on land of any other material that may tend to cause pollution. By January 1, 1983, the rules for the management of sewage sludge shall include an analysis of the sewage sludge determined by the commissioner of agriculture to be necessary to meet the soil amendment labeling requirements of section 17.716.

Pursuant and subject to the provisions of chapter 14, and the provisions hereof, the pollution control agency may adopt, amend and rescind rules and standards having the force of law relating to any purpose within the provisions of Laws 1971, chapter 727, for the prevention, abatement, or control of noise pollution. Any such rule 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 allowances for variations therein. Without limitation, rules or standards may relate to sources or emissions of noise or noise pollution, to the quality or composition of noises in the natural environment, or to any other matter relevant to the prevention, abatement, or control of noise pollution.

As to any matters subject to this chapter, local units of government may set emission regulations with respect to stationary sources which are more stringent than those set by the pollution control agency.

Pursuant to chapter 14, the pollution control agency may adopt, amend, and rescind rules and standards having the force of law relating to any purpose within the provisions of this chapter for generators of hazardous waste, the management, identification, labeling, classification, storage, collection, treatment, transportation, processing, and disposal of hazardous waste and the location of hazardous waste facilities. A rule or standard may be of general application throughout the state or may be limited as to time, places, circumstances, or conditions. In implementing its hazardous waste rules, the pollution control agency shall give high priority to providing planning and technical assistance to hazardous waste generators. The agency shall assist generators in investigating the availability and feasibility of both interim and long-term hazardous waste management methods. The methods shall include waste reduction, waste separation, waste processing, resource recovery, and temporary storage.

The pollution control agency shall give highest priority in the consideration of permits to authorize disposal of diseased shade trees by open burning at designated sites to evidence concerning economic costs of transportation and disposal of diseased shade trees by alternative methods.

In addition to the provisions under section 14.115, before the pollution control agency adopts or repeals rules that affect farming operations, the agency must provide a copy of the proposed rule change and a statement of the effect of the rule change on farming operations to the commissioner of agriculture for review and comment and hold public meetings in agricultural areas of the state.

[For text of subds 4a to 4i, see M.S.1988]

Subd. 4j. **Permits; solid waste facilities.** (a) The agency may not issue a permit for new or additional capacity for a mixed municipal solid waste resource recovery or

disposal facility as defined in section 115A.03 unless each county projected in the permit to use the facility has in place a solid waste management plan approved under section 115A.46 or 473.803. The agency shall issue the permit only if the capacity of the facility is consistent with the needs for resource recovery or disposal capacity identified in the approved plan or plans. Consistency must be determined by the metropolitan council for counties in the metropolitan area and by the agency for counties outside the metropolitan area. Plans approved before January 1, 1990, need not be revised if the capacity sought in the permit is consistent with the approved plan or plans.

(b) The agency shall require as part of the permit application for a waste incineration facility identification of preliminary plans for ash management and ash leachate treatment or ash utilization. The permit issued by the agency must include requirements for ash management and ash leachate treatment.

[For text of subds 5 to 9, see M.S.1988]

History: *1989 c 131 s 7; 1989 c 276 s 1; 1989 c 325 s 48*

116.16 MINNESOTA STATE WATER POLLUTION CONTROL PROGRAM.

Subdivision 1. **Purpose.** A Minnesota state water pollution control program is created to provide money to be granted or loaned to agencies and subdivisions of the state for the acquisition and betterment of public land, buildings, and improvements of a capital nature needed for the prevention, control, and abatement of water pollution in accordance with the long-range state policy, plan, and program established in sections 115.41 to 115.63, and in accordance with standards adopted pursuant to law by the Minnesota pollution control agency. It is determined that state financial assistance for the construction of water pollution prevention and abatement facilities for municipal disposal systems and combined sewer overflow is a public purpose and a proper function of state government, in that the state is trustee of the waters of the state and such financial assistance is necessary to protect the purity of state waters, and to protect the public health of the citizens of the state, which is endangered whenever pollution enters state waters at one point and flows to other points in the state.

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) Water pollution control program means the Minnesota state water pollution control program 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.

Subd. 3. **Receipts.** The commissioner of finance and treasurer shall deposit in the state treasury and credit to a separate account in the bond proceeds fund as received all proceeds of Minnesota water pollution control bonds, except accrued interest and premiums received upon the sale thereof. All money granted to the state for such purposes by the federal government or any agency thereof must be credited to a separate account in the federal fund. All such receipts are annually appropriated for the permanent construction and improvement purposes of the water pollution control program, and shall be and remain available for expenditure in accordance with this section and federal law until the purposes for which such appropriations were made have been accomplished or abandoned.

Subd. 4. **Disbursements.** Disbursements for the water pollution control program 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 clauses (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 promulgate emergency rules for the administration of grants and loans authorized to be made under the water pollution control program, 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 commissioner 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.1988]

Subd. 9. **Applications.** Applications by municipalities for grants or loans under the water pollution control program 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 commissioner 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 to 12, see M.S.1988]

History: *1989 c 271 s 16-21*

116.17 MINNESOTA STATE WATER POLLUTION CONTROL BONDS.

Subdivision 1. **Purpose and appropriation.** For the purpose of providing money to be appropriated or loaned to municipalities under the Minnesota state water pollution control program for the acquisition and betterment of public land, buildings, and improvements of a capital nature needed for the prevention, control, and abatement of water pollution in accordance with the provisions of section 116.16, when such appropriations or loans are authorized by law and funds therefor are requested by the agency, the commissioner of finance shall sell and issue bonds of the state of Minnesota for the prompt and full payment of which, with interest thereon, the full faith, credit, and taxing powers of the state are irrevocably pledged. Bonds shall be issued pursuant to this section only as authorized by a law specifying the purpose thereof and the maximum amount of the proceeds authorized to be expended for this purpose. Any act authorizing the issuance of bonds for this purpose, together with this section, constitutes complete authority for such issue, and such bonds shall not be subject to restrictions or limitations contained in any other law.

[For text of subd 2, see M.S.1988]

Subd. 3. **Expenses.** All expenses incidental to the sale, printing, execution, and

delivery of bonds pursuant to this section, including but not limited to actual and necessary travel and subsistence expenses of state officers and employees for such purposes, and any expenses of litigation relating to the validity of the bonds, shall be paid from the bond proceeds fund, and the amounts necessary therefor are appropriated from that fund; provided that if any amount is specifically appropriated for this purpose in an act authorizing the issuance of bonds pursuant to this section, such expenses shall be limited to the amount so appropriated.

[For text of subd 4, see M.S.1988]

Subd. 5. **Appropriations to bond account.** The premium and accrued interest received on each issue of Minnesota state water pollution control bonds, and all loan payments received under the provisions of section 116.16, subdivision 5, shall be credited to the bond account. All income from the investment of Minnesota state water pollution control bond proceeds, shall also be credited to the bond account. In order to reduce the amount of taxes otherwise required to be levied, there shall also be credited to the bond account therein from the general fund in the state treasury, on November 1 in each year, a sum of money sufficient in amount, when added to the balance then on hand therein, to pay all Minnesota water pollution control bonds and interest thereon due and to become due to and including July 1 in the second ensuing year. All money so credited and all income from the investment thereof is annually appropriated to the bond account for the payment of such bonds and interest thereon, and shall be available in the bond account prior to the levy of the tax in any year required by the constitution, article XI, section 7. The commissioner of finance and treasurer are directed to make the appropriate entries in the accounts of the respective funds.

[For text of subd 6, see M.S.1988]

History: *1989 c 271 s 22-24*

116.18 WATER POLLUTION CONTROL FUNDS; APPROPRIATIONS AND BONDS.

Subdivision 1. **Appropriation from the bond proceeds fund.** The sum of $167,000,000, or so much thereof as may be necessary, is appropriated from the bond proceeds fund in the state treasury to the pollution control agency, for the period commencing on July 23, 1971, to be granted and disbursed to municipalities and agencies of the state in aid of the construction of projects conforming to section 116.16, in accordance with the rules, priorities, and criteria therein described.

[For text of subd 2a, see M.S.1988]

Subd. 3a. **State independent grants program.** (a) The public facilities authority must adopt the objective of maintaining financial assistance to municipalities that the agency has listed on its annual municipal project list of approximately 50 percent of the eligible cost of construction for municipalities with populations over 25,000 and 80 percent of the eligible cost for municipalities with populations of 25,000 or less. Financial assistance may be provided by the public facilities authority through a combination of low interest loans under the state revolving fund under chapter 446A, independent state grants, and other financial assistance available to the municipality. The public facilities authority may award independent grants for projects certified by the state pollution control commissioner for 35 percent or, if the population of the municipality is 25,000 or less, 65 percent of the eligible cost of construction. These grants may be awarded in separate steps for planning and design in addition to actual construction. Not more than $2,000,000 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 $1,000,000 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 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 at the grant percentage determined in paragraph (a).

(d) Municipalities that entered into an intent to award agreement with the agency under paragraph (c), in the state fiscal years 1985 to 1988, will be reimbursed at 55 percent or, if the population of the municipality is 25,000 or less, 85 percent of the eligible cost of construction.

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 1299. 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 commissioner upon certification by the state pollution control commissioner 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 trade and economic development may adopt rules containing procedures for administration of the authority's duties as set forth in paragraph (f).

[For text of subd 3c, see M.S.1988]

Subd. 3d. **Adjustments to matching grants and state independent grants.** A municipality with a population of 25,000 or less that was tendered a state matching grant under subdivision 2a, or a state independent grant under subdivision 3a, or a federal grant under the federal Water Pollution Control Act, United States Code, title 33, sections 1281 to 1299, from October 1, 1984, through September 30, 1987, shall, after the municipality has awarded bids for construction of the treatment works, and upon request, receive a grant increase of 2.5 percent of the total eligible costs of construction, up to the maximum entitlement for grants awarded on or after October 1, 1987, under subdivisions 2a and 3a. The municipality must inform other entities that are providing funding for construction of the treatment works of the grant increase, and repay any funds to which it is not entitled. A municipality must not receive funding for more than 100 percent of the total costs of the treatment works. Documentation of money received from other sources must be submitted with the request for the grant increase. Money remaining after all grants have been awarded under this subdivision may be used for the award of grants under subdivisions 2a and 3a. An adjustment grant awarded after July 1, 1989, that is a continuation of a previously awarded adjustment grant must be awarded through a letter from the agency to the municipality stating the grant amount. A formal grant agreement is not required.

Subd. 4. **Bond authorization.** For the purpose of providing money appropriated in subdivision 1 for grants to municipalities and agencies of the state for the acquisition and betterment of public land, buildings, and improvements of a capital nature needed for the prevention, control, and abatement of water pollution, the commissioner of finance is authorized upon request of the pollution control agency to sell and issue Minnesota state water pollution control bonds in the amount of $156,000,000, in the manner and upon the conditions prescribed in section 116.17 and in the constitution, article XI, sections 4 to 7. The proceeds of the bonds, except as provided in section 116.17, subdivision 5, are appropriated and shall be credited to a Minnesota state water pollution control account in the bond proceeds fund. The amount of bonds issued pursuant to this authorization shall not exceed at any time the amount needed to produce a balance in the water pollution control account equal to the aggregate amount of grants then approved and not previously disbursed, plus the amount of grants to be approved in the current and the following fiscal year, as estimated by the pollution control agency.

Subd. 5. **Federal and other funds.** All federal and other funds made available for any purpose of the water pollution control program are also appropriated for the program.

Subd. 6. **Continuance of appropriations.** None of the appropriations made in this section shall lapse until the purpose for which it is made has been accomplished or abandoned. The amount of each grant approved for the water pollution control program shall be and remain appropriated for that purpose until the grant is fully disbursed or part or all thereof is revoked by the pollution control agency.

History: *1989 c 271 s 25-28; 1989 c 300 art 1 s 28; 1989 c 354 s 1,2*

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 facilities. 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 the pollution control agency 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 subds 3 and 4, see M.S.1988]

History: *1989 c 335 art 4 s 46*

116.44 SENSITIVE AREAS; STANDARDS.

Subdivision 1. **List of areas.** By January 1, 1983, the pollution control agency shall publish a preliminary list of counties determined to contain natural resources sensitive to the impacts of acid deposition. Sensitive areas shall be designated on the basis of:

(a) the presence of plants and animal species which are sensitive to acid deposition;

(b) geological information identifying those areas which have insoluble bedrock which is incapable of adequately neutralizing acid deposition; and

(c) existing acid deposition reports and data prepared by the pollution control agency and the federal environmental protection agency. The pollution control agency shall conduct public meetings on the preliminary list of acid deposition sensitive areas. Meetings shall be concluded by March 1, 1983, and a final list published by May 1, 1983. The list shall not be subject to the rulemaking or contested case provisions of chapter 14.

[For text of subd 2, see M.S.1988]

History: *1989 c 209 art 1 s 11*

116.48 NOTIFICATION REQUIREMENTS.

Subdivision 1. **Tank status.** (a) An owner of an underground storage tank must notify the agency by June 1, 1986, or within 30 days after installation, whichever is later, of the tank's existence and specify the age, size, type, location, uses, and contents of the tank on forms prescribed by the agency.

(b) An owner of an aboveground storage tank must notify the agency by June 1, 1990, or within 30 days after installation, whichever is later, of the tank's existence and specify the age, size, type, location, uses, and contents of the tank on forms prescribed by the agency.

Subd. 2. **Abandoned tanks.** An owner of an underground or aboveground storage tank permanently taken out of service on or after January 1, 1974, must notify the agency by June 1, 1986, in the case of underground storage tanks; by June 1, 1990, in the case of aboveground storage tanks; or, in either case, within 30 days of discovery, whichever is later, of the existence of the tank and specify or estimate to the best of the owner's knowledge on forms prescribed by the agency, the date the tank was taken out of service, the age, size, type, and location of the tank, and the type and quantity of substance remaining in the tank.

Subd. 3. **Change in status.** An owner must notify the agency within 30 days of a permanent removal from service or a change in the reported uses, contents, or ownership of an underground or aboveground storage tank.

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.

Subd. 5. **Seller's responsibility.** A person who sells a tank intended to be used as an underground or aboveground storage tank or property that the seller knows contains an underground or aboveground storage tank must inform the purchaser in writing of the owner's notification requirements of this section.

Subd. 6. **Affidavit.** Before transferring ownership of property that the owner knows contains an underground or aboveground storage tank or contained an underground or aboveground storage tank that had a release for which no corrective action was taken, the owner shall record with the county recorder or registrar of titles of the county in which the property is located an affidavit containing:

(1) a legal description of the property where the tank is located;

(2) a description of the tank, of the location of the tank, and of any known release from the tank of a regulated substance;

(3) a description of any restrictions currently in force on the use of the property resulting from any release; and

(4) the name of the owner.

The county recorder shall record the affidavits in a manner that will insure their disclosure in the ordinary course of a title search of the subject property. Before transferring ownership of property that the owner knows contains an underground or aboveground storage tank, the owner shall deliver to the purchaser a copy of the affidavit and any additional information necessary to make the facts in the affidavit accurate as of the date of transfer of ownership.

Subd. 7. **Recording of removal affidavit.** If an affidavit has been recorded under subdivision 6 and the tank and any regulated substance released from the tank have been removed from the property in accordance with applicable law, the owner or other interested party may file with the county recorder or registrar of titles an affidavit stating the name of the owner, the legal description of the property, the place and date of filing and document number of the affidavit filed under subdivision 6, and the approximate date of removal of the tank and regulated substance. Upon filing the affidavit described in this subdivision, the affidavit and the affidavit filed under subdivision 6, together with the information set forth in the affidavits, cease to constitute either actual or constructive notice.

History: *1989 c 226 s 4*

116.60 DEFINITIONS.

[For text of subds 1 to 6, see M.S.1988]

Subd. 7. **Motor vehicle.** "Motor vehicle" means a passenger automobile, pickup truck, or van, as defined in section 168.011, licensed for use on the public streets and highways.

[For text of subds 8 to 11, see M.S.1988]

History: *1989 c 140 s 3*

116.75 CITATION.

Sections 116.76 to 116.83 may be cited as the "infectious waste control act."

History: *1989 c 337 s 1*

116.76 DEFINITIONS.

Subdivision 1. **Applicability.** The definitions in this section apply to sections 116.76 to 116.83.

Subd. 2. **Agency.** "Agency" means the pollution control agency.

Subd. 3. **Blood.** "Blood" means waste human blood and blood products in containers, or solid waste saturated and dripping human blood or blood products. Human blood products include serum, plasma, and other blood components.

Subd. 4. **Commercial transporter.** "Commercial transporter" means a person who transports infectious or pathological waste for compensation.

Subd. 5. **Commissioner.** "Commissioner" means the commissioner of the pollution control agency.

Subd. 6. **Decontamination.** "Decontamination" means rendering infectious waste safe for routine handling as a solid waste.

Subd. 7. **Department.** "Department" means the department of health.

Subd. 8. **Facility.** "Facility" means a site where infectious waste is generated, stored, decontaminated, incinerated, or disposed.

Subd. 9. **Generator.** "Generator" means a person whose activities produce infectious waste. "Generator" does not include a person who produces sharps as a result of administering medication to oneself.

Subd. 10. **Household.** "Household" means a single detached dwelling unit or a single unit of a multiple dwelling.

Subd. 11. **Infectious agent.** "Infectious agent" means an organism that is capable of producing infection or infectious disease in humans.

Subd. 12. **Infectious waste.** "Infectious waste" means laboratory waste, blood, regulated body fluids, sharps, and research animal waste that have not been decontaminated.

Subd. 13. **Laboratory waste.** "Laboratory waste" means waste cultures and stocks of agents that are generated from a laboratory and are infectious to humans; discarded contaminated items used to inoculate, transfer, or otherwise manipulate cultures or stocks of agents that are infectious to humans; wastes from the production of biological agents that are infectious to humans; and discarded live or attenuated vaccines that are infectious to humans.

Subd. 14. **Pathological waste.** "Pathological waste" means human tissues and body parts removed accidentally or during surgery or autopsy intended for disposal. Pathological waste does not include teeth.

Subd. 15. **Person.** "Person" means an individual, partnership, association, public or private corporation, or other legal entity, the United States government, an interstate body, the state, and an agency, department, or political subdivision of the state.

Subd. 16. **Regulated human body fluids.** "Regulated human body fluids" means cerebrospinal fluid, synovial fluid, pleural fluid, peritoneal fluid, pericardial fluid, and amniotic fluid that are in containers or that drip freely from body fluid soaked solid waste items.

Subd. 17. **Research animal waste.** "Research animal waste" means carcasses, body parts, and blood derived from animals knowingly and intentionally exposed to agents that are infectious to humans for the purpose of research, production of biologicals, or testing of pharmaceuticals.

Subd. 18. **Sharps.** "Sharps" means:

(1) discarded items that can induce subdermal inoculation of infectious agents, including needles, scalpel blades, pipettes, and other items derived from human or animal patient care, blood banks, laboratories, mortuaries, research facilities, and industrial operations; and

(2) discarded glass or rigid plastic vials containing infectious agents.

History: *1989 c 337 s 2*

116.77 COVERAGE.

Sections 116.75 to 116.83 and 609.671, subdivision 10, cover any person who generates, treats, stores, transports, or disposes of infectious or pathological waste except infectious or pathological waste generated by households, farm operations, or agricultural businesses. Except as specifically provided, sections 116.75 to 116.83 do not limit or alter treatment or disposal methods for infectious or pathological waste.

History: *1989 c 337 s 3*

116.78 WASTE MANAGEMENT.

Subdivision 1. **Segregation.** All untreated infectious waste must be segregated from

other waste material at its point of generation and maintained in separate packaging throughout collection, storage, and transport. Infectious waste must be packaged, contained, and transported in a manner that prevents release of the waste material.

Subd. 2. **Labeling.** All bags, boxes, and other containers used to collect, transport, or store infectious waste must be clearly labeled with a biohazard symbol or with the words "infectious waste" written in letters no less than one inch in height.

Subd. 3. **Reusable containers.** Containers which have been in direct contact with infectious waste must be disinfected prior to reuse.

Subd. 4. **Sharps.** Sharps, except those generated from a household or from a farm operation or agricultural business:

(1) must be placed in puncture-resistant containers;

(2) may not be compacted or mixed with other waste material whether or not the sharps are decontaminated; and

(3) may not be disposed of at refuse-derived fuel facilities or at other facilities where waste is hand sorted.

Subd. 5. **Pathological waste.** Pathological waste must be managed according to sanitary standards established by state and federal laws or regulations for the disposal of the waste.

Subd. 6. **Storage.** Infectious and pathological waste must be stored in a specially designated area that is designed to prevent the entry of vermin and that prevents access by unauthorized persons.

Subd. 7. **Compaction and mixture with other wastes.** Infectious waste may not be compacted or mixed with other waste materials prior to incineration or disposal.

Subd. 8. **Disposal.** Except for disposal procedures specifically prescribed, this section and section 116.81 do not limit disposal methods for infectious and pathological waste.

History: *1989 c 337 s 4*

116.79 MANAGEMENT PLANS.

Subdivision 1. **Preparation of management plans.** (a) To the extent applicable to the facility, a person in charge of a facility that generates, stores, decontaminates, incinerates, or disposes of infectious or pathological waste must prepare a management plan for the infectious or pathological waste handled by the facility.

(b) The management plan must describe, to the extent the information is applicable to the facility:

(1) the type of infectious waste and pathological waste that the person generates or handles;

(2) the segregation, packaging, labeling, collection, storage, and transportation procedures for the infectious waste or pathological waste that will be followed;

(3) the decontamination or disposal methods for the infectious or pathological waste that will be used;

(4) the transporters and disposal facilities that will be used for the infectious waste;

(5) the steps that will be taken to minimize the exposure of employees to infectious agents throughout the process of disposing of infectious or pathological wastes; and

(6) the name of the individual responsible for the management of the infectious waste or pathological waste.

(c) The management plan must be kept at the facility.

(d) To the extent applicable to the facility, management plans must be accompanied by a statement of the quantity of infectious and pathological waste generated, decontaminated, stored, incinerated, or disposed of at the facility during the previous two-year period. Quantities may be reported by weight, volume, or number and capacity of containers. The commissioner of health shall prepare a summary of the quantities of infectious and pathological waste generated, by facility type.

(e) A management plan must be updated and resubmitted at least once every two years.

Subd. 2. **Compliance with management plans.** A person who prepares a management plan must comply with the management plan.

Subd. 3. **Generators' plans.** (a) Management plans prepared by facilities that generate infectious or pathological waste must be submitted to the commissioner of health with a fee of $225 for facilities with 25 or more employees, or a fee of $40 for facilities with less than 25 employees. The fee must be deposited in the state treasury and credited to the general fund.

(b) A person who begins the generation of infectious or pathological waste after January 1, 1990, must submit to the commissioner of health a copy of the person's management plan prior to initiating the handling of the infectious or pathological waste.

(c) If a generator also incinerates infectious or pathological waste, a separate management plan must be prepared for the incineration activities.

(d) The commissioner of health must establish a procedure for randomly reviewing the plans.

(e) The commissioner of health may require a management plan of a generator to be modified if the commissioner of health determines that the plan is not consistent with state or federal law or that the plan is not adequate to minimize exposure of persons to the infectious or pathological waste.

Subd. 4. **Plans for storage, decontamination, incineration, and disposal facilities.** (a) A person who stores or decontaminates infectious or pathological waste, other than at the facility where the waste was generated, or a person who incinerates or disposes of infectious or pathological waste, must submit a copy of the management plan to the commissioner of the pollution control agency with a fee of $225. A person who incinerates on site at a hospital must submit a fee of $100. The fee must be deposited in the state treasury and credited to the general fund.

(b) The commissioner shall review the plans and may require a plan to be modified within 180 days after the plan is submitted if the commissioner determines that the plan is not consistent with state or federal law or that the plan is not adequate to minimize exposure of persons to the waste.

History: *1989 c 337 s 5*

116.80 TRANSPORTATION OF INFECTIOUS WASTE.

Subdivision 1. **Transfer of infectious waste.** (a) A generator may not transfer infectious waste to a commercial transporter unless the transporter is registered with the commissioner.

(b) A transporter may not deliver infectious waste to a facility prohibited to accept the waste.

(c) A person who is registered to transport infectious waste may not refuse waste generated from a facility that is properly packaged and labeled as "infectious waste."

Subd. 2. **Preparation of management plans.** (a) A commercial transporter in charge of a business that transports infectious waste must prepare a management plan for the infectious waste handled by the commercial transporter.

(b) The management plan must describe, to the extent the information is applicable to the commercial transporter:

(1) the type of infectious waste that the commercial transporter handles;

(2) the transportation procedures for the infectious waste that will be followed;

(3) the disposal facilities that will be used for the infectious waste;

(4) the steps that will be taken to minimize the exposure of employees to infectious agents throughout the process of transporting and disposing of infectious waste; and

(5) the name of the individual responsible for the transportation and management of the infectious waste.

(c) The management plan must be kept at the commercial transporter's principal place of business.

(d) Management plans must be accompanied by a statement of the quantity of infectious waste transported during the previous two-year period. Quantities may be reported by weight, volume, or number and capacity of containers.

(e) A management plan must be updated and resubmitted at least once every two years.

(f) The commissioner shall review the plans and may require a plan to be modified within 180 days after the plan is submitted if the commissioner determines that the plan is not consistent with state or federal law or that the plan is not adequate to minimize exposure of persons to the waste.

Subd. 3. **Registration required.** (a) A commercial transporter must register with the commissioner.

(b) To register, a commercial transporter must submit a copy of the management plan to the commissioner of the pollution control agency with a fee of $225. The fee must be deposited in the state treasury and credited to the general fund.

(c) The registration is valid for two years.

(d) The commissioner shall issue a registration card with a unique registration number to a person who has submitted a transporter's management plan unless the commissioner finds that registrant has outstanding unresolved violations of this section or a history of serious violations of chapter 115, 115A, 115B, or 116. The registration card must include the date the card expires.

Subd. 4. **Waste from other states.** A person may not transport infectious waste into the state for decontamination, storage, incineration, or disposal without complying with sections 116.76 to 116.82.

History: *1989 c 337 s 6*

116.81 RULES.

Subdivision 1. **Agency rules.** The agency, in consultation with the commissioner of health, may adopt rules to implement sections 116.76 to 116.82. The agency has primary responsibility for rules relating to transportation of infectious waste and facilities storing, transporting, decontaminating, incinerating, and disposing of infectious waste. The agency, before adopting rules affecting animals or research animal waste, must consult the commissioner of agriculture and the board of animal health.

Subd. 2. **Health rules.** The commissioner of health after consulting with the agency may adopt rules to implement sections 116.76 to 116.82. The commissioner of health has primary responsibility for rules relating to facilities generating infectious waste. The commissioner of health, before adopting rules affecting animals or research animal waste, must consult the commissioner of agriculture and the board of animal health.

History: *1989 c 337 s 7*

116.82 AUTHORITY OF LOCAL GOVERNMENT.

Subdivision 1. **Preemption of regulation.** A county, municipality, or other political subdivision of the state may not adopt a definition of infectious or pathological waste that differs from the definitions in section 116.76, or management requirements for infectious or pathological waste that differ from the requirements of sections 116.78 and 116.79.

Subd. 2. **Local solid waste authority.** (a) Sections 116.76 to 116.81 do not affect local implementation of collection, storage, or disposal of solid waste that does not contain infectious waste.

(b) Sections 116.76 to 116.81 do not affect county authority under other law to regulate and manage solid waste that does not contain infectious waste.

(c) A political subdivision, as defined in section 115A.03, subdivision 24, may not require a refuse-derived fuel facility to accept infectious waste.

Subd. 3. **Local enforcement.** Sections 116.76 to 116.81 may be enforced by a county by delegation of enforcement authority granted to the commissioner of health and the agency in section 116.83. Separate enforcement actions may not be brought by a state agency and a county for the same violations. The state or county may not bring an action that is being enforced by the federal Office of Safety and Health Administration.

History: *1989 c 337 s 8*

116.83 ENFORCEMENT.

Subdivision 1. **State responsibilities.** The agency or the commissioner of health may enforce sections 116.76 to 116.81. The commissioner of health is primarily responsible for enforcement involving generators. The agency is primarily responsible for enforcement involving other persons subject to sections 116.76 to 116.81.

Subd. 2. **Enforcement authority.** The commissioner of health has the authority of the agency to enforce sections 116.76 to 116.81 under section 115.071.

Subd. 3. **Access to information and property.** Subject to section 144.651, the commissioner of the pollution control agency or the commissioner of health may on presentation of credentials, during regular business hours:

(1) examine and copy any books, records, memoranda, or data that is related to compliance with sections 116.76 to 116.81; and

(2) enter public or private property regulated by sections 116.76 to 116.81 for the purpose of taking an action authorized by this section including obtaining information and conducting investigations.

History: *1989 c 337 s 9*

116.84 MONITORS REQUIRED FOR INCINERATORS

Notwithstanding any other law to the contrary, an incinerator permit issued to a facility that allows burning of PCB's must, as a condition of the permit, require the installation of a continuous emission monitoring system approved by the commissioner. The monitoring system must provide continuous emission measurements to ensure optimum combustion efficiency of dioxin precursors. The system must also be capable of providing a permanent record of monitored emissions that will be available upon request to the commissioner and the general public. The commissioner shall provide periodic inspection of the monitoring system to determine its continued accuracy. Should, at any time, the permitted facility's emissions exceed permit requirements based on accurate and valid emissions data, the facility shall immediately commence shutdown of the incinerator until the appropriate modifications to the facility have been made to ensure its ability to meet permitted requirements.

History: *1989 c 335 art 1 s 132*

116.85 MONITORS REQUIRED FOR INCINERATORS.

Notwithstanding any other law to the contrary, an incinerator permit that contains emission limits for dioxin, cadmium, chromium, lead, or mercury must, as a condition of the permit, require the installation of an air emission monitoring system approved by the commissioner. The monitoring system must provide continuous measurements to ensure optimum combustion efficiency for the purpose of ensuring optimum dioxin destruction. The system shall also be capable of providing a permanent record of monitored emissions that will be available upon request to the commissioner and the general public. The commissioner shall provide periodic inspection of the monitoring system to determine its continued accuracy. Should, at any time after normal startup, the permitted facility's emissions exceed permit requirements, based on accurate and valid emissions data, the facility shall immediately report the exceedance to the commissioner and immediately either commence appropriate modifications to the facility to ensure its ability to meet permitted requirements or commence shutdown if the modifications cannot be completed within 72 hours. This section shall not be

construed to limit the authority of the agency to regulate incinerator operations under any other law.

History: *1989 c 335 art 1 s 133*