

## CHAPTER 116C

### ENVIRONMENTAL QUALITY BOARD

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#### 116C.03 CREATION OF THE ENVIRONMENTAL QUALITY BOARD; MEMBERSHIP; CHAIR; STAFF.

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

Subd. 2. **Membership.** The members of the board are the commissioner of the state planning agency, the commissioner of public service, the commissioner of the pollution control agency, the commissioner of natural resources, the director of the office of waste management, the commissioner of agriculture, the commissioner of health, the commissioner of transportation, the chair of the board of water and soil resources, and a representative of the governor's office designated by the governor. The governor shall appoint five members from the general public to the board, subject to the advice and consent of the senate. At least two of the five public members must have knowledge of and be conversant in water management issues in the state. Notwithstanding the provisions of section 15.06, subdivision 6, members of the board may not delegate their powers and responsibilities as board members to any other person.

*[For text of subds 2a to 6, see M.S.1988]*

**History:** 1989 c 335 art 1 s 134

#### 116C.41 DUTIES OF BOARD.

Subdivision 1. **Water planning.** The board shall:

(1) coordinate public water resource management and regulation activities among the state agencies having jurisdiction in the area;

(2) initiate, coordinate, and continue to develop comprehensive long-range water resources planning in furtherance of the plan adopted by the water planning board entitled "A Framework for a Water and Related Land Resources Strategy for Minnesota, 1979" including a new plan and strategy by November 15, 1990, and each five-year interval afterwards;

(3) coordinate water planning activities of local, regional, and federal bodies with state water planning and integrate these plans with state strategies;

(4) coordinate development of state water policy recommendations and priorities, and a recommended program for funding identified needs, including priorities for implementing the state water resources monitoring plan;

(5) in cooperation with state agencies participating in the monitoring of water resources, develop a plan for monitoring the state's water resources;

(6) administer federal water resources planning with multiagency interests;

(7) ensure that groundwater quality monitoring and related data is provided and integrated into the Minnesota land management information system according to published data compatibility guidelines. Costs of integrating the data in accordance with data compatibility standards must be borne by the agency generating the data;

(8) identify water resources information and education needs, priorities, and goals and prepare an implementation plan to guide state activities relating to water resources information and education;

(9) coordinate the development and evaluation of water information and education materials and resources; and

(10) coordinate the dissemination of water information and education through existing delivery systems.

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

**Subd. 4. Consistency of state information activities.** State agency information and education activities must be consistent with the implementation plan required under subdivision 1, clause (8).

**History:** 1989 c 326 art 2 s 13,14

# **116C.57 DESIGNATION OF SITES AND ROUTES; PROCEDURES; CONSIDERATIONS; EMERGENCY CERTIFICATION; EXEMPTION.**

*[For text of subds 1 to 5, see M.S.1988]*

**Subd. 5a. Exemption of certain sites.** (a) A utility or person may apply to the board in a form and manner prescribed by the board to exempt the construction at a proposed site of a proposed electric power generating plant with a capacity between 50 and 80 megawatts from the requirements of sections 116C.51 to 116C.69. Within 15 days of the board's receipt of an exemption application, the utility or person shall:

(1) publish a notice and description of the exemption application in a legal newspaper of general circulation in the county of the proposed site;

(2) send a copy of the exemption application by certified mail to the chief executive of counties, home rule charter and statutory cities, and organized towns within ten miles of the proposed site; and

(3) mail to each owner whose property is part of or contiguous to the proposed site a notice and description of the exemption application, together with an understandable description of the procedures the owner must follow should the owner desire to object.

(b) For the purpose of giving mailed notice under this subdivision, owners are the persons or entities shown on the tax records of the county auditor or, in a county where tax statements are mailed by the county treasurer, on the records of the county treasurer, but other appropriate records may be used to identify owners. Except for owners of tax-exempt property or property taxed on a gross earnings basis, a property owner whose name does not appear on the records of the county auditor or the county treasurer is deemed to have waived the mailed notice unless the owner has requested in writing that the county auditor or county treasurer, as the case may be, include the owner's name on the records for that purpose. The failure to give mailed notice to a property owner or defects in the notice does not invalidate the proceedings, if a good faith effort is made to comply with this subdivision.

(c) If a person who owns real property that is part of or contiguous to the proposed site or an affected political subdivision files an objection with the board within 60 days after the board receives an exemption application, the board must either deny the exemption application or conduct a public hearing to determine if the proposed electric power generating plant at the proposed site will cause any significant human or environmental impact.

(d) The board shall require environmental review under chapter 116D to assist in making its determination regarding potential significant human and environmental impact.

(e) If the board determines that the proposed plant has an electric power production capacity less than 80 megawatts and the proposed site will not have a significant human and environmental impact, the board may exempt the construction of the proposed plant at the proposed site from the requirements of sections 116C.51 to 116C.69 with any appropriate conditions.

(f) If an exemption is granted, the utility or person must comply with applicable

state rules, local zoning, building, and land use rules, regulations, and ordinances of any regional, county, local, and special purpose governments in which the facility is to be located.

(g) The board may, by rule, require a fee to pay costs incurred in processing exemptions. An estimated cost for processing the exemption application must be discussed with the applicant and be approved by the board when an application is received. The applicant must remit 50 percent of the approved cost within 14 days of acceptance of the application. The balance is due within 30 days after receipt of an invoice from the board. Costs in excess of those approved must be certified by the board and charged to the applicant. Certification is prima facie evidence that the costs are reasonable and necessary. All money received pursuant to this subdivision must be deposited in a special account. Money in the account is appropriated to the board to pay expenses incurred in processing the application and in the event the expenses are less than the fee paid, to refund the excess to the applicant.

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

**History:** 1989 c 346 s 1

#### **116C.69 BIENNIAL REPORT; APPLICATION FEES; APPROPRIATION; FUNDING.**

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

**Subd. 2. Site application fee.** Every applicant for a site certificate shall pay to the board a fee in an amount equal to \$500 for each \$1,000,000 of production plant investment in the proposed installation as defined in the Federal Power Commission Uniform System of Accounts. The board shall specify the time and manner of payment of the fee. If any single payment requested by the board is in excess of 25 percent of the total estimated fee, the board shall show that the excess is reasonably necessary. The applicant shall pay within 30 days of notification any additional fees reasonably necessary for completion of the site evaluation and designation process by the board. In no event shall the total fees required of the applicant under this subdivision exceed an amount equal to 0.001 of said production plant investment (\$1,000 for each \$1,000,000). All money received pursuant to this subdivision shall be deposited in a special account. Money in the account is appropriated to the board to pay expenses incurred in processing applications for certificates in accordance with sections 116C.51 to 116C.69 and in the event the expenses are less than the fee paid, to refund the excess to the applicant.

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

**Subd. 3. Funding; assessment.** The board shall finance its base line studies, general environmental studies, development of criteria, inventory preparation, monitoring of conditions placed on site certificates and construction permits, and all other work, other than specific site and route designation, from an assessment made quarterly, at least 30 days before the start of each quarter, by the board against all utilities with annual retail kilowatt-hour sales greater than 4,000,000 kilowatt-hours in the previous calendar year.

Until June 30, 1992, the assessment shall also include an amount sufficient to cover 60 percent of the costs to the pollution control agency of achieving, maintaining, and monitoring compliance with the acid deposition control standard adopted under sections 116.42 to 116.45, reprinting informational booklets on acid rain, and costs for additional research on the impacts of acid deposition on sensitive areas published under section 116.44, subdivision 1. The director of the pollution control agency must prepare a work plan and budget and submit them annually by June 30 to the pollution control agency board. The agency board must take public testimony on the budget and work plan. After the agency board approves the work plan and budget they must be submitted annually to the legislative commission on waste management for review and recommendation before an assessment is levied. Each share shall be determined as follows: (1) the ratio that the annual retail kilowatt-hour sales in the state of each utility bears to the annual total retail kilowatt-hour sales in the state of all these utilities, multiplied by 0.667, plus (2) the ratio that the annual gross revenue from retail kilowatt-hour sales in the state of each utility bears to the annual total gross revenues from retail kilowatt-hour sales in the state of all these utilities, multiplied by 0.333, as determined by the board. The assessment shall be credited to the special revenue fund and shall be paid to the state treasury within 30 days after receipt of the bill, which shall constitute notice of said assessment and demand of payment thereof. The total amount which may be assessed to the several utilities under authority of this subdivision shall not exceed the sum of the annual budget of the board for carrying out the purposes of this subdivision plus 60 percent of the annual budget of the pollution control agency for achieving, maintaining, and monitoring compliance with the acid deposition control standard adopted under sections 116.42 to 116.45, for reprinting informational booklets on acid rain, and for costs for additional research on the impacts of acid deposition on sensitive areas published under section 116.44, subdivision 1. The assessment for the second quarter of each fiscal year shall be adjusted to compensate for the amount by which actual expenditures by the board and the pollution control agency for the preceding fiscal year were more or less than the estimated expenditures previously assessed.

**History:** 1973 c 591 s 19 subds 1-3; 1975 c 271 s 6; 1977 c 439 s 25; 1981 c 356 s 313-315; 1982 c 482 s 5; 1Sp1985 c 13 s 240; 1987 c 186 s 15; 1987 c 304 s 1; 1988 c 609 art 1 s 4

## **116C.91 DEFINITIONS.**

**Subdivision 1. Scope.** As used in sections 116C.91 to 116C.95, the terms defined in this section have the meanings given them.

**Subd. 2. Board.** "Board" means the environmental quality board.

**Subd. 3. Genetic engineering.** "Genetic engineering" means the introduction of new genetic material to an organism or the regrouping of an organism's genes using techniques or technology designed by humans. This does not include selective breeding, hybridization, or nondirected mutagenesis.

**Subd. 4. Genetically engineered organism.** "Genetically engineered organism" means an organism derived from genetic engineering.

**Subd. 5. Organism.** "Organism" means any animal, plant, bacterium, cyanobacterium, fungus, protist, or virus.

**Subd. 6. Release.** "Release" means the placement or use of a genetically engineered organism outside a contained laboratory, greenhouse, building, structure, or

other similar facility or under any other conditions not specifically determined by the board to be adequately contained.

*History: 1989 c 346 s 2*

#### **116C.92 COORDINATION OF ACTIVITIES.**

The environmental quality board is designated the state coordinating organization for state and federal regulatory activities relating to genetically engineered organisms.

*History: 1989 c 346 s 3*

#### **116C.93 ADVISORY COMMITTEE.**

The board shall establish an advisory committee on genetically engineered organisms to provide advice at the request of the board on general issues involving genetic engineering and on issues relating to specific proposals, including the identification of research needed for adequate regulation of field trials.

*History: 1989 c 346 s 4*

#### **116C.94 RULES.**

The board shall adopt rules consistent with sections 116C.91 to 116C.95 that require an environmental assessment worksheet for a proposed release and a permit for a release. The rules shall provide that a permit from the board is not required if the proposer can demonstrate to the board that a significant environmental permit is required for the proposal by another state agency. The board shall consult with local units of government and with private citizens before adopting any rules.

*History: 1989 c 346 s 5*

#### **116C.95 LIABILITY.**

Rules established by the board under section 116C.94 shall not affect liability under any other law or regulation for adverse effects resulting from activities relating to genetically engineered organisms.

*History: 1989 c 346 s 6*