

CHAPTER 116

POLLUTION CONTROL AGENCY

116.07	Powers and duties.	116.82	Authority of local government.
116.12	Hazardous waste administration fees.	116.83	Enforcement.
116.18	Water pollution control funds; appropriations and bonds.	116.87	Definitions.
116.47	Exemptions.	116.875	Authorized management methods.
116.75	Citation.	116.88	Prohibited methods of management.
116.76	Definitions.	116.885	Recycling and treatment.
116.77	Coverage.	116.89	Enforcement.
116.78	Waste management.	116.92	Mercury emissions reduction.
116.79	Management plans.	116.93	Lamp recycling facilities.
116.80	Transportation of infectious waste.	116.94	Loose foam packing material; differentiation.
116.81	Rules.		

116.07 POWERS AND DUTIES.

[For text of subds 1 to 9, see M.S.1992]

Subd. 10. **Solid waste assessments.** (a) A person that collects mixed municipal solid waste shall collect and remit to the commissioner of revenue a solid waste assessment from each of the person's customers as provided in paragraphs (b) and (c).

(b) The amount of the assessment for each residential customer is \$2 per year. Each waste collector shall collect the assessment annually from each residential customer that is receiving waste collection service on July 1 of each year and shall remit the amount collected along with the collector's first remittance of the sales tax on solid waste collection services, described in section 297A.45, made after October 1 of each year. Any amount of the assessment that is received by the waste collector after October 1 of each year must be remitted along with the collector's next remittance of sales tax after receipt of the assessment.

(c) The amount of the assessment for each nonresidential customer is 12 cents per noncompacted cubic yard of periodic waste collection capacity purchased by the customer. Each waste collector shall collect the assessment from each nonresidential customer as part of each statement for payment of waste collection charges and shall remit the amount collected along with the next remittance of sales tax after receipt of the assessment.

(d) The commissioner of revenue shall redesign sales tax forms for solid waste collectors to accommodate payment of the assessment. The commissioner of revenue shall deposit the amounts remitted under this subdivision in the environmental fund and shall credit four-sevenths of the receipts to the landfill cleanup account established in section 115B.42.

(e) For the purposes of this subdivision, a "person that collects mixed municipal solid waste" means each person that pays sales tax on solid waste collection services under section 297A.45.

(f) The audit, penalty, enforcement, and administrative provisions applicable to taxes imposed under chapter 297A apply to the assessments imposed under this subdivision.

History: 1993 c 172 s 77

116.12 HAZARDOUS WASTE ADMINISTRATION FEES.

Subdivision 1. **Fee schedules.** The agency shall establish the fees provided in subdivisions 2 and 3 in the manner provided in section 16A.128 to cover the amount appropriated from the environmental fund to the agency for permitting, monitoring, inspection, and enforcement expenses of the hazardous waste activities of the agency.

The legislature may appropriate additional amounts from the general fund that need not be covered by fees, in order to assure adequate funding for the regulatory and

enforcement functions of the agency related to hazardous waste. All fees collected by the agency under this section shall be deposited in the environmental fund.

Subd. 2. **Hazardous waste generator fee.** (a) Each generator of hazardous waste shall pay a fee on the hazardous waste generated by that generator. The agency shall adopt rules in accordance with chapter 14 establishing a system for charging fees to generators. The rules must include the basis for determining the amount of fees, and procedures and deadlines for payment of fees. The agency shall base the amount of fees on the quantity of hazardous waste generated and may charge a minimum fee for each generator not exempted by the agency. In adopting the fee rules, the agency shall consider:

(1) reducing the fees for generators using environmentally beneficial hazardous waste management methods, including recycling;

(2) the agency resources allocated to regulating the various sizes or types of generators;

(3) adjusting fees for sizes or types of generators that would bear a disproportionate share of the fees to be collected; and

(4) whether implementing clauses (1) to (3) would require excessive staff time compared to staff time available for providing technical assistance to generators or would make the fee system difficult for generators to understand.

(b) The agency may exempt generators of very small quantities of hazardous wastes otherwise subject to the fee if it finds that the cost of administering a fee on those generators is excessive relative to the proceeds of the fee.

(c) The agency shall reduce fees charged to generators in counties which also charge generator fees to reflect a lesser level of activity by the agency in those counties. The fees charged by the agency in those counties shall be collected by the counties in the manner in which and at the same time as those counties collect their generator fees. Counties shall remit to the agency the amount of the fees charged by the agency by the last day of the month following the month in which they were collected. If a county does not collect or remit generator fees due to the agency, the agency may collect fees from generators in that county according to rules adopted under paragraph (a).

(d) The agency may not impose a volume-based fee under this subdivision on material that is reused at the facility where the material is generated in a manner that the facility owner or operator can demonstrate does not increase the toxicity of, or the level of hazardous substances or pollutants or contaminants in, products that leave the facility. The agency may impose a flat annual fee on a facility that generates the type of material described in the preceding sentence, provided that the fee reflects the reasonable and necessary costs of inspections of the facility.

Subd. 3. **Facility fees.** The agency shall charge hazardous waste facility fees including, but not limited to, an original permit fee, a reissuance fee, a major modification fee, and an annual facility fee for any hazardous waste facility regulated by the agency. The agency shall adopt rules in accordance with chapter 14 establishing a system for charging hazardous waste facility fees. The agency may exempt facilities otherwise subject to the fee if regulatory oversight of those facilities is minimal. The agency may include reasonable and necessary costs of any environmental review required under chapter 116D in the original permit fee for any hazardous waste facility.

History: 1993 c 279 s 1

116.18 WATER POLLUTION CONTROL FUNDS; APPROPRIATIONS AND BONDS.

[For text of subs 1 to 3b, see M.S.1992]

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, that uses soil treatment and disposal technology to treat 5,000 gallons or less of wastewater per day from dwellings or other establishments.

(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. Before agency approval of the grant application, 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) the costs requested do not include administrative costs, costs for improvements or replacements made before the application is submitted to the authority unless it pertains to the plan finally adopted, and planning and engineering costs other than those for the individual site evaluations and system design.

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

[For text of subsds 3d to 6, see M.S.1992]

History: 1993 c 180 s 5

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;

(2) tanks of 1,100 gallons or less capacity used for storing heating oil for consumptive use on the premises where stored;

(3) 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;

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

(5) storm water or waste water collection systems;

(6) flow-through process tanks;

(7) 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;

(8) septic tanks;

(9) tanks used for storing liquids that are gaseous at atmospheric temperature and pressure; or

(10) tanks used for storing agricultural chemicals regulated under chapter 18B, 18C, or 18D.

History: 1993 c 87 s 2

MINNESOTA STATUTES 1993 SUPPLEMENT

116.75 CITATION.

Sections 116.76 to 116.82 may be cited as the “infectious waste control act.”

History: 1993 c 206 s 2

116.76 DEFINITIONS.

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

[For text of subds 2 to 6, see M.S.1992]

Subd. 7. [Repealed, 1Sp1993 c 1 art 9 s 75]

[For text of subds 8 to 13, see M.S.1992]

Subd. 14. **Pathological waste.** “Pathological waste” means human tissues and body parts removed accidentally or during surgery or autopsy intended for disposal.

[For text of subds 15 to 18, see M.S.1992]

History: 1993 c 206 s 3; 1Sp1993 c 1 art 9 s 2; 1Sp1993 c 6 s 3

116.77 COVERAGE.

Sections 116.75 to 116.83 and 609.671, subdivision 10, cover any person, including a veterinarian, who generates, treats, stores, transports, or disposes of infectious or pathological waste but not including 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: 1993 c 206 s 4; 1Sp1993 c 6 s 4

116.78 WASTE MANAGEMENT.

[For text of subds 1 to 3, see M.S.1992]

Subd. 3a. **Waste containers.** Noninfectious mixed municipal solid waste generated by a facility must be placed for containment, collection, and processing or disposal in containers that are sufficiently transparent that the contents of the containers may be viewed from the exterior of the containers. The operator of a mixed municipal solid waste facility may not refuse to accept mixed municipal solid waste generated by a facility that complies with this subdivision, unless the operator observes that the waste contains sharps or other infectious waste.

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 unless it is part of an infectious waste decontamination process approved by the commissioner of the pollution control agency that will prevent exposure during transportation and disposal; and

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

[For text of subds 5 and 6, see M.S.1992]

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. Compaction is acceptable if it is part of an infectious waste system, approved by the commissioner of the pollution control agency, that is designed to prevent exposure during storage, transportation, and disposal.

[For text of subds 8 to 10, see M.S.1992]

History: 1993 c 249 s 27; 1Sp1993 c 1 art 9 s 3, 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. A person may prepare a common management plan for all generating facilities owned and operated by the person. If a single plan is prepared to cover multiple facilities, the plan must identify common policy and procedures for the facilities and any management procedures that are facility specific. The plan must identify each generating facility covered by the plan. A management plan must list all physicians, dentists, chiropractors, podiatrists, veterinarians, certified nurse practitioners, certified nurse midwives, or physician assistants, employed by, under contract to, or working at the generating facilities, except hospitals or laboratories. A management plan from a hospital must list the number of licensed beds and from a laboratory must list the number of generating employees.

(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 shall be reported in pounds.

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

[For text of subd 2, see M.S.1992]

Subd. 3. [Repealed, 1Sp1993 c 1 art 9 s 75]

Subd. 4. Plans for storage, decontamination, incineration, and disposal facilities. (a) A person who stores, incinerates, or decontaminates infectious or pathological waste, other than at the facility where the waste was generated, or a person who incinerates infectious or pathological waste on site, 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.

(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: 1Sp1993 c 1 art 9 s 5,6

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.

MINNESOTA STATUTES 1993 SUPPLEMENT

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

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 shall be reported in pounds.

(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.

[For text of subds 3 and 4, see M.S.1992]

History: 1Sp1993 c 1 art 9 s 7,8

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, before adopting rules affecting animals or research animal waste, must consult the commissioner of agriculture and the board of animal health.

Subd. 2. [Repealed, 1Sp1993 c 1 art 9 s 75]

History: 1Sp1993 c 1 art 9 s 9

116.82 AUTHORITY OF LOCAL GOVERNMENT.

[For text of subds 1 and 2, see M.S.1992]

Subd. 3. **Local enforcement.** Sections 116.76 to 116.81 may be enforced by a county by delegation of enforcement authority granted to 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: 1993 c 206 s 5; 1Sp1993 c 1 art 9 s 10; 1Sp1993 c 6 s 5

116.83 ENFORCEMENT.

Subdivision 1. **Enforcement authority.** The agency may enforce sections 116.76 to 116.81.

Subd. 2. [Repealed, 1Sp1993 c 1 art 9 s 75]

Subd. 3. **Access to information and property.** Subject to section 144.651, the commissioner of the pollution control agency 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: *ISp1993 c 1 art 9 s 11,12*

RESIDENTIAL LEAD PAINT WASTE

116.87 DEFINITIONS.

Subdivision 1. **Residential lead paint waste.** "Residential lead paint waste" means waste produced by removing lead paint from the interior or exterior structure or the ground surface of a residence. Residential lead paint waste does not include:

- (1) lead paint waste removed with the aid of any chemical paint stripper; or
- (2) lead paint waste that is mixed with water and that contains any free liquid.

Subd. 2. **Residence.** The term "residence" has the meaning given in rules adopted under sections 144.871 to 144.879.

History: *ISp1993 c 1 art 9 s 13*

116.875 AUTHORIZED MANAGEMENT METHODS.

Subdivision 1. **Disposal.** Notwithstanding any other law, a person who disposes of residential lead paint waste in the state may dispose of the waste at:

- (1) a land disposal facility that meets the requirements of Minnesota Rules, chapter 7045;
- (2) a facility that meets the requirements for a new mixed municipal solid waste land disposal facility under Minnesota Rules, chapter 7035, that began operation after January 1, 1989;
- (3) a demolition debris land disposal facility equipped with a clay or artificial liner and leachate collection system; or
- (4) a solid waste incinerator ash landfill if disposal is approved by the commissioner in accordance with agency rules.

Subd. 2. **Management responsibility; not transferable to occupant.** (a) A person whose activities produce residential lead paint waste is responsible for the management and proper disposal of the waste.

(b) When residential lead paint waste is produced by activities of a person other than the occupant of the residence from which the waste is removed, the person shall not leave the residential lead paint waste at that residence and shall not transfer responsibility for managing or disposing of the waste to the occupant.

Subd. 3. **Waste produced by occupant.** Residential lead paint waste produced by activities of the occupant of the residence from which the waste is removed must be managed as provided by law for household hazardous waste.

Subd. 4. **Demolition debris.** Residential lead paint waste attached to woodwork, walls, or other elements removed from the structure of a residence that constitute demolition debris may be disposed of at any permitted demolition debris land disposal facility.

History: *ISp1993 c 1 art 9 s 14*

116.88 PROHIBITED METHODS OF MANAGEMENT.

Subdivision 1. **Unlined landfills.** Except as provided in section 116.875, subdivision 4, no person shall dispose of residential lead paint waste at an unlined land disposal facility.

Subd. 2. **Incineration.** No person shall send or accept residential lead paint waste for incineration by a mixed municipal solid waste incinerator.

History: *ISp1993 c 1 art 9 s 15*

MINNESOTA STATUTES 1993 SUPPLEMENT

116.885 POLLUTION CONTROL AGENCY

40

116.885 RECYCLING AND TREATMENT.

Nothing in sections 116.87 to 116.89 is intended to prevent or discourage treatment or recycling of residential lead paint waste. The commissioner shall encourage treatment and recycling of residential lead paint waste.

History: 1Sp1993 c 1 art 9 s 16

116.89 ENFORCEMENT.

Subdivision 1. Rules. The Minnesota pollution control agency may adopt rules necessary to implement and enforce the provisions of sections 116.87 to 116.885, including rules to regulate the transportation, storage, disposal, and other management of residential lead paint waste after the waste leaves the site where it was produced.

Subd. 2. License revocation. In addition to enforcement by the Minnesota pollution control agency, the commissioner of health may revoke the license of an abatement contractor that violates any provision of sections 116.87 to 116.885 or the rules adopted under subdivision 1.

History: 1Sp1993 c 1 art 9 s 17

116.92 MERCURY EMISSIONS REDUCTION.

[For text of subds 1 to 6, see M.S.1992]

Subd. 7. Fluorescent and high intensity discharge lamps; large use applications. (a) A person who sells fluorescent or high intensity discharge lamps that contain mercury to the owner or manager of an industrial, commercial, office, or multiunit residential building, or to any person who replaces or removes from service outdoor lamps that contain mercury, shall clearly inform the purchaser in writing on the invoice for the lamps, or in a separate writing, that the lamps contain mercury, a hazardous substance that is regulated by federal or state law and that they may not be placed in solid waste. This paragraph does not apply to a person who incidentally sells fluorescent or high intensity discharge lamps at retail to the specified purchasers.

(b) A person who contracts with the owner or manager of an industrial, commercial, office, or multiunit residential building, or with a person responsible for outdoor lighting, to remove from service fluorescent or high intensity discharge lamps that contain mercury shall clearly inform, in writing, the person for whom the work is being done that the lamps being removed from service contain mercury and what the contractor's arrangements are for the management of the mercury in the removed lamps.

[For text of subds 8 and 9, see M.S.1992]

History: 1993 c 249 s 28

LAMP RECYCLING

116.93 LAMP RECYCLING FACILITIES.

Subdivision 1. Definition. For the purposes of this section, "lamp recycling facility" means a facility operated to remove, recover, and recycle for reuse mercury or other hazardous materials from fluorescent or high intensity discharge lamps.

Subd. 2. Lamp recycling facility; permits or licenses. (a) A person may not operate a lamp recycling facility without obtaining a permit or license for the facility from the agency. The permit or license must require:

- (1) a plan for response to releases, including emergency response;
- (2) proof of financial responsibility for closure and any necessary postclosure care at the facility which may include a performance bond or other insurance; and
- (3) liability insurance or another financial mechanism that provides proof of financial responsibility for response actions required under chapter 115B.

(b) A lamp recycling facility that is licensed or permitted by a county under section

473.811, subdivision 5b, complies with this subdivision if the license or permit held by the facility contains at least all the terms and conditions required by the agency for a license or permit issued under this subdivision.

(c) A lamp recycling facility with a demonstrated capability for recycling that is in operation prior to adoption of rules for a licensing or permitting process for the facility by the agency may continue to operate in accordance with a compliance agreement or other approval by the commissioner until a license or permit is issued by the agency under this subdivision.

History: 1993 c 249 s 29

PACKING MATERIAL

116.94 LOOSE FOAM PACKING MATERIAL; DIFFERENTIATION.

(a) By July 1, 1995, the commissioner shall adopt rules to implement a method for easily and visually differentiating between packing material that is manufactured using only vegetable starches or other renewable resources and packing material manufactured using petroleum and other nonrenewable resources.

(b) For the purposes of this section, "packing material" has the meaning given in section 16B.123, subdivision 2.

(c) This section applies only if loose foam packing material manufacturers do not establish and implement a differentiation method that complies with paragraph (a) not later than July 1, 1994.

History: 1993 c 249 s 30