

## CHAPTER 116C

## ENVIRONMENTAL QUALITY BOARD

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

*[For text of subd 1, see M.S.2002]*

Subd. 2. **Membership.** The members of the board are the director of the Office of Strategic and Long-Range Planning, the commissioner of commerce, the commissioner of the Pollution Control Agency, the commissioner of natural resources, the director of the Office of Environmental Assistance, the commissioner of agriculture, the commissioner of health, the commissioner of employment and economic development, 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.2002]*

**History:** 1Sp2003 c 4 s 1

**116C.24 DEFINITIONS.**

*[For text of subds 1 to 2, see M.S.2002]*

Subd. 2a. **Commissioner.** "Commissioner" means the commissioner of employment and economic development.

*[For text of subds 3 to 7, see M.S.2002]*

**History:** 1Sp2003 c 4 s 1

**116C.25 ENVIRONMENTAL PERMITS COORDINATION UNIT.**

The commissioner of employment and economic development shall direct the Bureau of Business Licenses to act as the coordination unit to implement and administer the provisions of sections 116C.22 to 116C.34. The commissioner shall employ necessary staff to work for the coordination unit on a continuous basis.

**History:** 1Sp2003 c 4 s 1

**116C.71 DEFINITIONS.**

*[For text of subds 1 to 6, see M.S.2002]*

Subd. 7. **Radioactive waste management facility.** "Radioactive waste management facility" means a geographic site, including buildings, structures, and equipment in or upon which radioactive waste is retrievably or irretrievably disposed by burial in soil or permanently stored. An independent spent-fuel storage installation located on the site of a Minnesota nuclear generation facility for dry cask storage of spent nuclear fuel generated solely by that facility is not a radioactive waste management facility.

[For text of subds 8 and 9, see M.S.2002]

**History:** 1Sp2003 c 11 art 1 s 1

# **116C.779 FUNDING FOR RENEWABLE DEVELOPMENT.**

**Subdivision 1. Renewable development account.** (a) The public utility that owns the Prairie Island nuclear generating plant must transfer to a renewable development account \$16,000,000 annually each year the plant is in operation, and \$7,500,000 each year the plant is not in operation if ordered by the commission pursuant to paragraph (c). The fund transfer must be made if nuclear waste is stored in a dry cask at the independent spent-fuel storage facility at Prairie Island for any part of a year. Funds in the account may be expended only for development of renewable energy sources. Preference must be given to development of renewable energy source projects located within the state.

(b) Expenditures from the account may only be made after approval by order of the Public Utilities Commission upon a petition by the public utility.

(c) After discontinuation of operation of the Prairie Island nuclear plant and each year spent nuclear fuel is stored in dry cask at the Prairie Island facility, the commission shall require the public utility to pay \$7,500,000 for any year in which the commission finds, by the preponderance of the evidence, that the public utility did not make a good faith effort to remove the spent nuclear fuel stored at Prairie Island to a permanent or interim storage site out of the state. This determination shall be made at least every two years.

**Subd. 2. Renewable energy production incentive.** (a) Until January 1, 2018, up to \$6,000,000 annually must be allocated from available funds in the account to fund renewable energy production incentives. \$4,500,000 of this annual amount is for incentives for up to 100 megawatts of electricity generated by wind energy conversion systems that are eligible for the incentives under section 216C.41. The balance of this amount, up to \$1,500,000 annually, may be used for production incentives for on-farm biogas recovery facilities that are eligible for the incentive under section 216C.41 or for production incentives for other renewables, to be provided in the same manner as under section 216C.41. Any portion of the \$6,000,000 not expended in any calendar year for the incentive is available for other spending purposes under this section. This subdivision does not create an obligation to contribute funds to the account.

(b) The Department of Commerce shall determine eligibility of projects under section 216C.41 for the purposes of this subdivision. At least quarterly, the Department of Commerce shall notify the public utility of the name and address of each eligible project owner and the amount due to each project under section 216C.41. The public utility shall make payments within 15 working days after receipt of notification of payments due.

**History:** 1Sp2003 c 11 art 2 s 1

# **116C.80 [Repealed, 1Sp2003 c 11 art 3 s 16]**

# **116C.83 AUTHORIZATION FOR ADDITIONAL DRY CASK STORAGE.**

**Subdivision 1. Authorization to end of current Prairie Island license.** Subject to the dry cask storage limits of the federal license for the independent spent-fuel storage installation at Prairie Island, the public utility that owns the Prairie Island nuclear generation plant has authorization for sufficient dry cask storage capacity at that installation to allow:

(1) the unit 1 reactor at Prairie Island to operate until the end of its current license in 2013; and

(2) the unit 2 reactor at Prairie Island to operate until the end of its current license in 2014.

**Subd. 2. Commission process for future additional authorization.** Authorization of any additional dry cask storage other than that provided for in subdivision 1, or

expansion or establishment of an independent spent-fuel storage facility at a nuclear generation facility in this state, is subject to approval of a certificate of need by the Public Utilities Commission pursuant to section 216B.243. In any proceeding under this subdivision, the commission may make a decision that could result in a shutdown of a nuclear generating facility. In considering an application for a certificate of need pursuant to this subdivision, the commission may consider whether the public utility that owns the nuclear generation facility in the state is in compliance with section 216B.1691 and the utility's past performance under that section.

**Subd. 3. Legislative review.** (a) To allow opportunity for review by the legislature, a decision by the commission on an application for a certificate of need pursuant to subdivision 2 is stayed until the June 1 following the next regular annual session of the legislature that begins after the date of the commission decision. By January 15 of the year of that legislative session, the commission shall issue a report to the chairs of the house and senate committees with jurisdiction over energy and environmental policy issues, providing a summary of the commission's decision and the grounds for that decision, the alternatives considered and rejected by the commission, and the reasons for rejecting those alternatives. If the legislature does not modify or reject the commission's decision by law enacted during that regular legislative session, the commission's decision shall become effective on the expiration of the stay.

(b) The stay of a commission decision to approve an application for a certificate of need for additional dry cask storage under subdivision 2 does not apply to the fabrication of the spent-fuel storage casks. However, if the utility proceeds with the fabrication of casks, it does so bearing the risk of an adverse legislative decision.

**Subd. 4. Other conditions.** (a) The storage of spent nuclear fuel in the pool and in dry casks at a nuclear generating plant must be managed to facilitate the shipment of waste out of state to a permanent or interim storage facility as soon as feasible in a manner that allows the continued operation of the plant consistent with sections 116C.71 to 116C.83 and 216B.1645, subdivision 4.

(b) The authorization for storage capacity pursuant to this section is limited to the storage of spent nuclear fuel generated by a Minnesota nuclear generation facility and stored on the site of that facility.

**Subd. 5. Water standards.** The standards established in section 116C.76, subdivision 1, clauses (1) to (3), apply to an independent spent-fuel installation. Such an installation must be operated in accordance with those standards.

**Subd. 6. Environmental review and protection.** (a) The siting, construction, and operation of an independent spent-fuel storage installation located on the site of a Minnesota generation facility for dry cask storage of spent nuclear fuel generated solely by that facility is subject to all environmental review and protection provisions of this chapter and chapters 115, 115B, 116, 116B, 116D, and 216B, and rules associated with those chapters, except those statutes and rules that apply specifically to a radioactive waste management facility as defined in section 116C.71, subdivision 7.

(b) An environmental impact statement is required under chapter 116D for a proposal to construct and operate a new or expanded independent spent-fuel storage installation. The Environmental Quality Board shall be the responsible governmental unit for the environmental impact statement. Prior to finding the statement adequate, the board must find that the applicant has demonstrated that the facility is designed to provide a reasonable expectation that the operation of the facility will not result in groundwater contamination in excess of the standards established in section 116C.76, subdivision 1, clauses (1) to (3).

**History:** 1Sp2003 c 11 art 1 s 2

## 116C.834 ASSESSMENT OF GENERATORS.

**Subdivision 1. Costs.** All costs incurred by the state to carry out its responsibilities under the compact and under sections 116C.833 to 116C.843 shall be paid by generators of low-level radioactive waste in this state through fees assessed by the Pollution Control Agency. Fees may be reasonably assessed on the basis of volume or

degree of hazard of the waste produced by a generator. Costs for which fees may be assessed include, but are not limited to:

- (1) the state contribution required to join the compact;
- (2) the expenses of the commission member and state agency costs incurred to support the work of the Interstate Commission; and
- (3) regulatory costs.

The fees are exempt from section 16A.1285.

*[For text of subds 1a and 2, see M.S.2002]*

**History:** 2003 c 128 art 2 s 41