CHAPTER 115

WATER POLLUTION CONTROL; SANITARY DISTRICTS

WATER POLLUTION CONTROL ACT

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WATER POLLUTION CONTROL ACT

115.01 DEFINITIONS.

Subdivision 1. **Applicability.** The following words and phrases when used in this chapter and, with respect to the pollution of the waters of the state, in chapter 116, unless the context clearly indicates otherwise, shall have the meanings ascribed to them in this section.

Subd. 2. MS 1990 [Renumbered subd 17]

Subd. 2. **Agency.** "Agency" means the Minnesota Pollution Control Agency.

Subd. 3. MS 1990 [Renumbered subd 8]

Subd. 3. **Depository.** "Depository" means: (a) a disposal facility or stabilization and containment facility for hazardous waste as defined in section 115A.03; and (b) a radioactive waste management facility as defined in section 116C.71, subdivision 7.

Subd. 4. MS 1990 [Renumbered subd 9]

Subd. 4. **Discharge.** "Discharge" means the addition of any pollutant to the waters of the state or to any disposal system.

Subd. 5. MS 1990 [Renumbered subd 13]

Subd. 5. **Disposal system.** "Disposal system" means a system for disposing of sewage, industrial waste and other wastes, and includes sewer systems and treatment works.

Subd. 6. MS 1990 [Renumbered subd 18]

Subd. 6. **Groundwater.** "Groundwater" means water contained below the surface of the earth in the saturated zone including, without limitation, all waters whether under confined, unconfined, or perched conditions, in near-surface unconsolidated sediment or regolith, or in rock formations deeper underground.

Subd. 7. MS 1990 [Renumbered subd 21]

Subd. 7. **Hazardous waste.** "Hazardous waste" means waste as defined in section 116.06, subdivision 11.

Subd. 8. MS 1990 [Renumbered subd 5]

Subd. 8. **Industrial waste.** "Industrial waste" means any liquid, gaseous or solid waste substance resulting from any process of industry, manufacturing trade or business or from the development of any natural resource.

Subd. 8a. **Microplastics.** "Microplastics" means particles of plastic less than 500 micrometers in size.

Subd. 8b. **Nanoplastics.** "Nanoplastics" means plastic particles less than or equal to 100 nanometers in size.

Subd. 9. MS 1990 [Renumbered subd 22]

Subd. 9. **Other wastes.** "Other wastes" mean garbage, municipal refuse, decayed wood, sawdust, shavings, bark, lime, sand, ashes, offal, oil, tar, chemicals, dredged spoil, solid waste, incinerator residue, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or

discarded equipment, rock, cellar dirt or municipal or agricultural waste, and all other substances not included within the definitions of sewage and industrial waste set forth in this chapter which may pollute or tend to pollute the waters of the state.

Subd. 10. **Person.** "Person" means the state or any agency or institution thereof, any municipality, governmental subdivision, public or private corporation, individual, partnership, or other entity, including, but not limited to, association, commission or any interstate body, and includes any officer or governing or managing body of any municipality, governmental subdivision, or public or private corporation, or other entity.

Subd. 10a. **Plastic.** "Plastic" means a synthetic material made from linking monomers through a chemical reaction to create a polymer chain that can be molded or extruded at high heat into various solid forms that retain their defined shapes during their life cycle and after disposal. Plastic does not mean natural polymers that have not been chemically modified.

Subd. 11. MS 1990 [Renumbered subd 2]

Subd. 11. **Point source.** "Point source" means any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged.

Subd. 12. MS 1990 [Renumbered subd 4]

Subd. 12. **Pollutant.** "Pollutant" means any sewage, industrial waste, or other wastes, as defined in this chapter, discharged into a disposal system or to waters of the state.

Subd. 13. MS 1990 [Renumbered subd 12]

Subd. 13. **Pollution of water, water pollution, or pollute the water.** "Pollution of water," "water pollution," or "pollute the water" means: (a) the discharge of any pollutant into any waters of the state or the contamination of any waters of the state so as to create a nuisance or render such waters unclean, or noxious, or impure so as to be actually or potentially harmful or detrimental or injurious to public health, safety or welfare, to domestic, agricultural, commercial, industrial, recreational or other legitimate uses, or to livestock, animals, birds, fish or other aquatic life; or (b) the alteration made or induced by human activity of the chemical, physical, biological, or radiological integrity of waters of the state.

Subd. 14. MS 1990 [Renumbered subd 20]

Subd. 14. **Potable water.** "Potable water" means water which is or may be used as a source of supply for human consumption including drinking, culinary use, food processing, and other similar purposes, and which is suitable for such uses in its untreated state or when treated using generally recognized treatment methods.

Subd. 15. MS 1990 [Renumbered subd 11]

Subd. 15. **Radioactive waste.** "Radioactive waste" means high-level radioactive waste as defined in section 116C.71, subdivision 2f, and low-level radioactive waste as defined in article II of the Midwest Interstate Low-Level Radioactive Waste Compact, as enacted by section 116C.831.

Subd. 16. MS 1990 [Renumbered subd 19]

Subd. 16. **Schedule of compliance.** "Schedule of compliance" means a schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with an effluent limitation, other limitation, prohibition, or standard.

Subd. 17. MS 1990 [Renumbered subd 16]

Subd. 17. **Sewage.** "Sewage" means the water-carried waste products from residences, public buildings, institutions or other buildings, or any mobile source, including the excrementitious or other discharge from the bodies of human beings or animals, together with such groundwater infiltration and surface water as may be present.

Subd. 18. MS 1990 [Renumbered subd 7]

Subd. 18. **Sewer system.** "Sewer system" means pipelines or conduits, pumping stations, and force mains, and all other constructions, devices, and appliances appurtenant thereto, used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.

Subd. 19. MS 1990 [Renumbered subd 15]

Subd. 19. **Standards.** "Standards" means effluent standards, effluent limitations, standards of performance for new sources, water quality standards, pretreatment standards, and prohibitions.

Subd. 20. MS 1990 [Renumbered subd 14]

Subd. 20. **Toxic pollutants.** "Toxic pollutants" means those pollutants, or combinations of pollutants, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will, on the basis of information available to the agency, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions, including malfunctions in reproduction, or physical deformation, in such organisms or their offspring.

Subd. 21. MS 1990 [Renumbered subd 6]

Subd. 21. **Treatment works.** "Treatment works" means any plant, disposal field, lagoon, dam, pumping station, constructed drainage ditch or surface water intercepting ditch, incinerator, area devoted to sanitary land fills, or other works not specifically mentioned herein, installed for the purpose of treating, stabilizing or disposing of sewage, industrial waste, or other wastes.

Subd. 22. MS 1990 [Renumbered subd 3]

Subd. 22. **Waters of the state.** "Waters of the state" means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

History: *1945 c 395 s 1; 1963 c 874 s 2,3; 1969 c 9 s 16; 1973 c 374 s 1-6; 1986 c 425 s 1-5; 1986 c 444; 2023 c 60 art 3 s 1-3*

115.02 MS 1965 [Repealed, 1967 c 882 s 11]

115.03 POWERS AND DUTIES.

Subdivision 1. **Generally.** (a) The commissioner is given and charged with the following powers and duties:

(1) to administer and enforce all laws relating to the pollution of any of the waters of the state;

(2) to investigate the extent, character, and effect of the pollution of the waters of this state and to gather data and information necessary or desirable in the administration or enforcement of pollution laws, and to make such classification of the waters of the state as the commissioner may deem advisable;

(3) to establish and alter such reasonable pollution standards for any waters of the state in relation to the public use to which they are or may be put as the commissioner shall deem necessary for the purposes of this chapter and, with respect to the pollution of waters of the state, chapter 116;

(4) to encourage waste treatment, including advanced waste treatment, instead of stream low-flow augmentation for dilution purposes to control and prevent pollution;

(5) to adopt, issue, reissue, modify, deny, revoke, reopen, enter into, or enforce reasonable orders, permits, variances, standards, rules, schedules of compliance, and stipulation agreements, under such conditions as the commissioner may prescribe, in order to prevent, control or abate water pollution, or for the installation or operation of disposal systems or parts thereof, or for other equipment and facilities:

(i) requiring the discontinuance of the discharge of sewage, industrial waste, or other wastes into any waters of the state resulting in pollution in excess of the applicable pollution standard established under this chapter;

(ii) prohibiting or directing the abatement of any discharge of sewage, industrial waste, or other wastes, into any waters of the state or the deposit thereof or the discharge into any municipal disposal system where the same is likely to get into any waters of the state in violation of this chapter and, with respect to the pollution of waters of the state, chapter 116, or standards or rules promulgated or permits issued pursuant thereto, and specifying the schedule of compliance within which such prohibition or abatement must be accomplished;

(iii) prohibiting the storage of any liquid or solid substance or other pollutant in a manner which does not reasonably assure proper retention against entry into any waters of the state that would be likely to pollute any waters of the state;

(iv) requiring the construction, installation, maintenance, and operation by any person of any disposal system or any part thereof, or other equipment and facilities, or the reconstruction, alteration, or enlargement of its existing disposal system or any part thereof, or the adoption of other remedial measures to prevent, control or abate any discharge or deposit of sewage, industrial waste or other wastes by any person;

(v) establishing, and from time to time revising, standards of performance for new sources taking into consideration, among other things, classes, types, sizes, and categories of sources, processes, pollution control technology, cost of achieving such effluent reduction, and any nonwater quality environmental impact and energy requirements. Said standards of performance for new sources shall encompass those standards for the control of the discharge of pollutants which reflect the greatest degree of effluent reduction which the commissioner determines to be achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, where practicable, a standard permitting no discharge of pollutants. New sources shall encompass buildings, structures, facilities, or installations from which there is or may be the discharge of pollutants, the construction of which is commenced after the publication by the commissioner of proposed rules prescribing a standard of performance which will be applicable to such source. Notwithstanding any other provision of the law of this state, any point source the construction of which is commenced after May 20, 1973, and which is so constructed as to meet all applicable standards of performance for new sources shall, consistent with and subject to the

provisions of section 306(d) of the Amendments of 1972 to the Federal Water Pollution Control Act, not be subject to any more stringent standard of performance for new sources during a ten-year period beginning on the date of completion of such construction or during the period of depreciation or amortization of such facility for the purposes of section 167 or 169, or both, of the Federal Internal Revenue Code of 1954, whichever period ends first. Construction shall encompass any placement, assembly, or installation of facilities or equipment, including contractual obligations to purchase such facilities or equipment, at the premises where such equipment will be used, including preparation work at such premises;

(vi) establishing and revising pretreatment standards to prevent or abate the discharge of any pollutant into any publicly owned disposal system, which pollutant interferes with, passes through, or otherwise is incompatible with such disposal system;

(vii) requiring the owner or operator of any disposal system or any point source to establish and maintain such records, make such reports, install, use, and maintain such monitoring equipment or methods, including where appropriate biological monitoring methods, sample such effluents in accordance with such methods, at such locations, at such intervals, and in such a manner as the commissioner shall prescribe, and providing such other information as the commissioner may reasonably require;

(viii) notwithstanding any other provision of this chapter, and with respect to the pollution of waters of the state, chapter 116, requiring the achievement of more stringent limitations than otherwise imposed by effluent limitations in order to meet any applicable water quality standard by establishing new effluent limitations, based upon section 115.01, subdivision 13, clause (b), including alternative effluent control strategies for any point source or group of point sources to insure the integrity of water quality classifications, whenever the commissioner determines that discharges of pollutants from such point source or sources, with the application of effluent limitations required to comply with any standard of best available technology, would interfere with the attainment or maintenance of the water quality classification in a specific portion of the waters of the state. Prior to establishment of any such effluent limitation, the commissioner shall hold a public hearing to determine the relationship of the economic and social costs of achieving such limitation or limitations, including any economic or social dislocation in the affected community or communities, to the social and economic benefits to be obtained and to determine whether or not such effluent limitation can be implemented with available technology or other alternative control strategies. If a person affected by such limitation demonstrates at such hearing that, whether or not such technology or other alternative control strategies are available, there is no reasonable relationship between the economic and social costs and the benefits to be obtained, such limitation shall not become effective and shall be adjusted as it applies to such person;

(ix) modifying, in the commissioner's discretion, any requirement or limitation based upon best available technology with respect to any point source for which a permit application is filed after July 1, 1977, upon a showing by the owner or operator of such point source satisfactory to the agency that such modified requirements will represent the maximum use of technology within the economic capability of the owner or operator and will result in reasonable further progress toward the elimination of the discharge of pollutants;

(x) requiring that applicants for wastewater discharge permits evaluate in their applications the potential reuses of the discharged wastewater; and

(xi) when appropriate, requiring parties who enter into a negotiated agreement to settle an enforcement matter with the agency to reimburse the agency for oversight costs. The commissioner may recover oversight costs only if the agency's costs exceed $25,000. If oversight costs exceed $25,000, the commissioner may recover all the oversight costs incurred by the agency that are associated with implementing the negotiated agreement. Oversight costs may include but are not limited to any costs associated with inspections, sampling,

monitoring, modeling, risk assessment, permit writing, engineering review, economic analysis and review, and other record or document review. Estimates of anticipated oversight costs must be disclosed in the negotiated agreement, and estimates must be periodically updated and disclosed to the parties to the negotiated agreement. The agency's legal and litigation costs are not recoverable under this clause. In addition to settlement agreements, the commissioner has discretion as to whether to apply this clause in cases when the agency is using schedules of compliance to bring a class of regulated parties into compliance;

(6) to require to be submitted and to approve plans and specifications for disposal systems or point sources, or any part thereof and to inspect the construction thereof for compliance with the approved plans and specifications thereof;

(7) to prescribe and alter rules, not inconsistent with law, for the conduct of the agency and other matters within the scope of the powers granted to and imposed upon the commissioner by this chapter and, with respect to pollution of waters of the state, in chapter 116, provided that every rule affecting any other department or agency of the state or any person other than a member or employee of the agency shall be filed with the secretary of state;

(8) to conduct such investigations, issue such notices, public and otherwise, and hold such hearings as are necessary or which the commissioner may deem advisable for the discharge of the commissioner's duties under this chapter and, with respect to the pollution of waters of the state, under chapter 116, including, but not limited to, the issuance of permits, and to authorize any member, employee, or agent appointed by the commissioner to conduct such investigations or, issue such notices and hold such hearings;

(9) for the purpose of water pollution control planning by the state and pursuant to the Federal Water Pollution Control Act, as amended, to establish and revise planning areas, adopt plans and programs and continuing planning processes, including, but not limited to, basin plans and areawide waste treatment management plans, and to provide for the implementation of any such plans by means of, including, but not limited to, standards, plan elements, procedures for revision, intergovernmental cooperation, residual treatment process waste controls, and needs inventory and ranking for construction of disposal systems;

(10) to train water pollution control personnel and charge training fees as are necessary to cover the agency's costs. All such fees received must be paid into the state treasury and credited to the Pollution Control Agency training account;

(11) to provide chloride reduction training and charge training fees as necessary to cover the agency's costs not to exceed $350. All training fees received must be paid into the state treasury and credited to the Pollution Control Agency training account;

(12) to impose as additional conditions in permits to publicly owned disposal systems appropriate measures to insure compliance by industrial and other users with any pretreatment standard, including, but not limited to, those related to toxic pollutants, and any system of user charges ratably as is hereby required under state law or said Federal Water Pollution Control Act, as amended, or any regulations or guidelines promulgated thereunder;

(13) to set a period not to exceed five years for the duration of any national pollutant discharge elimination system permit or not to exceed ten years for any permit issued as a state disposal system permit only;

(14) to require each governmental subdivision identified as a permittee for a wastewater treatment works to evaluate in every odd-numbered year the condition of its existing system and identify future capital improvements that will be needed to attain or maintain compliance with a national pollutant discharge elimination system or state disposal system permit;

(15) to train subsurface sewage treatment system personnel, including persons who design, construct, install, inspect, service, and operate subsurface sewage treatment systems, and charge fees as necessary to pay the agency's costs. All fees received must be paid into the state treasury and credited to the agency's training account. Money in the account is appropriated to the commissioner to pay expenses related to training; and

(16) to encourage practices that enable the recovery and use of waste heat from wastewater treatment operations.

(b) The information required in paragraph (a), clause (14), must be submitted in every odd-numbered year to the commissioner on a form provided by the commissioner. The commissioner shall provide technical assistance if requested by the governmental subdivision.

(c) The powers and duties given the commissioner in this subdivision also apply to permits issued under chapter 114C.

Subd. 2. **Hearing or investigation.** In any hearing or investigation conducted pursuant to this chapter and chapters 114C, 116, and 116F, any employee or agent thereto authorized by the agency, may administer oaths, examine witnesses and issue, in the name of the agency, subpoenas requiring the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in any such hearing or investigation. Witnesses shall receive the same fees and mileage as in civil actions.

Subd. 3. **Contempt of court.** In case of contumacy or refusal to obey a subpoena issued under this section, the district court of the county where the proceeding is pending or in which the person guilty of such contumacy or refusal to obey is found or resides, shall have jurisdiction upon application of the agency or its authorized member, employee or agent to issue to such person an order requiring the person to appear and testify or produce evidence, as the case may require, and any failure to obey such order of the court may be punished by said court as a contempt thereof.

Subd. 4. **Building permits.** It is unlawful for any person to issue or grant a building permit for, or otherwise permit, the construction, enlargement, or relocation of a commercial or industrial building to be used as the place of employment of more than 12 persons, or any other commercial or industrial building to house a process producing industrial or other wastes, unless the sewage or industrial or other waste originating in such buildings is or will be discharged into a disposal system for which a permit has first been granted by the agency unless the agency has cause not to apply this requirement, provided that this subdivision shall not apply to building permits issued for buildings, which have an estimated value of less than $500,000, located or to be located within an incorporated municipality. After January 1, 1975, such permits shall be acted upon by the agency within 90 days after submitted, provided that the agency, for good cause, may order said 90-day period to be extended for a reasonable time.

Subd. 4a. **Section 401 certifications.** (a) The following definitions apply to this subdivision:

(1) "section 401 certification" means a water quality certification required under section 401 of the federal Clean Water Act, United States Code, title 33, section 1341; and

(2) "nationwide permit" means a nationwide general permit issued by the United States Army Corps of Engineers and listed in Code of Federal Regulations, title 40, part 330, appendix A.

(b) The agency is responsible for providing section 401 certifications for nationwide permits.

(c) Before making a final decision on a section 401 certification for regional conditions on a nationwide permit, the agency shall hold at least one public meeting outside the seven-county metropolitan area.

(d) In addition to other notice required by law, the agency shall provide written notice of a meeting at which the agency will be considering a section 401 certification for regional conditions on a nationwide permit at least 21 days before the date of the meeting to the members of the senate and house of representatives environment and natural resources committees, the senate Agriculture and Rural Development Committee, and the house of representatives Agriculture Committee.

Subd. 5. **Agency authority; national pollutant discharge elimination system.** (a) Notwithstanding any other provisions prescribed in or pursuant to this chapter and, with respect to the pollution of waters of the state, in chapter 116, or otherwise, the agency shall have the authority to perform any and all acts minimally necessary including, but not limited to, the establishment and application of standards, procedures, rules, orders, variances, stipulation agreements, schedules of compliance, and permit conditions, consistent with and, therefore not less stringent than the provisions of the Federal Water Pollution Control Act, as amended, applicable to the participation by the state of Minnesota in the national pollutant discharge elimination system (NPDES); provided that this provision shall not be construed as a limitation on any powers or duties otherwise residing with the agency pursuant to any provision of law.

(b) An activity that conveys or connects waters of the state without subjecting the transferred water to intervening industrial, municipal, or commercial use does not require a national pollutant discharge elimination system permit. This exemption does not apply to pollutants introduced by the activity itself to the water being transferred.

Subd. 5a. **Public notice; application for national pollutant discharge elimination system permit.** The commissioner must give public notice of a completed national pollutant discharge elimination system permit application for new municipal discharges in the official county newspaper of the county where the discharge is proposed.

Subd. 5b. MS 2006 [Repealed, 2003 c 128 art 1 s 120]

Subd. 5c. **Regulating stormwater discharges.** (a) The agency may issue a general permit to any category or subcategory of point source stormwater discharges that it deems administratively reasonable and efficient without making any findings under agency rules. Nothing in this subdivision precludes the agency from requiring an individual permit for a point source stormwater discharge if the agency finds that it is appropriate under applicable legal or regulatory standards.

(b) Pursuant to this paragraph, the legislature authorizes the agency to adopt and enforce rules regulating point source stormwater discharges. No further legislative approval is required under any other legal or statutory provision whether enacted before or after May 29, 2003.

(c) The agency shall develop performance standards, design standards, or other tools to enable and promote the implementation of low-impact development and other stormwater management techniques. For the purposes of this section, "low-impact development" means an approach to stormwater management that mimics a site's natural hydrology as the landscape is developed. Using the low-impact development approach, stormwater is managed on site and the rate and volume of predevelopment stormwater reaching receiving waters is unchanged. The calculation of predevelopment hydrology is based on native soil and vegetation.

Subd. 5d. **Required disclosures; applicants for national pollution discharge elimination system permit.** The commissioner must provide an applicant for a national pollution discharge elimination system permit with a written summary of all available methods for the applicant to participate in the permit process, including an explanation of all procedures for challenging and appealing a decision of the agency or a permit requirement included in any draft of a final permit.

Subd. 5e. **Sugar beet storage.** The commissioner must not require a sugar beet company that has a current national pollutant discharge elimination system permit or state disposal system permit to install an engineered liner for a stormwater runoff pond at a remote storage site for sugar beets unless a risk assessment confirms that there is significant impact on groundwater and that an engineered liner is necessary to prevent, control, or abate water pollution. For purposes of this subdivision, "remote storage site for sugar beets" means an area where sugar beets are temporarily stored before delivery to a sugar beet processing facility and that is not located on land adjacent to the processing facility.

Subd. 6. **Certification statement; pollution control equipment loan.** (a) In addition to its other powers and duties, the agency shall prepare the certification statement required to be submitted by an applicant for a pollution control equipment loan under the provisions of section 7(g) of the Small Business Act and section 8 of the Federal Water Pollution Control Act, as amended.

(b) The agency certification shall state whether the loan applicant's proposed additions to, or alterations in, equipment facilities or methods of operation are necessary and adequate to comply with the requirements established under the Federal Water Pollution Control Act, as amended. The agency's certification statement shall comply with the requirements of Code of Federal Regulations, title 40, part 21.

(c) The agency may identify small businesses eligible for loans under section 7(g) of the Small Business Act and section 8 of the Federal Water Pollution Control Act, as amended and assist in the preparation of loan application.

(d) No fee shall be required of an applicant for any assistance provided under this subdivision.

Subd. 7. **Pollution control facility revenue bonds.** In addition to its other powers and duties, the agency shall disseminate information and provide assistance regarding the small business administration program to guarantee payments or rentals on pollution control facility revenue bonds pursuant to Public Law 94-305 (June 4, 1976). The agency shall also encourage and assist governmental units to coordinate the joint or cooperative issuance of bonds guaranteed under this program to the end that the total amount of the bonds is sufficient in size to allow convenient sale.

Subd. 8. **Exemptions for aboveground storage tanks.** The commissioner may not adopt rules under this section that regulate the use of the following aboveground storage tanks:

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

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

Subd. 8a. **Permit duration for major aboveground storage facilities.** Agency permits for major aboveground storage facilities may be issued for a term of up to ten years.

Subd. 8b. **Permit duration; state disposal system permits; feedlots.** State disposal system permits that are issued without a national pollutant discharge elimination system permit to feedlots shall be issued for a term of ten years. A feedlot with a permit under this subdivision is required to be in compliance with agency rules. A facility or operation change may require a permit modification if required under agency rules.

Subd. 9. **Future costs of wastewater treatment; update of 1995 report.** The commissioner shall, by January 15, 1998, and each even-numbered year thereafter, provide the chairs of the house of representatives and senate committees with primary jurisdiction over the agency's budget with the following information:

(1) an updated list of all wastewater treatment upgrade and construction projects the agency has identified to meet existing and proposed water quality standards and regulations;

(2) an estimate of the total costs associated with the projects listed in clause (1), and the projects' priority ranking under Minnesota Rules, chapter 7077. The costs of projects necessary to meet existing standards must be identified separately from the costs of projects necessary to meet proposed standards;

(3) the commissioner's best estimate, developed in consultation with the commissioner of employment and economic development and affected permittees, of the increase in sewer service rates to the residents in the municipalities required to construct the projects listed in clause (1) resulting from the cost of these projects; and

(4) a list of existing and proposed state water quality standards which are more stringent than is necessary to comply with federal law, either because the standard has no applicable federal water quality criteria, or because the standard is more stringent than the applicable federal water quality criteria.

Subd. 10. **Pollutant loading offset.** (a) The Pollution Control Agency may issue or amend permits to authorize pollutant discharges to a receiving water and may authorize reductions in loading from other sources to the same receiving water, if together the changes achieve a net decrease in the pollutant loading to the receiving water. A point source participating in a water quality offset authorized by this subdivision must have pollutant load reduction requirements for the traded pollutants based on water quality based effluent limits or wasteload allocations in place prior to the offset. The pollutant load reduction requirements in place prior to the offset must meet the requirements of this chapter and Minnesota Rules, parts 7050.0150, subpart 8; 7053.0205; and 7053.0215, including, but not limited to, requirements related to pollutant form, spatial loading, and temporal loading. The agency must require significant offset ratios for offsets between permitted sources and nonpermitted sources and must demonstrate how nonpermitted source offset credits make progress toward ensuring attainment of water quality standards. The agreement of a source to participate in an offset is voluntary. The agency shall track the pollutant offsets or "trades" implemented under this subdivision.

(b) The legislature intends this subdivision to confirm and clarify the authority of the Pollution Control Agency to issue the authorized permits under prior law. The subdivision must not be construed as a legislative interpretation within the meaning of section 645.16, clause (8), or otherwise as the legislature's intent that the agency did not have authority to issue such a permit under prior law.

Subd. 11. **Designated use patterns; aquatic pesticides.** (a) The agency may issue under requirement of the federal government national pollutant discharge elimination system permits for pesticide applications for the following designated use patterns:

(1) mosquitoes and other flying insect pests;

(2) forest canopy pests;

(3) aquatic nuisance animals; and

(4) vegetative pests and algae.

(b) If the federal government no longer requires a permit for a designated use pattern, the agency must immediately terminate the permit. The agency shall not require permits for aquatic pesticide applications other than those designated use patterns required by the federal government.

(c) The agency shall not regulate or require permits for the terrestrial application of pesticides or any other pesticide related permit except as provided in paragraph (a).

History: *1945 c 395 s 3; 1969 c 9 s 21; 1969 c 931 s 6; 1973 c 374 s 7-9; 1973 c 412 s 12; 1976 c 76 s 1; 1979 c 147 s 1; 1984 c 597 s 41; 1985 c 248 s 70; 1Sp1985 c 13 s 229; 1986 c 444; 1987 c 186 s 15; 1989 c 335 art 1 s 127; art 4 s 33; 1992 c 601 s 2; 1993 c 87 s 1; 1993 c 186 s 8; 1996 c 437 s 9,10; 1996 c 462 s 38; 1997 c 216 s 93; 2000 c 370 s 1; 1Sp2001 c 2 s 120; 2003 c 128 art 1 s 120,121; 1Sp2003 c 4 s 1; 2006 c 251 s 10; 2009 c 37 art 1 s 37; 2009 c 109 s 14; 2011 c 107 s 79; 2012 c 150 art 1 s 4; 2014 c 237 s 4,5; 2018 c 214 art 2 s 7; 1Sp2019 c 4 art 3 s 95,96; 2023 c 60 art 3 s 4; 2024 c 116 art 2 s 1; 2025 c 20 s 81*

115.035 EXTERNAL PEER REVIEW OF WATER QUALITY STANDARDS.

(a) Every new or revised numeric water quality standard must be supported by a technical support document that provides the scientific basis for the proposed standard and that has undergone external, scientific peer review. Numeric water quality standards in which the agency is adopting, without change, a United States Environmental Protection Agency criterion that has been through peer review are not subject to this paragraph. Documentation of the external peer review panel, including the name or names of the peer reviewer or reviewers, must be included in the statement of need and reasonableness for the water quality standard.

(b) Every technical support document developed by the agency must be released in draft form for public comment before peer review and before finalizing the technical support document.

(c) The commissioner must provide public notice and information about the external peer review through the request for comments published at the beginning of the rulemaking process for the numeric water quality standard, and:

(1) the request for comments must identify the draft technical support document and where the document can be found;

(2) the request for comments must include a proposed charge for the external peer review and request comments on the charge;

(3) all comments received during the public comment period must be made available to the external peer reviewers; and

(4) if the agency is not soliciting external peer review because the agency is adopting a United States Environmental Protection Agency criterion without change, that must be noted in the request for comments.

(d) The purpose of the external peer review is to evaluate whether the technical support document and proposed standard are based on sound scientific knowledge, methods, and practices. The external peer review must be conducted according to the guidance in the most recent edition of the United States Environmental Protection Agency's Peer Review Handbook. Peer reviewers must not have participated in developing the scientific basis of the standard. Peer reviewers must disclose any activities or circumstances that could pose a conflict of interest or create an appearance of a loss of impartiality that could interfere with an objective review.

(e) The type of review and the number of peer reviewers depends on the nature of the science underlying the standard. A panel review must be used when the agency is developing significant new science or science that expands significantly beyond current documented scientific practices or principles.

(f) In response to the findings of the external peer review, the agency must revise the draft technical support document as appropriate. The findings of the external peer review must be documented and attached to the final technical support document, which must be an exhibit as part of the statement of need and reasonableness in the rulemaking to adopt the new or revised water quality standard. The agency must note changes in the final technical support document made in response to the external peer review.

(g) By December 15 each year, the commissioner must post on the agency's website a report identifying the water quality standards development work in progress or completed in the past year, the lead agency scientist for each development effort, and opportunities for public input.

History: *1Sp2015 c 4 art 4 s 100; 1Sp2019 c 4 art 3 s 97*

115.04 DISPOSAL SYSTEMS AND POINT SOURCES.

Subdivision 1. **Information.** Any person operating or installing a disposal system or other point source, or portion thereof, when requested by the agency, or any member, employee or agent thereof, when authorized by it, shall furnish to it any information which that person may have or which is relevant to the subject of this chapter, chapter 114C, and, with respect to the pollution of waters of the state, of chapter 116.

Subd. 2. **Examining records.** The agency or any member, employee or agent thereof, when authorized by it, upon presentation of credentials, may examine and copy any books, papers, records or memoranda pertaining to the installation, maintenance, or operation or discharge, including, but not limited to, monitoring data, of disposal systems or other point sources, in accordance with the purposes of this chapter, chapter 114C, and, with respect to the pollution of waters of the state, chapter 116.

Subd. 3. **Access to premises.** Whenever it shall be necessary for the purposes of this chapter, chapter 114C, and, with respect to pollution of waters of the state, chapter 116, the agency or any member, employee, or agent thereof, when authorized by it, upon presentation of credentials, may enter upon any property, public or private, for the purpose of obtaining information or examination of records or conducting surveys or investigations.

History: *1945 c 395 s 4; 1969 c 9 s 21; 1973 c 374 s 10; 1986 c 444; 1996 c 437 s 11*

115.05 JUDICIAL REVIEW.

Subdivision 1. MS 1974 [Repealed, 1976 c 76 s 8]

Subd. 2. MS 1971 [Repealed, 1973 c 374 s 22]

Subd. 3. MS 1974 [Repealed, 1976 c 76 s 8]

Subd. 4. MS 1974 [Repealed, 1976 c 76 s 8]

Subd. 5. MS 1974 [Repealed, 1976 c 76 s 8]

Subd. 6. MS 1974 [Repealed, 1976 c 76 s 8]

Subd. 7. MS 1974 [Repealed, 1976 c 76 s 8]

Subd. 8. MS 1974 [Repealed, 1976 c 76 s 8]

Subd. 9. MS 1974 [Repealed, 1976 c 76 s 8]

Subd. 10. MS 1974 [Repealed, 1976 c 76 s 8]

Subd. 11. **Judicial review.** Any person aggrieved by any final decision of the agency or of the commissioner may obtain judicial review thereof pursuant to sections 14.63 to 14.69 if the final decision is made pursuant to the agency's or the commissioner's authority under section 115A.914, this chapter, chapter 116, or the rules adopted thereunder, and if the decision is a final decision pertaining to:

(1) issuance, amendment, or denial of a permit, license, or certification;

(2) granting or denial of a variance;

(3) issuance of an administrative order, except for an administrative penalty order issued pursuant to section 116.072; or

(4) denial of a contested case hearing on any of the matters listed in clauses (1) to (3).

History: *1945 c 395 s 5; 1959 c 461 s 1; 1969 c 9 s 21; 1969 c 931 s 1,2; 1973 c 374 s 11; 1976 c 76 s 2; 1982 c 424 s 130; 1987 c 384 art 2 s 1; 1999 c 235 s 1*

115.06 COOPERATION.

Subdivision 1. **Other sovereign states.** The agency, so far as it is not inconsistent with its duties under the laws of this state, may assist and cooperate with any agency of another state, of the United States of America or of the Dominion of Canada or any province thereof in any matter relating to water pollution control.

Subd. 2. **Receiving money, property, or services.** The agency may receive and accept money, property, or services from any person or from any agency described in subdivision 1 or from any other source for any purpose within the scope of its functions under this chapter, chapter 116, or 116F, and all money so received are hereby appropriated for such purposes in like manner and subject to like provisions of law as the corresponding appropriations of state funds.

Subd. 3. **Governmental subdivisions.** It shall be the duty of each city, county, town, sanitary district, public corporation, or other governmental subdivision to cooperate with the agency in obtaining compliance with the provisions of this chapter and to enforce within its jurisdiction all standards, orders, rules, or permit requirements adopted by the agency thereunder.

Subd. 4. **Citizen monitoring of water quality.** (a) The agency may encourage citizen monitoring of ambient water quality for public waters by:

(1) providing technical assistance to citizen and local group water quality monitoring efforts;

(2) integrating citizen monitoring data into water quality assessments and agency programs, provided that the data adheres to agency quality assurance and quality control protocols; and

(3) seeking public and private funds to:

(i) collaboratively develop clear guidelines for water quality monitoring procedures and data management practices for specific data and information uses;

(ii) distribute the guidelines to citizens, local governments, and other interested parties;

(iii) improve and expand water quality monitoring activities carried out by the agency; and

(iv) continue to improve electronic and web access to water quality data and information about public waters that have been either fully or partially assessed.

(b) This subdivision does not authorize a citizen to enter onto private property for any purpose.

History: *1945 c 395 s 6; 1969 c 9 s 21; 1969 c 931 s 3; 1973 c 123 art 5 s 7; 1978 c 568 s 1; 1985 c 248 s 70; 2002 c 253 s 1; 1Sp2005 c 1 art 2 s 125; 2012 c 272 s 60; 2014 c 248 s 13*

115.061 DUTY TO NOTIFY; AVOIDING WATER POLLUTION.

(a) Except as provided in paragraph (b), it is the duty of every person to notify the agency immediately of the discharge, accidental or otherwise, of any substance or material under its control which, if not recovered, may cause pollution of waters of the state, and the responsible person shall recover as rapidly and as thoroughly as possible such substance or material and take immediately such other action as may be reasonably possible to minimize or abate pollution of waters of the state caused thereby.

(b) Notification is not required under paragraph (a) for a discharge of five gallons or less of petroleum, as defined in section 115C.02, subdivision 10. This paragraph does not affect the other requirements of paragraph (a).

(c) Promptly after notifying the agency of a discharge under paragraph (a), a publicly owned treatment works or a publicly or privately owned domestic sewer system owner must provide notice of the discharge to potentially impacted downstream users, including the public, Tribal governments, and drinking water facilities. Notice must be made using the most efficient communications system available to the facility owner such as in person, telephone call, radio, social media, web page, or another expedited form. In addition, signage must be posted at all impacted public use areas within the same jurisdiction or notification must be provided to the entity that has jurisdiction over any impacted public use areas. A notice under this paragraph must include the date and time of the discharge, a description of the material released, a warning of the potential public health risk, and the permittee's contact information.

(d) The agency must provide guidance that includes but is not limited to methods and protocols for providing timely notice under this section.

History: *1969 c 931 s 4; 1993 c 341 art 1 s 1; 2023 c 60 art 3 s 5; 2026 c 79 s 1*

115.063 HAZARDOUS AND RADIOACTIVE WASTE; POLICY TO PROTECT POTABLE WATER.

(a) The legislature finds that:

(1) the waters of the state, because of their abundant quantity and high natural quality, constitute a unique natural resource of immeasurable value which must be protected and conserved for the benefit of the health, safety, welfare, and economic well-being of present and future generations of the people of the state;

(2) the actual or potential use of the waters of the state for potable water supply is the highest priority use of that water and deserves maximum protection by the state; and

(3) the disposal of hazardous waste and radioactive waste in Minnesota may pose a serious risk of pollution of the waters of the state, particularly potable water.

(b) It is therefore the policy of the state of Minnesota, consistent with the state's primary responsibility and rights to prevent, reduce, and eliminate water pollution and to plan for the preservation of water resources,

that depositories for hazardous waste or radioactive waste should not be located in any place or be constructed or operated in any manner that can reasonably be expected to cause pollution of potable water.

History: *1986 c 425 s 6*

115.065 DISPOSAL PROHIBITED.

The location, construction, or operation of any depository for hazardous waste or radioactive waste, whether generated within or outside of the state, in any place or in any manner that can reasonably be expected to cause the pollution of potable water is prohibited.

History: *1986 c 425 s 7*

115.067 BELOW-GRADE DISPOSAL SYSTEMS; PROHIBITION; EXCEPTION.

The construction or operation of a depository for hazardous waste or radioactive waste in whole or in part below the natural grade of the land where it is located is prohibited unless the person proposing to construct or operate the depository demonstrates that the depository cannot reasonably be expected to cause the pollution of potable water.

History: *1986 c 425 s 8*

115.069 RADIONUCLIDE POLLUTION; HIGH-LEVEL NUCLEAR WASTE DEPOSITORY.

The determination of whether the location, construction, or operation of a depository for spent nuclear fuel or high-level radioactive waste can reasonably be expected to cause radionuclide pollution of potable groundwater in violation of section 115.065 shall be made in accordance with the provisions of section 116C.76.

History: *1986 c 425 s 9*

115.07 VIOLATIONS AND PROHIBITIONS.

Subdivision 1. **Permit required.** (a) Except as provided in paragraphs (b) and (c), it is unlawful for any person to construct, install, or operate a disposal system, or any part thereof, until plans and specifications for the disposal system have been submitted to the agency, unless the agency waives submission of the plans and specifications and a written permit for the disposal system is granted by the agency.

(b) If a person who discharges a pollutant into the waters of the state is required by statute or rule to obtain a national pollutant discharge elimination system permit or a state disposal system permit, the person may construct or install, prior to issuance of the permit, at the person's own risk, a disposal system or any part thereof, unless the action taken:

(1) is prohibited by federal law or regulation;

(2) is by a municipality constructing a wastewater system with a design capacity of 200,000 gallons per day, or less;

(3) is subject to environmental review under chapter 116D, and prohibited from commencing construction until that process is completed;

(4) is subject to a grant or loan agreement under chapter 446A;

(5) requires a construction stormwater permit under rules of the agency; or

(6) requires a subsurface sewage treatment system permit under rules of the agency.

(c) The person is prohibited from operating the system or discharging pollutants into the waters of the state until a written permit for the discharge is granted by the agency and until plans and specifications for the disposal system have been approved, unless the agency waives the submission of plans and specifications.

(d) For disposal systems operated on streams with extreme seasonal flows, the agency must allow seasonal permit limits based on a fixed or variable effluent limit when the municipality operating the disposal system requests them and is in compliance with agency water quality standards.

Subd. 2. MS 1971 [Repealed, 1973 c 374 s 22]

Subd. 3. **Permission for extension.** (a) Except as provided in paragraphs (b) and (c), it is unlawful for any person to make any change in, addition to, or extension of any existing disposal system or point source, or part thereof, to effect any facility expansion, production increase, or process modification which results in new or increased discharges of pollutants, or to operate such system or point source, or part thereof as so changed, added to, or extended until plans and specifications therefor shall have been submitted to the agency, unless the agency waives submission of the plans and specifications and a written permit for the change, addition, or extension is granted by the agency.

(b) If a person who discharges a pollutant into the waters of the state is required by statute or rule to obtain a national pollutant discharge elimination system permit or a state disposal system permit, the person may, prior to issuance of the permit, at the person's own risk, act to change, add to, or extend an existing disposal system or point source, or part thereof, unless the action taken:

(1) is prohibited by federal law or regulation;

(2) is by a municipality constructing a wastewater system with a design capacity of 200,000 gallons per day, or less;

(3) is subject to environmental review under chapter 116D, and prohibited from commencing construction until that process is completed;

(4) is subject to a grant or loan agreement under chapter 446A;

(5) requires a construction stormwater permit under rules of the agency; or

(6) requires a subsurface treatment system permit under rules of the agency.

(c) The person is prohibited from operating the system or discharging pollutants into the waters of the state until a written permit for the discharge is granted by the agency and until plans and specifications for the disposal system have been approved, unless the agency waives the submission of plans and specifications.

Subd. 4. MS 1971 [Repealed, 1973 c 374 s 22]

Subd. 5. MS 1961 [Repealed, 1963 c 798 s 16]

Subd. 6. MS 1971 [Repealed, 1973 c 374 s 22]

History: *1945 c 395 s 8-10; 1969 c 9 s 21; 1969 c 931 s 5; 1973 c 374 s 12; 1986 c 465 art 3 s 1; 2011 c 4 s 2*

115.071 ENFORCEMENT.

Subdivision 1. **Remedies available.** The provisions of sections 103F.701 to 103F.755, this chapter and chapters 114C, 115A, and 116, and sections 325E.10 to 325E.1251 and 325E.32 and all rules, standards, orders, stipulation agreements, schedules of compliance, and permits adopted or issued by the agency thereunder or under any other law now in force or hereafter enacted for the prevention, control, or abatement of pollution may be enforced by any one or any combination of the following: criminal prosecution; action to recover civil penalties; injunction; action to compel or cease performance; or other appropriate action, in accordance with the provisions of said chapters and this section.

Subd. 2. **Criminal penalties.** (a) **Violations of laws; orders; permits.** Except as provided in section 609.671, any person who willfully or negligently violates any provision of this chapter or chapter 114C or 116, or any standard, rule, variance, order, stipulation agreement, schedule of compliance or permit issued or adopted by the agency thereunder shall upon conviction be guilty of a misdemeanor.

(b) **Duty of law enforcement officials.** It shall be the duty of all county attorneys, sheriffs and other peace officers, and other officers having authority in the enforcement of the general criminal laws to take all action to the extent of their authority, respectively, that may be necessary or proper for the enforcement of said provisions, rules, standards, orders, stipulation agreements, variances, schedule of compliance, or permits.

Subd. 2a. MS 1986 [Repealed, 1987 c 267 s 5]

Subd. 2b. MS 1986 [Repealed, 1987 c 267 s 5]

Subd. 3. **Civil penalties.** (a) Any person who violates any provision of this chapter or chapter 114C or 116, except any provisions of chapter 116 relating to air and land pollution caused by agricultural operations that do not involve national pollutant discharge elimination system permits, or of (1) any effluent standards and limitations or water quality standards, (2) any permit or term or condition thereof, (3) any national pollutant discharge elimination system filing requirements, (4) any duty to permit or carry out inspection, entry or monitoring activities, or (5) any rules, stipulation agreements, variances, schedules of compliance, or orders issued by the agency, forfeits and must pay to the state a penalty, in an amount to be determined by the court, of not more than $15,000 per day of violation, except that if the violation relates to hazardous waste, the person forfeits and must pay to the state a penalty, in an amount to be determined by the court, of not more than $30,000 per day of violation.

(b) In addition, in the discretion of the court, the defendant may be required to:

(1) forfeit and pay to the state a sum which will adequately compensate the state for the reasonable value of cleanup and other expenses directly resulting from unauthorized discharge of pollutants, whether or not accidental; and

(2) forfeit and pay to the state an additional sum to constitute just compensation for any loss or destruction to wildlife, fish or other aquatic life and for other actual damages to the state caused by an unauthorized discharge of pollutants.

(c) As a defense to any of said damages, the defendant may prove that the violation was caused solely by (1) an act of God, (2) an act of war, (3) negligence on the part of the state of Minnesota, or (4) an act or failure to act which constitutes sabotage or vandalism, or any combination of the foregoing clauses.

(d) The civil penalties and damages provided for in this subdivision may be recovered by a civil action brought by the attorney general in the name of the state.

Subd. 4. **Injunctions.** Any violation of the provisions, rules, standards, orders, stipulation agreements, variances, schedules of compliance, or permits specified in this chapter and chapters 114C and 116 constitutes a public nuisance and may be enjoined as provided by law in an action, in the name of the state, brought by the attorney general. Injunctive relief under this subdivision may include but is not limited to a requirement that a facility or person immediately cease operation or activities until such time as the commissioner has reasonable assurance that renewed operation or activities will not violate provisions, rules, standards, orders, stipulation agreements, variances, schedules of compliance, or permits specified in this chapter and chapters 114C and 116.

Subd. 5. **Actions to compel performance.** In any action to compel performance of an order of the agency for any purposes relating to the prevention, control or abatement of pollution under this chapter and chapters 114C and 116, the court may require any defendant adjudged responsible to do and perform any and all acts and things within the defendant's power which are reasonably necessary to accomplish the purposes of the order. In case a municipality or its governing or managing body or any of its officers is a defendant, the court may require it to exercise its powers, without regard to any limitation of any requirement for an election or referendum imposed thereon by law and without restricting the powers of the agency to do any or all of the following, without limiting the generality hereof: to levy taxes, levy special assessments, prescribe service or use charges, borrow money, issue bonds, employ assistance, acquire real or personal property, let contracts or otherwise provide for the doing of work or the construction, installation, maintenance, or operation of facilities, and do all other acts and things reasonably necessary to accomplish the purposes of the order, but the court shall grant the municipality the opportunity to determine the appropriate financial alternatives to be utilized in complying with the court imposed requirements.

Subd. 6. **Administrative penalties.** A provision of law that may be enforced under this section may also be enforced under section 116.072.

Subd. 7. **Underground and aboveground storage tanks; red tags.** (a) The commissioner may issue a red tag for failure to have the regulated underground tank system or aboveground tank facility at a bulk plant, as defined in section 115C.09, subdivision 3h, paragraph (a), protected from corrosion, failure to have spill and overfill protection, or failure to have a leak detection method in place. A red tag may also be issued for underground storage tank system or aboveground tank facility at a bulk plant violations if an enforcement action, including, but not limited to, a citation as defined in section 116.073, subdivision 1, has been issued and the violations are not corrected. Upon discovery of a violation at a facility with an underground storage tank system or aboveground tank facility at a bulk plant, the commissioner shall affix a red tag, in plain view, to the fill pipe cap of the tank system that provides notice that delivery of petroleum products to the tank system is prohibited. When the red tag is issued, agency staff must determine the product level in the tank.

(b) No owner or operator of a facility having an underground storage tank system or aboveground tank facility at a bulk plant shall fill or allow the filling of a tank with a petroleum product while a red tag is affixed to the fill pipe cap of the tank system.

(c) A person shall not remove, deface, alter, or otherwise tamper with a red tag so that the information contained on the tag is not legible.

(d) A red tag may not be removed until the commissioner has inspected the underground storage tank system or aboveground tank facility at a bulk plant and established that it is no longer in violation. After making that determination, the commissioner shall remove the red tag within 24 hours or as soon as reasonably possible. Upon agreement by the commissioner, the red tag may also be removed by an agency-certified

installer who provides documentation to the commissioner that the violation for which the system was red-tagged has been corrected.

(e) The issuance of a red tag may be appealed under section 116.072, subdivision 6, paragraphs (a) to (e), except that the person subject to the order must request a hearing within 15 days after issuance of a red tag and, if a hearing is not requested within the 15-day period, the red tag becomes a final order not subject to further review.

Subd. 8. **Stipulation agreements.** If a party to a stipulation agreement asserts a good cause or force majeure claim for an extension of time to comply with a stipulated term, the commissioner may deny the extension if the assertion is based solely on increased costs of compliance.

History: *1973 c 374 s 13; 1976 c 76 s 3; 1983 c 373 s 1-4; 1984 c 628 art 3 s 11; 1984 c 655 art 1 s 18; 1985 c 248 s 70; 1986 c 444; 1987 c 267 s 1; 1988 c 553 s 1; 1990 c 391 art 10 s 3; 1991 c 347 art 1 s 2; 1993 c 249 s 6; 1996 c 437 s 12-16; 1998 c 379 s 1; 2004 c 169 s 1; 2011 c 107 s 107; 2024 c 116 art 2 s 2-5*

115.072 RECOVERING LITIGATION COSTS AND EXPENSES.

(a) In any action brought by the attorney general, in the name of the state, pursuant to the provisions of this chapter and chapters 114C, 114E, and 116, for civil penalties, injunctive relief, or in an action to compel compliance, if the state shall finally prevail, and if the proven violation was willful, the state, in addition to other penalties provided in this chapter, may be allowed an amount determined by the court to be the reasonable value of all or a part of the litigation expenses incurred by the state. In determining the amount of such litigation expenses to be allowed, the court shall give consideration to the economic circumstances of the defendant.

(b) Amounts recovered under the provisions of this section and section 115.071, subdivisions 3 to 5, shall be paid into the environmental fund in the state treasury to the extent provided in section 115.073.

History: *1973 c 374 s 14; 1991 c 347 art 1 s 3; 1996 c 437 s 17; 2007 c 131 art 1 s 72*

115.073 DISPOSITION OF RECEIPTS; ENFORCEMENT FUNDING.

(a) Except as provided in section 115C.05, all money recovered by the state under this chapter and chapters 115A and 116, including civil penalties and money paid under an agreement, stipulation, or settlement, excluding money paid for past due fees or taxes, must be deposited in the state treasury and credited to the environmental fund.

(b) Oversight funds reimbursed under sections 115.03, subdivision 1, paragraph (a), clause (5), and 116.07, subdivision 9, clause (4), must be deposited in a separate settlement oversight reimbursement account established in the environmental fund. The commissioner must manage the account. Earnings, such as interest, dividends, and any other earnings arising from assets of the account, must be credited to the account. Funds remaining in the account at the end of a fiscal year remain in the account. Money in the account is appropriated to the commissioner for the purposes of the environmental fund.

History: *1991 c 347 art 1 s 4; 2003 c 128 art 2 s 3; 2009 c 37 art 1 s 38; 2024 c 116 art 2 s 6*

115.075 INFORMATION AND MONITORING.

A person may not:

(1) make a false material statement, representation, or certification in; omit material information from; or alter, conceal, or fail to file or maintain a notice, application, record, report, plan, manifest, or other document required under section 103F.701 or this chapter or chapter 114C, 115A, or 116; or

(2) falsify, tamper with, render inaccurate, or fail to install a monitoring device or method required to be maintained or followed for the purpose of compliance with sections 103F.701 to 103F.755 or this chapter or chapter 114C, 115A, or 116.

History: *1991 c 347 art 1 s 5; 1996 c 437 s 18; 2011 c 107 s107*

115.076 BACKGROUND OF PERMIT APPLICANTS.

Subdivision 1. **Authority of commissioner.** (a) The agency may refuse to issue or to authorize the transfer of:

(1) a hazardous waste facility permit or a solid waste facility permit to construct or operate a commercial waste facility as defined in section 115A.03, subdivision 6, if the agency determines that the permit applicant does not possess sufficient expertise and competence to operate the facility in conformance with the requirements of this chapter and chapters 114C and 116, or if other circumstances exist that demonstrate that the permit applicant may not operate the facility in conformance with the requirements of this chapter and chapters 114C and 116; or

(2) an animal feedlot facility permit, under section 116.07, subdivision 7, to construct or operate an animal feedlot facility, if the agency determines that the permit applicant does not possess sufficient expertise and competence to operate the feedlot facility in conformance with the requirements of this chapter and chapter 116 or if other circumstances exist that demonstrate that the permit applicant may not operate the feedlot facility in conformance with the requirements of this chapter and chapter 116.

(b) In making a determination under paragraph (a), the agency may consider:

(1) the experience of the permit applicant in constructing or operating commercial waste facilities or animal feedlot facilities;

(2) the expertise of the permit applicant;

(3) the past record of the permit applicant in operating commercial waste facilities or animal feedlot facilities in Minnesota and other states;

(4) any criminal convictions of the permit applicant in state or federal court during the past five years that bear on the likelihood that the permit applicant will operate the facility in conformance with the applicable requirements of this chapter and chapters 114C and 116; and

(5) in the case of a corporation or business entity, any criminal convictions in state or federal court during the past five years of any of the permit applicant's officers, partners, or facility managers that bear on the likelihood that the facility will be operated in conformance with the applicable requirements of this chapter and chapters 114C and 116.

Subd. 2. **Permit applicant.** For purposes of this section, a permit applicant includes a natural person, a partnership and its owners, and a corporation and its parent.

Subd. 3. **Investigation.** The commissioner may conduct an investigation to assist in making determinations under subdivision 1. The reasonable costs of any investigation must be paid by the permit applicant.

Subd. 4. **Notice of permit denial.** The agency may not refuse to issue or transfer a permit under this section without first providing the permit applicant with the relevant information and with an opportunity to respond by commenting on the information and submitting additional information regarding the circumstances surrounding the conviction, corrective measures to prevent recurrence, the applicant's rehabilitation, and technical and managerial experience. In making a final decision on the permit, the agency shall consider the permit applicant's response prior to making a final decision on the permit.

Subd. 5. **Hearing.** If the agency proposes to deny a permit under this section, the permit applicant may request a hearing under chapter 14. The permit applicant may request that the hearing be held under Minnesota Rules, parts 1400.8510 to 1400.8612.

History: *1991 c 347 art 1 s 6; 1996 c 437 s 19; 1998 c 401 s 39*

115.08 INTERPRETATION.

Sections 115.01 to 115.09 shall not be construed as repealing any of the provisions of law relating to the pollution of any waters of the state, but shall be held and construed as supplementing the same and in addition to the laws now in force, except as the same may be in direct conflict herewith.

History: *1945 c 395 s 7*

115.09 CITATION; WATER POLLUTION CONTROL ACT.

Sections 115.01 to 115.09 may be cited as the "State Water Pollution Control Act."

History: *1945 c 395 s 11*

115.091 MS 1988 [Repealed, 1990 c 391 art 10 s 4]

115.092 MS 1988 [Repealed, 1990 c 391 art 10 s 4]

115.093 MS 1988 [Repealed, 1990 c 391 art 10 s 4]

115.094 MS 1988 [Repealed, 1990 c 391 art 10 s 4]

115.095 MS 1988 [Repealed, 1990 c 391 art 10 s 4]

115.096 MS 1988 [Repealed, 1990 c 391 art 10 s 4]

115.097 MS 1988 [Repealed, 1990 c 391 art 10 s 4]

115.098 MS 1988 [Repealed, 1990 c 391 art 10 s 4]

115.099 MS 1988 [Repealed, 1990 c 391 art 10 s 4]

115.10 MS 1988 [Repealed, 1990 c 391 art 10 s 4]

115.101 MS 1988 [Repealed, 1990 c 391 art 10 s 4]

115.102 MS 1988 [Repealed, 1990 c 391 art 10 s 4]

115.103 MS 1988 [Repealed, 1990 c 391 art 10 s 4]

115.15 Subdivision 1. MS 1980 [Repealed, 1Sp1981 c 4 art 1 s 188]

Subd. 2. MS 1967 [Repealed, 1969 c 9 s 20; 1Sp 1981 c 4 art 1 s 188]

Subd. 3. MS 1980 [Repealed, 1Sp1981 c 4 art 1 s 188]

Subd. 4. MS 1980 [Repealed, 1Sp1981 c 4 art 1 s 188]

Subd. 5. MS 1980 [Repealed, 1Sp1981 c 4 art 1 s 188]

115.16 MS 1980 [Repealed, 1Sp1981 c 4 art 1 s 188]

115.17 MS 1974 [Repealed, 1975 c 61 s 26]

BALLAST WATER

115.1701 DEFINITIONS.

Subdivision 1. **Application.** For purposes of sections 115.1701 to 115.1707, the following terms have the meanings given them.

Subd. 2. **Agency.** "Agency" means the Pollution Control Agency.

Subd. 3. **Ballast water.** "Ballast water" means water taken on board a vessel to control trim, list, draft, stability, or stresses of the vessel, including matter suspended in the water, or any water placed into a ballast tank during cleaning, maintenance, or other operations.

Subd. 4. **Ballast water management.** "Ballast water management" means mechanical, physical, chemical, and biological processes used, either singularly or in combination, to remove, render harmless, or avoid the uptake or discharge of harmful aquatic organisms and pathogens within ballast water and sediment.

Subd. 5. **Commissioner.** "Commissioner" means the commissioner of the Pollution Control Agency.

Subd. 6. **Constructed.** "Constructed" means a state of construction of a vessel at which the keel is laid, construction identifiable with the specific vessel begins, assembly of the vessel has begun comprising at least 50 tons or one percent of the estimated mass of all structural material of the vessel, whichever is less, or the vessel undergoes a major conversion.

Subd. 7. **Foreign vessel.** "Foreign vessel" means a vessel of foreign registry or operated under the authority of a foreign country.

Subd. 8. **Sediment.** "Sediment" means matter that has settled out of ballast water within a vessel.

Subd. 9. **State waters of Lake Superior.** "State waters of Lake Superior" means the surface waters of Lake Superior and waters that discharge, flow, or otherwise are transferred into Lake Superior that are under the jurisdiction of the state.

History: *2008 c 357 s 27*

115.1703 BALLAST WATER; MANAGEMENT PLAN.

Subdivision 1. **Management plan required.** (a) The operator of a vessel that is designed, constructed, or adapted to carry ballast water in state waters of Lake Superior shall conduct all ballast water management operations of the vessel according to a ballast water management plan that is designed to minimize the discharge of invasive species, meets the requirements prescribed by the commissioner under subdivision 2, and is approved by the commissioner.

(b) The owner or operator of a vessel required to have a ballast water management plan under paragraph (a) shall maintain a copy of the vessel's ballast water management plan on board at all times and keep the plan readily available for examination by the commissioner.

Subd. 2. **Management plan approval.** (a) The commissioner may not approve a ballast water management plan unless the commissioner determines that the plan:

(1) describes in detail the actions to be taken to implement ballast water management;

(2) describes in detail the procedures to be used for disposal of sediment at sea and on shore;

(3) describes in detail the safety procedures for the vessel and crew associated with ballast water management;

(4) designates the officer on board of the vessel in charge of ensuring that the plan is properly implemented;

(5) contains the reporting requirements for vessels as prescribed by the commissioner; and

(6) meets all other requirements prescribed by the commissioner.

(b) The commissioner may approve a ballast water management plan for a foreign vessel on the basis of a certificate of compliance with the criteria described in paragraph (a) issued by the vessel's country of registration according to standards established by the commissioner.

History: *2008 c 357 s 28*

115.1705 BALLAST WATER RECORD BOOK.

Subdivision 1. **Record book required.** The owner or operator of a vessel required to have a ballast water management plan under section 115.1703 shall maintain, in English, on board the vessel, a ballast water record book in which each operation of the vessel involving ballast water or sediment discharge is recorded as required by the commissioner. The ballast water record book shall be kept readily available for examination by the commissioner. In cases where a vessel is without a crew and being towed, the ballast water record book may be kept on the towing vessel.

Subd. 2. **Retention period.** (a) Except as provided in paragraph (b), a ballast water record book required in subdivision 1 shall be retained on board the vessel for three years after the date on which the last entry in the book is made and shall be retained under the control of the vessel's owner for an additional three years.

(b) The commissioner may prescribe alternative time periods for record retention by foreign vessels that are consistent with international practices.

Subd. 3. **Regulations.** (a) The commissioner shall require, at a minimum, that:

(1) each entry in the ballast water record book be signed and dated by the officer in charge of the ballast water operation recorded;

(2) each completed page in the ballast water record book be signed and dated by the owner or operator of the vessel; and

(3) the owner or operator of the vessel transmit any information to the commissioner regarding the ballast operations of the vessel as the commissioner may require.

(b) The commissioner may provide for alternative methods of record keeping, including electronic record keeping, to comply with the requirements of this section. Any electronic record keeping method authorized by the commissioner shall comply with applicable standards of the state and the National Institute of Standards and Technology governing reliability, integrity, identity authentication, and nonrepudiation of stored electronic data.

History: *2008 c 357 s 29*

115.1707 CONSULTATION AND COOPERATION.

Subdivision 1. **Great Lakes Panel on Aquatic Nuisance Species.** The commissioner of natural resources shall cooperate to the fullest extent practicable with the Great Lakes Panel on Aquatic Nuisance Species to ensure development of standards for the control of invasive species that are broadly protective of the state waters of Lake Superior and other natural resources. The commissioner of the Pollution Control Agency shall serve as the alternate to the commissioner of natural resources if necessary.

Subd. 2. **Cooperation with other state agencies.** In developing the permit process and any standards established under sections 115.1701 to 115.1707, the commissioner is encouraged to consult with the commissioners of commerce, agriculture, natural resources, and any other agency that the commissioner determines to be necessary to develop and implement an effective program for preventing the introduction and spread of invasive species through ballast water.

Subd. 3. **Canada and other foreign governments.** In developing the permit process and any standards established under sections 115.1701 to 115.1707, the commissioner is encouraged to consult with the government of Canada and any other government of a foreign country that the commissioner determines to be necessary to develop and implement an effective program for preventing the introduction and spread of invasive species through ballast water.

History: *2008 c 357 s 30*

115.18 Subdivision 1. MS 2012 [Repealed, 2013 c 114 art 5 s 32]

Subd. 2. MS 1967 [Repealed, 1969 c 9 s 20]

Subd. 3. MS 2012 [Repealed, 2013 c 114 art 5 s 32]

Subd. 4. MS 2012 [Repealed, 2013 c 114 art 5 s 32]

Subd. 5. MS 2012 [Repealed, 2013 c 114 art 5 s 32]

Subd. 6. MS 2012 [Repealed, 2013 c 114 art 5 s 32]

Subd. 7. MS 2012 [Repealed, 2013 c 114 art 5 s 32]

Subd. 8. MS 2012 [Repealed, 2013 c 114 art 5 s 32]

Subd. 9. MS 2012 [Repealed, 2013 c 114 art 5 s 32]

Subd. 10. MS 2012 [Repealed, 2013 c 114 art 5 s 32]

115.19 MS 2012 [Repealed, 2013 c 114 art 5 s 32]

115.20 MS 2012 [Repealed, 2013 c 114 art 5 s 32]

115.21 MS 2012 [Repealed, 2013 c 114 art 5 s 32]

115.22 MS 2012 [Repealed, 2013 c 114 art 5 s 32]

115.23 MS 2012 [Repealed, 2013 c 114 art 5 s 32]

115.24 MS 2012 [Repealed, 2013 c 114 art 5 s 32]

115.25 MS 2012 [Repealed, 2013 c 114 art 5 s 32]

115.26 MS 2012 [Repealed, 2013 c 114 art 5 s 32]

115.27 MS 2012 [Repealed, 2013 c 114 art 5 s 32]

115.28 MS 2012 [Repealed, 2013 c 114 art 5 s 32]

115.29 MS 2012 [Repealed, 2013 c 114 art 5 s 32]

115.30 MS 2012 [Repealed, 2013 c 114 art 5 s 32]

115.31 MS 2012 [Repealed, 2013 c 114 art 5 s 32]

115.32 MS 2012 [Repealed, 2013 c 114 art 5 s 32]

115.33 MS 2012 [Repealed, 2013 c 114 art 5 s 32]

115.34 MS 2012 [Repealed, 2013 c 114 art 5 s 32]

115.35 MS 2012 [Repealed, 2013 c 114 art 5 s 32]

115.36 MS 2012 [Repealed, 2013 c 114 art 5 s 32]

115.37 MS 2012 [Repealed, 2013 c 114 art 5 s 32]

MUNICIPAL WATER POLLUTION CONTROL

115.41 DEFINITIONS.

Subdivision 1. **Applicability.** The definitions given in this section shall obtain for the purposes of sections 115.41 to 115.53, except as otherwise expressly provided or indicated by the context.

Subd. 2. **Additional terms.** The definitions given in section 115.01 shall govern for the purposes of sections 115.41 to 115.53, except as otherwise expressly provided or indicated by the context.

Subd. 3. MS 1967 [Repealed, 1969 c 9 s 20]

Subd. 4. MS 1990 [Renumbered subd 6]

Subd. 4. **Agency.** "Agency" means the Minnesota Pollution Control Agency.

Subd. 5. MS 1990 [Renumbered subd 2]

Subd. 5. **Commissioner.** "Commissioner" means the commissioner of administration.

Subd. 6. MS 1990 [Renumbered subd 4]

Subd. 6. **Municipality.** "Municipality" means a city, sanitary district, or other governmental subdivision or public corporation.

History: *1963 c 874 s 1; 1969 c 9 s 19; 1973 c 123 art 5 s 7; 1994 c 465 art 1 s 5,6; 2008 c 277 art 1 s 97*

115.42 POLICY; LONG-RANGE PLAN; PURPOSE.

It is the policy of the state to provide for the prevention, control, and abatement of pollution of all waters of the state, so far as feasible and practical, in furtherance of conservation of such waters and protection of the public health and in furtherance of the development of the economic welfare of the state. The agency shall prepare a long-range plan and program for the effectuation of said policy. It is the purpose of sections 115.41 to 115.53 to safeguard the waters of the state from pollution by: (a) preventing any new pollution; and (b) abating pollution existing when sections 115.41 to 115.53 become effective, under a program consistent with the declaration of policy above stated.

History: *1963 c 874 s 4; 1969 c 9 s 21; 1974 c 406 s 63; 1994 c 465 art 1 s 7; 2008 c 277 art 1 s 97; 2012 c 272 s 61*

115.425 NONINGESTED SOURCES; PHOSPHORUS REDUCTION GOAL.

The state goal for reducing phosphorus from noningested sources entering municipal wastewater treatment systems is at least a 50 percent reduction based on the timeline for reduction developed by the commissioner under Laws 2003, chapter 128, article 1, section 166, and a reasonable estimate of the amount of phosphorus from noningested sources entering municipal wastewater treatment systems in calendar year 2003.

History: *2003 c 128 art 1 s 122*

115.426 INCENTIVE FOR VOLUNTARY MUNICIPAL OR INDUSTRIAL INVESTMENT IN NUTRIENT TREATMENT TECHNOLOGY.

Subdivision 1. **Definitions.** For purposes of this section:

(1) "biological nutrient removal system" means technology that uses microorganisms to remove nitrogen and phosphorus from wastewater;

(2) "public funds" means loans, grants, or bond proceeds from the state or funds raised by the municipality through taxes, assessments, bonds, rates, or similar means; and

(3) "regulatory certainty" means that, after the initial permit issuance to authorize biological nutrient removal and for the period of time specified under subdivision 2, the agency shall not issue new permit limits for phosphorus or nitrogen.

Subd. 2. **Eligibility; term.** (a) A municipality that installs a biological nutrient removal system on a voluntary basis and receives public funds to construct the biological nutrient removal system or an industrial national pollutant discharge elimination system/state disposal system (NPDES/SDS) permit holder that installs a biological nutrient removal system may request the regulatory certainty incentive under this section.

(b) A municipality with an existing wastewater facility that includes treatment technology that is designed for nitrogen removal on July 1, 2016, is eligible for the regulatory certainty incentive under this section if it agrees to meet water-quality-based permit limits for phosphorus and also voluntarily accepts a nitrogen limit determined by the commissioner based on agency review of its engineering plans and specifications and its existing facilities.

(c) The commissioner of the Pollution Control Agency may provide phosphorus and nitrogen regulatory certainty for an eligible municipality or industrial permit holder in a NPDES/SDS permit. Before the NPDES/SDS permit is finalized for an eligible municipality or industrial permit holder, the commissioner must determine whether to provide regulatory certainty, based on the system's effectiveness in removing nitrogen. If the commissioner will provide regulatory certainty, the commissioner and the municipality or industrial permit holder must execute an agreement recognizing the term and requirements relating to the regulatory certainty. The agreement becomes part of the NPDES/SDS permit.

(d) Regulatory certainty extends for the expected design life of the biological nutrient removal system, or 20 years, whichever is shorter, as long as the system is properly maintained and operated by the municipality or industrial permit holder. A municipality or industrial permit holder may receive regulatory certainty only one time for each wastewater treatment facility. In addition to the provisions of this section, a municipality or industrial permit holder remains subject to applicable provisions in Minnesota Rules, chapter 7001, relating to permitting of wastewater treatment works.

Subd. 3. **Sunset.** Applications must not be accepted under this section after December 31, 2031, or the day following United States Environmental Protection Agency approval of a Minnesota Pollution Control Agency-adopted total nitrate-nitrogen aquatic life water quality standard, whichever occurs first. Notwithstanding this subdivision, agreements entered into under subdivision 2, paragraph (a), continue in effect for the term stated in the agreement.

History: *2016 c 104 s 1*

115.43 POWERS.

Subdivision 1. **Scope.** In addition to the other powers prescribed by law, the agency shall have the powers and duties prescribed in this section. In exercising all such powers the agency shall give due consideration to the establishment, maintenance, operation and expansion of business, commerce, trade, industry, traffic and other economic factors and other material matters affecting the feasibility and practicability of any proposed action, including, but not limited to, the burden on a municipality of any tax which may result therefrom and shall take or provide for such action as may be reasonable, feasible and practical under the circumstances.

Subd. 2. **Rules.** Acting within the scope of the policy and purposes of sections 115.41 to 115.53, the agency may adopt, promulgate, amend, or rescind rules in the manner provided by law, as may be necessary or proper to carry into effect the provisions of sections 115.41 to 115.53.

Subd. 3. MS 1971 [Repealed, 1973 c 374 s 22]

History: *1963 c 874 s 5; 1969 c 9 s 21; 1969 c 931 s 7; 1985 c 248 s 70; 1994 c 465 art 1 s 8; 2008 c 277 art 1 s 97*

115.44 CLASSIFICATION OF WATERS; STANDARDS OF QUALITY AND PURITY.

Subdivision 1. **Variable factors.** It is recognized that, due to variable factors, no single standard of quality and purity of the waters is applicable to all waters of the state or to different segments of the same waters.

Subd. 2. **Classification and standards.** In order to attain the objectives of sections 115.41 to 115.53, the agency after proper study, and after conducting public hearing upon due notice, shall, as soon as practicable, group the designated waters of the state into classes, and adopt classifications and standards of

purity and quality therefor. Such classification shall be made in accordance with considerations of best usage in the interest of the public and with regard to the considerations mentioned in subdivision 3 hereof.

Subd. 3. **Adoption of classification.** In adopting the classification of waters and the standards of purity and quality above mentioned, the agency shall give consideration to:

(1) the size, depth, surface area covered, volume, direction and rate of flow, stream gradient and temperature of the water;

(2) the character of the district bordering said waters and its peculiar suitability for the particular uses, and with a view to conserving the value of the same and encouraging the most appropriate use of lands bordering said waters, for residential, agricultural, industrial, or recreational purposes;

(3) the uses which have been made, are being made, or may be made of said waters for transportation, domestic and industrial consumption, bathing, fishing and fish culture, fire prevention, the disposal of sewage, industrial wastes and other wastes or other uses within this state, and, at the discretion of the agency, any such uses in another state on interstate waters flowing through or originating in this state;

(4) the extent of present defilement or fouling of said waters which has already occurred or resulted from past discharges therein;

(5) the need for standards for effluent from disposal systems entering waters of the state;

(6) such other considerations as the agency deems proper.

Subd. 4. **Standards.** The agency, after proper study, and in accordance with chapter 14, shall adopt and design standards of quality and purity for each classification necessary for the public use or benefit contemplated by the classification. The standards shall prescribe what qualities and properties of water indicate a polluted condition of the waters of the state which is actually or potentially deleterious, harmful, detrimental, or injurious to the public health, safety, or welfare; to terrestrial or aquatic life or to its growth and propagation; or to the use of the waters for domestic, commercial and industrial, agricultural, recreational, or other reasonable purposes, with respect to the various classes established pursuant to subdivision 2. The standards may also contain other provisions that the agency deems proper. Wherever practicable and advisable, the agency shall establish standards for effluent of disposal systems entering classified waters.

Subd. 5. **Factors.** (a) In establishing such standards, consideration should be given to the following factors:

(1) the extent, if any, to which floating solids may be permitted in the water;

(2) the extent to which suspended solids, colloids or a combination of solids with other substances suspended in water, may be permitted;

(3) the extent to which organism of the coliform group (intestinal bacilli) or any other bacteriological organisms may be permitted in the water;

(4) the extent of the oxygen demand which may be permitted in the receiving waters;

(5) such other chemical or biological properties necessary for the attainment of the objectives of this chapter and, with respect to pollution of the waters of the state, chapter 116.

(b) Wherever deemed practicable and advisable by the agency, standards specifying the quality and purity, or maximum permissible pollutional content, of effluent entering waters of the state may be established

without respect to water quality standards; provided, however, that whenever the owner or operator of any point source, after opportunity for public hearing, can demonstrate to the satisfaction of the agency that any effluent limitation proposed for the control of the heat component of any discharge from such source will require effluent limitations more stringent than necessary to assure the protection and propagation of a balanced, indigenous population of fish and wildlife in and on the body of water into which the discharge is to be made, the agency may impose an effluent limitation for such plan, with respect to the heat component of such discharge, taking into account the interaction of such heat component with other pollutants, that will assure the protection and propagation of a balanced, indigenous population of fish and wildlife in and on that body of water; and provided further that notwithstanding any other provision of this chapter and, with respect to the pollution of the waters of the state, chapter 116, any point source of a discharge having a heat component, the modification of which point source is commenced after May 20, 1973, and which, as modified, meets applicable effluent limitations, and which effluent limitations will assure protection and propagation of a balanced, indigenous population of fish and wildlife in or on the water into which the discharge is made, shall not be subject to any more stringent effluent limitation with respect to the heat component of its discharge during a ten-year period beginning on the date of completion of such modification or during the period of depreciation or amortization of such facility for the purpose of section 167 or 169, or both, of the Internal Revenue Code of 1954, whichever period ends first.

Subd. 6. **Modifying standards.** The adoption, alteration, or modification of the standards of quality and purity in subdivision 4 shall be made by the agency in accordance with chapter 14.

Subd. 7. **Rule notices.** For rules authorized under this section, the notices required to be mailed under sections 14.14, subdivision 1a, and 14.22 must also be mailed to the governing body of each municipality bordering or through which the waters for which standards are sought to be adopted flow.

Subd. 8. **Waiver.** (a) If the agency finds in order to comply with the Federal Water Pollution Control Act or any other federal law or rule or regulation promulgated thereunder that it is impracticable to comply with the requirements of this section in classifying waters or adopting standards or in meeting any of the requirements thereof, compliance with the requirements of such section are waived to the extent necessary to enable the agency to comply with federal laws and rules and regulations promulgated thereunder. The agency may classify waters and adopt criteria and standards in such form and based upon such evidence as it may deem necessary and sufficient for the purposes of meeting requirements of such federal laws, notwithstanding any provisions in this chapter or any other state law to the contrary. In the event waters are classified and criteria and standards are adopted to meet the requirements of federal law, the agency shall thereafter proceed to otherwise comply with the provisions of this section which were waived as rapidly as is practicable. This authority shall extend to proceedings pending before the agency on May 20, 1973.

(b) Notwithstanding the provisions of subdivision 4, wherever advisable and practicable the agency may establish standards for effluent or disposal systems discharging into waters of the state regardless of whether such waters are or are not classified.

Subd. 9. MS 2022 [Repealed, 2023 c 60 art 3 s 38]

History: *1963 c 874 s 6; 1967 c 203 s 1; 1969 c 9 s 21; 1969 c 931 s 8,9; 1973 c 374 s 15,16; 1993 c 180 s 1-3; 1994 c 465 art 1 s 9; 2008 c 277 art 1 s 97; 1Sp2015 c 4 art 4 s 101*

115.445 MS 2012 [Repealed, 2014 c 248 s 19]

115.447 MS 2010 [Repealed, 2012 c 272 s 98]

115.449 PUBLIC WASTEWATER TREATMENT FACILITIES; PROPOSAL REQUIREMENTS.

A proposal for design services for a public wastewater treatment facility requiring a national pollutant discharge elimination system or state disposal system permit shall include a description of the treatment alternatives the engineer will evaluate and provide a range of all annual operation and maintenance costs of operating the facility for the first five years of operation.

History: *2006 c 244 s 2*

115.45 COMPLIANCE.

Subdivision 1. **Compliance.** It is the duty of every person affected to comply with the provisions of sections 115.01 to 115.09 and 115.41 to 115.53, comprising the State Water Pollution Control Act, as now in force or hereafter amended, and all rules, orders, and permits adopted or issued by the agency thereunder, and to do and perform all acts and things within that person's power required to effectuate, carry out, and accomplish the purposes of such provisions, rules, orders, and permits.

Subd. 2. MS 1971 [Repealed, 1973 c 374 s 22]

History: *1963 c 874 s 7; 1969 c 9 s 21; 1969 c 931 s 10; 1985 c 248 s 70; 1986 c 444; 1994 c 465 art 1 s 10; 2008 c 277 art 1 s 97*

115.455 EFFLUENT LIMITATIONS; COMPLIANCE.

To the extent allowable under federal law, for a municipality that constructs a publicly owned treatment works to comply with a new or modified effluent limitation, compliance with any new or modified effluent limitation adopted after construction begins that would require additional capital investment is required no sooner than 16 years after the date the facility begins operating.

History: *2018 c 148 s 1*

115.456 COMPLIANCE SCHEDULES.

The commissioner of the Pollution Control Agency must consider current debt service on existing municipal wastewater treatment infrastructure when developing compliance schedules for new effluent limits in municipal national pollutant discharge elimination system (NPDES) permits. Any compliance schedule for new effluent limits in municipal NPDES permits must be developed in a manner consistent with state and federal law to maximize the repayment of existing debt on wastewater infrastructure before requiring additional capital infrastructure upgrades. To the extent allowable under federal law, the commissioner may issue compliance schedules in municipal NPDES permits for new effluent limit requirements in excess of 20 years.

History: *2018 c 214 art 2 s 8*

115.46 TAXATION BY MUNICIPALITY.

Subdivision 1. **Limitation does not apply.** Any taxes, special assessments, levied or to be levied, and any bonds or other evidences of indebtedness issued or to be issued for the construction, installation, maintenance, or operation by a municipality of any disposal system or part thereof, shall not be subject to any limitation and shall be excluded in computing amounts subject to any limitation on tax levies, special assessments, bonded indebtedness or other indebtedness and the governing or managing body and the proper officers of the municipality concerned shall have the power and, to comply with any order of the agency, it shall be their duty to levy such taxes and special assessments and issue such bonds and take such other lawful

actions as may be appropriate and necessary to provide funds to meet the cost of such construction or work, notwithstanding any such limit and without any election or referendum therefor. A recital in any bond, tax levy, or assessment that the same is issued or made for the purposes of a disposal system or any part thereof ordered by the agency and is not subject to any provisions of law prescribing limits or requiring an election or referendum therefor shall be prima facie evidence thereof and that all requirements of law relating thereto have been complied with. In any suit, action, or proceedings involving the validity or enforceability of any bonds of a municipality or the security therefor, any such bond reciting in substance that it has been issued by the municipality to aid in financing a sewage disposal system or part thereof, shall be conclusively deemed to have been issued for such purpose, and in compliance with all requirements of the law relating thereto.

Subd. 2. **Tax in anticipation of need.** For the same purposes as the purposes for which a tax may be levied under subdivision 1, a municipality may levy taxes in anticipation of need and the provision of subdivision 1 shall be applicable so far as appropriate to any such anticipatory levy. If such a tax is levied in anticipation of need, the purpose must be specified in the resolution of the governing body directing the levy, and proceeds of the tax must be used only for that purpose, and until used the proceeds shall be retained in a separate fund or invested as surplus in a sinking fund may be invested under section 118A.04.

History: *1963 c 874 s 8; 1969 c 9 s 21; 1996 c 399 art 2 s 12*

115.47 MS 1971 [Repealed, 1973 c 374 s 22]

115.48 AGENCY ASSUMING POWER.

Subdivision 1. **Authority.** In lieu of enforcement action as provided by section 115.071, the agency, in case of failure by any municipality or its governing or managing body or officers to comply with any order of the agency for the construction, installation, maintenance, or operation of a disposal system or part thereof, may by resolution assume the powers of the legislative authority of the municipality and confer on the commissioner the powers of the administrative officers of the municipality relating to the construction, installation, maintenance, or operation of a disposal system, or part thereof, or issuing bonds and levying taxes therefor, after holding a hearing on the case as provided by Minnesota Statutes 1961, sections 115.03 and 115.05, upon notice specifying the particulars of the alleged failure to comply with the order and the powers proposed to be assumed for the purpose of remedying such failure. The resolution shall include or have attached thereto a copy of the order, shall set forth the findings of the agency as to failure of compliance therewith after the hearing thereon, and shall set forth the powers assumed and determine the action to be taken. Certified copies of the resolution and order shall be transmitted by the secretary of the agency to the commissioner and to the clerk or other recording officer of the municipality concerned. The resolution and order and certified copies thereof shall be prima facie evidence that the order is reasonable and valid, that all requirements of law relating thereto and to the hearing thereon have been complied with by the agency, that the municipality and its governing or managing body and officers have failed to comply with the order as set forth in the resolution, and that the powers so assumed are vested in the agency and the commissioner as therein set forth. Thereupon the agency and the commissioner shall have charge of the case, and all other proceedings for enforcement of the order shall be suspended until the authority of the commissioner in the case has been terminated as hereinafter provided. At this stage of the case there is a right of judicial review, and the resolution and attached order shall be deemed a final order for the purpose of judicial review, but failure at this stage to seek judicial review does not preclude judicial relief at a subsequent stage where, and in a manner, otherwise appropriate.

Subd. 2. **Powers vested.** Upon the assumption of powers as provided in subdivision 1, all the powers of the municipality and its governing or managing body and officers with respect to the subject matter of the order shall thereby be forthwith transferred to and vested in the agency and the commissioner, and they

shall thereafter exercise the same in the name of the municipality or its governing or managing body or officers, as the case may require, until terminated as hereinafter provided. Such powers shall include, without limitation, the power to levy taxes, to certify such taxes for collection, to levy assessments on benefited property, to prescribe service or use charges, to borrow money, to issue bonds, to employ necessary assistance, to acquire necessary real or personal property, to let contracts or otherwise provide for the doing of work or the construction, installation, maintenance, or operation of facilities, and to do and perform for the municipality or its governing or managing body or officers all other acts and things required to effectuate, carry out, and accomplish the purposes of the order and which might have been done or performed by the municipality or its governing or managing body or officers. The exercise of any and all such powers by the agency and the commissioner shall have like force and effect as if the same had been exercised by the municipality or by its governing or managing body or officers. All such acts or things done or performed by the agency or the commissioner shall be prima facie lawful and valid, and it shall be presumed that all requirements of law or charter relating thereto have been complied with. Any bond pursuant to this section in the hands of a holder in good faith and for value reciting that such bond is issued for the purposes of a disposal system, or part thereof, pursuant to the order of the agency under this section shall be conclusively deemed to have been issued for such purpose and in compliance with all requirements of law relating thereto and shall be a valid and binding instrument enforceable against the municipality in accordance with its terms. The impact on a municipality of taxes or special assessments which are likely to result from compliance with an order made under section 115.03, subdivision 1, paragraph (a), clause (5), item (ii), weighed against the urgency of the need for compliance in the light of public health and the policy and purposes of sections 115.41 to 115.53 shall be a relevant consideration in any judicial inquiry into the reasonableness of the order.

Subd. 3. **Municipal provisions apply.** Except as otherwise provided herein, all proceedings of the agency or the commissioner under subdivision 2 shall be governed by the laws or charter provisions governing like proceedings of the governing or managing body or administrative officers of the municipality, so far as applicable, and they shall have like powers and duties with respect thereto as the governing or managing body, the mayor or other presiding officer, the clerk or other recording officer, and any other officer of the municipality having authority in the matter, respectively. In any case where the governing or managing body of the municipality is required to act by motion, resolution, or ordinance, the adoption thereof by resolution or order of the agency shall have like force and effect as adoption by the governing or managing body and approval by the mayor or other presiding officer of the municipality, if required.

Subd. 4. **Reinstatement of municipal powers.** If at any time while the agency and the commissioner have charge of a case as provided in this section, the governing or managing body or the officers or the municipality concerned shall offer to exercise their powers and perform their duties with respect to the subject matter in accordance with the order of the agency, the agency may by order, of which certified copies shall be transmitted to the secretary of the agency and to the clerk or other recording officer of the municipality, reinstate such powers to the extent and subject to any conditions specified in the order, and the governing or managing body or officers of the municipality may thereupon exercise such powers accordingly. Such reinstatement may be revoked by the agency by order in like manner in case it shall determine that the affected powers have not been properly or effectively exercised by the governing or managing body or the officers of the municipality.

Subd. 5. **Revesting powers in municipality.** If, at any time while the agency and the commissioner have charge of a case hereunder, the agency shall determine that the further exercise of the powers of the municipality assumed in the case will not be feasible or will not be the most effective procedure for accomplishing the purposes of the agency's order involved, it may by order so declare. Certified copies of the order shall be transmitted by the secretary of the agency to the commissioner and the clerk or other recording officer of the municipality concerned. Thereupon the powers assumed shall be revested in the

municipality, and the agency may proceed with the enforcement of its order in such manner as may be authorized by law.

History: *1963 c 874 s 10; 1969 c 9 s 21; 1976 c 2 s 51; 2026 c 88 art 1 s 18*

115.49 COOPERATION BETWEEN MUNICIPALITIES; CONTRACTS.

Subdivision 1. **Generally.** If the agency determines after a hearing on the subject matter that cooperation between two or more municipalities is necessary to provide for areawide waste management and treatment, in accordance with the Federal Water Pollution Control Act, as amended, or to prevent, control, or abate pollution, it may adopt a resolution so declaring and determining whether it will be feasible to secure such cooperation by contract between the municipalities concerned.

Subd. 2. **Procedure by contract.** If the agency determines that procedure by contract will be feasible it may issue an order so declaring, setting forth the general purposes and terms of a proposed contract under any applicable law, determining, among other things, which of the municipalities concerned shall have charge of any facilities constructed, and directing the municipalities concerned to formulate and execute such contract within such time as the agency may specify in the order, but not less than 90 days from the date of mailing copies of the order to the clerks or other recording officers of such municipalities or service thereof upon them. If a contract approved by the agency as sufficient for the purposes set forth in the order is not made within the time therein specified, the agency may refer the case to the commissioner as provided in section 115.48. Thereupon and thereby all the appropriate contractual powers of each municipality concerned and its governing or managing body and officers shall be transferred to and vested in the commissioner. The commissioner may then formulate a contract in accordance with the agency's order, with necessary counterparts, and execute the same in the name of each municipality concerned, with like force and effect as if executed by their officers as provided by law or charter. An executed counterpart of the contract shall be delivered or sent by certified mail by the commissioner to the clerk or other recording officer of each municipality concerned, and the contract shall thereupon take effect and be binding on such municipalities.

Subd. 2a. **Extending service.** If a determination or order is made by the Pollution Control Agency under this section that cooperation by contract is necessary and feasible between a municipality and an unincorporated area located outside the existing corporate limits of a municipality, the municipality being required to provide or extend through a contract a governmental service to an unincorporated area, during the statutory 90-day period provided in this section to formulate a contract, may in the alternative to formulating a service contract to provide or extend the service, declare the unincorporated area as described in the Pollution Control Agency's determination letter or order annexed to the municipality under section 414.0335.

Subd. 3. **Modifying contract.** Any contract for disposal of sewage, industrial wastes, or other wastes or for the construction, maintenance, or operation of any facilities therefor heretofore or hereafter executed between two or more municipalities may be renegotiated, reviewed, and revised or modified with respect to rates or charges or any other provision by agreement of the parties to the contract, any provision of law, charter, or the contract to the contrary notwithstanding.

Subd. 4. **New rates and charges.** (a) Any municipality which is a party to a contract for any of the purposes specified in subdivision 3, and which operates a plant for the disposal of sewage, industrial wastes, or other wastes, may, upon written notice to the other party or parties, fix new rates and charges for the service performed under the contract, notwithstanding any provision of law, charter, or the contract to the contrary. Any other party or parties to such a contract with a municipality which operates such a plant may,

upon written notice to such municipality, demand that new rates and charges be fixed for service performed under the contract, notwithstanding any provision of law, charter, or the contract to the contrary. Whenever notice is given as provided herein, it shall be the duty of the municipality operating the plant for the disposal of sewage, industrial wastes, or other wastes to hold a hearing for the determination of proper rates and charges.

(b) A valid notice given under this subdivision of a demand to fix new rates and charges as to any contract precludes another such notice by any party as to that contract for a period of five years from the time of the notice, or the time of dismissal of proceedings under a notice, or the time of determination of rates and charges by the affected agencies or by judgment, as the case may be, whichever of these events is last, but there may always be a contract change under subdivision 3; provided there can be no such demand as of right within the first five years of a contract.

(c) A municipality which may be affected by determination of new rates and charges in such a proceeding may participate in the proceeding as an interested third party by filing a notice of its intention to so participate with the clerk of the municipality to which the original notice was directed. If any party to the contract involved in the proceeding initiated by notice of demand for new rates and charges is dissatisfied with the rates and charges as set in the proceeding it may within 30 days after such determination by written notice given to the other party or parties elect to submit the matters in dispute to a board of arbitration which shall be created as follows: The municipality making such written election shall in such written election appoint a referee; the other municipality shall within ten days after such election and appointment also appoint a referee; the two referees shall appoint a third referee, or if they fail for ten days to do so, unless the municipalities mutually extend the time for them to do so the district court of a judicial district which is mutually agreeable to the municipalities shall make the appointment of the third referee. A decision of the majority of the board shall be a decision of the board. Each municipality shall pay the compensation of the referee appointed by it, and one-half of the compensation of the third referee, such compensation to be at the rate usually charged by such person for services in the person's profession or occupation.

(d) The hearing initiated by the notice of demand to fix new rates and charges and all proceedings in connection therewith shall be in conformity with sections 14.57 to 14.62 and the municipality conducting the hearing is an agency as such term is used in such sections. Any party to the contract aggrieved by the decision or order made in conformity with such provisions shall be entitled to judicial review in the district court in the county in which such decision or order was made and in the manner provided in subdivision 5.

(e) The new rates and charges established by the agency upon the initial demand will continue until the proper rates and charges are finally determined, notwithstanding submission to arbitration or judicial review, but the order or judgment which finally determines legality will provide for adjustment of overpayment or underpayment, if any, during the period after the new rates and charges were initially fixed.

(f) All records of any municipality relating to such rates and charges shall be available at all reasonable times for examination by any municipality.

Subd. 5. **Appeals.** (a) Any party to the contract aggrieved by a decision or order shall be entitled to judicial review by serving a petition for review upon the municipality making the decision or order, and filing it with proof of service in the office of the court administrator within 30 days after the decision or order has been made and the parties notified of it. The petition shall state the nature of the petitioner's interest, and the ground or grounds upon which the petitioner contends the decision or order should be reversed or modified. The petition may be amended by leave of court, though the time for serving it has expired.

(b) Within 20 days after service of the petition for review, the municipality shall serve upon the petitioner an answer stating its position with reference to the reversal or modification of the order or decision under review. The answer, with proof of service, shall be filed with the clerk of the district court within ten days after service. No further pleadings shall be necessary. The review shall be noticed for trial as in the case of a civil action and shall take precedence over other civil cases for trial.

(c) The institution of the proceeding for review shall not stay enforcement of the order or decision, but the court may order a stay upon such terms as it deems proper.

(d) Within 30 days after service of the petition for review upon the municipality, or within such further time as the court may allow, the municipality shall transmit to the court the original or a certified copy of the entire record of the proceedings in which the order or decision under review was made. By stipulation of the parties to the review proceeding, the record may be shortened by eliminating any portion of it. The record may be typewritten or printed and the exhibits may be typewritten, photostated or otherwise reproduced, or upon motion of any party, or by order of the court, the original exhibits shall accompany the record. The court may require or permit substantial corrections or additions to the record when deemed desirable.

(e) If, before the date set for trial, an application is made to the court for leave to present additional evidence on the issues in the case, and it is shown to the satisfaction of the court that the additional evidence is material, the court may order that the additional evidence be taken upon terms the court deems proper.

(f) The review shall be conducted by the court without a jury. The court may affirm, reverse or modify the order or decision if the substantial rights of the petitioner have been prejudiced as a result of the order or decision being:

(1) contrary to constitutional rights or privileges;

(2) in excess of the statutory authority or jurisdiction of the agency, or affected by other error of law;

(3) made or promulgated upon unlawful procedure;

(4) unsupported by substantial evidence in view of the entire record as submitted; or

(5) arbitrary or capricious.

(g) Any party may appeal from the final judgment of the district court as in other civil cases.

(h) No party to the review in any court is entitled to recover costs, attorney's fees, witness fees, or any other disbursement.

Subd. 6. **Rates and charges to be reasonable.** All rates and charges shall be reasonable and shall be sufficient to compensate for all costs of devoting the sewage disposal plant, equipment, its collector system, and personnel to the accomplishment of the purpose of the service to be rendered but shall not include profit. When the sewer system of any municipality or any part thereof is devoted to the use of another municipality, all charges for such use shall be reasonable and shall be sufficient to compensate for all costs of such use, but shall not include profit.

Subd. 7. **Agreement by parties.** Nothing in subdivision 4 shall preclude the fixing of rates and charges by agreement of the parties under subdivision 3.

Subd. 8. **Remanding to agency.** Any case referred to the commissioner under this section may be remanded to the agency as provided in section 115.48, subdivision 5.

Subd. 9. **Reform or termination of contract.** Any contract ordered by the agency pursuant to this section may be reformed or terminated upon: (1) mutual agreement among all parties to the contract as exhibited by a joint written application to the agency, and approval thereof by the agency; or (2) unilateral application to the agency by certified mail by any party to such a contract, with a copy thereof served by certified mail upon all other parties to the contract, and subsequent order of reformation or termination of the agreement by the agency. The applicant may in its application for reformation or termination seek other relief in addition to said order of reformation or termination, including, but not limited to, an order directing the refund by the municipality operating the disposal system of overpayments made by the municipality being served during the life of the contract, or the further payment by the municipality being served to the municipality operating the disposal system made necessary by the inadequacy of payments made by the municipality being served to the municipality operating the disposal system during the life of the contract. In the event of a unilateral application to the agency, the agency may, after 30 days written notice, hold a public hearing for the purpose of hearing evidence relating to the application. Pursuant to an application under this subdivision, the agency may enter its order reforming or terminating the contract, ordering a refundment of overpayment or payment of underpayment, as aforesaid, or granting any further relief that is reasonable under the circumstances. Any party aggrieved by the agency's decision may thereafter appeal to district court from the agency's order.

History: *1963 c 874 s 11; 1969 c 9 s 21; 1973 c 374 s 17,18; 1978 c 674 s 60; 1982 c 424 s 130; 1983 c 247 s 50; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 1990 c 426 art 1 s 14; 1997 c 202 art 5 s 1; 2001 c 7 s 27*

115.50 TOWNS; POWERS TO ACT.

For the purposes of carrying out the policy and purposes of sections 115.01 to 115.09 and 115.41 to 115.53, there is hereby conferred upon all towns of this state the power and authority to construct, install, acquire, maintain and operate disposal systems and parts thereof, and to levy taxes, and special assessments, to issue bonds and to do all other things necessary or convenient for such construction, installation, acquisition, maintenance and operation in the same manner and extent and subject to the same limitations as statutory cities.

History: *1963 c 874 s 12; 1973 c 123 art 5 s 7; 1994 c 465 art 1 s 11; 2008 c 277 art 1 s 97*

115.51 ENFORCING CONTRACTS BETWEEN MUNICIPALITIES.

The provisions of any contract between two or more municipalities for any purpose relating to the prevention, control, or abatement of pollution, whether now in force or hereafter consummated as provided in section 115.49 or otherwise, may be enforced by action to compel performance brought by any municipality which is a party to the contract or by the attorney general in the name of the state at the request of the agency. In any such action the court shall have like powers as provided in section 115.071, subdivision 5, for enforcement of an order of the agency.

History: *1963 c 874 s 13; 1969 c 9 s 21; 1976 c 2 s 52*

115.52 SEVERABILITY.

The provisions of sections 115.41 to 115.53 shall be severable and the invalidity of any section or subdivision or part thereof shall not make void any other section or subdivision or part thereof.

History: *1963 c 874 s 14; 1994 c 465 art 1 s 12; 2008 c 277 art 1 s 97*

115.53 MODIFYING CLASSIFICATION OR STANDARDS.

In any case where the agency has heretofore adopted and established a classification or standards for any waters as then provided by law, the agency, at any hearing held pursuant to the provisions of this section for the purpose of modification, alteration, or amendment of such classification or standards or the adoption and establishment of any classification or standards for the same waters or any part thereof as required by sections 115.41 to 115.53, may receive and consider for any such purpose any testimony received at such previous hearing, as reported in the stenographic transcript thereof, and any exhibits received at such previous hearing, which are relevant, with like force and effect and subject to like objections, if any, as if such testimony or exhibits had been produced at the hearing hereunder, together with any further testimony or exhibits which may be submitted and received at the hearing hereunder.

History: *1963 c 874 s 15; 1969 c 9 s 21; 1994 c 465 art 1 s 13; 2008 c 277 art 1 s 97*

115.54 MS 2006 [Repealed, 2007 c 133 art 2 s 13]

115.542 NOTICE REQUIREMENTS FOR PUBLICLY OWNED WASTEWATER TREATMENT FACILITIES.

Subdivision 1. **Definitions.** For the purpose of this section, the following terms have the meanings given:

(1) "permit" means a national pollutant discharge elimination system (NPDES) permit or state disposal system (SDS) permit; and

(2) "permit applicant" means a person or entity submitting an application for a new permit or renewal, modification, or revocation of an existing permit for a publicly owned wastewater treatment facility.

Subd. 2. **Applicability.** This section applies to all draft permits and permits for publicly owned wastewater treatment facilities for which the commissioner of the Pollution Control Agency makes a preliminary determination whether to issue or deny.

Subd. 3. **Notice requirements.** The commissioner of the Pollution Control Agency must provide a permit applicant with a copy of the draft permit and any fact sheets required by agency rules at least 30 days before the distribution and public notice of the permit application and preliminary determination.

Subd. 4. **Permitting efficiency.** The commissioner must prepare and issue a public notice of a completed application and the commissioner's preliminary determination as to whether the permit should be issued or denied. The public comment period must be at least 60 days for permit applications under this section. Notwithstanding section 116.03, it is the goal of the state that tier 2 permits for publicly owned wastewater treatment facilities be issued or denied within 210 days following submission of a permit application.

History: *2017 c 93 art 2 s 123*

INDIVIDUAL AND ALTERNATIVE DISCHARGING SEWAGE TREATMENT SYSTEMS

115.55 SUBSURFACE SEWAGE TREATMENT SYSTEMS.

Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to sections 115.55 to 115.56.

(b) "Advisory committee" means the Advisory Committee on Subsurface Sewage Treatment Systems established under the subsurface sewage treatment system rules. The advisory committee must be appointed to ensure geographic representation of the state and include elected public officials.

(c) "Applicable requirements" means:

(1) local ordinances that comply with the subsurface sewage treatment system rules, as required in subdivision 2; or

(2) in areas without compliant ordinances described in clause (1), the subsurface sewage treatment system rules.

(d) "Building sewer connected to a subsurface sewage treatment system" means the pipe that connects a structure to a subsurface sewage treatment system. Building sewers connected to subsurface sewage treatment systems are codefined as both plumbing and subsurface sewage treatment system components.

(e) "City" means a statutory or home rule charter city.

(f) "Commissioner" means the commissioner of the Pollution Control Agency.

(g) "Dwelling" means a building or place used or intended to be used by human occupants as a single-family or two-family unit.

(h) "Subsurface sewage treatment system" or "system" means a sewage treatment system, or part thereof, that uses subsurface soil treatment and disposal, or a holding tank, serving a dwelling, other establishment, or a group thereof, and that does not require a state permit. Subsurface sewage treatment system includes a building sewer connected to a subsurface sewage treatment system.

(i) "Subsurface sewage treatment system professional" means an inspector, installer, designer, service provider, or maintainer.

(j) "Subsurface sewage treatment system rules" means rules adopted by the agency that establish minimum standards and criteria for the design, location, installation, use, maintenance, and closure of subsurface sewage treatment systems.

(k) "Inspector" means a person who inspects subsurface sewage treatment systems for compliance with the applicable requirements.

(l) "Installer" means a person who constructs or repairs subsurface sewage treatment systems.

(m) "Local unit of government" means a township, city, or county.

(n) "Performance-based system" means a system that is designed specifically for environmental conditions on a site and is designed to adequately protect the public health and the environment and provide consistent, reliable, long-term performance. At a minimum, a performance-based system must ensure that applicable water quality standards are met in both groundwater and surface water that ultimately receive the treated sewage.

(o) "Maintainer" means a person who removes solids and liquids from and maintains and repairs components of subsurface sewage treatment systems including, but not limited to, sewage, aerobic, and holding tanks.

(p) "Seasonal dwelling" means a dwelling that is occupied or used for less than 180 days per year and less than 120 consecutive days.

(q) "Septic system tank" means any covered receptacle designed, constructed, and installed as part of a subsurface sewage treatment system.

(r) "Designer" means a person who:

(1) investigates soils and site characteristics to determine suitability, limitations, and sizing requirements; and

(2) designs subsurface sewage treatment systems.

(s) "Straight-pipe system" means a sewage disposal system that transports raw or partially treated sewage directly to a lake, a stream, a drainage system, or ground surface.

Subd. 2. **Local ordinances.** (a) All counties must adopt ordinances that comply with revisions to the subsurface sewage treatment system rules within two years of the final adoption by the agency unless all towns and cities in the county have adopted the ordinances. County ordinances must apply to all areas of the county other than cities or towns that have adopted ordinances that comply with this section and are as strict as the applicable county ordinances.

(b) A copy of each ordinance adopted under this subdivision must be submitted to the commissioner upon adoption.

(c) A local unit of government must make available to the public upon request a written list of any differences between its ordinances and rules adopted under this section.

Subd. 3. **Rules.** (a) The agency shall adopt rules containing minimum standards and criteria for the design, location, installation, use, maintenance, and closure of subsurface sewage treatment systems. The rules must include:

(1) how the agency will ensure compliance under subdivision 2;

(2) how local units of government shall enforce ordinances under subdivision 2, including requirements for permits and inspection programs;

(3) how the advisory committee will participate in review and implementation of the rules;

(4) provisions for nonstandard systems and performance-based systems;

(5) provisions for handling and disposal of effluent;

(6) provisions for system abandonment; and

(7) procedures for variances, including the consideration of variances based on cost and variances that take into account proximity of a system to other systems.

(b) The agency shall consult with the advisory committee before adopting rules under this subdivision.

(c) The rules required in paragraph (a) must also address the following:

(1) a definition of redoximorphic features and other criteria that can be used by system designers and inspectors;

(2) direction on the interpretation of observed soil features that may be redoximorphic and their relation to zones of periodic saturation; and

(3) procedures on how to resolve professional disagreements on periodically saturated soils.

Subd. 4. **Compliance required; enforcement.** (a) A person who designs, installs, alters, repairs, maintains, pumps, services, inspects, or abandons all or part of a subsurface sewage treatment system shall comply with the applicable requirements.

(b) Local units of government may enforce, under section 115.071, subdivisions 3 and 4, ordinances that are applicable requirements.

Subd. 5. **Inspection.** (a) An inspection shall be required for all new construction or replacement of a system to determine compliance with applicable requirements. The manner and timing of inspection may be determined by the applicable local ordinance.

(b) A local unit of government may not issue a building permit or variance for the addition of a bedroom on property served by a system unless the system has been inspected to determine compliance with the applicable requirements, as evidenced by a certificate of compliance or notice of noncompliance issued by a licensed inspection business or certified local unit of government inspector. A local unit of government may temporarily waive the inspection requirement for a building permit or variance for which application is made during the period from November 1 to April 30, provided that an inspection of the system is performed by the following June 1 and the applicant submits a certificate of compliance or notice of noncompliance within 15 days of the inspection. This paragraph does not apply if the local unit of government does not have an ordinance requiring a building permit to add a bedroom.

(c) A certificate of compliance for an existing system is valid for three years from the date of issuance unless the local unit of government finds evidence of an imminent threat to public health or safety requiring removal and abatement under section 145A.04, subdivision 8.

(d) A certificate of compliance for a new system is valid for five years from the date of issuance unless the local unit of government finds evidence of an imminent threat to public health or safety requiring removal and abatement under section 145A.04, subdivision 8.

(e) A licensed inspection business that inspects an existing system may subsequently design and install a new system for that property, provided the inspection business is licensed to install subsurface sewage treatment systems.

(f) No certified professional may use the professional's position with government, either as an employee or a contractor, to solicit business for the individual's private system enterprise.

Subd. 5a. **Inspection criteria for existing systems.** (a) An inspection of an existing system must evaluate the criteria in paragraphs (b) to (i).

(b) If the inspector finds one or more of the following conditions:

(1) sewage discharge to surface water;

(2) sewage discharge to ground surface;

(3) sewage backup; or

(4) any other situation with the potential to immediately and adversely affect or threaten public health or safety,

then the system constitutes an imminent threat to public health or safety and, if not repaired, must be upgraded, replaced, or its use discontinued within ten months of receipt of the notice described in subdivision 5b, or within a shorter period of time if required by local ordinance.

(c) A system constructed before April 1, 1996, that has none of the conditions in paragraph (b), and has at least two feet of soil separation need not be upgraded, repaired, replaced, or its use discontinued, notwithstanding any local ordinance that is more restrictive.

(d) Paragraph (c) does not apply to systems in shoreland areas regulated under sections 103F.201 to 103F.221, wellhead protection areas as defined in section 103I.005, or those used in connection with food, beverage, and lodging establishments regulated under chapter 157.

(e) If the local unit of government with jurisdiction over the system has adopted an ordinance containing local standards pursuant to subdivision 7, the existing system must comply with the ordinance. If the system does not comply with the ordinance, it must be upgraded, replaced, or its use discontinued according to the ordinance.

(f) If a seepage pit, drywell, cesspool, or leaching pit exists and the local unit of government with jurisdiction over the system has not adopted local standards to the contrary, the system is failing and must be upgraded, replaced, or its use discontinued within the time required by subdivision 3 or local ordinance.

(g) If the system fails to provide sufficient groundwater protection, then the local unit of government or its agent shall order that the system be upgraded, replaced, or its use discontinued within the time required by rule or the local ordinance.

(h) The authority to find a threat to public health under section 145A.04, subdivision 8, is in addition to the authority to make a finding under paragraphs (b) to (d).

(i) Certified inspectors must use the existing system inspection form provided by the agency. The inspection information required by local ordinance may be included as an attachment to the state form. The following language must appear on the standard form: "If an existing system is not failing as defined in law, and has at least two feet of design soil separation, then the system need not be upgraded, repaired, replaced, or its use discontinued, notwithstanding any local ordinance that is more strict. This does not apply to systems in shoreland areas, wellhead protection areas, or those used in connection with food, beverage, and lodging establishments as defined in law."

Subd. 5b. **Compliance notice.** If a system inspected under subdivision 5 is required to be upgraded, replaced, or its use discontinued under subdivision 5a, the certified inspector must issue a notice of noncompliance to the property owner and must provide a copy of the notice to the unit of government with jurisdiction. The notice of noncompliance must specify why the system must be upgraded, replaced, or its use discontinued. A local unit of government must specify the upgrade time period in its ordinance.

Subd. 6. **Disclosure of subsurface sewage treatment system to buyer.** (a) Before signing an agreement to sell or transfer real property, the seller or transferor must disclose in writing to the buyer or transferee information on how sewage generated at the property is managed. The disclosure must be made by delivering a statement to the buyer or transferee that either:

(1) the sewage goes to a facility permitted by the agency; or

(2) the sewage does not go to a permitted facility, and is therefore subject to applicable requirements.

(b) For sewage not sent to a permitted facility, the disclosure must include a description of the system in use, including the legal description of the property, the county in which the property is located, and a map drawn from available information showing the location of the system on the property to the extent practicable. If the seller or transferor has knowledge that an abandoned subsurface sewage treatment system exists on the property, the disclosure must include a map showing its location. The seller or transferor shall disclose

to the buyer or transferee what the seller or transferor has knowledge of relative to the compliance status of the subsurface sewage treatment system, and whether, to the best of the seller's knowledge, a straight-pipe system exists. A seller or transferor who has in their possession a previous inspection report completed by a licensed inspection business or certified local government inspector in accordance with subdivision 5 or 5a shall attach a copy to the disclosure statement that is provided to the buyer.

(c) Unless the buyer or transferee and seller or transferor agree to the contrary in writing before the closing of the sale, a seller or transferor who fails to disclose the existence or known status of a subsurface sewage treatment system at the time of sale, and who knew or had reason to know of the existence or known status of the system, is liable to the buyer or transferee for costs relating to bringing the system into compliance with the subsurface sewage treatment system rules and for reasonable attorney fees for collection of costs from the seller or transferor. An action under this subdivision must be commenced within two years after the date on which the buyer or transferee closed the purchase or transfer of the real property where the system is located.

Subd. 7. **Local standards.** (a) **Existing systems.** Counties may adopt by ordinance local standards that are less restrictive than the agency's rules in order to define an acceptable existing system. The local standards may include soil separation, soil classification, vegetation, system use, localized well placement and construction, localized density of systems and wells, extent of area to be covered by local standards, groundwater flow patterns, and existing natural or artificial drainage systems. The local standards and criteria shall be submitted to the commissioner for comment prior to adoption to demonstrate that, based on local circumstances in that jurisdiction, they adequately protect public health and the environment.

(b) **New or replacement systems.** Counties, after providing documentation of conditions listed in this paragraph to the commissioner, may adopt by ordinance local standards that are less restrictive than the agency's rules for new system construction or replacement in areas of sustained and projected low population density where conditions render conformance to applicable requirements difficult or otherwise inappropriate. Documentation may include a map delineating the area of the county to be served by the local standards, a description of the hardship that would result from strict adherence to the agency's rules, and evidence of sustained and projected low population density. The local standards must protect human health and the environment and be based on considerations that may include, but need not be limited to, soil separation, soil classification, vegetation, system use, localized well placement and construction, localized density of systems and wells, extent of area to be covered by local standards, groundwater flow patterns, and existing natural or artificial drainage systems. The local standards must provide cost-effective and long-term treatment alternatives. The draft ordinance incorporating the local standards must be submitted with justification to the commissioner 30 days before adoption for review and comment.

(c) **New or replacement systems; local ordinances.** A local unit of government may adopt and enforce ordinances or rules affecting new or replacement subsurface sewage treatment systems that are more restrictive than the agency's rules. A local unit of government may not adopt or enforce an ordinance or rule if its effect is to prevent or delay recording with the county recorder or registrar of titles of a deed or other instrument that is otherwise entitled to be recorded.

(d) **Local standards; conflict with state law.** Local standards adopted under paragraph (a) or (b) must not conflict with any requirements under other state laws or rules or local ordinances, including, but not limited to, requirements for:

(1) systems in shoreland areas, regulated under sections 103F.201 to 103F.221;

(2) well construction and location, regulated under chapter 103I; and

(3) systems used in connection with food, beverage, and lodging establishments, regulated under chapter 157.

Alternative local standards for new or replacement residential systems with flow of 2,500 gallons per day or less may be applied to systems listed in clause (1), provided the alternative standards are no less stringent than provisions of Minnesota Rules, chapter 7080, that went into effect on April 3, 2006. In addition, alternative local standards for new or replacement systems with flow of 2,500 gallons per day or less may be applied to systems listed in clause (3), provided the alternative standards are no less stringent than provisions of Minnesota Rules, chapter 7080, that went into effect on April 3, 2006, except that the waste strength must meet the standards established in Minnesota Rules, part 7080.2150, subpart 3, item K. If additional treatment of waste is needed to meet this standard, the treatment must be in accordance with Minnesota Rules, part 7080.2150, subpart 3, item A. The local standards must include references to applicable requirements under other state laws or rules or local ordinances. Nothing in this paragraph prevents a local subsurface sewage treatment system ordinance from including provisions of the current rule as part of the alternative local standards.

Subd. 8. MS 2000 [Repealed, 1Sp2001 c 2 s 162]

Subd. 9. **Warrantied systems.** (a) A subsurface sewage treatment system may be installed provided that it meets all local ordinance requirements and provided the requirements of paragraphs (b) to (e) are met.

(b) The manufacturer shall provide to the commissioner:

(1) documentation that the manufacturer's system was designated by the agency as a warrantied system as of June 30, 2001, or the system is a modified version of the system that was designated as a warrantied system and meets the size requirements or other requirements that were the basis for the previous warrantied system classification; or

(2) documentation showing that a minimum of 50 of the manufacturer's systems have been installed and operated and are under normal use across all major soil classifications for a minimum of three years.

(c) For each system that meets the requirements of paragraph (b), clause (1) or (2), the manufacturer must provide to the commissioner:

(1) documentation that the system manufacturer or designer will provide full warranty effective for at least five years from the time of installation, covering design, labor, and material costs to remedy failure to meet performance expectations for systems used and installed in accordance with the manufacturer's or designer's instructions; and

(2) a commonly accepted financial assurance document or documentation of the manufacturer's or designer's financial ability to cover potential replacement and upgrades necessitated by failure of the system to meet the performance expectations for the duration of the warranty period.

(d) The manufacturer shall reimburse the agency an amount of $2,000 for staff services needed to review the information submitted pursuant to paragraphs (b) and (c). Reimbursements accepted by the agency shall be deposited in the environmental fund and are appropriated to the agency for the purpose of reviewing information submitted. Reimbursement by the manufacturer shall precede, not be contingent upon, and shall not affect the agency's decision on whether the submittal meets the requirements of paragraphs (b) and (c).

(e) The manufacturer shall provide to the local unit of government reasonable assurance of performance of the manufacturer's system, engineering design of the manufacturer's system, a monitoring plan that will

be provided to system owners, and a mitigation plan that will be provided to system owners describing actions to be taken if the system fails.

(f) The commissioner may prohibit a subsurface sewage treatment system from qualifying for installation under this subdivision upon a finding of fraud, system failure, failure to meet warranty conditions, or failure to meet the requirements of this subdivision or other matters that fail to meet with the intent and purpose of this subdivision. Prohibition of installation of a system by the commissioner does not alter or end warranty obligations for systems already installed.

Subd. 10. MS 2008 [Repealed, 2009 c 109 s 15]

Subd. 11. **Straight-pipe systems; noncompliance.** An inspector who discovers the existence of a straight-pipe system shall issue a noncompliance notice to the owner of the straight-pipe system and forward a copy of the notice to the agency. The notice must state that the owner must replace or discontinue the use of the straight-pipe system within ten months of receiving the notice. If the owner does not replace or discontinue the use of the straight-pipe system within ten months after the notice was received, the owner of the straight-pipe system shall be subject to an administrative penalty of $500 per month of noncompliance beyond the ten-month period. Administrative penalty orders may be issued for violations under this subdivision, as provided in section 116.072. One-half of the proceeds collected from an administrative penalty order issued for violating this subdivision shall be remitted to the local unit of government with jurisdiction over the noncompliant straight-pipe system.

Subd. 12. **Subsurface sewage treatment systems; county management plan.** A county may adopt a subsurface sewage treatment system management plan that describes how the county plans on carrying out subsurface sewage treatment system needs.

Subd. 13. **Subsurface Sewage Treatment Systems Implementation and Enforcement Task Force.** (a) By September 1, 2010, the agency shall appoint a Subsurface Sewage Treatment Systems Implementation and Enforcement Task Force in collaboration with the Association of Minnesota Counties, Minnesota Association of Realtors, Minnesota Association of County Planning and Zoning Administrators, and the Minnesota Onsite Wastewater Association. The agency shall work in collaboration with the task force to develop effective and timely implementation and enforcement methods in order to rapidly reduce the number of subsurface sewage treatment systems that are an imminent threat to public health or safety and effectively enforce all violations of the subsurface sewage treatment system rules. The agency shall meet at least three times per year with the task force to address implementation and enforcement issues. The meetings shall be scheduled so that they do not interfere with the construction season.

(b) The agency, in collaboration with the task force and in consultation with the attorney general, county attorneys, and county planning and zoning staff, shall develop, periodically update, and provide to counties enforcement protocols and a checklist that county inspectors, field staff, and others may use when inspecting subsurface sewage treatment systems and enforcing subsurface sewage treatment system rules.

History: *1994 c 617 s 1; 1995 c 233 art 1 s 5; 1996 c 427 s 1; 1997 c 235 s 1-7; 1997 c 251 s 17; 3Sp1997 c 3 s 12; 1998 c 401 s 40; 1999 c 231 s 130; 2000 c 320 s 1; 1Sp2001 c 2 s 121; 2002 c 293 s 1; 2002 c 382 art 1 s 1; 2003 c 128 art 1 s 123; 2004 c 248 s 1; 2004 c 249 s 1; 1Sp2005 c 1 art 2 s 126; 2006 c 224 s 1,2; 2007 c 13 art 1 s 6; 2007 c 57 art 1 s 136-139; 2009 c 109 s 1-9,14; 2010 c 361 art 4 s 62; 2011 c 107 s 80; 2012 c 272 s 62; 2014 c 286 art 2 s 3; 1Sp2015 c 4 art 4 s 102; 2023 c 25 s 29*

115.551 TANK FEE.

(a) An installer shall pay a fee of $25 for each septic system tank installed in the previous calendar year. By January 30 each year, the installer shall submit to the commissioner a form showing the number of tanks installed in each jurisdiction in the previous calendar year. The commissioner shall invoice the installers with the final fee due. Tank fee payment is due within 30 days of receiving the invoice. The revenue derived from the fee imposed under this section shall be deposited in the environmental fund and is exempt from section 16A.1285.

(b) Notwithstanding paragraph (a), for the purposes of performance-based subsurface sewage treatment systems, the tank fee is limited to $25 per household system installation.

History: *2003 c 128 art 1 s 124; 1Sp2005 c 1 art 2 s 127; 2009 c 109 s 14; 2014 c 237 s 6*

115.56 MANDATORY LICENSING PROGRAM.

Subdivision 1. **Rules.** (a) Pursuant to section 115.03, subdivision 1, the agency shall adopt rules containing standards of certification and licensure applicable to all subsurface sewage treatment system individuals and businesses.

The rules must include but are not limited to:

(1) training requirements that include both classroom and fieldwork components;

(2) examination content requirements and testing procedures;

(3) continuing education requirements;

(4) equivalent experience provisions;

(5) bonding and insurance requirements;

(6) schedules for submitting fees; and

(7) license revocation and suspension and other enforcement requirements.

(b) The agency shall consult with the advisory committee before proposing any rules under this subdivision.

Subd. 2. **License required.** (a) Except as provided in paragraph (b), a person may not design, install, maintain, pump, inspect, or provide service to a subsurface sewage treatment system without a license issued by the commissioner. Licenses issued under this section allow work on subsurface sewage treatment systems that do not require a state permit using prescriptive designs and design guidances provided by the agency. Licensees who design systems using these prescriptive designs and design guidances are not subject to the additional licensing requirements of section 326.03.

(b) A license is not required for a person who complies with the applicable requirements if the person is:

(1) a qualified employee of state or local government who is a certified professional;

(2) an individual who constructs a subsurface sewage treatment system on land that is owned or leased by the individual and functions solely as the individual's dwelling or seasonal dwelling, unless specifically disallowed in local ordinance. A person constructing a subsurface sewage treatment system under this clause must comply with all local administrative and technical requirements. In addition, the system must be

inspected before being covered and a compliance report must be provided to the local unit of government after the inspection;

(3) a farmer who pumps and disposes of sewage waste from subsurface sewage treatment systems, holding tanks, and privies on land that is owned or leased by the farmer; or

(4) an individual who performs labor or services for a licensed business under this section in connection with the design, installation, operation, pumping, or inspection of a subsurface sewage treatment system at the direction and under the personal supervision of a person certified under this section.

(c) The commissioner, in conjunction with the University of Minnesota Extension Service or another higher education institution, shall ensure adequate training and design guidance exists for subsurface sewage treatment system certified professionals.

(d) The commissioner shall conduct examinations to test the knowledge of applicants for certification and shall issue documentation of certification.

(e) Licenses may be issued only upon submission of general liability insurance, a corporate surety bond in the amount of at least $25,000, and the name of the individual who will be the designated certified individual for that business. The bond may be for both plumbing work and subsurface sewage treatment work if the bond complies with the requirements of this section and satisfies the requirements and references identified in section 326B.46, subdivision 2.

(f) Local units of government may not require additional local licenses for subsurface sewage treatment system businesses.

(g) No other professional license under section 326.03 is required to design, install, maintain, inspect, or provide service for a subsurface sewage treatment system that does not require a state permit using prescriptive designs and design guidances provided by the agency if the system designer, installer, maintainer, inspector, or service provider is licensed under this subdivision and the local unit of government has not adopted additional requirements.

Subd. 2a. MS 2008 [Repealed, 2009 c 109 s 15]

Subd. 3. **Enforcement.** (a) The commissioner may deny, suspend, or revoke a license or certification, or use any lesser remedy against a subsurface sewage treatment system business or a certified individual, for any of the following reasons:

(1) failure to meet the requirements for a certification or license;

(2) incompetence, negligence, fraud, illegal activity, conflict of interest, or inappropriate conduct in the performance of the duties of a subsurface sewage treatment system business or certified individual;

(3) failure to comply with applicable requirements;

(4) submission of false or misleading information or credentials in order to obtain or renew certification or a license; or

(5) failure to resolve an enforcement action with any local, state, or federal agency.

(b) Upon receiving a signed written complaint that alleges the existence of a ground for enforcement action against a person under paragraph (a), the commissioner shall initiate an investigation. Revocation,

suspension, or other enforcement action may not be taken before written notice is given to the person and an opportunity is provided for a contested case hearing complying with the provisions of chapter 14.

Subd. 4. **License fee.** (a) Until the agency adopts a final rule establishing fees for licenses under subdivision 2, the fee for a license required under subdivision 2 is $200 per year and the annual license fee for a business with multiple licenses shall not exceed $400.

(b) Revenue from any fees charged by the agency for licenses under subdivision 2 must be credited to the environmental fund and is exempt from section 16A.1285.

History: *1994 c 617 s 2; 1995 c 233 art 1 s 6; 1996 c 427 s 2,3; 2003 c 128 art 2 s 4; 2007 c 131 art 1 s 73; 2008 c 357 s 31; 2009 c 37 art 1 s 39; 2009 c 109 s 10-12; 1Sp2015 c 4 art 4 s 103*

115.57 LOAN PROGRAM; SUBSURFACE SEWAGE TREATMENT SYSTEMS AND WELLS.

Subdivision 1. **Purpose.** The legislature finds that a need exists to provide for the creation of a public loan program that assists property owners to finance the site evaluation, design, installation, repair, and replacement of subsurface sewage treatment systems and to finance the sealing and replacement of wells on privately owned property. Such a public loan program promotes the public health and welfare by furthering the policy of the state of Minnesota to prevent, reduce, and eliminate water pollution. The legislature declares that the actions required to establish and implement a public loan program for the purposes stated in this section are a public purpose and that the execution and financing of such a program is a public purpose.

Subd. 2. **Definitions.** (a) The terms defined in this subdivision and section 115.55, subdivision 1, apply to this section.

(b) "Improvement" means the site evaluation, design, installation, repair, or replacement of a subsurface sewage treatment system or sealing or replacement of a well.

(c) "Municipality" means a township, city, county, or 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.

(d) "Property owner" means the owner or owners as recorded on the tax roll of the county where the real property on which the subsurface sewage treatment system or well is installed, repaired, or replaced is located.

(e) "Well" means a well as defined in section 103I.005, subdivision 21:

(1) that is required to be sealed under section 103I.301, subdivision 1; or

(2) the relocation of which is necessary for compliance with applicable requirements as defined in section 115.55, subdivision 1.

Subd. 3. **Authority.** A municipality may, individually or cooperatively with other municipalities, establish a subsurface sewage treatment system or well loan program, or both, for the purpose of providing loans to property owners for the site evaluation, design, installation, repair, or replacement of subsurface sewage treatment systems or for the sealing or replacement of wells on privately owned property. The governing body of a municipality shall provide for the operation and administration of the program by ordinance. A municipality may appoint an administrator to operate the program.

Subd. 4. **Limitations.** Loans may not be used to facilitate new building construction. As used in this subdivision, "facilitate new building construction" includes increasing capacity of a subsurface sewage

treatment system beyond what is reasonably required to serve existing buildings and lots in existing recorded plats.

Subd. 5. **Financing.** A municipality may issue bonds in accordance with chapter 475 to finance the program, except that an election is not required and the obligations are not subject to the general limit on net debt for the municipality. Financing may also be provided by issuing certificates of indebtedness, securing loans, or transferring available funds that the municipality is not obligated by law to use for some other purpose. Funds procured for the subsurface sewage treatment system or well loan program shall be dedicated to the program.

Subd. 6. **Assessments.** (a) An amount loaned under the program, including accruing interest, shall be a lien against the real property for which the improvement was made and shall be assessed against the property or properties benefited unless the amount is prepaid. An amount loaned under the program and assessed against the property shall be a priority lien only against subsequent liens.

(b) Upon issuing a loan, the municipality shall provide the property owner a notice that states the following information:

(1) the amount to be specially assessed against the property;

(2) the right of the property owner to prepay the entire assessment;

(3) the public official to whom prepayment must be made;

(4) the time within which prepayment must be made without the assessment of interest;

(5) the rate of interest to be accrued if the assessment is not prepaid within the required time period; and

(6) the period of the assessment.

(c) The municipality shall, by ordinance, provide for a right of property owners to prepay the assessment and may establish such other assessment procedures as determined necessary and consistent with the provisions of this section.

Subd. 7. **Ordinances; construction standards.** A municipality may not establish a subsurface sewage treatment system loan program unless ordinances in compliance with section 115.55 are in full force and effect. All repairs and improvements made to subsurface sewage treatment systems under this section shall be performed by a licensed subsurface sewage treatment system professional and shall comply with section 115.55 and other applicable requirements. All improvements to wells under this section must be made by a well contractor or a limited well contractor, as appropriate, licensed under chapter 103I.

Subd. 8. **Dissolution.** The governing body of a municipality may dissolve the program by ordinance. The ordinance shall provide for the collection of all outstanding assessments, repayment of any remaining indebtedness incurred to finance the program, and the final distribution of any money remaining in the loan fund.

History: *1996 c 427 s 4; 1997 c 235 s 8; 2009 c 109 s 14*

115.58 ALTERNATIVE DISCHARGING SEWAGE SYSTEMS; GENERAL PERMITS.

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

(b) "Alternative discharging sewage system" means a sewage treatment system serving one or more dwellings and other establishments that discharges less than 10,000 gallons of water per day and uses any treatment and disposal methods other than subsurface soil treatment and disposal.

(c) "Permit" means a national pollutant discharge elimination system permit or state disposal system permit granted to any person for the installation, ownership, management, or control of alternative discharging sewage systems whose operations, emissions, activities, discharges, or facilities are the same or substantially similar.

(d) "Water quality cooperative" means an association of persons organized under chapter 308A to install, own, manage, and control subsurface sewage treatment systems or alternative discharging sewage systems and provide water quality treatment and management services for its members within a defined geographical area.

(e) "Water quality treatment and management services" means the monitoring and control of alternative discharging sewage systems to eliminate or reduce water pollution from point and nonpoint sources; the management, use, reuse, recycling, or reclamation of land, water, or wastewater for water supply; geothermal heating and cooling; fire protection; irrigation; drainage; open space or green belt preservation; stormwater management and control; flood management and control or other purposes that are part of a comprehensive plan to reduce, prevent, or eliminate water pollution.

Subd. 2. MS 2012 [Repealed, 2014 c 258 s 4]

Subd. 3. **Local ordinance exemption.** Any system which is permitted under subdivision 2 is exempt from the requirements of any local ordinance adopted to conform with section 115.55 if the system complies with the applicable standards for discharges and treatment of sewage effluents.

History: *1997 c 216 s 94; 1998 c 254 art 1 s 23; 2009 c 109 s 14*

115.59 MS 2012 [Expired, 2004 c 248 s 2]

115.60 MS 2012 [Expired, 2004 c 248 s 3]

REGIONAL SANITARY SEWER DISTRICTS

115.61 AUTHORITY OF DISTRICT.

A sanitary sewer district, when created as contemplated by sections 115.61 to 115.67, shall be a municipal corporation and governmental subdivision of the state, responsible for acquiring, constructing, improving, extending, operating, and maintaining facilities for the collection, treatment, and disposal of sewage and industrial and other wastes received from the sewer systems of all municipalities within its corporate limits, for the purpose of preventing pollution of public waters in excess of such reasonable standards of purity and quality as may be established by state regulatory agencies pursuant to law. For this purpose it shall have perpetual succession; may sue and be sued; may acquire real and personal property, including easements, within or outside its corporate limits, by purchase, gift, devise, condemnation, lease, or otherwise, which property, while held, used, or occupied by it, shall be exempt from taxation; may manage, control, sell, convey, lease, and otherwise dispose of such property; may make contracts, borrow money, issue bonds, levy taxes and special assessments, and establish and collect charges for services furnished or made available; and may exercise all powers granted any municipality by chapters 117, 412, 429, and 475, sections 471.59,

444.075, and 115.46, and, without limitation by the foregoing, all municipal power necessary or expedient to accomplish said purpose, whether or not necessarily implied from any power herein expressly granted.

History: *1965 c 895 s 1*

115.62 BOARD; MEMBERSHIP; TERM; QUORUM; OFFICERS; COMPENSATION.

All powers of the district shall be exercised by or under authority of resolutions of its board of directors, consisting of one member appointed by the governing body of each municipality situated wholly or partly within its corporate limits, who may but need not be a member of that governing body. The term of each member shall extend to January 1 in the year following appointment, or until a successor is appointed and qualified, or until the member's earlier death, disability, or absence of more than 90 days from the member's municipality. Any resolution may be passed by a majority of the votes cast thereon at a meeting attended by a majority of the members of the board, unless a larger majority or further notice is required by its bylaws, which shall be adopted or amended only by the vote of a majority of all members of the board. The board shall elect a president and vice-president at its first meeting in each year, to serve until the following January 1 or until their respective successors are selected and qualify. Each member of the board shall be reimbursed for actual and necessary expense in the performance of the member's duty and may receive compensation in an amount determined by the board to be reasonable, not exceeding $25 per day or part thereof for each meeting and not exceeding $1,000 in any one year.

History: *1965 c 895 s 2; 1986 c 444*

115.63 MANAGER AUTHORITY; EMPLOYEES.

The chief executive officer of the district shall be a manager who shall be chosen by the board of directors and hold office on the same basis, possess the same qualifications, and have the same powers and duties with reference to the management of the affairs of the district, as the manager of a statutory city under sections 412.641 to 412.751, except that all appointments of subordinate officers and employees and all employment of professional consultants shall be subject to approval by the board. The district shall comply with the provisions of chapter 353 to permit membership of the manager and all employees in the Public Employees Retirement Association.

History: *1965 c 895 s 3; 1973 c 123 art 5 s 7*

115.64 ACQUIRING PROPERTY.

The acquisition and use of real and personal property by a district created as herein contemplated shall not be subject to restriction or control by any other local government or authority, except by the exercise of police powers under section 169.04.

History: *1965 c 895 s 4*

115.65 PURPOSE; DUTIES OF DISTRICT; ANNEXING TERRITORY.

Sanitary sewer districts may be created by or under authority of laws referring to sections 115.61 to 115.67 and enumerating the cities or towns, or portions thereof, which are or may be included therein. The purpose of sections 115.61 to 115.67 is to provide a method by which municipalities in a drainage area designated by law may join together to prevent water pollution in excess of reasonable standards in that area. Each district created as contemplated herein shall be responsible for planning collection, treatment, and disposal facilities for all municipalities in its drainage area, whether or not initially included within its boundaries. Any municipality, by resolution adopted by a majority of all members of its governing body,

may request the annexation of all or part of its territory to the district, and the annexation shall become effective when approved by resolution adopted by a majority of all members of the board of directors of the district with the approval of the Minnesota Pollution Control Agency, or by order of the Minnesota Pollution Control Agency made under authority of Laws 1963, chapter 874. Nothing in sections 115.61 to 115.67 shall be construed as abrogating any statutory authority or responsibility of the Minnesota Pollution Control Agency. All territory annexed shall be subject to taxation by the district like other property within its boundaries for the support of its facilities and for the payment of principal and interest thereafter becoming due on its indebtedness, whether authorized or incurred before or after the annexation.

History: *1965 c 895 s 5; 1969 c 9 s 21; 1973 c 123 art 5 s 7*

115.66 SEVERABILITY.

If any provision of sections 115.61 to 115.67 or the application thereof to any person or circumstances is held to be invalid, such invalidity shall not affect other provisions or applications of sections 115.61 to 115.67 which can be given effect without the invalid provision or application, and to this end the provisions of sections 115.61 to 115.67 and the various applications thereof are declared to be severable.

History: *1965 c 895 s 6*

115.67 CITATION.

Sections 115.61 to 115.67 may be cited as the "Regional Sanitary Sewer District Law."

History: *1965 c 895 s 7*

WATER SUPPLY SYSTEMS, WASTEWATER TREATMENT FACILITIES, AND OPERATOR CERTIFICATES

115.71 DEFINITIONS.

Subdivision 1. **Applicability.** As used in sections 115.71 to 115.77, the terms defined in this section have the meanings given them.

Subd. 2. MS 1994 [Repealed, 1995 c 180 s 16]

Subd. 3. MS 1994 [Repealed, 1995 c 180 s 16]

Subd. 3a. MS 1994 [Repealed, 1995 c 180 s 16]

Subd. 4. MS 2018 [Repealed, 2020 c 83 art 1 s 103]

Subd. 4a. **Population equivalent.** "Population equivalent" means a number determined by dividing a daily pound load of five-day, 20-degree-centigrade carbonaceous biochemical oxygen demand (CBOD) of raw sewage by 0.17.

Subd. 5. MS 1990 [Renumbered subd 9]

Subd. 5. **Wastewater certificate.** "Wastewater certificate" means a certificate of competency issued by the commissioner of the Pollution Control Agency stating that the wastewater treatment facility operator has met the requirements for the specified operator classification of the certification program.

Subd. 6. MS 1990 [Renumbered subd 5]

Subd. 6. **Wastewater treatment facility.** "Wastewater treatment facility" means any plant, disposal field, lagoon, or other works not specifically mentioned herein, installed for the purpose of collecting, pumping, treating, stabilizing or disposing of sewage, as defined in section 115.01, subdivision 17, which is actually used or intended for use by the public or by any considerable number of persons.

Subd. 7. MS 1990 [Repealed, 1991 c 202 s 42]

Subd. 8. MS 1990 [Renumbered subd 6]

Subd. 8. **Wastewater treatment facility operator.** "Wastewater treatment facility operator" means a person who has direct responsibility for the operation of or operates a wastewater treatment facility.

Subd. 9. MS 1991 Supp [Renumbered subd 10]

Subd. 9. **Water certificate.** "Water certificate" means a certificate of competency issued by the commissioner of health stating that the water supply system operator has met the requirements for the specified operator classification of the certification program.

Subd. 9a. **Water supply system.** "Water supply system" means a community or nontransient noncommunity water system as defined in Code of Federal Regulations, title 40, section 141.2, as amended.

Subd. 10. MS 1990 [Renumbered subd 8]

Subd. 10. **Water supply system operator.** "Water supply system operator" means a person who has direct responsibility for the operation of or operates a water supply system or such parts of the system as would affect the quality and safety of the water.

History: *1971 c 828 s 1; 1975 c 271 s 4; 1976 c 149 s 21; 1977 c 66 s 9; 1977 c 305 s 45; 1987 c 186 s 15; 1991 c 202 s 2,3; 1995 c 180 s 1-6; 1999 c 66 s 1,2*

115.72 RULES.

Subdivision 1. **Classification.** (a) The commissioner of health shall jointly with the agency adopt rules relating to the classification of all water supply systems actually used or intended for use by the public.

(b) The Pollution Control Agency shall jointly with the commissioner of health adopt rules relating to the classification of all wastewater treatment facilities actually used or intended for use by the public or by any considerable number of persons.

(c) The classes described in paragraphs (a) and (b) shall be based on the degree of hazard to public health, the type of unit process, the loading of the plant, and the population served or the population equivalent of the sewage handled.

Subd. 2. **Certification qualifications.** The commissioner of health and the agency shall jointly adopt rules relating to the certification qualifications for each classification of water supply system operators and wastewater facility operators, respectively. The rules must provide for at least one annual examination for each class of certificate and must include, but are not limited to:

(1) education requirements;

(2) education substitution provisions;

(3) experience requirements;

(4) experience substitution provisions;

(5) examination content requirements, testing procedures, and criteria for passing;

(6) certificate renewal requirements;

(7) schedules for submitting applications and fees; and

(8) reinstatement requirements for expired, suspended, or revoked certificates.

History: *1971 c 828 s 2; 1977 c 305 s 45; 1987 c 186 s 15; 1995 c 180 s 7; 2020 c 83 art 1 s 18*

115.73 CERTIFICATION REQUIRED.

A person may not operate a water supply system or wastewater treatment facility unless the system or facility maintains at least one person that:

(1) is certified in a class equal to or higher than the class of the system or facility; and

(2) has full and active responsibility for the daily on-site operation of the system or facility, or of a portion of the system or facility if an additional operator or operators with appropriate certification are responsible for the remaining portions.

History: *1971 c 828 s 3; 1976 c 149 s 62 subd 6; 1977 c 305 s 45; 1987 c 186 s 15; 1995 c 180 s 8*

115.74 MS 1994 [Repealed, 1995 c 180 s 16]

115.741 MS 2018 [Repealed, 2014 c 286 art 7 s 1]

115.7411 ADVISORY COUNCIL ON WATER SUPPLY SYSTEMS AND WASTEWATER TREATMENT FACILITIES.

Subdivision 1. **Purpose; membership.** The Advisory Council on Water Supply Systems and Wastewater Treatment Facilities shall advise the commissioners of health and the Pollution Control Agency regarding classification of water supply systems and wastewater treatment facilities, qualifications and competency evaluation of water supply system operators and wastewater treatment facility operators, and additional laws, rules, and procedures that may be desirable for regulating the operation of water supply systems and of wastewater treatment facilities. The advisory council is composed of 11 voting members, of whom:

(1) one member must be from the Department of Health, Division of Environmental Health, appointed by the commissioner of health;

(2) one member must be from the Pollution Control Agency appointed by the commissioner of the Pollution Control Agency;

(3) three members must be certified water supply system operators, appointed by the commissioner of health, one of whom must represent a nonmunicipal community or nontransient noncommunity water supply system;

(4) three members must be certified wastewater treatment facility operators, appointed by the commissioner of the Pollution Control Agency;

(5) one member must be a representative from an organization representing municipalities, appointed by the commissioner of health with the concurrence of the commissioner of the Pollution Control Agency; and

(6) two members must be members of the public who are not associated with water supply systems or wastewater treatment facilities. One must be appointed by the commissioner of health and the other by the commissioner of the Pollution Control Agency. Consideration should be given to one of these members being a representative of academia knowledgeable in water or wastewater matters.

Subd. 2. **Geographic representation.** At least one of the water supply system operators and at least one of the wastewater treatment facility operators must be from outside the seven-county metropolitan area and one wastewater treatment facility operator must be from the Metropolitan Council.

Subd. 3. **Terms; compensation.** The terms of the appointed members and the compensation and removal of all members are governed by section 15.059.

Subd. 4. **Officers.** When new members are appointed to the council, a chair must be elected at the next council meeting. The Department of Health representative shall serve as secretary of the council.

History: *2023 c 70 art 4 s 12*

115.75 OPERATOR CERTIFICATES.

Subdivision 1. **Issuance.** The commissioners of health and the Pollution Control Agency shall issue certificates to water supply system operators and wastewater treatment facility operators, respectively, who meet the requirements of the rules adopted under section 115.72. Each certificate must indicate the classification of the system or facility which the operator is qualified to operate.

Subd. 2. **Display.** Certificates must be prominently displayed in the office of the operator or other appropriate place on the premises of the plant or treatment facility.

Subd. 3. **Validity.** Certificates are valid for a period of three years unless revoked or suspended by the commissioner of health or the commissioner of the Pollution Control Agency prior to that time. Certificates may be renewed upon application to the appropriate commissioner.

Subd. 4. **Denial, refusal to renew, revocation, and suspension.** The commissioner of health and the commissioner of the Pollution Control Agency may deny, refuse to renew, revoke, or suspend the certification of a water supply system operator or a wastewater treatment facility operator, respectively, in accordance with section 144.99, subdivisions 8 to 10.

Subd. 5. **Expiration.** The certificates of operators who terminate their employment at a water supply system or wastewater treatment facility will remain valid for the unexpired term of the certificate. Operators whose certificates expire under this section may be issued new certificates of a like classification provided appropriate proof of competency is submitted to the appropriate commissioner. Successful completion of an examination may be required.

Subd. 6. **Records.** The commissioner of health shall maintain records relating to certification of water supply system operators, and the commissioner of the Pollution Control Agency shall maintain records relating to certification of wastewater treatment facility operators.

History: *1971 c 828 s 5; 1976 c 149 s 62 subd 6; 1977 c 305 s 45; 1986 c 444; 1987 c 186 s 15; 1995 c 180 s 10*

115.76 RECIPROCITY.

The commissioner of health, in the case of water supply system operators, and the commissioner of the Pollution Control Agency, in the case of wastewater treatment facility operators, upon application, may

issue certificates without examination, in a comparable classification to any person who holds a certificate in any state, territory, or possession of the United States or any country, providing the requirements for certification of operators under which the person's certificate was issued do not conflict with the provisions of sections 115.71 to 115.77 and are of a standard not lower than that specified by rules adopted under sections 115.71 to 115.77.

History: *1971 c 828 s 6; 1976 c 149 s 62 subd 6; 1977 c 305 s 45; 1985 c 248 s 70; 1987 c 186 s 15; 1995 c 180 s 11*

115.77 FEES.

Subdivision 1. **Fees.** The agency shall collect fees in amounts necessary, but no greater than the amounts necessary, to cover the reasonable costs of reviewing applications and issuing certifications.

Subd. 2. **Paying fees.** All fees established in subdivision 1 must be paid to the commissioner of health, in the case of water supply system operators, and to the commissioner of the Pollution Control Agency, in the case of wastewater treatment facility operators. The fees received must be deposited in the state treasury and credited to the special revenue fund.

History: *1971 c 828 s 7; 1976 c 149 s 62 subd 6; 1995 c 180 s 12; 2003 c 112 art 2 s 50; 2009 c 37 art 1 s 40*

115.78 MS 1994 [Repealed, 1995 c 180 s 16]

115.79 MS 1994 [Repealed, 1995 c 180 s 16]

115.80 MS 1994 [Repealed, 1995 c 180 s 16]

115.81 MS 1971 [Repealed, 1973 c 374 s 22]

115.82 MS 1994 [Repealed, 1995 c 180 s 16]

115.83 [Expired]

115.84 WASTEWATER LABORATORY CERTIFICATION.

Subdivision 1. **Wastewater laboratory; certification required.** (a) Laboratories performing wastewater or water analytical laboratory work, the results of which are reported to the agency to determine compliance with a national pollutant discharge elimination system (NPDES) or state disposal system (SDS) permit condition or other regulatory document, must be certified according to this section.

(b) This section does not apply to:

(1) laboratories that are private and for-profit;

(2) laboratories that perform drinking water analyses; or

(3) laboratories that perform remediation program analyses, such as Superfund or petroleum analytical work.

(c) Until adoption of rules under subdivision 2, laboratories required to be certified under this section that submit data to the agency must: (1) register with the agency by submitting registration information required by the agency; or (2) be certified or accredited by a recognized authority, such as the commissioner of health under sections 144.97 to 144.99, for the analytical methods required by the agency.

Subd. 2. **Rules.** The agency may adopt rules to govern certification of laboratories according to this section. Notwithstanding section 16A.1283, the agency may adopt rules establishing fees.

Subd. 3. **Fees.** (a) Until the agency adopts a rule establishing fees for certification, the agency shall collect fees from laboratories registering with the agency, but not accredited by the commissioner of health under sections 144.97 to 144.99, in amounts necessary to cover the reasonable costs of the certification program, including reviewing applications, issuing certifications, and conducting audits and compliance assistance.

(b) Fees under this section must be based on the number, type, and complexity of analytical methods that laboratories are certified to perform.

(c) Revenue from fees charged by the agency for certification shall be credited to the environmental fund.

Subd. 4. **Enforcement.** (a) The commissioner may deny, suspend, or revoke wastewater laboratory certification for, but is not limited to, any of the following reasons: fraud, failure to follow applicable requirements, failure to respond to documented deficiencies or complete corrective actions necessary to address deficiencies, failure to pay certification fees, or other violations of federal or state law.

(b) This section and the rules adopted under it may be enforced by any means provided in section 115.071.

History: *2013 c 114 art 4 s 76*