CHAPTER 116

POLLUTION CONTROL AGENCY

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GENERAL

116.01 POLICY.

To meet the variety and complexity of problems relating to water, air and land pollution in the areas of the state affected thereby, and to achieve a reasonable degree of purity of water, air and land resources of

the state consistent with the maximum enjoyment and use thereof in furtherance of the welfare of the people of the state, it is in the public interest that there be established a Pollution Control Agency.

History: *1967 c 882 s 1; 1969 c 1046 s 1*

116.011 MS 2022 [Repealed, 2023 c 60 art 3 s 38]

116.02 POLLUTION CONTROL AGENCY; CREATION AND POWERS.

Subdivision 1. **Creation.** A pollution control agency, designated as the Minnesota Pollution Control Agency, is hereby created.

Subd. 2. MS 2014 [Repealed, 1Sp2015 c 4 art 4 s 150]

Subd. 3. MS 2014 [Repealed, 1Sp2015 c 4 art 4 s 150]

Subd. 4. MS 2014 [Repealed, 1Sp2015 c 4 art 4 s 150]

Subd. 5. **Agency successor to commission.** The Pollution Control Agency is the successor of the Water Pollution Control Commission, and all powers and duties now vested in or imposed upon said commission by chapter 115, or any act amendatory thereof or supplementary thereto, are hereby transferred to, imposed upon, and vested in the commissioner of the Pollution Control Agency.

Subd. 6. MS 2014 [Repealed, 1Sp2015 c 4 art 4 s 150]

Subd. 7. MS 2014 [Repealed, 1Sp2015 c 4 art 4 s 150]

Subd. 8. MS 2014 [Repealed, 1Sp2015 c 4 art 4 s 150]

Subd. 9. MS 2014 [Repealed, 1Sp2015 c 4 art 4 s 150]

Subd. 10. MS 2014 [Repealed, 1Sp2015 c 4 art 4 s 150]

History: *1967 c 882 s 2; 1969 c 1038 s 1,2; 1973 c 35 s 27; 1976 c 134 s 25-27; 1980 c 509 s 26; 1Sp1981 c 4 art 1 s 73; 1986 c 444; 1995 c 168 s 7; 1996 c 348 s 1; 1996 c 405 s 1-5; 1Sp2015 c 4 art 4 s 114,115*

116.03 COMMISSIONER.

Subdivision 1. **Office.** (a) The Office of Commissioner of the Pollution Control Agency is created and is under the supervision and control of the commissioner, who is appointed by the governor under the provisions of section 15.06.

(b) The commissioner may appoint a deputy commissioner and assistant commissioners who shall be in the unclassified service.

(c) The commissioner shall make all decisions on behalf of the agency.

Subd. 2. **Organization of office.** The commissioner shall organize the agency and employ such assistants and other officers, employees and agents as the commissioner may deem necessary to discharge the functions of the commissioner's office, define the duties of such officers, employees and agents, and delegate to them any of the commissioner's powers, duties, and responsibilities, subject to the commissioner's control and under such conditions as the commissioner may prescribe. The commissioner may also contract with, and enter into grant agreements with, persons, firms, corporations, the federal government and any agency or instrumentality thereof, the Water Research Center of the University of Minnesota or any other instrumentality

of such university, for doing any of the work of the commissioner's office. None of the provisions of chapter 16C, relating to bids, shall apply to such contracts.

Subd. 2a. **Mission; efficiency.** It is part of the agency's mission that within the agency's resources the commissioner shall endeavor to:

(1) prevent the waste or unnecessary spending of public money;

(2) use innovative fiscal and human resource practices to manage the state's resources and operate the agency as efficiently as possible;

(3) coordinate the agency's activities wherever appropriate with the activities of other governmental agencies;

(4) use technology where appropriate to increase agency productivity, improve customer service, increase public access to information about government, and increase public participation in the business of government;

(5) utilize constructive and cooperative labor-management practices to the extent otherwise required by chapters 43A and 179A;

(6) report to the legislature on the performance of agency operations and the accomplishment of agency goals in the agency's biennial budget according to section 16A.10, subdivision 1; and

(7) recommend to the legislature appropriate changes in law necessary to carry out the mission and improve the performance of the agency.

Subd. 2b. **Permitting efficiency.** (a) It is the goal of the state that environmental and resource management permits be issued or denied within 90 days for tier 1 permits or 150 days for tier 2 permits following submission of a permit application. The commissioner of the Pollution Control Agency must establish management systems designed to achieve the goal. For the purposes of this section, "tier 1 permits" are permits that do not require individualized actions or public comment periods, and "tier 2 permits" are permits that require individualized actions or public comment periods. Goals established in this paragraph do not apply to permit applications required due to agency enforcement actions.

(b) The commissioner must prepare an annual permitting efficiency report that includes statistics on meeting the tier 2 goal in paragraph (a) and the criteria for tier 2 by permit categories. The report must be submitted to the governor and to the chairs and ranking minority members of the house of representatives and senate committees having jurisdiction over environment policy and finance by October 1 each year and must be posted on the agency's website. The report must include:

(1) for each permit application that has not met the goal, an explanation of whether the delay was caused by the responsiveness of the proposer, lack of staff, scientific or technical disagreements, or the level of public engagement;

(2) for each permit that has not met the goal, the number of days from initial submission of the application to the day of determination that the application is complete;

(3) a summary of the data for the reporting period and an assessment of whether program or system changes are necessary to achieve the tier 2 goal in paragraph (a);

(4) a statement of the number of tier 2 permits completed within the reporting period and, immediately following in parentheses, a statement of the percentage of total applications received for that tier 2 permit category that the number represents, stated separately for industrial and municipal permits; and

(5) for permits that did not meet the goal due to lack of staff, a combined estimate of the aggregate staff resources that would have been necessary for all affected permits to meet the goal.

(c) The commissioner must allow electronic submission of environmental review and permit documents to the agency.

(d) Within 30 business days of application for a permit subject to paragraph (a), the commissioner of the Pollution Control Agency must notify the permit applicant, in writing, of all deficiencies while citing specific provisions of the applicable rules and statutes, and must advise the applicant on how the deficiencies can be remedied. The applicant has five business days to remedy all identified deficiencies before the commissioner determines that the application is complete or incomplete. If the commissioner determines that the application is complete, the commissioner must confirm the application's tier 1 or tier 2 permit status. If the commissioner believes that a complete application for a tier 2 construction permit cannot be issued within the 150-day goal, the commissioner must provide notice to the applicant with the commissioner's notice that the application is complete and, upon request of the applicant, provide the permit applicant with a schedule estimating when the agency will begin drafting the permit and issue the public notice of the draft permit. This paragraph does not apply to an application for a permit that is subject to a grant or loan agreement under chapter 446A.

(e) For purposes of this subdivision, "permit professional" means an individual not employed by the Pollution Control Agency who:

(1) has a professional license issued by the state of Minnesota in the subject area of the permit;

(2) has at least ten years of experience in the subject area of the permit; and

(3) abides by the duty of candor applicable to employees of the Pollution Control Agency under agency rules and complies with all applicable requirements under chapter 326.

(f) Upon the agency's request, an applicant relying on a permit professional must participate in a meeting with the agency before submitting an application:

(1) at least two weeks prior to the preapplication meeting, the applicant must submit at least the following:

(i) project description, including, but not limited to, scope of work, primary emissions points, discharge outfalls, and water intake points;

(ii) location of the project, including county, municipality, and location on the site;

(iii) business schedule for project completion; and

(iv) other information requested by the agency at least four weeks prior to the scheduled meeting; and

(2) during the preapplication meeting, the agency must provide for the applicant at least the following:

(i) an overview of the permit review program;

(ii) a determination of which specific application or applications will be necessary to complete the project;

(iii) a statement notifying the applicant if the specific permit being sought requires a mandatory public hearing or comment period;

(iv) a review of the timetable established in the permit review program for the specific permit being sought; and

(v) a determination of what information must be included in the application, including a description of any required modeling or testing.

(g) The applicant may select a permit professional to undertake the preparation of the permit application and draft permit.

(h) If a preapplication meeting was held, the agency must, within seven business days of receipt of an application, notify the applicant and submitting permit professional that the application is complete or is denied, specifying the deficiencies of the application.

(i) Upon receipt of notice that the application is complete, the permit professional must submit to the agency a timetable for submitting a draft permit. The permit professional must submit a draft permit on or before the date provided in the timetable. Within 60 days after the close of the public comment period, the commissioner must notify the applicant whether the permit can be issued.

(j) Nothing in this section shall be construed to modify:

(1) any requirement of law that is necessary to retain federal delegation to or assumption by the state; or

(2) the authority to implement a federal law or program.

(k) The permit application and draft permit must identify or include as an appendix all studies and other sources of information used to substantiate the analysis contained in the permit application and draft permit. The commissioner must request additional studies, if needed, and the permit applicant must submit all additional studies and information necessary for the commissioner to perform the commissioner's responsibility to review, modify, and determine the completeness of the application and approve the draft permit.

Subd. 3. **Federal funds.** (a) The commissioner of the Pollution Control Agency is the state agent to apply for, receive, and disburse federal funds made available to the state by federal law or rules and regulations promulgated thereunder for any purpose related to the powers and duties of the Pollution Control Agency or the commissioner. The commissioner shall comply with any and all requirements of such federal law or such rules and regulations promulgated thereunder to facilitate application for, receipt, and disbursement of such funds. All such moneys received by the commissioner shall be deposited in the state treasury and are hereby annually appropriated to the commissioner for the purposes for which they are received. None of such moneys in the state treasury shall cancel and they shall be available for expenditure in accordance with the requirements of federal law.

(b) The provisions of section 3.3005 shall not apply to money available under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, United States Code, title 42, sections 9601 to 9657, for which a state match is not required or for which a state match is available under the Environmental Response and Liability Act or from a political subdivision. The receipt of the money shall be reported to the Legislative Advisory Commission.

Subd. 4. MS 1994 [Repealed by amendment, 1996 c 405 s 6]

Subd. 5. MS 1994 [Repealed by amendment, 1996 c 405 s 6]

Subd. 6. MS 1994 [Repealed by amendment, 1996 c 405 s 6]

Subd. 7. **Draft permits; public notice.** When public notice of a draft individual tier 2 permit is required, the commissioner must provide to the applicant a draft permit for review by the applicant within 30 days after determining the proposal conforms to all federal and state laws and rules, unless the permit applicant and the commissioner mutually agree to a different date. The commissioner must consider all comments submitted by the applicant before issuing the permit.

History: *1967 c 882 s 3; 1974 c 406 s 9; 1974 c 483 s 2; 1977 c 305 s 19,45; 1982 c 458 s 1; 1983 c 301 s 111; 1986 c 444; 1987 c 186 s 15; 1991 c 326 s 6; 1995 c 186 s 31; 1995 c 248 art 11 s 7; 1996 c 405 s 6; 1998 c 366 s 54; 1998 c 386 art 2 s 32; 2003 c 128 art 2 s 36; 2011 c 4 s 3; 2012 c 150 art 1 s 5; 2014 c 237 s 7; 2014 c 248 s 16; 1Sp2015 c 4 art 4 s 116,117; 2017 c 93 art 2 s 131,132; 1Sp2025 c 1 art 6 s 1*

116.035 ENVIRONMENTAL REVIEW AND PERMITTING; COORDINATED PROJECT PLANS.

Subdivision 1. **Definitions.** In this section, the following terms have the meanings given:

(1) "commissioner" means the commissioner of the Pollution Control Agency;

(2) "coordinated project plan" or "plan" means a plan to ensure that any required environmental review and associated required state agency actions are completed efficiently by coordinating and establishing deadlines for all necessary state agency actions;

(3) "eligible project" means a project that requires the commissioner to prepare an environmental assessment worksheet or an environmental impact statement under chapter 116D and associated permits; and

(4) "state agency" means the agency or any other office, board, commission, authority, department, or other agency of the executive branch of state government.

Subd. 2. **State policy.** It is the goal of the state to maximize the coordination, effectiveness, transparency, and accountability of environmental review, associated environmental permitting, and other regulatory actions for facilities in Minnesota.

Subd. 3. **Early communication; identifying issues.** To the extent practicable, the commissioner must establish and provide an expeditious process for a person that requests to confer with the agency and other state agencies about an eligible project. The agency must provide information about any identified challenging issues regarding the potential environmental impacts related to an eligible project, including any issues that could substantially delay a state agency from completing agency decisions and issues that must be addressed before an environmental assessment worksheet, environmental impact statement, final scoping decision, permit action, or other required action by a state agency can be started.

Subd. 4. **Plan preparation; participating agencies.** (a) A person who submits an application for an eligible project to the commissioner may request that the commissioner prepare a coordinated project plan to complete any required environmental review and associated agency actions for the eligible project.

(b) Within 60 days of receiving a request under paragraph (a), the commissioner must prepare a coordinated project plan in consultation with the requestor and other state agencies identified under paragraph (c). If an eligible project requires or otherwise includes the preparation of an environmental impact statement, the commissioner is required to prepare a coordinated project plan that first covers the period through a final scoping decision. Within 60 days of completion of the final scoping decision, the commissioner must update the coordinated project plan to include the remainder of the environmental review process as well as applicable

state permits and other state regulatory decisions. The coordinated project plan is subject to modification in accordance with subdivision 7.

(c) Any state agency that must make permitting or other regulatory decisions over the eligible project must participate in developing a coordinated project plan.

(d) If an eligible project requires environmental review and the Department of Natural Resources is the responsible governmental unit, then the Department of Natural Resources is the lead agency responsible for preparation of a coordinated project plan under section 84.0265. If an eligible project requires environmental review and the Pollution Control Agency is the responsible governmental unit, then the Pollution Control Agency is the lead agency responsible for preparation of a coordinated project under this section.

Subd. 5. **Plan contents; synchronization; updates.** (a) A coordinated project plan must include:

(1) a list of all state agencies known to have environmental review, permitting, or other regulatory authority over the eligible project and an explanation of each agency's specific role and responsibilities for actions under the coordinated project plan;

(2) a schedule for any formal public meetings; and

(3) a comprehensive schedule of deadlines by which all environmental reviews, permits, and other state agency actions must be completed. The deadlines established under this clause must include intermediate and final completion deadlines for actions by each state agency and must be consistent with subdivision 6, subject to modification in accordance with subdivision 7.

(b) The commissioner must update a coordinated project plan quarterly.

Subd. 6. **Required deadlines.** (a) Deadlines established in a coordinated project plan must comply with this subdivision unless an alternative time period is agreed upon by the commissioner and proposer.

(b) When an environmental assessment worksheet is prepared for an eligible project for which an environmental impact statement is not mandatory under Minnesota Rules, chapter 4410, the decision on the need for an environmental impact statement must be made as expeditiously as possible but no later than 18 months after the environmental assessment worksheet is deemed complete by the commissioner.

(c) When an environmental impact statement is prepared for an eligible project, the decision on the adequacy of the final environmental impact statement must be made as expeditiously as possible but no later than four years after the submitted data for the environmental assessment worksheet is deemed complete.

(d) If the commissioner includes plan deadlines that are inconsistent with paragraphs (b) and (c), then within 30 days of finalizing the plan, the commissioner must report to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over natural resources policy to explain how deadlines were established and why the deadlines under paragraphs (b) and (c) are not attainable.

Subd. 7. **Deadline compliance; modification.** (a) A state agency that participates in the commissioner's development coordinated project plan must comply with deadlines established in the plan. If a participating state agency fails to meet a deadline established in the coordinated project plan or anticipates failing to meet a deadline, the state agency must immediately notify the commissioner to explain the reason for the failure or anticipated failure and to propose a date for a modified deadline.

(b) The commissioner may modify a deadline established in the coordinated project plan if the project proposer fails to meet a deadline established in the coordinated project plan or provides inadequate information to meet that deadline, or if:

(1) the commissioner provides the person that requested the plan with a written justification for the modification; and

(2) the commissioner and the state agency, after consultation with the person that requested the plan, mutually agree on a different deadline.

(c) If the combined modifications to one or more deadlines established in a coordinated project plan extend the initially anticipated final decision date for an eligible project application by more than 20 percent, the commissioner must report to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over natural resources policy within 30 days to explain the reason the modifications are necessary. The commissioner must also notify the chairs and ranking minority members within 30 days of any subsequent extensions to the final decision date. The notification must include the reason for the extension and the history of any prior extensions. For purposes of calculating the percentage of time that modifications have extended the anticipated final decision date, modifications made necessary by reasons wholly outside the control of state agencies must not be considered.

Subd. 8. **Annual report.** As part of the annual permitting efficiency report required under section 116.03, the commissioner must report on progress toward required actions described in this section.

Subd. 9. **Relation to other law.** Nothing in this section is to be construed to require an act that conflicts with applicable state or federal law. Nothing in this section affects the specific statutory obligations of a state agency to comply with criteria or standards of environmental quality, water resource management, pollutant management, environmental justice, and public health.

History: *2024 c 116 art 7 s 2*

116.037 COORDINATION WITH MINNESOTA BUSINESS FIRST STOP.

It is the policy of this state that inquiries related to the permitting of a data center are also referred to the Minnesota Business First Stop Program administered by the Department of Employment and Economic Development under section 116J.035, subdivision 8. The commissioner of the Pollution Control Agency must take reasonable steps to ensure that agency permitting staff are aware of this policy and have the resources to efficiently refer those inquiries to Minnesota Business First Stop.

History: *1Sp2025 c 12 s 5*

116.04 EXECUTIVE SECRETARY.

The commissioner of the Pollution Control Agency is the executive secretary and chief executive officer of the Minnesota Pollution Control Agency and is responsible for performing the executive duties of such agency prescribed by law.

History: *1967 c 882 s 4; 1987 c 186 s 15*

116.05 COOPERATION.

Subdivision 1. **Other departments and agencies.** All state departments and agencies are hereby directed to cooperate with the Pollution Control Agency and its commissioner and assist them in the performance of their duties, and are authorized to enter into necessary agreements with the agency, and the Pollution Control Agency is authorized to cooperate and to enter into necessary agreements with other departments and agencies of the state, with municipalities, with other states, with the federal government and its agencies and instrumentalities, in the public interest and in order to control pollution under this chapter and chapter 115.

Subd. 2. **Governor's order.** Upon the request of the Pollution Control Agency the governor may, by order, require any department or agency of the state to furnish such assistance to the agency or its commissioner in the performance of its duties or in the exercise of the commissioner's powers imposed by law, as the governor may, in the order, designate or specify; and with the consent of the department or agency concerned, the governor may direct all or part of the cost or expense for the amount of such assistance to be paid from the general fund or appropriation in such amount as the governor may deem just and proper.

Subd. 3. **Air quality control regions.** (a) The Pollution Control Agency through its commissioner may designate air quality control regions which shall as far as practical follow regional boundaries designated by state statutes or executive order, and consider other jurisdictional boundaries, urban-industrial concentrations and other factors including atmospheric conditions and necessary procedures to provide adequate implementation of air quality standards. Within a designated air quality control region the Pollution Control Agency may by contract delegate its administrative powers to local governmental authorities to be exercised by such authorities within the region and within their own jurisdictional boundaries.

(b) Local governmental authorities which are delegated administrative powers shall have legal authority to conduct such activities, and, in conducting such activities, may enter into contracts, employ personnel, expend funds, acquire property and adopt ordinances for such purposes. Such ordinances may include provisions establishing permit or license requirements and fees therefor.

(c) With the approval of the Pollution Control Agency, local governmental authorities with jurisdiction wholly or in part within a designated region may enter into an agreement as provided by chapter 471 to exercise jointly all or some of the powers delegated by agreement with the Pollution Control Agency. The term "local governmental authorities" as used herein includes every city, county, town or other political subdivision and any agency of the state of Minnesota, or subdivision thereof, having less than statewide jurisdiction.

History: *1967 c 882 s 5; 1969 c 1046 s 2; Ex1971 c 14 s 1; 1973 c 123 art 5 s 7; 1973 c 374 s 19; 1986 c 444; 1987 c 186 s 15; 1989 c 335 art 4 s 106*

116.06 DEFINITIONS.

Subdivision 1. **Applicability.** The definitions given in this section shall obtain for the purposes of sections 116.01 to 116.075 except as otherwise expressly provided or indicated by the context.

Subd. 2. **Air contaminant or air contamination.** "Air contaminant" or "air contamination" means the presence in the outdoor atmosphere of any dust, fume, mist, smoke, vapor, gas, or other gaseous, fluid, or particulate substance differing in composition from or exceeding in concentration the natural components of the atmosphere.

Subd. 3. MS 1990 [Renumbered subd 4]

Subd. 3. **Air contaminant treatment facility or treatment facility.** "Air contaminant treatment facility" or "treatment facility" means any structure, work, equipment, machinery, device, apparatus, or other means for treatment of an air contaminant or combination thereof to prevent, abate, or control air pollution.

Subd. 4. MS 1990 [Renumbered subd 9]

Subd. 4. **Air pollution.** "Air pollution" means the presence in the outdoor atmosphere of any air contaminant or combination thereof in such quantity, of such nature and duration, and under such conditions as would be injurious to human health or welfare, to animal or plant life, or to property, or to interfere unreasonably with the enjoyment of life or property.

Subd. 4a. **Animal unit.** "Animal unit" means a unit of measure used to compare differences in the production of animal manure that employs as a standard the amount of manure produced on a regular basis by a slaughter steer or heifer for an animal feedlot or manure storage area calculated by multiplying the number of animals of each type in clauses (1) to (9) by the respective multiplication factor and summing the resulting values for the total number of animal units. For purposes of this chapter, the following multiplication factors apply:

(1) one mature dairy cow, whether milked or dry:

(i) over 1,000 pounds, 1.4 animal units; or

(ii) under 1,000 pounds, 1.0 animal unit;

(2) one cow and calf pair, 1.2 units;

(3) one calf, 0.2 unit;

(4) one slaughter steer, 1.0 animal unit;

(5) head of feeder cattle or heifer, 0.7 unit;

(6) one head of swine:

(i) over 300 pounds, 0.4 animal unit;

(ii) between 55 pounds and 300 pounds, 0.3 animal unit; and

(iii) under 55 pounds, 0.05 animal unit;

(7) one horse, 1.0 animal unit;

(8) one sheep or lamb, 0.1 animal unit;

(9) one chicken:

(i) one laying hen or broiler, if the facility has a liquid manure system, 0.033 animal unit; or

(ii) one chicken if the facility has a dry manure system:

(A) over five pounds, 0.005 animal unit; or

(B) under five pounds, 0.003 animal unit;

(10) one turkey:

(i) over five pounds, 0.018 animal unit; or

(ii) under five pounds, 0.005 animal unit;

(11) one duck, 0.01 animal unit; and

(12) for animals not listed in clauses (1) to (8), the number of animal units is the average weight of the animal in pounds divided by 1,000 pounds.

Subd. 5. MS 1990 [Renumbered subd 10]

Subd. 5. **Assistant commissioner.** "Assistant commissioner" means the assistant commissioner of the Minnesota Pollution Control Agency.

Subd. 6. MS 1990 [Renumbered subd 3]

Subd. 6. **Collection.** "Collection" of waste has the meaning given it in section 115A.03.

Subd. 7. MS 1990 [Renumbered subd 18]

Subd. 7. **Deputy commissioner.** "Deputy commissioner" means the deputy commissioner of the Minnesota Pollution Control Agency.

Subd. 8. MS 1990 [Renumbered subd 17]

Subd. 8. **Disposal.** "Disposal" of waste has the meaning given it in section 115A.03.

Subd. 9. MS 1990 [Renumbered subd 14]

Subd. 9. **Emission.** "Emission" means a release or discharge into the outdoor atmosphere of any air contaminant or combination thereof.

Subd. 9a. [Renumbered subd 23]

Subd. 9b. [Renumbered subd 24]

Subd. 9c. [Renumbered subd 6]

Subd. 9d. [Renumbered subd 19]

Subd. 9e. [Renumbered subd 8]

Subd. 9f. [Renumbered subd 12]

Subd. 9g. [Renumbered subd 13]

Subd. 9h. [Renumbered subd 20]

Subd. 9i. [Renumbered subd 21]

Subd. 10. MS 1990 [Renumbered subd 22]

Subd. 10. **Emission facility.** "Emission facility" means any structure, work, equipment, machinery, device, apparatus, or other means whereby an emission is caused to occur.

Subd. 11. MS 1990 [Renumbered subd 15]

Subd. 11. **Hazardous waste.** "Hazardous waste" means any refuse, sludge, or other waste material or combinations of refuse, sludge or other waste materials in solid, semisolid, liquid, or contained gaseous form which because of its quantity, concentration, or chemical, physical, or infectious characteristics may (a) cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or (b) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed. Categories of hazardous waste materials include, but are not limited to: explosives, flammables, oxidizers, poisons, irritants, and corrosives. Hazardous waste does not include source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended.

Subd. 12. MS 1990 [Renumbered subd 16]

Subd. 12. **Intrinsic hazard.** "Intrinsic hazard" of a waste has the meaning given it in section 115A.03.

Subd. 13. MS 1990 [Renumbered subd 11]

Subd. 13. **Intrinsic suitability.** "Intrinsic suitability" of a land area or site has the meaning given it in section 115A.03.

Subd. 14. MS 1990 [Renumbered subd 7]

Subd. 14. **Land pollution.** "Land pollution" means the presence in or on the land of any waste in such quantity, of such nature and duration, and under such condition as would affect injuriously any waters of the state, create air contaminants or cause air pollution.

Subd. 15. MS 1990 [Renumbered subd 5]

Subd. 15. **Noise.** "Noise" means any sound not occurring in the natural environment, including, but not limited to, sounds emanating from aircraft and highways, and industrial, commercial, and residential sources.

Subd. 16. **Noise pollution.** "Noise pollution" means the presence in the outdoor atmosphere of any noise or combination of noises in such quantity, at such levels, of such nature and duration or under such conditions as could potentially be injurious to human health or welfare, to animal or plant life, or to property, or could interfere unreasonably with the enjoyment of life or property.

Subd. 16a. **Pastures.** "Pastures" means areas, including winter feeding areas as part of a grazing area, where grass or other growing plants are used for grazing of livestock and where the concentration of animals allows a vegetative cover to be maintained during the growing season. Pastures also includes agricultural land that is used for growing crops during the growing season and is used for grazing of livestock on vegetation or crop residues during the winter. In either case, a cover of vegetation or crop residues is not required:

(1) in the immediate vicinity of supplemental feeding or watering devices;

(2) in associated corrals and chutes where livestock are gathered for the purpose of sorting, veterinary services, loading and unloading trucks and trailers, and other necessary activities related to good animal husbandry practices;

(3) in associated livestock access lanes used to convey livestock to and from areas of the pasture; and

(4) in sacrificial areas:

(i) that are part of a larger pasture system;

(ii) are used to temporarily accommodate livestock due to an extraordinary situation for as short a time period as possible not to exceed 90 days during the growing season;

(iii) are used to protect other pasture areas when adverse soil or weather conditions pose a risk of damaging the pastures; and

(iv) on which the vegetation is naturally restored or replanted after the adverse soil or weather conditions are removed and the livestock are moved to other areas of the pasture.

Subd. 17. **Person.** "Person" means any human being, any municipality or other governmental or political subdivision or other public agency, any public or private corporation, any partnership, firm, association, or

other organization, any receiver, trustee, assignee, agent, or other legal representative of any of the foregoing, or any other legal entity, but does not include the Pollution Control Agency.

Subd. 18. **Potential air contaminant storage facility or storage facility.** "Potential air contaminant storage facility" or "storage facility" means any structure, work, equipment, device, apparatus, tank, container, or other means for the storage or confinement, either stationary or in transit, of any substance which, if released or discharged into the outdoor atmosphere, might cause air contamination or air pollution.

Subd. 19. **Processing.** "Processing" of waste has the meaning given it in section 115A.03.

Subd. 20. **Sewage sludge.** "Sewage sludge" has the meaning given it in section 115A.03.

Subd. 21. **Sludge.** "Sludge" means any solid, semisolid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air contaminant treatment facility, or any other waste having similar characteristics and effects.

Subd. 22. **Solid waste.** "Solid waste" means garbage, refuse, sludge from a water supply treatment plant or air contaminant treatment facility, and other discarded waste materials and sludges, in solid, semisolid, liquid, or contained gaseous form, resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include hazardous waste; animal waste used as fertilizer; earthen fill, boulders, rock; concrete diamond grinding and saw slurry associated with the construction, improvement, or repair of a road when deposited on the road project site in a manner that is in compliance with best management practices and rules of the agency; sewage sludge; solid or dissolved material in domestic sewage or other common pollutants in water resources, such as silt, dissolved or suspended solids in industrial wastewater effluents or discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as amended, dissolved materials in irrigation return flows; or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended.

Subd. 23. **Waste.** "Waste" has the meaning given it in section 115A.03.

Subd. 24. **Waste management.** "Waste management" has the meaning given it in section 115A.03.

History: *1967 c 882 s 6; 1969 c 1046 s 3,4; 1971 c 727 s 1,2; 1973 c 35 s 29; 1974 c 346 s 1; 1974 c 483 s 3,4; 1980 c 564 art 11 s 1-4; 1Sp1981 c 4 art 1 s 74; 1983 c 373 s 42,43; 1987 c 186 s 15; 2000 c 435 s 3; 2012 c 161 s 1; 1Sp2019 c 1 art 2 s 16*

116.061 AIR POLLUTION; EMISSIONS AND ABATEMENT.

Subdivision 1. **Emission notification required.** (a) A person who controls the source of an emission must notify the agency immediately of excessive or abnormal unpermitted emissions that:

(1) may cause air pollution endangering human health;

(2) may cause air pollution damaging property; or

(3) cause obnoxious odors constituting a public nuisance.

(b) If a person who controls the source of an emission has knowledge of an event that has occurred and that will subsequently cause an emission described in paragraph (a), the person must notify the agency when the event occurs.

Subd. 2. **Abatement required.** A person who is required to notify the agency under subdivision 1 must take immediate and reasonable steps to minimize the emissions or abate the air pollution and obnoxious odors caused by the emissions.

Subd. 3. **Exemption.** The following are exempt from the requirements of subdivisions 1 and 2:

(1) emissions resulting from the activities of public fire services or law enforcement services;

(2) emissions from motor vehicles, as defined in section 169.011, subdivision 42;

(3) emissions from an agricultural operation deemed not a nuisance under section 561.19, subdivision 2; or

(4) emissions from agency regulated sources that are routine or authorized by the agency.

Subd. 4. **Penalty exception.** A person who notifies the agency of emissions under subdivision 1 and who complies with subdivision 2 shall not be subject to criminal prosecution under section 115.071, subdivision 2.

Subd. 5. **Use of notification.** Any notice submitted under subdivision 1 is not admissible in any proceeding as an admission of causation.

History: *1988 c 600 s 1*

116.062 AIR TOXICS EMISSIONS REPORTING.

(a) This section applies to facilities that are subject to paragraph (b) and are located in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, or Washington.

(b) The commissioner must require owners and operators of a facility issued an air quality permit by the agency, except a facility issued an Option B registration permit under Minnesota Rules, part 7007.1120, to annually report the facility's air toxics emissions to the agency, including a facility not required as a condition of its air quality permit to keep records of air toxics emissions. The commissioner must determine the method to be used by a facility to directly measure or estimate air toxics emissions. The commissioner must amend permits and complete rulemaking, and may enter into enforceable agreements with facility owners and operators, in order to make the reporting requirements under this section enforceable.

(c) For the purposes of this section, "air toxics" means chemical compounds or compound classes that are emitted into the air by a permitted facility and that are:

(1) hazardous air pollutants listed under the federal Clean Air Act, United States Code, title 42, section 7412, as amended;

(2) chemicals reported as released into the atmosphere by a facility located in the state for the Toxic Release Inventory under the federal Emergency Planning and Community Right-to-Know Act, United States Code, title 42, section 11023, as amended;

(3) chemicals for which the Department of Health has developed health-based values or risk assessment advice;

(4) chemicals for which the risk to human health has been assessed by either the federal Environmental Protection Agency's Integrated Risk Information System; or

(5) chemicals reported by facilities in the agency's most recent triennial emissions inventory.

History: *2023 c 60 art 8 s 2*

116.064 ODOR MANAGEMENT.

Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms have the meanings given.

(b) "Objectionable odor" means pollution of the ambient air beyond the property line of a facility consisting of an odor that, considering its characteristics, intensity, frequency, and duration:

(1) is, or can reasonably be expected to be, injurious to public health or welfare; or

(2) unreasonably interferes with the enjoyment of life or the use of property of persons exposed to the odor.

(c) "Odor complaint" means a notification received and recorded by the agency or by a political subdivision from an identifiable person that describes the nature, duration, and location of the odor.

Subd. 2. **Application.** This section applies to facilities that are located in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, or Washington.

Subd. 3. **Prohibition.** No person may cause or allow emission into the ambient air of any substance or combination of substances in quantities that produce an objectionable odor beyond the property line of the facility that is the source of the odor.

Subd. 4. **Odor complaints; investigation.** (a) The agency must conduct a site investigation of any facility against which ten or more verifiable odor complaints have been submitted to the agency or to local government officials within 48 hours. The investigation must include:

(1) an interview with the owner or operator of the facility against which the complaint was made;

(2) a physical examination of the facilities, equipment, operations, conditions, methods, storage areas for material inputs, chemicals and waste, and any other factors that may contribute to or are designed to mitigate the emission of odors; and

(3) testing at locations identified in the odor complaints and at other locations beyond the property line of the facility that is the source of the odor using a precision instrument capable of measuring odors in ambient air.

(b) The commissioner, based upon the agency's site investigation and the results of odor testing and considering the nature, intensity, frequency, and duration of the odor and other relevant factors, shall determine whether the odor emitted from the facility constitutes an objectionable odor. In making the determination, the commissioner may consider the opinions of a random sample of persons exposed to samples of the odor taken from ambient air beyond the property line of the facility that is the source of the odor.

(c) The agency must notify officials in local jurisdictions:

(1) of odor complaints filed with the agency regarding properties within the local jurisdiction;

(2) of any investigation of an odor complaint conducted by the agency at a facility within the local jurisdiction and the results of the investigation;

(3) that odor complaints filed with respect to properties located within those jurisdictions must be forwarded to the agency within three business days of being filed; and

(4) of any additional actions taken by the agency with respect to the complaints.

Subd. 5. **Objectionable odor; management plan.** (a) If the commissioner determines under subdivision 4 that the odor emitted from a facility is an objectionable odor, the commissioner shall require the owner of the facility to develop and submit to the agency for review within 90 days an odor management plan designed to mitigate odor emissions. The agency must provide technical assistance to the property owner in developing a management plan, including:

(1) identifying odor control technology and equipment that may reduce odor emissions; and

(2) identifying alternative methods of operation or alternative materials that may reduce odor emissions.

The commissioner may grant an extension for submission of the odor management plan for up to an additional 90 days for good cause.

(b) An odor management plan must contain, at a minimum, for each odor source contributing to odor emissions:

(1) a description of plant operations and materials that generate odors;

(2) proposed changes in equipment, operations, or materials that are designed to mitigate odor emissions;

(3) the estimated effectiveness of the plan in reducing odor emissions;

(4) the estimated cost of implementing the plan; and

(5) a schedule of plan implementation activities.

(c) The commissioner may accept, reject, or modify an odor management plan submitted under this subdivision.

(d) If the commissioner, based upon the same factors considered under subdivision 4, paragraph (b), determines that implementation of the odor management plan has failed to reduce the facility's odor emissions to a level where they are no longer objectionable odors, the commissioner shall order the facility owner to revise the odor management plan within 90 days of receipt of the commissioner's order. If the revised odor management plan is not acceptable to the commissioner or is implemented but fails to reduce the property's odor emissions to a level where they are no longer objectionable odors, the commissioner may impose penalties under section 115.071 or may modify or revoke the facility's permit under section 116.07, subdivision 4a, paragraph (d).

Subd. 6. **Exemptions.** This section does not apply to:

(1) on-farm animal and agricultural operations;

(2) motor vehicles and transportation facilities;

(3) municipal wastewater treatment plants;

(4) single-family dwellings not used for commercial purposes;

(5) materials odorized for safety purposes;

(6) painting and coating operations that are not required to be licensed;

(7) restaurants;

(8) temporary activities and operations;

(9) refineries; and

(10) Metropolitan Council wastewater systems.

Subd. 7. **Rulemaking required.** (a) The commissioner must adopt rules to implement this section, and section 14.125 does not apply.

(b) The commissioner must comply with chapter 14 and must complete the statement of need and reasonableness according to chapter 14 and section 116.07, subdivision 2, paragraph (f).

(c) The rules must include:

(1) an odor standard or standards for air pollution that may qualify as an objectionable odor under subdivision 1, paragraph (b), clause (2);

(2) a process for determining if an odor is objectionable;

(3) a process for investigating and addressing odor complaints;

(4) guidance for developing odor-management plans; and

(5) procedures and criteria for determining the success or failure of an odor-management plan.

History: *2023 c 60 art 3 s 20*

116.065 CUMULATIVE IMPACTS ANALYSIS; PERMIT DECISIONS IN ENVIRONMENTAL JUSTICE AREAS.

Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms have the meanings given.

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

(c) "Cumulative impacts" means the impacts of aggregated levels of past and current air, water, and land pollution in a defined geographic area to which current residents are exposed.

(d) "Environmental justice" means:

(1) the fair treatment and meaningful involvement of all people, regardless of race, color, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies; and

(2) in all decisions that have the potential to affect the environment of an environmental justice area or the public health of its residents, due consideration is given to the history of the area's and its residents' cumulative exposure to pollutants and to any current socioeconomic conditions that could increase harm to those residents from additional exposure to pollutants.

(e) "Environmental justice area" means one or more census tracts in Minnesota:

(1) in which, based on the most recent decennial census data published by the United States Census Bureau:

(i) 40 percent or more of the population is nonwhite;

(ii) 35 percent or more of the households have an income at or below 200 percent of the federal poverty level; or

(iii) 40 percent or more of the population over the age of five has limited English proficiency; or

(2) located within Indian Country.

(f) "Environmental stressors" means factors that may make residents of an environmental justice area susceptible to harm from exposure to pollutants. Environmental stressors include:

(1) environmental effects on health from exposure to past and current pollutants in the environmental justice area, including any biomonitoring data from residents reported through the Centers for Disease Control, the Department of Health, or peer-reviewed scientific or medical articles; and

(2) social and environmental factors, including but not limited to poverty, substandard housing, food insecurity, elevated rates of disease, and poor access to health insurance and medical care.

(g) "Indian Country" has the meaning given in United States Code, title 18, section 1151.

(h) "Permit" means a major source air permit, as defined in Minnesota Rules, part 7007.0200, or a state air permit required under Minnesota Rules, part 7007.0250, subpart 5 or 6. Permit includes a permit required for new construction or facility expansion or the reissuance of an existing permit.

Subd. 2. **Applicability.** (a) This section applies to an application for a permit by a facility that:

(1) is located in or within one mile of a census tract that is part of an environmental justice area; and

(2) is located:

(i) in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, or Washington; or

(ii) in a city of the first class.

(b) The commissioner must enter into consultation, consistent with section 10.65, regarding the application of this section to permit applications located in Indian Country. After consultation, the Tribal government with jurisdiction over the applicable environmental justice area may elect that the facility seeking the permit action be subject to this section and must so notify the commissioner in writing.

Subd. 3. **Cumulative impacts analysis; determination of need.** (a) The commissioner is responsible for determining:

(1) whether a proposed permit action may substantially impact the environment or health of the residents of an environmental justice area; and

(2) whether a cumulative impacts analysis is required.

(b) A permit application must include:

(1) the applicant's determination of whether the permit action sought is likely to impact the environment or the health of residents of an environmental justice area;

(2) the data used by the applicant to make the determination; and

(3) information and data necessary for the commissioner to determine whether the potential impact of issuing the permit exceeds any benchmarks adopted in rules required under subdivision 6 for requiring a cumulative analysis.

(c) In making a determination whether a cumulative impacts analysis is required, the commissioner must:

(1) review the permit application and the applicant's assessment of the need to conduct a cumulative analysis;

(2) assess whether the proposed permit exceeds any of the benchmarks for conducting a cumulative impacts analysis established in rules adopted under subdivision 6; and

(3) review any other information the commissioner deems relevant, including material evidence accompanying a petition submitted under paragraph (e).

(d) The commissioner must require an applicant to conduct a cumulative impacts analysis if:

(1) the potential impacts of the permit issuance exceed any of the benchmarks for conducting a cumulative impacts analysis established in rules adopted under subdivision 6; or

(2) the commissioner determines that issuance of the permit may substantially impact the environment or health of the residents of an environmental justice area.

(e) The commissioner may require the permit applicant or permit holder to conduct a cumulative impacts analysis if:

(1) the facility is below all the benchmarks established for conducting a cumulative impacts analysis and the commissioner determines that a cumulative impacts analysis is necessary and supported by material evidence; or

(2) a petition requesting that a cumulative analysis be conducted is signed by at least 100 individuals who reside or own property in the environmental justice area impacted by the facility and is supported by material evidence that demonstrates a potential adverse cumulative impact to the impacted environmental justice area if the permit is issued.

(f) The commissioner must prepare a written document containing the reasons for the commissioner's decision regarding the need for a cumulative impacts analysis. The document must describe the information that was considered in making the decision and how the information was weighed. The commissioner must post the document on the agency website within 30 days of the determination.

Subd. 4. **Public meeting requirements.** (a) A permit applicant or permit holder required to conduct a cumulative impacts analysis under this section must hold at least two public meetings in the environmental justice area impacted by the facility before the commissioner issues or denies a permit. The first public meeting must be held before conducting a cumulative impacts analysis, and the second must be held after conducting the analysis.

(b) Before any public meeting held under this subdivision, the permit applicant or permit holder must:

(1) publish notice containing the date, time, and location of the public meeting and a brief description of the permit or project in a newspaper of general circulation in the environmental justice area at least 30 days before the meetings;

(2) post physical signage in the environmental justice area impacted, as directed by the commissioner; and

(3) provide the commissioner with notice of the public meeting and a copy of the cumulative impacts analysis at least 45 days before the second public meeting.

(c) The commissioner must post the notice and cumulative impacts analysis on the agency website at least 30 days before the second public meeting.

(d) At any public meeting held under this subdivision, the permit applicant or permit holder must:

(1) provide an opportunity for robust public and Tribal engagement; and

(2) accept written and oral comments, as directed by the commissioner, from any interested party.

(e) After a public meeting held under this subdivision, the permit applicant or permit holder must provide an electronic copy of all written comments and a transcript of all oral comments to the agency within 30 days of the meeting.

(f) If the permit applicant or permit holder is applying for more than one permit that may affect the same environmental justice area, the permit applicant or permit holder may request that the commissioner consolidate the public meeting requirements under this subdivision, requiring the facility to hold two public meetings that address all of the permits sought. The commissioner may approve or deny the request.

(g) The commissioner may incorporate conditions in a permit for a facility located in or affecting an environmental justice area to hold multiple in-person meetings with residents of the environmental justice area affected by the facility to share information and discuss community concerns.

Subd. 5. **Environmental justice area; permit decisions.** (a) In determining whether to issue or deny a permit under this section, the commissioner must consider the cumulative impacts analysis conducted, the testimony presented, and comments submitted in public meetings held under subdivision 4. The permit may be issued no earlier than 30 days following the last public meeting held under subdivision 4.

(b) Unless the commissioner enters into a community benefit agreement with the facility owner or operator, the commissioner must deny a permit subject to this section for a facility in an environmental justice area if the cumulative impacts analysis determines that issuing the permit, in combination with the environmental stressors present in the environmental justice area and considering the socioeconomic impact of the facility to the residents of the environmental justice area, would have a substantial adverse impact on the environment or health of the environmental justice area and its residents.

(c) If the facility owner or operator enters into a community benefit agreement with the commissioner, the agency may grant a permit that imposes conditions on the construction and operation of the facility to protect public health and the environment.

(d) A community benefit agreement must be signed on or before the date a new or reissued permit is issued in an environmental justice area.

(e) The commissioner must publish and maintain on the agency website a list of environmental justice areas in the state.

(f) The agency must maintain an updated database of identified environmental stressors in specific census tracts and make this database accessible to the public.

Subd. 6. **Rulemaking.** (a) The commissioner must adopt rules under chapter 14 to implement and govern the cumulative impacts analysis and issuance or denial of permits for facilities that impact environmental justice areas as provided in this section. Notwithstanding section 14.125, the agency must publish the notice of intent to adopt rules within 36 months of May 25, 2023, or the authority for the rules expires.

(b) During the rulemaking process, the Pollution Control Agency must engage in robust public engagement, including public meetings, and Tribal consultation.

(c) Rules adopted under this section must:

(1) establish benchmarks to assist the commissioner's determination regarding the need for a cumulative impacts analysis;

(2) establish the required content of a cumulative impacts analysis and must provide sources of public information that an applicant can access regarding environmental stressors that are present in an environmental justice area;

(3) define conditions, criteria, or circumstances that establish an environmental or health impact as a substantial adverse impact;

(4) establish the content of a community benefit agreement and procedures for entering into community benefit agreements, which must include:

(i) active outreach to residents of the impacted environmental justice area designed to achieve significant community participation;

(ii) considerations other than or in addition to economic considerations, but with priority given to considerations that directly impact the residents of the environmental justice area; and

(iii) at least one public meeting held within the impacted environmental justice area;

(5) establish a petition process and form to be submitted to the agency by environmental justice area residents to support the need for a cumulative impact analysis;

(6) establish a process by which a Tribal government can elect to apply this section to a permit application, as provided under subdivision 2; and

(7) establish methods for holding public meetings and handling public comments as required under subdivision 4.

(d) The agency must provide translation services and translated materials upon request during rulemaking meetings.

(e) The agency must provide public notice on the agency website at least 30 days before public meetings held on the rulemaking. The notice must include the date, time, and location of the meeting. The agency must use multiple communication methods to inform residents of environmental justice areas in the public meetings held for the rulemaking.

Subd. 7. **Compliance costs.** A permit applicant is responsible for the cost of complying with this section. The reasonable costs of the agency to comply with this section are to be borne by permit applicants subject to this section, as required under section 116.07, subdivision 4d, paragraph (b).

History: *2023 c 60 art 8 s 3*

116.07 POWERS AND DUTIES.

Subdivision 1. **Generally.** In addition to any powers or duties otherwise prescribed by law and without limiting the same, the Pollution Control Agency shall have the powers and duties hereinafter specified.

Subd. 2. **Adopting standards.** (a) The Pollution Control Agency shall improve air quality by promoting, in the most practicable way possible, the use of energy sources and waste disposal methods which produce or emit the least air contaminants consistent with the agency's overall goal of reducing all forms of pollution. The agency shall also adopt standards of air quality, including maximum allowable standards of emission of air contaminants from motor vehicles, recognizing that due to variable factors, no single standard of purity of air is applicable to all areas of the state. In adopting standards the Pollution Control Agency shall give due recognition to the fact that the quantity or characteristics of air contaminants or the duration of their presence in the atmosphere, which may cause air pollution in one area of the state, may cause less or not cause any air pollution in another area of the state, and it shall take into consideration in this connection such factors, including others which it may deem proper, as existing physical conditions, zoning classifications, topography, prevailing wind directions and velocities, and the fact that a standard of air quality which may be proper as to an essentially residential area of the state, may not be proper as to a highly developed industrial area of the state. Such standards of air quality shall be premised upon scientific knowledge of causes as well as effects based on technically substantiated criteria and commonly accepted practices. No local government unit shall set standards of air quality which are more stringent than those set by the Pollution Control Agency.

(b) The Pollution Control Agency shall promote solid waste disposal control by encouraging the updating of collection systems, elimination of open dumps, and improvements in incinerator practices. The agency shall also adopt standards for the control of the collection, transportation, storage, processing, and disposal of solid waste and sewage sludge for the prevention and abatement of water, air, and land pollution, recognizing that due to variable factors, no single standard of control is applicable to all areas of the state. In adopting standards, the Pollution Control Agency shall give due recognition to the fact that elements of control which may be reasonable and proper in densely populated areas of the state may be unreasonable and improper in sparsely populated or remote areas of the state, and it shall take into consideration in this connection such factors, including others which it may deem proper, as existing physical conditions, topography, soils and geology, climate, transportation, and land use. Such standards of control shall be premised on technical criteria and commonly accepted practices.

(c) The Pollution Control Agency shall also adopt standards describing the maximum levels of noise in terms of sound pressure level which may occur in the outdoor atmosphere, recognizing that due to variable factors no single standard of sound pressure is applicable to all areas of the state. Such standards shall give due consideration to such factors as the intensity of noises, the types of noises, the frequency with which noises recur, the time period for which noises continue, the times of day during which noises occur, and such other factors as could affect the extent to which noises may be injurious to human health or welfare, animal or plant life, or property, or could interfere unreasonably with the enjoyment of life or property. In adopting standards, the Pollution Control Agency shall give due recognition to the fact that the quantity or characteristics of noise or the duration of its presence in the outdoor atmosphere, which may cause noise pollution in one area of the state, may cause less or not cause any noise pollution in another area of the state, and it shall take into consideration in this connection such factors, including others which it may deem

proper, as existing physical conditions, zoning classifications, topography, meteorological conditions and the fact that a standard which may be proper in an essentially residential area of the state, may not be proper as to a highly developed industrial area of the state. Such noise standards shall be premised upon scientific knowledge as well as effects based on technically substantiated criteria and commonly accepted practices. No local governing unit shall set standards describing the maximum levels of sound pressure which are more stringent than those set by the Pollution Control Agency.

(d) The Pollution Control Agency shall adopt standards for the identification of hazardous waste and for the management, identification, labeling, classification, storage, collection, transportation, processing, and disposal of hazardous waste, recognizing that due to variable factors, a single standard of hazardous waste control may not be applicable to all areas of the state. In adopting standards, the Pollution Control Agency shall recognize that elements of control which may be reasonable and proper in densely populated areas of the state may be unreasonable and improper in sparsely populated or remote areas of the state. The agency shall consider existing physical conditions, topography, soils, and geology, climate, transportation and land use. Standards of hazardous waste control shall be premised on technical knowledge, and commonly accepted practices. Hazardous waste generator licenses may be issued for a term not to exceed five years. No local government unit shall set standards of hazardous waste control which are in conflict or inconsistent with those set by the Pollution Control Agency.

(e) A person who generates less than 100 kilograms of hazardous waste per month is exempt from the following agency hazardous waste rules:

(1) rules relating to transportation, manifesting, storage, and labeling for photographic fixer and x-ray negative wastes that are hazardous solely because of silver content; and

(2) any rule requiring the generator to send to the agency or commissioner a copy of each manifest for the transportation of hazardous waste for off-site treatment, storage, or disposal, except that counties within the metropolitan area may require generators to provide manifests.

Nothing in this paragraph exempts the generator from the agency's rules relating to on-site accumulation or outdoor storage. A political subdivision or other local unit of government may not adopt management requirements that are more restrictive than this paragraph.

(f) In any rulemaking proceeding under chapter 14 to adopt standards for air quality, solid waste, or hazardous waste under this chapter, or standards for water quality under chapter 115, the statement of need and reasonableness must include:

(1) an assessment of any differences between the proposed rule and:

(i) existing federal standards adopted under the Clean Air Act, United States Code, title 42, section 7412(b)(2); the Clean Water Act, United States Code, title 33, sections 1312(a) and 1313(c)(4); and the Resource Conservation and Recovery Act, United States Code, title 42, section 6921(b)(1);

(ii) similar standards in states bordering Minnesota; and

(iii) similar standards in states within the Environmental Protection Agency Region 5; and

(2) a specific analysis of the need and reasonableness of each difference.

Subd. 2a. **Exemptions from standards.** (a) No standards adopted by any state agency for limiting levels of noise in terms of sound pressure which may occur in the outdoor atmosphere shall apply to:

(1) segments of trunk highways constructed with federal interstate substitution money, provided that all reasonably available noise mitigation measures are employed to abate noise;

(2) an existing or newly constructed segment of a highway, provided that all reasonably available noise mitigation measures, as approved by the commissioners of the Department of Transportation and Pollution Control Agency, are employed to abate noise;

(3) except for the cities of Minneapolis and St. Paul, an existing or newly constructed segment of a road, street, or highway under the jurisdiction of a road authority of a town, statutory or home rule charter city, or county, except for roadways for which full control of access has been acquired;

(4) skeet, trap or shooting sports clubs; or

(5) motor vehicle race events conducted at a facility specifically designed for that purpose that was in operation on or before July 1, 1996.

(b) Nothing herein shall prohibit a local unit of government or a public corporation with the power to make rules for the government of its real property from regulating the location and operation of skeet, trap or shooting sports clubs, or motor vehicle race events conducted at a facility specifically designed for that purpose that was in operation on or before July 1, 1996.

Subd. 2b. **PCB waste; oil-filled electric equipment.** (a) A person who generates waste containing greater than 50 parts per million PCB which is subject to the federal requirements for the management of waste under Code of Federal Regulations, title 40, part 761, is also subject to state hazardous waste requirements for proper disposal, licensing, and fees. PCB small capacitors and lighting ballasts are also subject to state on-site accumulation requirements.

(b) PCB waste associated with oil-filled electric equipment voluntarily disposed of or retrofilled prior to the end of its service life is eligible for a waiver from annual hazardous waste fees. To be eligible for the waiver, a generator and the commissioner must execute a voluntary PCB phase-out agreement, and before relicensing, the generator must demonstrate performance of the agreement. The PCB phase-out agreement must include a description of specific goals, activities to be performed to achieve the goals, phase-out criteria, and a schedule for implementation.

(c) For the purpose of this subdivision, "PCB" has the meaning given in section 116.36.

Subd. 2c. **Exemption from standards for temporary storage facilities subject to control.** (a) A temporary storage facility located at a commodity facility that is required to be controlled under Minnesota Rules, part 7011.1005, subpart 3, is not subject to Minnesota Rules, parts 7011.1000 to 7011.1015. For all portable equipment and fugitive dust emissions directly associated with the temporary storage facility, it is determined that there is no applicable specific standard of performance.

(b) For the purposes of this subdivision, the following terms have the meanings given to them:

(1) "temporary storage facility" means a facility storing grain that:

(i) uses an asphalt, concrete, or comparable base material;

(ii) has rigid, self-supporting sidewalls;

(iii) provides adequate aeration; and

(iv) provides an acceptable covering; and

(2) "portable equipment" means equipment that is not fixed at any one spot and can be moved, including but not limited to portable receiving pits, portable augers and conveyors, and portable reclaim equipment directly associated with the temporary storage facility.

Subd. 3. **Administrative rules.** Pursuant and subject to the provisions of chapter 14, and the provisions hereof, the Pollution Control Agency may adopt, amend, and rescind rules governing its own administration and procedure and its staff and employees.

Subd. 4. **Rules and standards.** (a) Pursuant and subject to the provisions of chapter 14, and the provisions hereof, the Pollution Control Agency may adopt, amend and rescind rules and standards having the force of law relating to any purpose within the provisions of Laws 1967, chapter 882, for the prevention, abatement, or control of air pollution. Any such rule or standard may be of general application throughout the state, or may be limited as to times, places, circumstances, or conditions in order to make due allowance for variations therein. Without limitation, rules or standards may relate to sources or emissions of air contamination or air pollution, to the quality or composition of such emissions, or to the quality of or composition of the ambient air or outdoor atmosphere or to any other matter relevant to the prevention, abatement, or control of air pollution.

(b) Pursuant and subject to the provisions of chapter 14, and the provisions hereof, the Pollution Control Agency may adopt, amend, and rescind rules and standards having the force of law relating to any purpose within the provisions of Laws 1969, chapter 1046, for the collection, transportation, storage, processing, and disposal of solid waste and the prevention, abatement, or control of water, air, and land pollution which may be related thereto, and the deposit in or on land of any other material that may tend to cause pollution. The agency shall adopt such rules and standards for sewage sludge, addressing the intrinsic suitability of land, the volume and rate of application of sewage sludge of various degrees of intrinsic hazard, design of facilities, and operation of facilities and sites. Any such rule or standard may be of general application throughout the state or may be limited as to times, places, circumstances, or conditions in order to make due allowance for variations therein. Without limitation, rules or standards may relate to collection, transportation, processing, disposal, equipment, location, procedures, methods, systems or techniques or to any other matter relevant to the prevention, abatement or control of water, air, and land pollution which may be advised through the control of collection, transportation, processing, and disposal of solid waste and sewage sludge, and the deposit in or on land of any other material that may tend to cause pollution. By January 1, 1983, the rules for the management of sewage sludge shall include an analysis of the sewage sludge determined by the commissioner of agriculture to be necessary to meet the soil amendment labeling requirements of section 18C.215.

(c) The rules for the disposal of solid waste shall include site-specific criteria to prohibit solid waste disposal based on the area's sensitivity to groundwater contamination, including site-specific testing. The rules shall provide criteria for locating landfills based on a site's sensitivity to groundwater contamination. Sensitivity to groundwater contamination is based on the predicted minimum time of travel of groundwater contaminants from the solid waste to the compliance boundary. The rules shall prohibit landfills in areas where karst is likely to develop. The rules shall specify testable or otherwise objective thresholds for these criteria. The rules shall also include modifications to financial assurance requirements under subdivision 4h that ensure the state is protected from financial responsibility for future groundwater contamination. The modifications to the financial assurance rules specified in this paragraph must require that a solid waste disposal facility subject to them maintain financial assurance so long as the facility poses a potential environmental risk to human health, wildlife, or the environment, as determined by the agency following an empirical assessment. The financial assurance and siting modifications to the rules specified in this paragraph do not apply to:

(1) solid waste facilities initially permitted before January 1, 2011, including future contiguous expansions and noncontiguous expansions within 600 yards of a permitted boundary;

(2) solid waste disposal facilities that accept only construction and demolition debris and incidental nonrecyclable packaging, and facilities that accept only industrial waste that is limited to wood, concrete, porcelain fixtures, shingles, or window glass resulting from the manufacture of construction materials; and

(3) requirements for permit by rule solid waste disposal facilities.

(d) Until the rules are modified as provided in paragraph (c) to include site-specific criteria to prohibit areas from solid waste disposal due to groundwater contamination sensitivity, as required under this section, the agency shall not issue a permit for a new solid waste disposal facility, except for:

(1) the reissuance of a permit for a land disposal facility operating as of March 1, 2008;

(2) a permit to expand a land disposal facility operating as of March 1, 2008, beyond its permitted boundaries, including expansion on land that is not contiguous to, but is located within 600 yards of, the land disposal facility's permitted boundaries;

(3) a permit to modify the type of waste accepted at a land disposal facility operating as of March 1, 2008;

(4) a permit to locate a disposal facility that accepts only construction debris as defined in section 115A.03, subdivision 7;

(5) a permit to locate a disposal facility that:

(i) accepts boiler ash from an electric energy power plant that has wet scrubbed units or has units that have been converted from wet scrubbed units to dry scrubbed units as those terms are defined in section 216B.68;

(ii) is on land that was owned on May 1, 2008, by the utility operating the electric energy power plant; and

(iii) is located within three miles of the existing ash disposal facility for the power plant; or

(6) a permit to locate a new solid waste disposal facility for ferrous metallic minerals regulated under Minnesota Rules, chapter 6130, or for nonferrous metallic minerals regulated under Minnesota Rules, chapter 6132.

(e) Pursuant and subject to the provisions of chapter 14, and the provisions hereof, the Pollution Control Agency may adopt, amend and rescind rules and standards having the force of law relating to any purpose within the provisions of Laws 1971, chapter 727, for the prevention, abatement, or control of noise pollution. Any such rule or standard may be of general application throughout the state, or may be limited as to times, places, circumstances or conditions in order to make due allowances for variations therein. Without limitation, rules or standards may relate to sources or emissions of noise or noise pollution, to the quality or composition of noises in the natural environment, or to any other matter relevant to the prevention, abatement, or control of noise pollution.

(f) As to any matters subject to this chapter, local units of government may set emission regulations with respect to stationary sources which are more stringent than those set by the Pollution Control Agency.

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

(h) The Pollution Control Agency shall give highest priority in the consideration of permits to authorize disposal of diseased shade trees by open burning at designated sites to evidence concerning economic costs of transportation and disposal of diseased shade trees by alternative methods.

Subd. 4a. **Permits.** (a) The Pollution Control Agency may issue, continue in effect or deny permits, under such conditions as it may prescribe for the prevention of pollution, for the emission of air contaminants, or for the installation or operation of any emission facility, air contaminant treatment facility, treatment facility, potential air contaminant storage facility, or storage facility, or any part thereof, or for the sources or emissions of noise pollution.

(b) The Pollution Control Agency may also issue, continue in effect or deny permits, under such conditions as it may prescribe for the prevention of pollution, for the storage, collection, transportation, processing, or disposal of waste, or for the installation or operation of any system or facility, or any part thereof, related to the storage, collection, transportation, processing, or disposal of waste.

(c) The agency may not issue a permit to a facility without analyzing and considering the cumulative levels and effects of past and current environmental pollution from all sources on the environment and residents of the geographic area within which the facility's emissions are likely to be deposited, provided that the facility is located in a community in a city of the first class in Hennepin County that meets all of the following conditions:

(1) is within a half mile of a site designated by the federal government as an EPA superfund site due to residential arsenic contamination;

(2) a majority of the population are low-income persons of color and American Indians;

(3) a disproportionate percent of the children have childhood lead poisoning, asthma, or other environmentally related health problems;

(4) is located in a city that has experienced numerous air quality alert days of dangerous air quality for sensitive populations between February 2007 and February 2008; and

(5) is located near the junctions of several heavily trafficked state and county highways and two one-way streets which carry both truck and auto traffic.

(d) The Pollution Control Agency may revoke or modify any permit issued under this subdivision and section 116.081 whenever it is necessary, in the opinion of the agency, to prevent or abate pollution.

(e) The Pollution Control Agency has the authority for approval over the siting, expansion, or operation of a solid waste facility with regard to environmental issues. However, the agency's issuance of a permit does not release the permittee from any liability, penalty, or duty imposed by any applicable county ordinances.

Nothing in this chapter precludes, or shall be construed to preclude, a county from enforcing land use controls, regulations, and ordinances existing at the time of the permit application and adopted pursuant to Minnesota Statutes 2020, sections 366.10 to 366.181, or sections 394.21 to 394.37, or 462.351 to 462.365, with regard to the siting, expansion, or operation of a solid waste facility.

(f) Except as prohibited by federal law, a person may commence construction, reconstruction, replacement, or modification of any facility prior to the issuance of a construction permit by the agency.

Subd. 4b. **Permits; hazardous waste facilities.** (a) Except as otherwise provided in sections 115A.18 to 115A.30, the agency shall commence any environmental review required under chapter 116D within 120 days of its acceptance of a completed permit application. The agency shall respond to a permit application for a hazardous waste facility within 120 days following a decision not to prepare environmental documents or following the acceptance of a negative declaration notice or an environmental impact statement. Except as otherwise provided in sections 115A.18 to 115A.30, within 60 days following the submission of a final permit application for a hazardous waste facility, unless a time extension is agreed to by the applicant, the agency shall issue or deny all permits needed for the construction of the proposed facility.

(b) The agency shall promulgate rules pursuant to chapter 14 for all hazardous waste facilities. The rules shall require:

(1) contingency plans for all hazardous waste facilities which provide for effective containment and control in any emergency condition;

(2) the establishment of a mechanism to assure that money to cover the costs of closure and postclosure monitoring and maintenance of hazardous waste facilities will be available;

(3) the maintenance of liability insurance by the owner or operator of hazardous waste facilities during the operating life of the facility.

Subd. 4c. MS 1982 [Repealed, 1983 c 373 s 72]

Subd. 4d. **Permit fees.** (a) The agency may collect permit fees in amounts not greater than those necessary to cover the reasonable costs of developing, reviewing, and acting upon applications for agency permits and implementing and enforcing the conditions of the permits pursuant to agency rules. Permit fees shall not include the costs of litigation. The fee schedule must reflect reasonable and routine direct and indirect costs associated with permitting, implementation, and enforcement. The agency may impose an additional enforcement fee to be collected for a period of up to two years to cover the reasonable costs of implementing and enforcing the conditions of a permit under the rules of the agency. Any money collected under this paragraph shall be deposited in the environmental fund.

(b) Notwithstanding paragraph (a), the agency shall collect an annual fee from the owner or operator of all stationary sources, emission facilities, emissions units, air contaminant treatment facilities, treatment facilities, potential air contaminant storage facilities, or storage facilities subject to a notification, permit, or license requirement under this chapter, subchapters I and V of the federal Clean Air Act, United States Code, title 42, section 7401 et seq., or rules adopted thereunder. The annual fee shall be used to pay for all direct and indirect reasonable costs, including legal costs, required to develop and administer the notification, permit, or license program requirements of this chapter, subchapters I and V of the federal Clean Air Act, United States Code, title 42, section 7401 et seq., or rules adopted thereunder. Those costs include the reasonable costs of reviewing and acting upon an application for a permit; implementing and enforcing statutes, rules, and the terms and conditions of a permit; emissions, ambient, and deposition monitoring; preparing generally applicable regulations; responding to federal guidance; modeling, analyses, and

demonstrations; preparing inventories and tracking emissions; and providing information to the public about these activities.

(c) The agency shall set fees that:

(1) will result in the collection, in the aggregate, from the sources listed in paragraph (b), of an amount not less than $25 per ton of each volatile organic compound; pollutant regulated under United States Code, title 42, section 7411 or 7412 (section 111 or 112 of the federal Clean Air Act); and each pollutant, except carbon monoxide, for which a national primary ambient air quality standard has been promulgated;

(2) may result in the collection, in the aggregate, from the sources listed in paragraph (b), of an amount not less than $25 per ton of each pollutant not listed in clause (1) that is regulated under this chapter or air quality rules adopted under this chapter; and

(3) shall collect, in the aggregate, from the sources listed in paragraph (b), the amount needed to match grant funds received by the state under United States Code, title 42, section 7405 (section 105 of the federal Clean Air Act).

The agency must not include in the calculation of the aggregate amount to be collected under clauses (1) and (2) any amount in excess of 4,000 tons per year of each air pollutant from a source. The increase in air permit fees to match federal grant funds shall be a surcharge on existing fees. The commissioner may not collect the surcharge after the grant funds become unavailable. In addition, the commissioner shall use nonfee funds to the extent practical to match the grant funds so that the fee surcharge is minimized.

(d) To cover the reasonable costs described in paragraph (b), the agency shall provide in the rules promulgated under paragraph (c) for an increase in the fee collected in each year by the percentage, if any, by which the Consumer Price Index for the most recent calendar year ending before the beginning of the year the fee is collected exceeds the Consumer Price Index for the calendar year 1989. For purposes of this paragraph the Consumer Price Index for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the United States Department of Labor, as of the close of the 12-month period ending on August 31 of each calendar year. The revision of the Consumer Price Index that is most consistent with the Consumer Price Index for calendar year 1989 shall be used.

(e) Any money collected under paragraphs (b) to (d) must be deposited in the environmental fund and must be used solely for the activities listed in paragraph (b).

(f) Permit applicants who wish to construct, reconstruct, or modify a project may request expedited permitting under this paragraph. An applicant requesting expedited permitting under this paragraph must agree to reimburse the agency for the costs of staff time or consultant services needed to expedite the preapplication process and permit development process through the final decision on the permit, including the analysis of environmental review documents. The reimbursement is in addition to permit application fees imposed by law. The commissioner must first determine if existing agency staff is available to work on the permit subject to the expedited permitting request. If the commissioner determines that no agency staff is available to assign to the permit subject to the expedited permitting request, then the commissioner may contract for permitting services. If the commissioner determines that no agency staff is available and no contracting services are available to assign to the permit subject to the expedited permit request, then the commissioner may deny the expedited permitting request. The commissioner must give the applicant an estimate of the timeline and costs to be incurred by the commissioner. The estimate must include a brief description of the tasks to be performed, a schedule for completing the tasks, and the estimated cost for each task. If the applicant agrees to the estimated timeline and costs negotiated with the commissioner, the applicant and the commissioner must enter into a written agreement to proceed accordingly. The agreement

must identify staff anticipated to be assigned to the project. The agreement may provide that, if permitting is completed ahead of the schedule set forth in the written agreement, the commissioner may retain any fees that would have been due if the permitting had taken the time contemplated in the written agreement. Fees retained by the commissioner under this paragraph are appropriated to the commissioner for administering the commissioner's permitting duties. The commissioner must not issue a permit until the applicant has paid all fees in full. The commissioner must refund any unobligated balance of fees paid. Reimbursements accepted by the agency are appropriated to the agency for the purpose of developing the permit or analyzing environmental review documents. Reimbursement by a permit applicant shall precede and not be contingent upon issuance of a permit; shall not affect the agency's decision on whether to issue or deny a permit, what conditions are included in a permit, or the application of state and federal statutes and rules governing permit determinations; and shall not affect final decisions regarding environmental review.

(g) The fees under this subdivision are exempt from section 16A.1285.

Subd. 4e. **Hazardous waste processing facilities; agreements; financial responsibility.** When the agency issues a permit for a facility for the processing of hazardous waste, the agency may approve as a condition of the permit an agreement by which the permittee indemnifies the generators of hazardous waste accepted by the facility for part or all of any liability which may accrue to the generators as a result of a release or threatened release of a hazardous waste from the facility. The agency may approve an agreement under this subdivision only if the agency determines that the permittee has demonstrated financial responsibility to carry out the agreement during the term of the permit. If a generator of hazardous waste accepted by a permitted processing facility is held liable for costs or damages arising out of a release of a hazardous waste from the facility, and the permittee is subject to an agreement approved under this subdivision, the generator is liable to the extent that the costs or damages were not paid under this agreement.

Subd. 4f. **Closure and postclosure responsibility and liability.** An operator or owner of a facility is responsible for closure of the facility and postclosure care relating to the facility. If an owner or operator has failed to provide the required closure or postclosure care of the facility the agency may take the actions. The owner or operator is liable for the costs of the required closure and postclosure care taken by the agency.

Subd. 4g. **Closure and postclosure rules.** The agency shall adopt rules establishing requirements for the closure of solid waste disposal facilities and for the postclosure care of closed facilities. The rules apply to all solid waste disposal facilities in operation at the time the rules are effective. The rules must provide standards and procedures for closing disposal facilities and for the care, maintenance, and monitoring of the facilities after closure that will prevent, mitigate, or minimize the threat to public health and the environment posed by closed disposal facilities.

Subd. 4h. **Financial responsibility rules.** (a) The agency shall adopt rules requiring the operator or owner of a solid waste disposal facility to submit to the agency proof of the operator's or owner's financial capability to provide reasonable and necessary response during the operating life of the facility and for 30 years after closure for a mixed municipal solid waste disposal facility or for a minimum of 20 years after closure, as determined by agency rules, for any other solid waste disposal facility, and to provide for the closure of the facility and postclosure care required under agency rules. Proof of financial responsibility is required of the operator or owner of a facility receiving an original permit or a permit for expansion after adoption of the rules. Within 180 days of the effective date of the rules or by July 1, 1987, whichever is later, proof of financial responsibility is required of an operator or owner of a facility with a remaining capacity of more than five years or 500,000 cubic yards that is in operation at the time the rules are adopted. Compliance with the rules and the requirements of paragraph (b) is a condition of obtaining or retaining a permit to operate the facility.

(b) A municipality, as defined in section 475.51, subdivision 2, including a sanitary district, that owns or operates a solid waste disposal facility that was in operation on May 15, 1989, may meet its financial responsibility for all or a portion of the contingency action portion of the reasonable and necessary response costs at the facility by pledging its full faith and credit to meet its responsibility. The pledge must be made in accordance with the requirements in chapter 475 for issuing bonds of the municipality, and the following additional requirements:

(1) The governing body of the municipality shall enact an ordinance that clearly accepts responsibility for the costs of contingency action at the facility and that reserves, during the operating life of the facility and for the time period required in paragraph (a) after closure, a portion of the debt limit of the municipality, as established under section 475.53 or other law, that is equal to the total contingency action costs.

(2) The municipality shall require that all collectors that haul to the facility implement a plan for reducing solid waste by using volume-based pricing, recycling incentives, or other means.

(3) When a municipality opts to meet a portion of its financial responsibility by relying on its authority to issue bonds, it shall also begin setting aside in a dedicated long-term care trust fund money that will cover a portion of the potential contingency action costs at the facility, the amount to be determined by the agency for each facility based on at least the amount of waste deposited in the disposal facility each year, and the likelihood and potential timing of conditions arising at the facility that will necessitate response action. The agency may not require a municipality to set aside more than five percent of the total cost in a single year.

(4) A municipality shall have and consistently maintain an investment grade bond rating as a condition of using bonding authority to meet financial responsibility under this section.

(5) The municipality shall file with the commissioner of revenue its consent to have the amount of its contingency action costs deducted from state aid payments otherwise due the municipality and paid instead to the remediation fund created in section 116.155, if the municipality fails to conduct the contingency action at the facility when ordered by the agency. If the agency notifies the commissioner that the municipality has failed to conduct contingency action when ordered by the agency, the commissioner shall deduct the amounts indicated by the agency from the state aids in accordance with the consent filed with the commissioner.

(6) The municipality shall file with the agency written proof that it has complied with the requirements of this paragraph.

(c) The method for proving financial responsibility under paragraph (b) may not be applied to a new solid waste disposal facility or to expansion of an existing facility, unless the expansion is a vertical expansion. Vertical expansions of qualifying existing facilities cannot be permitted for a duration of longer than three years.

(d) The commissioner shall consult with the commissioner of management and budget for guidance on the forms of financial assurance that are acceptable for private owners and public owners, and in carrying out a periodic review of the adequacy of financial assurance for solid waste disposal facilities. Financial assurance rules shall allow financial mechanisms to public owners of solid waste disposal facilities that are appropriate to their status as subdivisions of the state.

Subd. 4i. **Civil penalties.** The civil penalties of sections 115.071 and 116.072 apply to any person in violation of the rules adopted under subdivision 4g or 4h.

Subd. 4j. **Permits; solid waste facilities.** (a) The agency may not issue a permit for new or additional capacity for a mixed municipal solid waste resource recovery or disposal facility as defined in section 115A.03 unless each county using or projected in the permit to use the facility has in place a solid waste

management plan approved under section 115A.46 or 473.803 and amended as required by section 115A.96, subdivision 6. The agency shall issue the permit only if the capacity of the facility is consistent with the needs for resource recovery or disposal capacity identified in the approved plan or plans. Consistency must be determined by the Pollution Control Agency. Plans approved before January 1, 1990, need not be revised if the capacity sought in the permit is consistent with the approved plan or plans.

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

(c) Within 180 days of receipt of a completed application, the agency shall approve, disapprove, or delay decision on the application, with reasons for the delay, in writing.

(d) The agency may not issue a permit for a new disposal facility, as defined in section 115A.03, subdivision 10, or a permit to expand an existing disposal facility unless:

(1) all local units of government in which the facility is to be sited and exercising their respective land use and zoning authority pursuant to chapter 366, 494, or 462 have granted approval for and provided any required public notices of the new or expanded facility prior to the issuance of the permit;

(2) all local units of government in which the facility is to be sited and exercising their respective land use and zoning authority pursuant to chapter 366, 494, or 462 have authorized the permit to be issued prior to or concurrent with the required approval by the local unit of government; or

(3) the new or expanded facility is part of and will be sited on land already identified in an approved solid waste management plan as described in paragraph (a).

(e) The commissioners of the Pollution Control Agency and natural resources shall apply Minnesota Rules, parts 7001.3050, subpart 3, item G, and 7035.2525, subpart 2, item G, to solid waste facilities permitted under and in compliance with those rules and in compliance with Minnesota Rules, chapter 6132.

Subd. 4k. **Household hazardous waste and other problem materials; management.** (a) The agency shall adopt rules to require the owner or operator of a solid waste disposal facility or resource recovery facility to submit to the agency and to each county using or projected to use the facility a management plan for the separation of household hazardous waste and other problem materials from solid waste prior to disposal or processing and for the proper management of the waste. The rules must require that the plan be developed in coordination with each county using, or projected to use, the facility. The plan must not be inconsistent with the plan developed under section 115A.956, subdivision 2, and must include:

(1) identification of materials that are problem materials, as defined in section 115A.03, subdivision 24e, for the facility;

(2) participation in public education activities on management of household hazardous waste and other problem materials in the facility's service area;

(3) a strategy for reduction of household hazardous waste and other problem materials entering the facility; and

(4) a plan for the storage and proper management of separated household hazardous waste and other problem materials.

(b) By September 30, 1992, the owner or operator of a facility shall implement the elements of the plan required in paragraph (a) relating to household hazardous waste management. After that date, the agency may not grant or renew a permit for a facility until the agency has:

(1) reviewed the elements of the facility's plan relating to household hazardous waste management;

(2) directed the applicant or permittee to make changes to these elements as necessary to comply with the plan requirements under paragraph (a); and

(3) included a requirement to implement the elements as a condition of the issued or renewed permit.

(c) By September 30, 1993, the owner or operator of a facility shall implement the elements of the plan required in paragraph (a) relating to problem materials management. After that date, the agency may not grant or renew a permit for a facility until the agency has:

(1) reviewed the elements of the facility's plan relating to problem materials management;

(2) directed the applicant or permittee to make changes to these elements as necessary to comply with the plan requirements under paragraph (a); and

(3) included a requirement to implement the elements as a condition of the issued or renewed permit.

Subd. 4l. **Real property interests.** (a) The commissioner may acquire interests in real property at a solid waste disposal facility, limited to environmental covenants under chapter 114E and easements for the environmental covenants, when the commissioner determines the property interests are related to:

(1) closure;

(2) postclosure care; and

(3) any other actions needed after the postclosure care period expires.

(b) The state is not liable under this chapter or any other law solely as a result of acquiring an interest in real property under this section.

(c) An environmental covenant under this subdivision must be in accordance with chapter 114E and must be signed and acknowledged by every owner of the fee simple title to the real property subject to the covenant.

Subd. 4m. **Public informational meetings.** (a) The commissioner may require, as part of a state individual air quality permit issued in response to an enforcement action that required the payment of a civil penalty, that the owner or operator hold in-person meetings with residents of the community where the facility is located to share information about the facility's operations and environmental releases and to discuss community concerns.

(b) For the purposes of this subdivision, "state individual air quality permit" means an air quality permit that:

(1) is issued to an individual facility that is required to obtain a permit under Minnesota Rules, part 7007.0250, subparts 2 to 6; and

(2) is not a general permit issued under Minnesota Rules, part 7007.1100.

Subd. 4n. **Compliance protocols.** (a) The commissioner must develop a compliance protocol for use under this subdivision, consisting of:

(1) methods the agency requires a facility to employ to physically measure the actual emissions of each air toxic emitted by the facility; and

(2) the frequency with which the facility must employ each method.

(b) Methods of physical measurement the agency may require include but are not limited to:

(1) continuous emission monitoring systems;

(2) performance tests;

(3) ambient monitoring near the facility;

(4) portable monitoring units that have been calibrated with performance tests or continuous emission monitors; and

(5) any other physical method of measuring actual emissions that the commissioner determines is accurate and technically and physically feasible.

(c) For violations of state and federal air pollution laws involving emissions of hazardous air pollutants, the commissioner may require a compliance protocol as part of a state individual air quality permit issued in response to an enforcement action.

(d) The commissioner may require a facility to employ quality control measures and procedures to ensure that pollution control equipment and emissions monitoring equipment are properly calibrated, operated, and maintained to ensure accuracy.

(e) For the purposes of this subdivision, "state individual air quality permit" means an air quality permit that:

(1) is issued to an individual facility that is required to obtain a permit under Minnesota Rules, part 7007.0250, subparts 2 to 6; and

(2) is not a general permit issued under Minnesota Rules, part 7007.1100.

(f) Beginning January 15, 2025, the commissioner must annually submit a report to the chairs and ranking minority members of the environment and natural resources finance and policy committees on the use of compliance protocols over the preceding year.

Subd. 5. **Variances.** (a) The Pollution Control Agency may grant variances from its rules as provided in rules adopted under this section and sections 14.055 and 14.056 in order to avoid undue hardship and to promote the effective and reasonable application and enforcement of laws, rules, and standards for prevention, abatement and control of water, air, noise, and land pollution. The variance rules shall provide for notice and opportunity for hearing before a variance is granted.

(b) A local government unit authorized by contract with the Pollution Control Agency pursuant to section 116.05 to exercise administrative powers under this chapter may grant variances after notice and public hearing from any ordinance, rule, or standard for prevention, abatement, or control of water, air, noise and land pollution, adopted pursuant to said administrative powers and under the provisions of this chapter.

Subd. 6. **Pollution Control Agency; exercise of powers.** In exercising all its powers the Pollution Control 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. 7. **Counties; processing applications for animal lot permits.** (a) Any Minnesota county board may, by resolution, with approval of the Pollution Control Agency, assume responsibility for processing applications for permits required by the Pollution Control Agency under this section for livestock feedlots, poultry lots or other animal lots. The responsibility for permit application processing, if assumed by a county, may be delegated by the county board to any appropriate county officer or employee.

(b) For the purposes of this subdivision, the term "processing" includes:

(1) the distribution to applicants of forms provided by the Pollution Control Agency;

(2) the receipt and examination of completed application forms, and the certification, in writing, to the Pollution Control Agency either that the animal lot facility for which a permit is sought by an applicant will comply with applicable rules and standards, or, if the facility will not comply, the respects in which a variance would be required for the issuance of a permit; and

(3) rendering to applicants, upon request, assistance necessary for the proper completion of an application.

(c) For the purposes of this subdivision, the term "processing" may include, at the option of the county board, issuing, denying, modifying, imposing conditions upon, or revoking permits pursuant to the provisions of this section or rules promulgated pursuant to it, subject to review, suspension, and reversal by the Pollution Control Agency. The Pollution Control Agency shall, after written notification, have 15 days to review, suspend, modify, or reverse the issuance of the permit. After this period, the action of the county board is final, subject to appeal as provided in chapter 14. For permit applications filed after October 1, 2001, section 15.99 applies to feedlot permits issued by the agency or a county pursuant to this subdivision.

(d) For the purpose of administration of rules adopted under this subdivision, the commissioner and the agency may provide exceptions for cases where the owner of a feedlot has specific written plans to close the feedlot within five years. These exceptions include waiving requirements for major capital improvements.

(e) For purposes of this subdivision, a discharge caused by an extraordinary natural event such as a precipitation event of greater magnitude than the 25-year, 24-hour event, tornado, or flood in excess of the 100-year flood is not a "direct discharge of pollutants."

(f) In adopting and enforcing rules under this subdivision, the commissioner shall cooperate closely with other governmental agencies.

(g) The Pollution Control Agency shall work with the Minnesota Extension Service, the Department of Agriculture, the Board of Water and Soil Resources, producer groups, local units of government, as well as with appropriate federal agencies such as the Natural Resources Conservation Service and the Farm Service Agency, to notify and educate producers of rules under this subdivision at the time the rules are being developed and adopted and at least every two years thereafter.

(h) The Pollution Control Agency shall adopt rules governing the issuance and denial of permits for livestock feedlots, poultry lots or other animal lots pursuant to this section. Pastures are exempt from the rules authorized under this paragraph. No feedlot permit shall include any terms or conditions that impose any requirements related to any pastures owned or utilized by the feedlot operator other than restrictions under a manure management plan. A feedlot permit is not required for livestock feedlots with more than ten but less than 50 animal units; provided they are not in shoreland areas. A livestock feedlot permit does not

become required solely because of a change in the ownership of the buildings, grounds, or feedlot. These rules apply both to permits issued by counties and to permits issued by the Pollution Control Agency directly.

(i) The Pollution Control Agency shall exercise supervising authority with respect to the processing of animal lot permit applications by a county.

(j) Any new rules or amendments to existing rules proposed under the authority granted in this subdivision, or to implement new fees on animal feedlots, must be submitted to the members of legislative policy and finance committees with jurisdiction over agriculture and the environment prior to final adoption. The rules must not become effective until 90 days after the proposed rules are submitted to the members.

(k) Until new rules are adopted that provide for plans for manure storage structures, any plans for a liquid manure storage structure must be prepared or approved by a registered professional engineer or a United States Department of Agriculture, Natural Resources Conservation Service employee.

(l) A county may adopt by ordinance standards for animal feedlots that are more stringent than standards in Pollution Control Agency rules.

(m) After January 1, 2001, a county that has not accepted delegation of the feedlot permit program must hold a public meeting prior to the agency issuing a feedlot permit for a feedlot facility with 300 or more animal units, unless another public meeting has been held with regard to the feedlot facility to be permitted.

(n) After the proposed rules published in the State Register, volume 24, number 25, are finally adopted, the agency may not impose additional conditions as a part of a feedlot permit, unless specifically required by law or agreed to by the feedlot operator.

(o) For the purposes of feedlot permitting, a discharge from land-applied manure or a manure stockpile that is managed according to agency rule must not be subject to a fine for a discharge violation.

(p) For the purposes of feedlot permitting, manure that is land applied, or a manure stockpile that is managed according to agency rule, must not be considered a discharge into waters of the state, unless the discharge is to waters of the state, as defined by section 103G.005, subdivision 17, except type 1 or type 2 wetlands, as defined in section 103G.005, subdivision 17b, and does not meet discharge standards established for feedlots under agency rule.

(q) Unless the upgrade is needed to correct an immediate public health threat under section 145A.04, subdivision 8, or the facility is determined to be a concentrated animal feeding operation under Code of Federal Regulations, title 40, section 122.23, in effect on April 15, 2003, the agency may not require a feedlot operator:

(1) to spend more than $3,000 to upgrade an existing feedlot with less than 300 animal units unless cost-share money is available to the feedlot operator for 75 percent of the cost of the upgrade; or

(2) to spend more than $10,000 to upgrade an existing feedlot with between 300 and 500 animal units, unless cost-share money is available to the feedlot operator for 75 percent of the cost of the upgrade or $50,000, whichever is less.

(r) A feedlot operator who stores and applies up to 100,000 gallons per calendar year of private truck wash wastewater resulting from trucks that transport animals or supplies to and from the feedlot does not require a permit to land-apply industrial by-products if the feedlot operator stores and applies the wastewater in accordance with Pollution Control Agency requirements for land applications of industrial by-product that do not require a permit.

(s) A feedlot operator who holds a permit from the Pollution Control Agency to land-apply industrial by-products from a private truck wash is not required to have a certified land applicator apply the private truck wash wastewater if the wastewater is applied by the feedlot operator to cropland owned or leased by the feedlot operator or by a commercial animal waste technician licensed by the commissioner of agriculture under chapter 18C. For purposes of this paragraph and paragraph (r), "private truck wash" means a truck-washing facility owned or leased, operated, and used only by a feedlot operator to wash trucks owned or leased by the feedlot operator and used to transport animals or supplies to and from the feedlot.

Subd. 7a. **Notice of application for livestock feedlot permit.** (a) A person who applies to the Pollution Control Agency or a county board for a permit to construct or expand a feedlot with a capacity of 500 animal units or more shall, not less than 20 business days before the date on which a permit is issued, provide notice to each resident and each owner of real property within 5,000 feet of the perimeter of the proposed feedlot. The notice may be delivered by first class mail, in person, or by the publication in a newspaper of general circulation within the affected area and must include information on the type of livestock and the proposed capacity of the feedlot. Notification under this subdivision is satisfied under an equal or greater notification requirement of a county or town permit process. A person must also send a copy of the notice by first class mail to the clerk of the town in which the feedlot is proposed not less than 20 business days before the date on which a permit is issued.

(b) The agency or a county board must verify that notice was provided as required under paragraph (a) prior to issuing a permit.

Subd. 7b. **Feedlot inventory; notification and public meeting requirements.** (a) Any state agency or local government unit conducting an inventory or survey of livestock feedlots under its jurisdiction must publicize notice of the inventory in a newspaper of general circulation in the affected area and in other media as appropriate. The notice must state the dates the inventory will be conducted, the information that will be requested in the inventory, and how the information collected will be provided to the public. The notice must also specify the date for a public meeting to provide information regarding the inventory.

(b) A local government unit conducting an inventory or survey of livestock feedlots under its jurisdiction must hold at least one public meeting within the boundaries of the jurisdiction of the local unit of government, prior to beginning the inventory. A state agency conducting a survey of livestock feedlots must hold at least four public meetings outside of the seven-county Twin Cities metropolitan area, prior to beginning the inventory. The public meeting must provide information concerning the dates the inventory will be conducted, the procedure the agency or local unit of government will use to request the information to be included in the inventory, and how the information collected will be provided to the public.

Subd. 7c. **Feedlots; NPDES permitting requirements.** (a) The agency must issue national pollutant discharge elimination system permits for feedlots only as required by federal law. The issuance of national pollutant discharge elimination system permits for feedlots must be based on the following:

(1) a permit for a newly constructed or expanded animal feedlot that is identified as a priority by the commissioner, using criteria in effect on January 1, 2010, must be issued as an individual permit;

(2) an existing feedlot that is identified as a priority by the commissioner, using criteria in effect on January 1, 2010, must be issued as an individual permit; and

(3) the agency must issue a general national pollutant discharge elimination system permit, if required, for animal feedlots that are not identified under clause (1) or (2).

(b) Prior to the issuance of a general national pollutant discharge elimination system permit for a category of animal feedlot facility permittees, the agency must hold at least one public hearing on the permit issuance.

(c) To the extent practicable, the agency must include a public notice and comment period for an individual national pollutant discharge elimination system permit concurrent with any public notice and comment for:

(1) the purpose of environmental review of the same facility under chapter 116D; or

(2) the purpose of obtaining a conditional use permit from a local unit of government where the local government unit is the responsible governmental unit for purposes of environmental review under chapter 116D.

(d) A feedlot owner may choose to apply for a national pollutant discharge elimination system permit even if the feedlot is not required by federal law to have a national pollutant discharge elimination system permit.

Subd. 7d. **Exemption.** Notwithstanding subdivision 7 or Minnesota Rules, chapter 7020, to the contrary, and notwithstanding the proximity to public or private waters, an owner or resident of agricultural land on which livestock have been allowed to pasture at any time during the ten-year period beginning January 1, 2010, is permanently exempt from requirements related to feedlot or manure management on that land for so long as the property remains in pasture.

Subd. 7e. **Manure digesters; permits.** Except for areas within the metropolitan area, as defined in section 473.121, subdivision 2, or within cities of the first or second class, an air emission permit is not required for a manure digester and associated electrical generation equipment that process manure from the farm or provide for backup power for the farm.

Subd. 8. **Public information.** The agency may publish, broadcast, or distribute information pertaining to agency activities, laws, rules, and standards.

Subd. 9. **Orders; investigations.** The commissioner has the following powers and duties for enforcing any provision of this chapter and chapter 114C, relating to air contamination or waste:

(1) to adopt, issue, reissue, modify, deny, revoke, reopen, enter into or enforce reasonable orders, schedules of compliance and stipulation agreements;

(2) to require the owner or operator of any emission facility, air contaminant treatment facility, potential air contaminant storage facility, or any system or facility related to the storage, collection, transportation, processing, or disposal of waste to establish and maintain records; to make reports; to install, use, and maintain monitoring equipment or methods; and to make tests, including testing for odor where a nuisance may exist, in accordance with methods, at locations, at intervals, and in a manner as the agency shall prescribe; and to provide other information as the agency may reasonably require;

(3) to conduct investigations, issue notices, public and otherwise, and order hearings as it may deem necessary or advisable for the discharge of its duties under this chapter and chapter 114C, including but not limited to the issuance of permits; and to authorize any member, employee, or agent appointed by it to conduct the investigations and issue the notices; and

(4) 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 agency may recover oversight costs only if the agency's costs exceed $25,000. If oversight costs exceed $25,000, the agency 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 where the agency is using schedules of compliance to bring a class of regulated parties into compliance.

Subd. 9a. **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.

Subd. 10. MS 1996 [Repealed, 1997 c 231 art 13 s 20]

Subd. 11. **Permits; landfarming contaminated soil.** (a) If the agency receives an application for a permit to spread soil contaminated by a harmful substance as defined in section 115B.25, subdivision 7a, on land in an organized or unorganized township other than the township of origin of the soil, the agency must notify the board of the organized township, or the county board of the unorganized township where the spreading would occur at least 60 days prior to issuing the permit.

(b) The agency must not issue a permit to spread contaminated soil on land outside the township of origin if, by resolution, the township board of the organized township, or the county board of the unorganized township where the soil is to be spread requests that the agency not issue a permit.

Subd. 12. **Fire-training ash disposal.** The ash from a legitimate fire training exercise involving the live burning of a structure is classified as demolition debris and may be disposed in any permit-by-rule land disposal facility authorized under agency rules or any permitted demolition land disposal facility, with the consent of the disposal facility operator, if a person certified by a Minnesota state college or university fire safety center certifies in writing in advance to the commissioner that the structure has been adequately prepared for such a training exercise, taking into account all applicable safety concerns and regulations, including Pollution Control Agency guidelines regarding the removal of hazardous materials from training-burn structures before the training event.

Subd. 13. **Outreach to culturally diverse communities.** The commissioner must ensure that, to the maximum extent practicable, the commissioner's work and the work of the agency are carried out in a manner that facilitates enhanced outreach to all Minnesotans. To the maximum extent practicable, public hearings, solicitations for grant proposals, and other interactions with the public must include audiovisual communication components and must not rely exclusively on written forms of communication.

History: *1967 c 882 s 7; 1969 c 1046 s 5-7; 1971 c 727 s 3-5; 1971 c 904 s 1; 1973 c 412 s 13; 1973 c 573 s 1; 1973 c 733 s 1; 1974 c 346 s 2-4; 1974 c 483 s 5-7; 1976 c 76 s 4; 1977 c 90 s 10; 1979 c 304 s 1; 1980 c 564 art 11 s 5-10; 1980 c 614 s 123; 1980 c 615 s 60; 1981 c 352 s 27,28; 1982 c 424 s 130; 1982 c 425 s 17; 1982 c 458 s 2; 1982 c 569 s 19; 1983 c 247 s 51; 1983 c 301 s 112-114; 1983 c 373 s 44,45; 1984 c 640 s 32; 1984 c 644 s 49; 1985 c 248 s 70; 1985 c 274 s 14; 1Sp1985 c 13 s 233; 1986 c 425 s 28; 1987 c 348 s 30; 1989 c 131 s 7; 1989 c 276 s 1; 1989 c 325 s 48; 1989 c 335 art 1 s 269; 1Sp1989 c 1 art 20 s 19; 1990 c 426 art 2 s 1; 1990 c 604 art 10 s 6; 1991 c 199 art 2 s 1; 1991 c 254 art 2 s 37; 1991 c 291 art 21 s 3; 1991 c 303 s 4,5; 1991 c 337 s 55; 1991 c 347 art 1 s 8,18; 1992 c 546 s 2; 1992 c 593 art 1 s 31; 1993 c 172 s 77; 1994 c 585 s 32; 1994 c 619 s 8; 1994 c 632 art 2 s 31; 1994 c 637 s 1; 1994 c 639 art 3 s 3; 1995 c 111 s 1; 1995 c 220 s 104,130; 1995 c 233 art 1 s 7,8; art 2 s 49; 1995 c 247 art 1 s 37,38;*

art 2 s 54; 1995 c 250 s 1; 1995 c 265 art 2 s 14; 1996 c 305 art 1 s 28; art 2 s 25; 1996 c 437 s 20; 1996 c 470 s 19; 1997 c 7 art 1 s 36; 1997 c 143 s 1; 1997 c 158 s 1; 1997 c 216 s 113,114; 1998 c 401 s 41-43; 1999 c 231 s 146; 1999 c 250 art 3 s 18; 2000 c 435 s 4,5; 2001 c 67 s 1; 2001 c 116 s 1; 2001 c 128 s 1; 1Sp2001 c 2 s 137; 2003 c 107 s 29; 2003 c 128 art 2 s 37,38; art 3 s 39; 2004 c 176 s 1; 1Sp2005 c 1 art 1 s 78; art 2 s 161; 2007 c 131 art 1 s 75; 2008 c 357 s 34; 2008 c 363 art 5 s 24; 2010 c 361 art 4 s 63,64; 2011 c 4 s 4; 1Sp2011 c 2 art 4 s 21,22; 2012 c 150 art 1 s 6,7; 2014 c 237 s 8; 2014 c 248 s 17; 1Sp2015 c 4 art 4 s 118-120; 2016 c 158 art 1 s 29; 2017 c 93 art 2 s 133; 2018 c 132 s 1; 1Sp2019 c 1 art 2 s 17,18; 1Sp2021 c 6 art 2 s 98,99; 2022 c 55 art 1 s 21; 2023 c 25 s 36; 2023 c 60 art 8 s 4; 2024 c 85 s 14; 2024 c 116 art 2 s 13-15,34; 1Sp2025 c 1 art 4 s 18; art 6 s 2

116.071 CAUSE OF ACTION FOR ABANDONING HAZARDOUS WASTE ON PROPERTY OF ANOTHER.

(a) If an owner of property on which containers of hazardous waste or material which is hazardous waste is abandoned by another disposes of the waste in compliance with all applicable laws and at the owner's expense, the property owner is entitled to recover from any person responsible for the waste that was abandoned damages of twice the costs incurred for removal, processing, and disposal of the waste, together with the costs and losses that result from the abandonment and court costs. If, before the waste is properly disposed of, the property owner knows the identity and location of a person responsible for the waste that was abandoned, the property owner is not entitled to recover against that person under this section unless:

(1) the property owner requests in writing that the person responsible for the waste that was abandoned remove and properly dispose of the abandoned waste and allows the responsible person 30 days after the request is mailed to remove the waste;

(2) the property owner allows the person responsible for the waste that was abandoned reasonable access to the owner's property to remove the waste within the 30-day period after giving the notice; and

(3) the person responsible for the waste that was abandoned fails to remove all of the waste within the 30-day period.

(b) A person who is purchasing property on a contract for deed is a property owner for the purposes of this section.

History: *1995 c 119 s 1*

116.0711 FEEDLOT PERMITS; CONDITIONS; COUNTY GRANTS.

Subdivision 1. **Conditions.** (a) The agency shall not require feedlot permittees to maintain records as to rainfall or snowfall as a condition of a general feedlot permit if the owner directs the commissioner or agent of the commissioner to appropriate data on precipitation maintained by a government agency or educational institution.

(b) A feedlot permittee shall give notice to the agency when the permittee proposes to transfer ownership or control of the feedlot to a new party. The commissioner shall not unreasonably withhold or unreasonably delay approval of any transfer request. This request shall be handled in accordance with sections 116.07 and 15.992.

(c) An animal feedlot in shoreland that has been unused may resume operation after obtaining a permit from the agency or county, regardless of the number of years that the feedlot was unused.

(d) Notwithstanding Minnesota Rules, chapter 7020, a person who applies manure in a level 2 or higher drinking water supply management area as designated under Minnesota Rules, part 1573.0040, must follow a manure management plan approved by the commissioner. A manure management plan for a level 2 or higher drinking water supply management area must include the Department of Agriculture's recommended best management practices that are published on the department website for that drinking water supply management area.

Subd. 2. **County feedlot program grants; three-part formula.** (a) Money appropriated to the commissioner to make grants to delegated counties to administer the county feedlot program must be distributed according to the three-part formula in paragraphs (b) to (d).

(b) Number of feedlots in the county: 60 percent of the total appropriation must be distributed according to the number of feedlots that are required to be registered in the county. Grants awarded under this paragraph must be matched with a combination of local cash and in-kind contributions.

(c) Minimum program requirements: 25 percent of the total appropriation must be distributed based on the county (1) conducting an annual number of inspections at feedlots that is equal to or greater than seven percent of the total number of registered feedlots that are required to be registered in the county; and (2) meeting noninspection minimum program requirements as identified in the county feedlot workplan form. Counties that do not meet the inspection requirement must not receive 50 percent of the eligible funding under this paragraph. Counties must receive funding for noninspection requirements under this paragraph according to a scoring system checklist administered by the commissioner. The commissioner, in consultation with the Minnesota Association of County Feedlot Officers executive team, shall make a final decision regarding any appeal by a county regarding the terms and conditions of this paragraph.

(d) Performance credits: 15 percent of the total appropriation must be distributed according to work that has been done by the counties during the fiscal year. The amount must be determined by the number of performance credits a county accumulates during the year based on a performance credit matrix jointly agreed upon by the commissioner in consultation with the Minnesota Association of County Feedlot Officers executive team. To receive an award under this paragraph, the county must meet the requirements of paragraph (c), clause (1), and achieve 90 percent of the requirements according to paragraph (c), clause (2), of the formula. The rate of reimbursement per performance credit item must not exceed $200.

Subd. 3. **Minimum grant; prorated grant; transfers.** Delegated counties are eligible for a minimum grant of $7,500. To receive the full $7,500 amount, a county must meet the requirements under subdivision 2, paragraph (c). Nondelegated counties that apply for delegation shall receive a grant prorated according to the number of full quarters remaining in the program year from the date of commissioner approval of the delegation. Awards to any newly delegated counties must be made out of the appropriation reserved under subdivision 2, paragraph (d). The commissioner, in consultation with the Minnesota Association of County Feedlot Officers executive team, may decide to use money reserved under subdivision 2, paragraph (d), in an amount not to exceed five percent of the total annual appropriation for initiatives to enhance existing delegated county feedlot programs, information and education, or technical assistance efforts to reduce feedlot-related pollution hazards. Any amount remaining after distribution under subdivision 2, paragraphs (b) and (c), must be transferred for purposes of subdivision 2, paragraph (d).

History: *2001 c 128 s 2; 2009 c 37 art 1 s 45; 2024 c 90 art 4 s 6*

116.0712 MODIFIED LEVEL ONE FEEDLOT INVENTORY.

(a) Except as provided in paragraph (b), a delegated county that has completed a modified level 1 inventory that includes facility location, approximate number of animal units, and whether the facility is an

open lot or confinement operation, may report that information to the agency in aggregate. A feedlot that is included in an inventory meeting these criteria has satisfied registration requirements under agency rule.

(b) A county must submit to the agency the complete registration information for a feedlot having 1,000 animal units or greater or a feedlot meeting the definition of a concentrated animal feeding operation as defined in Code of Federal Regulations, title 40, section 122.23.

History: *2001 c 128 s 3*

116.0713 LIVESTOCK ODOR.

(a) The Pollution Control Agency must:

(1) monitor and identify potential livestock facility violations of the state ambient air quality standards for hydrogen sulfide, using a protocol for responding to citizen complaints regarding feedlot odor and its hydrogen sulfide component, including the appropriate use of portable monitoring equipment that enables monitoring staff to follow plumes;

(2) when livestock production facilities are found to be in violation of ambient hydrogen sulfide standards, take appropriate actions necessary to ensure compliance, utilizing appropriate technical assistance and enforcement and penalty authorities provided to the agency by statute and rule.

(b) Livestock production facilities are exempt from state ambient air quality standards while manure is being removed and for seven days after manure is removed from barns or manure storage facilities.

(c) For a livestock production facility having greater than 300 animal units, the maximum cumulative exemption in a calendar year under paragraph (b) is 21 days for the removal process.

(d) The operator of a livestock production facility that claims exemption from state ambient air quality standards under paragraph (b) must provide notice of that claim to either the Pollution Control Agency or the county feedlot officer delegated under section 116.07.

(e) State ambient air quality standards are applicable at the property boundary of a farm or a parcel of agricultural land on which a livestock production facility is located, except that if the owner or operator of the farm or parcel obtains an air quality easement from the owner of land adjoining the farm or parcel, the air quality standards must be applicable at the property boundary of the adjoining land to which the easement pertains. The air quality easement must be for no more than five years, must be in writing, and must be available upon request by the agency or the county feedlot officer. Notwithstanding the provisions of this paragraph, state ambient air quality standards are applicable at locations to which the general public has access. The "general public" does not include employees or other categories of people who have been directly authorized by the property owner to enter or remain on the property for a limited period of time and for a specific purpose, or trespassers.

(f) The agency may not require air emission modeling for a type of livestock system that has not had a hydrogen sulfide emission violation.

History: *1997 c 216 s 115; 2000 c 435 s 6*

116.0714 MS 2020 [Expired, 2017 c 93 art 2 s 134]

116.0715 LIMIT ON BASIS FOR ACTION.

The agency shall not issue or deny a permit or amendment or impose control requirements based solely on computer models projecting compliance or noncompliance with the secondary particulate matter standard.

History: *1996 c 409 s 1*

116.0716 RULE VARIANCE.

The Pollution Control Agency may issue a permit without regard to the maximum annual geometric mean standards for particulate matter or the primary maximum 24 hour concentrate standard for particulate matter.

History: *1996 c 409 s 2*

116.0717 MINERALS DEPOSITION.

Notwithstanding rules prohibiting discharge of waste into saturated zones or rules governing variance procedures, the Pollution Control Agency may issue a permit for deposition of fine tailings from minerals processing facilities into mine pits provided the proposer demonstrates through an environmental impact statement and risk assessment that the deposition will not pose an unreasonable risk of pollution or degradation of groundwater.

History: *1996 c 407 s 56; 2004 c 157 s 1*

116.072 ADMINISTRATIVE PENALTIES.

Subdivision 1. **Authority to issue penalty orders.** (a) The commissioner may issue an order requiring violations to be corrected and administratively assessing monetary penalties for violations of this chapter and chapters 114C, 115, 115A, 115D, and 115E, any rules adopted under those chapters, and any standards, limitations, or conditions established in an agency permit; and for failure to respond to a request for information under section 115B.17, subdivision 3. The order must be issued as provided in this section.

(b) A county board may adopt an ordinance containing procedures for the issuance of administrative penalty orders and may issue orders beginning August 1, 1996. Before adopting ordinances, counties shall work cooperatively with the agency to develop an implementation plan for the orders that substantially conforms to a model ordinance developed by the counties and the agency. After adopting the ordinance, the county board may issue orders requiring violations to be corrected and administratively assessing monetary penalties for violations of county ordinances adopted under section 400.16, 400.161, or 473.811 or chapter 115A that regulate solid and hazardous waste and any standards, limitations, or conditions established in a county license issued pursuant to these ordinances. For violations of ordinances relating to hazardous waste, a county's penalty authority is described in subdivisions 2 to 5. For violations of ordinances relating to solid waste, a county's penalty authority is described in subdivision 5a. Subdivisions 6 to 11 apply to violations of ordinances relating to both solid and hazardous waste.

(c) Monetary penalties collected by a county must be used to manage solid and hazardous waste. A county board's authority is limited to violations described in paragraph (b). Its authority to issue orders under this section expires August 1, 1999.

Subd. 2. **Amount of penalty; considerations.** (a) The commissioner or county board may issue orders assessing penalties up to $25,000 for violations identified during an inspection or other compliance review.

(b) In determining the amount of a penalty, the commissioner or county board must consider:

(1) the willfulness of the violation;

(2) the gravity of the violation, including damage to humans, animals, air, water, land, or other natural resources of the state;

(3) the history of past violations;

(4) the number of violations;

(5) the economic benefit gained by the person by allowing or committing the violation; and

(6) other factors as justice may require, if the commissioner or county board specifically identifies the additional factors in the commissioner's or county board's order.

(c) For a violation after an initial violation, the commissioner or county board must, in determining the amount of a penalty, consider the factors in paragraph (b) and the:

(1) similarity of the most recent previous violation and the violation to be penalized;

(2) time elapsed since the last violation;

(3) number of previous violations; and

(4) response of the person to the most recent previous violation identified.

Subd. 3. **Contents of order.** An order assessing an administrative penalty under this section shall include:

(1) a concise statement of the facts alleged to constitute a violation;

(2) a reference to the section of the statute, rule, ordinance, variance, order, stipulation agreement, or term or condition of a permit or license that has been violated;

(3) a statement of the amount of the administrative penalty to be imposed and the factors upon which the penalty is based; and

(4) a statement of the person's right to review of the order.

Subd. 4. **Corrective order.** (a) The commissioner or county board may issue an order assessing a penalty and requiring the violations cited in the order to be corrected within 30 calendar days from the date the order is received.

(b) The person to whom the order was issued shall provide information to the commissioner or county board before the 31st day after the order was received demonstrating that the violation has been corrected or that appropriate steps toward correcting the violation have been taken. The commissioner or county board shall determine whether the violation has been corrected and notify the person subject to the order of the commissioner's or county board's determination.

Subd. 5. **Penalty.** (a) Except as provided in paragraph (b), if the commissioner or county board determines that the violation has been corrected or appropriate steps have been taken to correct the action, the penalty must be forgiven. Unless the person requests review of the order under subdivision 6 or 7 before the penalty is due, the penalty in the order is due and payable:

(1) on the 31st day after the order was received, if the person subject to the order fails to provide information to the commissioner or county board showing that the violation has been corrected or that appropriate steps have been taken toward correcting the violation; or

(2) on the 20th day after the person receives the commissioner's or county board's determination under subdivision 4, paragraph (b), if the person subject to the order has provided information to the commissioner or county board that the commissioner or county board determines is not sufficient to show the violation has been corrected or that appropriate steps have been taken toward correcting the violation.

(b) For a repeated or serious violation, the commissioner or county board may issue an order with a penalty that will not be forgiven after the corrective action is taken. A penalty for a repeated violation that occurs within 36 months after one or more previous violations must be at least ten percent higher than the penalty imposed for the most recent violation, except the amount must not exceed the maximum penalty established in subdivision 2. The penalty is due by 31 days after the order was received unless review of the order under subdivision 6, 7, or 8 has been sought.

(c) Interest at the rate established in section 549.09 begins to accrue on penalties under this subdivision on the 31st day after the order with the penalty was received.

Subd. 5a. **County penalty authority for solid waste violations.** (a) A county board's authority to issue a corrective order and assess a penalty for all violations relating to solid waste that are identified during an inspection or other compliance review is as described in this subdivision. The model ordinance described in subdivision 1, paragraph (b), must include provisions for letters or warnings that may be issued following the inspection and before proceeding under paragraph (b).

(b) For all violations described in paragraph (a), a county attorney or county department with responsibility for environmental enforcement may first issue a notice of violation that complies with the requirements of subdivision 4, except that no penalty may be assessed unless, in the opinion of the county board, the gravity of the violation and its potential for damage to, or actual damage to, public health or the environment is such that a penalty under paragraph (c) or (d) is warranted. In that case the county attorney or department may proceed directly to paragraph (c) or (d).

(c) If the violations are not corrected, if appropriate steps have not been taken to correct them, or if the county board has determined that the gravity of the violations are such that action under this paragraph is warranted, a county board may issue a corrective order as described in subdivision 4, except that the penalty may not exceed $2,000.

(d) If the violations are still not corrected, if appropriate steps have not been taken to correct them, or if the county board has determined that the gravity of the violations are such that action under this paragraph is warranted, a county board may issue a corrective order as described in subdivision 4, except that the penalty may not exceed $5,000.

(e) In determining the amount of the penalty in paragraph (c) or (d), the county board shall be governed by subdivision 2, paragraphs (b) and (c). The penalty assessed under paragraph (c) or (d) shall be due and payable, forgiven, or assessed without forgiveness as described in subdivision 5.

Subd. 6. **Expedited administrative hearing.** (a) Within 30 days after receiving an order or within 20 days after receiving notice that the commissioner or county board has determined that a violation has not been corrected or appropriate steps have not been taken, the person subject to an order under this section may request an expedited hearing, utilizing the procedures of Minnesota Rules, parts 1400.8510 to 1400.8612, to review the commissioner's or county board's action. The hearing request must specifically state the reasons for seeking review of the order. The person to whom the order is directed and the commissioner or county board are the parties to the expedited hearing. The commissioner or county board must notify the person to whom the order is directed of the time and place of the hearing at least 20 days before the hearing. The

expedited hearing must be held within 30 days after a request for hearing has been filed with the commissioner or county board unless the parties agree to a later date.

(b) All written arguments must be submitted within ten days following the close of the hearing. The hearing shall be conducted under Minnesota Rules, parts 1400.8510 to 1400.8612, as modified by this subdivision. The Court of Administrative Hearings may, in consultation with the agency, adopt rules specifically applicable to cases under this section.

(c) The administrative law judge shall issue a report making recommendations about the commissioner's or county board's action to the commissioner or county board within 30 days following the close of the record. The administrative law judge may not recommend a change in the amount of the proposed penalty unless the administrative law judge determines that, based on the factors in subdivision 2, the amount of the penalty is unreasonable.

(d) If the administrative law judge makes a finding that the hearing was requested solely for purposes of delay or that the hearing request was frivolous, the commissioner or county board may add to the amount of the penalty the costs charged to the agency by the Court of Administrative Hearings for the hearing.

(e) If a hearing has been held, the commissioner or county board may not issue a final order until at least five days after receipt of the report of the administrative law judge. The person to whom an order is issued may, within those five days, comment to the commissioner or county board on the recommendations and the commissioner or county board will consider the comments. The final order may be appealed in the manner provided in sections 14.63 to 14.69.

(f) If a hearing has been held and a final order issued by the commissioner or county board, the penalty shall be paid by 30 days after the date the final order is received unless review of the final order is requested under sections 14.63 to 14.69. If review is not requested or the order is reviewed and upheld, the amount due is the penalty, together with interest accruing from 31 days after the original order was received at the rate established in section 549.09.

Subd. 7. **District court hearing.** (a) Within 30 days after the receipt of an order from the commissioner or a county board or within 20 days of receipt of notice that the commissioner or a county board has determined that a violation has not been corrected or appropriate steps have not been taken, the person subject to an order under this section may file a petition in district court for review of the order in lieu of requesting an administrative hearing under subdivision 6. The petition shall be filed with the court administrator with proof of service on the commissioner or county board. The petition shall be captioned in the name of the person making the petition as petitioner and the commissioner or county board as respondent. The petition shall state with specificity the grounds upon which the petitioner seeks rescission of the order, including the facts upon which each claim is based.

(b) At trial, the commissioner or county board must establish by a preponderance of the evidence that a violation subject to this section occurred, the petitioner is responsible for the violation, a penalty immediately assessed as provided for under subdivision 5, paragraph (b) or (c), is justified by the violation, and the factors listed in subdivision 2 were considered when the penalty amount was determined and the penalty amount is justified by those factors.

Subd. 8. **Mediation.** In addition to review under subdivision 6 or 7, the commissioner or county board is authorized to enter into mediation concerning an order issued under this section if the commissioner or county board and the person to whom the order is issued both agree to mediation.

Subd. 9. **Enforcement.** (a) The attorney general on behalf of the state, or the county attorney on behalf of the county, may proceed to enforce penalties that are due and payable under this section in any manner provided by law for the collection of debts.

(b) The attorney general or county attorney may petition the district court to file the administrative order as an order of the court. At any court hearing, the only issues parties may contest are procedural and notice issues. Once entered, the administrative order may be enforced in the same manner as a final judgment of the district court.

(c) If a person fails to pay the penalty, the attorney general or county attorney may bring a civil action in district court seeking payment of the penalties, injunctive, or other appropriate relief including monetary damages, attorney fees, costs, and interest.

Subd. 10. **Revoking or suspending permit.** If a person fails to pay a penalty owed under this section, the agency or county board has grounds to revoke or refuse to reissue or renew a permit or license issued by the agency or county board.

Subd. 11. **Cumulative remedy.** The authority of the agency or county board to issue a corrective order assessing penalties is in addition to other remedies available under statutory or common law, except that the state or county board may not seek civil penalties under any other provision of law for the violations covered by the administrative penalty order. The payment of a penalty does not preclude the use of other enforcement provisions, under which penalties are not assessed, in connection with the violation for which the penalty was assessed.

Subd. 12. MS 1998 [Repealed, 1999 c 99 s 24]

Subd. 13. **Feedlots; administrative penalty orders.** (a) Prior to the commissioner proposing an administrative penalty order to a feedlot operator for a violation of feedlot laws or rules, the agency staff who will determine if a penalty is appropriate and who will determine the size of the penalty shall offer to meet with the feedlot operator to discuss the violation, and to allow the feedlot operator to present any information that may affect any agency decisions on the administrative penalty order.

(b) Notwithstanding subdivision 5, for feedlot law or rule violations for which an administrative penalty order is issued under this section, not less than 75 percent of the penalty must be forgiven if:

(1) the abated penalty is used for approved measures to mitigate the violation for which the administrative penalty order was issued or for environmental improvements to the farm; and

(2) the commissioner determines that the violation has been corrected or that appropriate steps are being taken to correct the action.

Subd. 14. **Treatment works; penalty orders.** To the extent allowable under federal law, the agency shall not issue an administrative penalty order to the operator of a publicly owned treatment works for violating any effluent limitation unless both of the following conditions have been satisfied:

(1) 45 days have elapsed since the agency has issued the operator of the treatment works with a notice of violation or an alleged violation letter that describes the violation; and

(2) the agency provides the operator with a copy of the written summary developed under section 115.03, subdivision 5d, after or at the same time as the notice of violation or alleged violation letter is issued.

History: *1987 c 174 s 1; 1987 c 186 s 15; 1991 c 347 art 1 s 9-13; 1992 c 464 art 1 s 54; 1995 c 247 art 1 s 39; 1996 c 437 s 21; 1996 c 470 s 27; 1999 c 231 s 147; 2000 c 435 s 7; 2014 c 237 s 9; 2018 c 214 art 2 s 9; 2024 c 116 art 2 s 16,17; 2025 c 39 art 2 s 68*

116.073 FIELD CITATIONS.

Subdivision 1. **Authority to issue.** (a) Pollution Control Agency staff designated by the commissioner and Department of Natural Resources conservation officers may issue citations to a person who:

(1) disposes of solid waste as defined in section 116.06, subdivision 22, at a location not authorized by law for the disposal of solid waste without permission of the owner of the property;

(2) fails to report or recover discharges as required under section 115.061;

(3) fails to take discharge preventive or preparedness measures required under chapter 115E;

(4) fails to install or use vapor recovery equipment during the transfer of gasoline from a transport delivery vehicle to an underground storage tank as required in section 116.49, subdivisions 3 and 4;

(5) performs labor or services designing, installing, constructing, inspecting, servicing, repairing, or operating a subsurface sewage treatment system (SSTS) as defined in chapter 115 and has violated rules adopted under chapters 115 and 116 in any of the following categories:

(i) failure to acquire or maintain a current state-issued SSTS license;

(ii) failure to acquire or maintain a current surety bond for SSTS activities;

(iii) failure to acquire or maintain a required local permit for SSTS activities; or

(iv) failure to submit SSTS as-built plans or compliance inspection forms to the local governmental unit; or

(6) performs labor or services pumping, hauling, treating, spreading, dumping, discharging, or land applying septage as defined in Minnesota Rules, part 7080.1100, subpart 69, and has violated rules adopted under chapters 115 and 116 or Code of Federal Regulations, title 40, section 503, in any of the following categories:

(i) failure to acquire or maintain a current state-issued SSTS license;

(ii) failure to acquire or maintain a current surety bond for SSTS activities;

(iii) failure to provide control measures to prevent the pollution of underground waters from the discharge of septage into the saturated or unsaturated zone;

(iv) failure to produce records or maintain records in accordance with Code of Federal Regulations, title 40, section 503; or

(v) failure to treat septage for pathogens and vectors in accordance with Code of Federal Regulations, title 40, section 503.

(b) In addition, Pollution Control Agency staff designated by the commissioner may issue citations to owners and operators of facilities who violate sections 116.46 to 116.50 and Minnesota Rules, chapters 7150

and 7151 and parts 7001.4200 to 7001.4300. A citation issued under this subdivision must include a requirement that the person cited remove and properly dispose of or otherwise manage the waste or discharged oil or hazardous substance, reimburse any government agency that has disposed of the waste or discharged oil or hazardous substance and contaminated debris for the reasonable costs of disposal, or correct any storage tank violations.

(c) Citations for violations of sections 115E.045 and 116.46 to 116.50 and Minnesota Rules, chapters 7150 and 7151, may be issued only after the owners and operators have had a 60-day period to correct violations stated in writing by Pollution Control Agency staff, unless there is a discharge associated with the violation or the violation is a repeat violation from a previous inspection.

Subd. 2. **Penalty amount.** The citation must impose the following penalty amounts:

(1) $100 per major appliance, as defined in section 115A.03, subdivision 17a, up to a maximum of $2,000;

(2) $25 per waste tire, as defined in section 115A.90, subdivision 11, up to a maximum of $2,000;

(3) $25 per lead acid battery governed by section 115A.915, up to a maximum of $2,000;

(4) $1 per pound of other solid waste or $20 per cubic foot up to a maximum of $2,000;

(5) up to $200 for any amount of waste that escapes from a vehicle used for the transportation of solid waste if, after receiving actual notice that waste has escaped the vehicle, the person or company transporting the waste fails to immediately collect the waste;

(6) $50 per violation of rules adopted under section 116.49, relating to underground storage tank system design, construction, installation, and notification requirements, up to a maximum of $2,000;

(7) $500 per violation of rules adopted under section 116.49, relating to upgrading of existing underground storage tank systems, up to a maximum of $2,000 per tank system;

(8) $250 per violation of rules adopted under section 116.49, relating to underground storage tank system general operating requirements, up to a maximum of $2,000;

(9) $250 per violation of rules adopted under section 116.49, relating to underground storage tank system release detection requirements, up to a maximum of $2,000;

(10) $50 per violation of rules adopted under section 116.49, relating to out-of-service underground storage tank systems and closure, up to a maximum of $2,000;

(11) $50 per violation of sections 116.48 to 116.491 relating to underground storage tank system notification, monitoring, environmental protection, and tank installers training and certification requirements, up to a maximum of $2,000;

(12) $25 per gallon of oil or hazardous substance discharged which is not reported or recovered under section 115.061, up to a maximum of $2,000;

(13) $1 per gallon of oil or hazardous substance being stored, transported, or otherwise handled without the prevention or preparedness measures required under chapter 115E, up to a maximum of $2,000;

(14) $250 per violation of Minnesota Rules, parts 7001.4200 to 7001.4300 or chapter 7151, related to aboveground storage tank systems, up to a maximum of $2,000;

(15) $250 per delivery made in violation of section 116.49, subdivision 3 or 4, levied against:

(i) the retail location if vapor recovery equipment is not installed or maintained properly;

(ii) the carrier if the transport delivery vehicle is not equipped with vapor recovery equipment; or

(iii) the driver for failure to use supplied vapor recovery equipment;

(16) $500 per violation of rules adopted under chapters 115 and 116 relating to failure to comply with state subsurface sewage treatment system (SSTS) license requirements, up to a maximum of $2,000;

(17) $500 per violation of rules adopted under chapters 115 and 116 relating to failure to comply with SSTS surety bond requirements, up to a maximum of $2,000;

(18) $500 per violation of rules adopted under chapters 115 and 116 relating to failure to provide control measures to prevent the pollution of underground waters from the discharge of septage into the saturated or unsaturated zone, up to a maximum of $2,000;

(19) $500 per violation of rules adopted under chapters 115 and 116 or Code of Federal Regulations, title 40, section 503, relating to failure to treat septage for pathogens and vectors, up to a maximum of $2,000;

(20) $250 per violation of rules adopted under chapters 115 and 116 or Code of Federal Regulations, title 40, section 503, relating to failure to produce records or maintain records, up to a maximum of $2,000;

(21) $250 per violation of rules adopted under chapters 115 and 116 or Code of Federal Regulations, title 40, section 503, relating to failure to submit as-built plans or compliance inspection forms to the local governmental unit, up to a maximum of $2,000; and

(22) $500 per violation of rules adopted under chapters 115 and 116 relating to failure to obtain required local permits, up to a maximum of $2,000.

Subd. 3. **Appeals.** Citations may be appealed under the procedures in section 116.072, subdivision 6, if the person requests a hearing by notifying the commissioner in writing within 15 days after receipt of the citation. If a hearing is not requested within the 15-day period, the citation becomes a final order not subject to further review.

Subd. 4. **Enforcing field citations.** Field citations may be enforced under section 116.072, subdivisions 9 and 10.

Subd. 5. **Cumulative remedy.** The authority to issue field citations is in addition to other remedies available under statutory or common law, except that the state may not seek penalties under any other provision of law for the incident subject to the citation.

History: *1994 c 585 s 33; 1998 c 379 s 3,4; 1999 c 231 s 148,149; 2000 c 488 art 3 s 28; 2003 c 128 art 1 s 138,139; 2004 c 169 s 2,3; 2014 c 237 s 10,11*

116.074 NOTICE OF PERMIT CONDITIONS TO LOCAL GOVERNMENTS.

Before the agency grants a permit for a solid waste facility, allows a significant alteration of permit conditions or facility operation, or allows the change of a facility permittee, the commissioner must notify the county and town where the facility is located, contiguous counties and towns, and all home rule charter and statutory cities within the contiguous townships. If a local government unit requests a public meeting within 30 days after being notified, the agency must hold at least one public meeting in the area near the

facility before granting the permit, allowing the alterations in the permit conditions or facility operation, or allowing the change of the facility permittee.

History: *1988 c 685 s 24*

116.075 HEARINGS AND RECORDS PUBLIC.

Subdivision 1. **Public records.** All hearings conducted by the Pollution Control Agency pursuant to sections 103F.701 to 103F.755 and chapters 115 and 116 shall be open to the public, and the transcripts thereof are public records. All final records, studies, reports, orders, and other documents prepared in final form by order of, or for the consideration of, the agency, are public records. Any documents designated as public records by this section may be inspected by members of the public at all reasonable hours and places under such rules as the agency shall promulgate.

Subd. 2. **Confidential records; conditions; exceptions.** Any records or other information obtained by the Pollution Control Agency or furnished to the agency by the owner or operator of one or more air contaminant or water or land pollution sources which are certified by said owner or operator, and said certification, as it applies to water pollution sources, is approved in writing by the commissioner, to relate to (a) sales figures, (b) processes or methods of production unique to the owner or operator, or (c) information which would tend to affect adversely the competitive position of said owner or operator, shall be only for the confidential use of the agency in discharging its statutory obligations, unless otherwise specifically authorized by said owner or operator. Provided, however that all such information may be used by the agency in compiling or publishing analyses or summaries relating to the general condition of the state's water, air and land resources so long as such analyses or summaries do not identify any owner or operator who has so certified. Notwithstanding the foregoing, the agency may disclose any information, whether or not otherwise considered confidential which it is obligated to disclose in order to comply with federal law and regulations, to the extent and for the purpose of such federally required disclosure.

History: *1971 c 887 s 1; 1973 c 374 s 20; 1985 c 248 s 70; 1987 c 186 s 15; 1990 c 391 art 10 s 3; 2011 c 107 s 107*

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

116.081 PROHIBITIONS; AIR CONTAMINANT AND WASTE FACILITIES AND SYSTEMS.

Subdivision 1. **Permit required.** It shall be unlawful for any person to construct, install or operate an emission facility, air contaminant treatment facility, treatment facility, potential air contaminant storage facility, storage facility, or system or facility related to the collection, transportation, storage, processing, or disposal of waste, or any part thereof unless otherwise exempted by any agency rule now in force or hereinafter adopted, until plans therefor shall have been submitted to the agency, and a written permit therefor shall have been granted by the agency. The requirements of this section shall not be applied to motor vehicles.

Subd. 2. **Permits previously issued.** Any permit authorized by section 116.07, subdivision 4a issued prior to June 8, 1971, and any rule which required said prior permit, shall be valid and remain enforceable subject, however, to the right of the agency to modify or revoke said permit or amend said rule in the same manner as other permits and rules.

Subd. 3. **Permission for alteration.** It shall be unlawful for any person to make any change in, addition to or extension of any existing system or facility specified in subdivision 1, or part thereof, that would materially alter the method or the effect of treating or disposing of any air contaminant or solid waste, or to

operate said system or facility, or part thereof, so changed, added to, or extended until plans therefor shall have been submitted to the agency, and a written permit therefor shall have been granted by the agency.

History: *1971 c 904 s 2; 1974 c 483 s 8; 1980 c 564 art 11 s 11; 1985 c 248 s 70*

116.082 BURNING LEAVES; LOCAL ORDINANCES.

Subject to sections 88.16, 88.17 and 88.22, but notwithstanding any law or rule to the contrary, a town or home rule charter or statutory city located outside the metropolitan area as defined in section 473.121, subdivision 2, by adoption of an ordinance, may permit the open burning of dried leaves within the boundaries of the town or city. The ordinance shall limit leaf burning to the period between September 15 and December 1 and shall set forth limits and conditions on leaf burning to minimize air pollution and fire danger and any other hazards or nuisance conditions. No open burning of leaves shall take place during an air pollution alert, warning or emergency declared by the agency. Any town or city adopting an ordinance pursuant to this section shall submit a copy of the ordinance to the agency and the Department of Natural Resources.

History: *1982 c 569 s 37*

116.09 MS 1967 [Repealed, 1969 c 1046 s 12]

116.091 SYSTEMS AND FACILITIES.

Subdivision 1. **Information.** Any person operating any emission system or facility specified in chapter 114C or section 116.081, subdivision 1, when requested by the Pollution Control Agency, shall furnish to it any information which that person may have which is relevant to pollution or the rules or provisions of this chapter.

Subd. 2. **Examining records.** The agency or any employee or agent thereof, when authorized by it, may examine any books, papers, records or memoranda pertaining to the operation of any system or facility specified in subdivision 1.

Subd. 3. **Access to premises.** Whenever the agency deems it necessary for the purposes of this chapter or chapter 114C, the agency or any member, employee, or agent thereof, when authorized by it, may enter upon any property, public or private, for the purpose of obtaining information or conducting surveys or investigations.

History: *1971 c 904 s 3; 1985 c 248 s 70; 1986 c 444; 1996 c 437 s 22,23*

116.10 POLICY; LONG-RANGE PLAN; PURPOSE.

Consistent with the policy announced herein and the purposes of Laws 1963, chapter 874, the Pollution Control Agency shall prepare a long-range plan and program for the effectuation of said policy.

History: *1969 c 1046 s 10; 1Sp1981 c 4 art 2 s 12; 2012 c 272 s 74*

116.101 HAZARDOUS WASTE; CONTROL AND SPILL CONTINGENCY PLAN.

(a) The Pollution Control Agency shall study and investigate the problems of hazardous waste control and shall develop a statewide hazardous waste spill contingency plan detailing the location of hazardous waste facilities and storage sites throughout the state and the needs relative to the interstate transportation of hazardous waste.

(b) The statewide hazardous waste spill contingency plan shall be incorporated into the statewide hazardous waste management plans of the Pollution Control Agency. The Pollution Control Agency shall

develop an informational reporting system of hazardous waste quantities generated, processed, and disposed of in the state.

History: *1974 c 346 s 5; 1980 c 564 art 11 s 12; 1989 c 335 art 1 s 269; 1991 c 199 art 2 s 1; 1995 c 247 art 2 s 54; 1Sp2005 c 1 art 2 s 161*

116.11 EMERGENCY POWERS.

Subdivision 1. **Imminent and substantial danger.** If there is imminent and substantial danger to the health and welfare of the people of the state, or of any of them, as a result of the pollution of air, land, or water, the commissioner may by emergency order direct the immediate discontinuance or abatement of the pollution without notice and without a hearing or at the request of the commissioner, the attorney general may bring an action in the name of the state in the appropriate district court for a temporary restraining order to immediately abate or prevent the pollution. The commissioner's order or temporary restraining order is effective until notice, hearing, and determination pursuant to other provisions of law, or, in the interim, as otherwise ordered. A final order of the commissioner in these cases is appealable in accordance with chapter 14.

Subd. 2. **Other acts of concern.** (a) The commissioner may exercise the authority under paragraph (b) when the commissioner has evidence of any of the following:

(1) falsification of records;

(2) a history of noncompliance with schedules of compliance or terms of a stipulation agreement;

(3) chronic or substantial permit violations; or

(4) operating with or without a permit where there is evidence of danger to the health or welfare of the people of the state or evidence of environmental harm.

(b) When the commissioner has evidence of behavior specified in paragraph (a), regardless of the presence of imminent and substantial danger, the commissioner may investigate and may:

(1) suspend or revoke a permit;

(2) issue an order to cease operation or activities;

(3) require financial assurances;

(4) reopen and modify a permit to require additional terms;

(5) require additional agency oversight; or

(6) pursue other actions deemed necessary to abate pollution and protect human health.

History: *1969 c 1046 s 11; 1973 c 374 s 21; 1982 c 424 s 130; 1983 c 247 s 52; 2024 c 116 art 2 s 18*

116.12 HAZARDOUS WASTE ADMINISTRATION FEES.

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

Subd. 2. **Hazardous waste generator; fee.** (a) Each generator of hazardous waste shall pay a fee on the hazardous waste generated by that generator. The agency shall base the amount of fees on the quantity

of hazardous waste generated and may charge a minimum fee for each generator not exempted by the agency. In adopting the fee rules, the agency shall consider:

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

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

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

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

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

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

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

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

History: *1983 c 121 s 25; 1Sp1985 c 13 s 234; 1986 c 444; 1989 c 335 art 4 s 106; 1992 c 593 art 1 s 32; 1993 c 279 s 1; 1995 c 220 s 105; 1999 c 250 art 3 s 19*

116.125 NOTIFICATION OF FEE INCREASES.

Before the Pollution Control Agency adopts a fee increase to cover an unanticipated shortfall in revenues, the commissioner shall give written notice of the proposed increase to the chairs of the senate Committee on Finance, the house of representatives Committee on Ways and Means, the senate and house of

representatives committees having jurisdiction over environment and natural resources, and the senate and house of representatives committees having jurisdiction over environment and natural resources finance.

History: *1995 c 220 s 106; 1Sp2005 c 1 art 2 s 161*

116.14 HAZARDOUS WASTE FACILITIES; LIABILITY OF GUARANTOR.

(a) If the owner or operator of a hazardous waste facility is in bankruptcy, reorganization, or arrangement under the Federal Bankruptcy Code or if jurisdiction in any state or federal court cannot with reasonable diligence be obtained over an owner or operator likely to be solvent at the time of judgment, a person having a claim arising from conduct for which evidence of financial responsibility must be provided under the rules adopted under section 116.07, subdivision 4b, may bring the claim directly against the guarantor providing the evidence of financial responsibility.

(b) For the purposes of this section, "guarantor" means any person other than the owner or operator who provides evidence of financial responsibility for that owner or operator.

(c) In an action against a guarantor under this section, the guarantor is entitled to invoke the rights and defenses that would have been available to the owner or operator if the action had been brought against the owner or operator and that would have been available to the guarantor if an action had been brought against the guarantor by the owner or operator.

(d) In an action under this section, the total liability of a guarantor is limited to the aggregate amount that the guarantor has provided as evidence of financial responsibility to the owner or operator under the rules.

(e) Nothing in this section shall be construed to limit any other state or federal statutory, contractual, or common law liability of a guarantor to its owner or operator including the liability of the guarantor for bad faith either in negotiating or in failing to negotiate the settlement of any claim. Nothing in this section shall be construed to diminish the liability of any person under chapter 115B or the federal Superfund Act, United States Code, title 42, section 9601 et seq., or other applicable law.

History: *1987 c 391 s 1*

116.15 MS 1971 [Repealed, 1973 c 423 s 10]

116.155 REMEDIATION FUND.

Subdivision 1. **Creation.** The remediation fund is created as a special revenue fund in the state treasury to provide a reliable source of public money for response and corrective actions to address releases of hazardous substances, pollutants or contaminants, agricultural chemicals, and petroleum, and for environmental response actions at qualified landfill facilities for which the agency has assumed such responsibility, including perpetual care of such facilities. The specific purposes for which the general portion of the fund may be spent are provided in subdivision 2. In addition to the general portion of the fund, the fund contains four accounts described in subdivisions 4 to 5b.

Subd. 2. **Appropriation.** (a) Money in the general portion of the remediation fund is appropriated to the agency and the commissioners of agriculture and natural resources for the following purposes:

(1) to take actions related to releases of hazardous substances, or pollutants or contaminants as provided in section 115B.20;

(2) to take actions related to releases of hazardous substances, or pollutants or contaminants, at and from qualified landfill facilities as provided in section 115B.42, subdivision 2;

(3) to provide technical and other assistance under sections 115B.17, subdivision 14, 115B.175 to 115B.179, and 115C.03, subdivision 9;

(4) for corrective actions to address incidents involving agricultural chemicals, including related administrative, enforcement, and cost recovery actions pursuant to chapter 18D; and

(5) together with any amount approved for transfer to the agency from the petroleum tank fund by the commissioner of management and budget, to take actions related to releases of petroleum as provided under section 115C.08.

(b) The commissioner of management and budget shall allocate the amounts available in any biennium to the agency, and the commissioners of agriculture and natural resources for the purposes provided in this subdivision based upon work plans submitted by the agency and the commissioners of agriculture and natural resources, and may adjust those allocations upon submittal of revised work plans. Copies of the work plans shall be submitted to the chairs of the senate and house of representatives committees having jurisdiction over environment and environment finance.

Subd. 3. **Revenues.** The following revenues shall be deposited in the general portion of the remediation fund:

(1) response costs related to releases of hazardous substances, or pollutants or contaminants, recovered under section 115B.17, subdivision 6; 115B.443; or 115B.444 or any other law;

(2) money paid to the agency or the Agriculture Department by voluntary parties who have received technical or other assistance under sections 115B.17, subdivision 14, 115B.175 to 115B.179, and 115C.03, subdivision 9;

(3) money received in the form of gifts, grants, reimbursement, or appropriation from any source for any of the purposes provided in subdivision 2, except federal grants; and

(4) interest accrued on the fund.

Subd. 4. **Dry cleaner environmental response and reimbursement account.** The dry cleaner environmental response and reimbursement account is as described in sections 115B.47 to 115B.51.

Subd. 5. **Metropolitan landfill contingency action trust account.** The metropolitan landfill contingency action trust account is as described in section 473.845.

Subd. 5a. **Water quality and sustainability account.** The water quality and sustainability account is as described in section 115B.52.

Subd. 5b. **Natural resources damages account.** The natural resources damages account is as described in section 115B.172.

Subd. 5c. **Closed landfill solar redevelopment and reuse account.** The closed landfill solar redevelopment and reuse account is established and managed as provided under section 115B.431.

Subd. 6. **Transfers to fund.** The remediation fund shall also be supported by transfers as may be authorized by the legislature from time to time from the environmental fund.

History: *2003 c 128 art 2 s 39; 1Sp2005 c 1 art 2 s 161; 2008 c 179 s 35; 2009 c 101 art 2 s 109; 2010 c 382 s 19; 2018 c 204 s 3,4; 1Sp2019 c 4 art 3 s 100-102; 2020 c 83 art 1 s 19; 1Sp2021 c 4 art 8 s 4*

116.156 MS 2008 [Repealed, 2009 c 93 art 1 s 47]

WATER POLLUTION CONTROL PROGRAM

116.16 MINNESOTA STATE WATER POLLUTION CONTROL PROGRAM.

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

Subd. 2. **Definitions.** In this section and sections 116.17 and 116.18:

(1) "agency" means the Minnesota Pollution Control Agency created by this chapter;

(2) "municipality" means any county, city, town, the metropolitan council, or an Indian Tribe or an authorized Indian Tribal organization, and any other governmental subdivision of the state responsible by law for the prevention, control, and abatement of water pollution in any area of the state;

(3) "water pollution control program" means the Minnesota state water pollution control program created by subdivision 1;

(4) "bond account" means the Minnesota state water pollution control bond account created in the state bond fund by section 116.17, subdivision 4;

(5) terms defined in section 115.01 have the meanings therein given them;

(6) the eligible cost of any municipal project, except as otherwise provided in clause (7), includes (i) preliminary planning to determine the economic, engineering, and environmental feasibility of the project; (ii) engineering, architectural, legal, fiscal, economic, sociological, project administrative costs of the agency and the municipality, and other investigations and studies; (iii) surveys, designs, plans, working drawings, specifications, procedures, and other actions necessary to the planning, design, and construction of the project; (iv) erection, building, acquisition, alteration, remodeling, improvement, and extension of disposal systems; (v) inspection and supervision of construction; and (vi) all other expenses of the kinds enumerated in section 475.65;

(7) for state grants under the state independent grants program, the eligible cost includes the acquisition of land for stabilization ponds, the construction of collector sewers for totally unsewered statutory and home rule charter cities and towns described under section 368.01, subdivision 1 or 1a, that are in existence on

January 1, 1985, and the provision of reserve capacity sufficient to serve the reasonable needs of the municipality for 20 years in the case of treatment works and 40 years in the case of sewer systems. For state grants under the state independent grants program, the eligible cost does not include the provision of service to seasonal homes, or cost increases from contingencies that exceed three percent of as-bid costs or cost increases from unanticipated site conditions that exceed an additional two percent of as-bid costs;

(8) "authority" means the Minnesota Public Facilities Authority established in section 446A.03.

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

Subd. 4. **Disbursements.** Disbursements for the water pollution control program shall be made by the commissioner of management and budget at the times and in the amounts requested by the agency or the Minnesota Public Facilities Authority in accordance with the applicable state and federal law governing such disbursements; except that no appropriation or loan of state funds for any project shall be disbursed to any municipality until and unless the agency has by resolution determined the total estimated cost of the project, and ascertained that financing of the project is assured by:

(1) a grant to the municipality by an agency of the federal government within the amount of funds then appropriated to that agency and allocated by it to projects within the state; or

(2) a grant of funds appropriated by state law; or

(3) a loan authorized by state law; or

(4) the appropriation of proceeds of bonds or other funds of the municipality to a fund for the construction of the project; or

(5) any or all of the means referred to in clauses (1) to (4); and

(6) an irrevocable undertaking, by resolution of the governing body of the municipality, to use all funds so made available exclusively for the construction of the project, and to pay any additional amount by which the cost of the project exceeds the estimate, by the appropriation to the construction fund of additional municipal funds or the proceeds of additional bonds to be issued by the municipality; and

(7) conformity of the project and of the loan or grant application with the state water pollution control plan as certified to the federal government and with all other conditions under applicable state and federal law for a grant of state or federal funds of the nature and in the amount involved.

Subd. 5. **Rules.** (a) The agency shall promulgate permanent rules for the administration of grants and loans authorized to be made under the water pollution control program, which rules, however, shall not be applicable to the issuance of bonds by the commissioner of management and budget as provided in section 116.17. The rules shall contain as a minimum:

(1) procedures for application by municipalities;

(2) conditions for the administration of the grant or loan;

(3) criteria for the ranking of projects in order of priority for grants or loans, based on factors including the extent and nature of pollution, technological feasibility, assurance of proper operation, maintenance and replacement, and participation in multimunicipal systems; and

(4) such other matters as the agency and the commissioner find necessary to the proper administration of the grant program.

(b) The agency shall award the amount of additional priority points necessary to place a project in the fundable range of the intended use plan if the agency determines that the project would repair a facility that is an imminent threat to discharge untreated or partially treated sewage to the Boundary Waters Canoe Area Wilderness if it fails.

(c) For purposes of awarding independent state grants, the agency may by rule waive the federal 20-year planning requirement for municipalities with a population of less than 1,500.

Subd. 6. MS 1982 [Repealed, 1984 c 597 s 55]

Subd. 7. MS 1982 [Repealed, 1984 c 597 s 55]

Subd. 8. **Loans.** Each loan made to a municipality from the proceeds of state bonds, when authorized by law, shall be evidenced by resolutions adopted by the agency and by the governing body of the municipality, obligating the municipality to repay the loan to the commissioner of management and budget, for credit to the water pollution control bond account in the state bond fund, in annual installments including both principal and interest, each in an amount sufficient to pay the principal amount within such period as may be provided by the agency in accordance with the law authorizing the loan, with interest on the declining balance thereof at a rate not less than the average annual interest rate on state bonds of the issue from the proceeds of which the loan was made, and obligating the municipality to provide money for such repayment from user charges, taxes, special assessments, or other funds available to it. For the purpose of repaying such loans the municipality by resolution of its governing body may undertake to fix rates and charges for disposal system service and enter into contracts for the payment by others of costs of construction, maintenance, and use of the project in accordance with section 444.075, and may pledge the revenues derived therefrom, and the agency may condition any such loans upon the establishment of rates and charges or the execution of contracts sufficient to produce the revenues pledged.

Subd. 9. **Applications.** Applications by municipalities for grants or loans under the water pollution control program shall be made to the authority on forms requiring information prescribed by rules of the agency. The authority shall send the application to the agency within ten days of receipt. The commissioner shall certify to the authority those applications which appear to meet the criteria set forth in sections 116.16 to 116.18 and the rules promulgated hereunder, and the authority shall award the grants or loans on the basis of the criteria and priorities established by the agency in its rules and in sections 116.16 to 116.18. A municipality that is designated under agency rules to receive state or federal funding for a project and that does not make a timely application for or that refuses the funding is not eligible for either state or federal funding for that project in that fiscal year or the subsequent year.

Subd. 9a. **Subsequent grants.** A municipality awarded a final grant of funding for a project under the program established by the 1972 Federal Water Pollution Control Act amendments or the state independent grants program is not eligible for additional funding to replace that project under the federal program or the state program, unless the funding is necessary as a result of subsequent changes in state water quality standards, effluent limits, or technical design requirements, or for a municipality awarded the final grant before October 1, 1984, if the funding is necessary for the provision of increased capacity.

Subd. 10. **Costs.** To the extent the agency administers or engages in activities necessary for administering any aspects of the Federal Water Pollution Control Act as amended, United States Code, title 33, section 1251 et seq., the agency may assess the costs of such administrative activities, in an amount not to exceed that allowed by federal law, against the federal construction grant funds allotted to the state.

Subd. 11. **Awarding grants and loans.** Upon certification by the commissioner of the Pollution Control Agency, the authority shall notify a municipality that is to receive a grant or loan and advise the municipality of the grant agreement or loan form or other document that must be executed to complete the grant or loan. Upon certification from the commissioner that the work has been completed and that payment is proper, the authority shall pay to the municipality the periodic grant or loan payment.

Subd. 12. **Amendments.** A municipality that seeks an amendment to a previously awarded grant or loan shall follow the procedure in subdivision 9 for applying to the authority. The request for a grant or loan amendment must be forwarded by the authority to the commissioner of the Pollution Control Agency for consideration, and the authority shall process a grant or loan amendment that is approved by the commissioner.

History: *Ex1971 c 20 s 1; 1973 c 123 art 5 s 7; 1973 c 423 s 1-6; 1973 c 492 s 14; 1976 c 2 s 53; 1976 c 76 s 5; 1977 c 418 s 1; 1980 c 397 s 1; 1980 c 509 s 27; 1983 c 301 s 115; 1984 c 597 s 42-46; 1984 c 640 s 32; 1Sp1985 c 14 art 19 s 1,2; 1987 c 186 s 15; 1987 c 386 art 3 s 1-6; 1989 c 271 s 16-21; 1990 c 564 s 1,2; 1994 c 628 art 3 s 8; 1995 c 233 art 2 s 56; 1998 c 404 s 37; 2003 c 112 art 2 s 16,50; 2009 c 101 art 2 s 109*

116.162 MS 1994 [Repealed, 1996 c 463 s 61]

116.163 AGENCY REVIEW; FINANCIAL ASSISTANCE AND BIDS.

Subdivision 1. **Construction grants and loans; applications.** The agency shall, pursuant to agency rules and within 90 days of receipt of a completed application for a wastewater treatment facility construction grant or loan, grant or deny the application and notify the municipality of the agency's decision. The time for consideration of the application by the agency may be extended up to 180 days if the municipality and the agency agree it is necessary.

Subd. 2. **Planning time limited.** A municipality shall complete all planning work required by the agency for award of a grant or loan, and be ready to advertise for bids for construction, within two years of receipt of grant or loan funds under subdivision 1. The planning time may be extended automatically by the amount of time the agency exceeds its 90-day review under subdivision 1.

Subd. 3. **Bid review.** After a municipality has accepted bids for construction of a wastewater treatment project, the agency must review the bids within 30 days of receipt.

History: *1986 c 465 art 3 s 4*

116.165 INSPECTION RESPONSIBILITY.

When a wastewater treatment plant is constructed with federal funds and a federal agency conducts inspections of the plant, the owner of the plant or the owner's designee must conduct inspections and forward all inspection documents required by the agency to the agency for its review.

History: *1986 c 465 art 3 s 5*

116.167 MS 1986 [Repealed, 1987 c 386 art 3 s 30]

116.17 MINNESOTA STATE WATER POLLUTION CONTROL BONDS.

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

Subd. 2. **Issuing bonds.** Upon request by resolution of the agency and upon authorization as provided in subdivision 1 the commissioner of management and budget shall sell and issue Minnesota state water pollution control bonds in the aggregate amount requested, upon sealed bids and upon such notice, at such price, in such form and denominations, bearing interest at a rate or rates, maturing in amounts and on dates, with or without option of prepayment upon notice and at specified times and prices, payable at a bank or banks within or outside the state, with provisions, if any, for registration, conversion, and exchange and for the issuance of temporary bonds or notes in anticipation of the sale or delivery of definitive bonds, and in accordance with further provisions, as the commissioner of management and budget shall determine, subject to the approval of the attorney general, but not subject to chapter 14, including section 14.386. The bonds shall be executed by the commissioner of management and budget under official seal. The signature of the commissioner on the bonds and any appurtenant interest coupons and the seal may be printed, lithographed, engraved, stamped, or otherwise reproduced thereon, except that each bond shall be authenticated by the manual signature on its face of the commissioner or of an authorized representative of a bank designated by the commissioner as registrar or other authenticating agent. The commissioner of management and budget shall ascertain and certify to the purchasers of the bonds the performance and existence of all acts, conditions, and things necessary to make them valid and binding general obligations of the state of Minnesota, subject to the approval of the attorney general.

Subd. 3. **Expenses.** All expenses incidental to the sale, printing, execution, and delivery of bonds pursuant to this section, including but not limited to actual and necessary travel and subsistence expenses of state officers and employees for such purposes, and any expenses of litigation relating to the validity of the bonds, shall be paid from the bond proceeds fund, and the amounts necessary therefor are appropriated from that fund; provided that if any amount is specifically appropriated for this purpose in an act authorizing the issuance of bonds pursuant to this section, such expenses shall be limited to the amount so appropriated.

Subd. 4. **State water pollution control bond account.** The commissioner of management and budget shall maintain in the state bond fund a separate bookkeeping account which shall be designated as the state water pollution control bond account, to record receipts and disbursements of money transferred to the fund to pay Minnesota state water pollution control bonds and income from the investment of such money, which income shall be credited to the account in each fiscal year in an amount equal to the approximate average return that year on all funds invested by the commissioner of management and budget, as determined by the commissioner of management and budget, times the average balance in the account that year.

Subd. 5. **Appropriations to bond account.** The premium and accrued interest received on each issue of Minnesota state water pollution control bonds, and all loan payments received under the provisions of section 116.16, subdivision 5, shall be credited to the bond account. All income from the investment of

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

Subd. 6. **Tax levy.** On or before December 1 in each year the state auditor shall levy on all taxable property within the state whatever tax may be necessary to produce an amount sufficient, with all money then and theretofore credited to the bond account, to pay the entire amount of principal and interest then and theretofore due and principal and interest to become due on or before July 1 in the second year thereafter on Minnesota water pollution control bonds. This tax shall be subject to no limitation of rate or amount until all such bonds and interest thereon are fully paid. The proceeds of this tax are appropriated and shall be credited to the state bond fund, and the principal of and interest on the bonds are payable from such proceeds, and the whole thereof, or so much as may be necessary, is appropriated for such payments. If at any time there is insufficient money from the proceeds of such taxes to pay the principal and interest when due on Minnesota water pollution control bonds, such principal and interest shall be paid out of the general fund in the state treasury, and the amount necessary therefor is hereby appropriated.

History: *Ex1971 c 20 s 2; 1973 c 423 s 7; 1973 c 492 s 14; 1976 c 2 s 172; 1982 c 424 s 130; 1983 c 301 s 116; 1Sp1985 c 14 art 4 s 14; 1989 c 271 s 22-24; 1995 c 233 art 2 s 56; 1997 c 187 art 5 s 14; 2003 c 112 art 2 s 17,50; 2009 c 101 art 2 s 109*

116.18 WATER POLLUTION CONTROL FUNDS; APPROPRIATIONS AND BONDS.

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

Subd. 2. MS 1984 [Repealed, 1Sp1985 c 14 art 19 s 38]

Subd. 2a. **State matching grants program.** For projects tendered, on or after October 1, 1987, a grant of federal money under section 201(g), section 202, 203, or 206(f) of the Federal Water Pollution Control Act, as amended, United States Code, title 33, sections 1251 to 1376, at 55 percent or more of the eligible cost for construction of the treatment works, state money appropriated under subdivision 1 must be expended for 50 percent of the nonfederal share of the eligible cost of construction for municipalities with populations of 25,000 or less.

Subd. 3. MS 1971 [Repealed, 1973 c 423 s 10]

Subd. 3a. **State independent grants program.** (a) The Public Facilities Authority must adopt the objective of maintaining financial assistance to municipalities that the agency has listed on its annual municipal project list of approximately 50 percent of the eligible cost of construction for municipalities with populations over 25,000 and 80 percent of the eligible cost for municipalities with populations of 25,000 or less. Financial assistance may be provided by the Public Facilities Authority through a combination of low interest loans under the state revolving fund under chapter 446A, independent state grants, and other financial

assistance available to the municipality. The Public Facilities Authority may award independent grants for projects certified by the state pollution control commissioner for 35 percent or, if the population of the municipality is 25,000 or less, 65 percent of the eligible cost of construction. These grants may be awarded in separate steps for planning and design in addition to actual construction. Not more than $2,000,000 of the total amount of grants awarded under this subdivision in any single fiscal year may be awarded to a single grantee.

(b) Up to $1,000,000 of the money to be awarded as grants under this subdivision in any single fiscal year shall be set aside for municipalities having substantial economic development projects that cannot come to fruition without municipal wastewater treatment improvements. The agency shall forward its municipal needs list to the authority at the beginning of each fiscal year, and the authority shall review the list and identify those municipalities having substantial economic development projects. After the available money is allocated to municipalities in accordance with agency priorities, the set-aside shall be used by the authority to award grants to remaining municipalities that have been identified.

(c) Grants may also be awarded under this subdivision to reimburse municipalities willing to proceed with projects and be reimbursed in a subsequent year at the grant percentage determined in paragraph (a).

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

Subd. 3b. **Capital cost component grant.** (a) The definitions of "capital cost component," "capital cost component grant," "service fee," "service contract," and "private vendor" in Minnesota Statutes 2012, section 471A.02, apply to this subdivision.

(b) Beginning in fiscal year 1989, up to $1,500,000 of the money to be awarded as grants under subdivision 3a in any single fiscal year may be set aside for the award of capital cost component grants to municipalities on the municipal needs list for part of the capital cost component of the service fee under a service contract for a term of at least 20 years with a private vendor for the purpose of constructing and operating wastewater treatment facilities.

(c) The amount granted to a municipality shall be 50 percent of the average total eligible costs of municipalities of similar size recently awarded state and federal grants under the provisions of subdivisions 2a and 3a and the Federal Water Pollution Control Act, United States Code, title 33, sections 1281 to 1299. Federal and state eligibility requirements for determining the amount of grant dollars to be awarded to a municipality are not applicable to municipalities awarded capital cost component grants. Federal and state eligibility requirements for determining which cities qualify for state and federal grants are applicable, except as provided in this subdivision.

(d) Except as provided in this subdivision, municipalities receiving capital cost component grants shall not be required to comply with federal and state regulations regarding facilities planning and procurement contained in sections 116.16 to 116.18, except those necessary to issue a national pollutant discharge elimination system permit or state disposal system permit and those necessary to assure that the proposed facilities are reasonably capable of meeting the conditions of the permit over 20 years. The municipality and the private vendor shall be parties to the permit. Municipalities receiving capital cost component grants may also be exempted by rules of the agency from other state and federal regulations relating to the award of state and federal grants for wastewater treatment facilities, except those necessary to protect the state from fraud or misuse of state funds.

(e) Funds shall be distributed from the set-aside to municipalities that apply for the funds in accordance with these provisions in the order of their ranking on the municipal needs list.

(f) The authority shall award capital cost component grants to municipalities selected by the state pollution control commissioner upon certification by the state pollution control commissioner that the municipalities' projects and applications have been reviewed and approved in accordance with this subdivision and agency rules adopted under paragraph (g).

(g) The agency shall adopt permanent rules to provide for the administration of grants awarded under this subdivision.

(h) The commissioner of employment and economic development may adopt rules containing procedures for administration of the authority's duties as set forth in paragraph (f).

Subd. 3c. **Individual on-site treatment systems and alternative discharging sewage systems; grant program.** (a) Beginning in fiscal year 1989, up to ten percent of the money to be awarded as grants under subdivision 3a in any single fiscal year, up to a maximum of $1,000,000, may be set aside for the award of grants by the agency to municipalities to reimburse owners of individual on-site wastewater treatment systems or alternative discharging sewage systems for a part of the costs of upgrading or replacing the systems.

(b) An individual on-site treatment system is a wastewater treatment system, or part thereof, that uses soil treatment and disposal technology to treat 5,000 gallons or less of wastewater per day from dwellings or other establishments.

(c) An alternative discharging sewage system is a system permitted under section 115.58 that:

(1) serves one or more dwellings and other establishments;

(2) discharges less than 10,000 gallons of water per day; and

(3) uses any treatment and disposal methods other than subsurface soil treatment and disposal.

(d) Municipalities may apply yearly for grants of up to 50 percent of the cost of replacing or upgrading individual on-site treatment systems, including conversion to an alternative discharging sewage system, within their jurisdiction, up to a limit of $5,000 per system or per connection to a cluster system. Before agency approval of the grant application, a municipality must certify that:

(1) it has adopted and is enforcing the requirements of Minnesota Rules governing subsurface sewage treatment systems;

(2) the existing systems for which application is made do not conform to those rules, are at least 20 years old, do not serve seasonal residences, and were not constructed with state or federal funds; and

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

(e) The federal and state regulations regarding the award of state and federal wastewater treatment grants do not apply to municipalities or systems funded under this subdivision, except as provided in this subdivision.

(f) The agency shall adopt permanent rules regarding priorities, distribution of funds, payments, inspections, procedures for administration of the agency's duties, and other matters that the agency finds necessary for proper administration of grants awarded under this subdivision.

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

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

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

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

History: *Ex1971 c 20 s 3; 1973 c 423 s 8,9; 1973 c 492 s 14; 1973 c 771 s 1,2; 1975 c 354 s 1,2; 1976 c 2 s 172; 1977 c 418 s 2,3; 1979 c 285 s 1,2; 1981 c 361 s 14,15; 1983 c 301 s 117; 1984 c 597 s 47; 1Sp1985 c 14 art 19 s 4-6; 1987 c 186 s 15; 1987 c 277 s 1,2; 1987 c 312 art 1 s 26 subd 2; 1987 c 386 art 3 s 7,8; 1988 c 686 art 1 s 59; 1989 c 271 s 25-28; 1989 c 300 art 1 s 28; 1989 c 354 s 1,2; 1990 c 564 s 3; 1993 c 180 s 5; 1997 c 246 s 13; 1998 c 401 s 44; 1998 c 404 s 38; 1Sp2003 c 4 s 1; 2009 c 101 art 2 s 109; 2009 c 109 s 14; 2014 c 258 s 1*

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

116.182 FINANCIAL ASSISTANCE PROGRAM.

Subdivision 1. **Definitions.** (a) For the purposes of this section, the terms defined in this subdivision have the meanings given them.

(b) "Agency" means the Pollution Control Agency.

(c) "Authority" means the Public Facilities Authority established in section 446A.03.

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

(e) "Essential project components" means those components of a wastewater disposal system that are necessary to convey or treat a municipality's existing wastewater flows and loadings.

(f) "Municipality" means a county, home rule charter or statutory city, town, the Metropolitan Council, an Indian Tribe or an authorized Indian Tribal organization; 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.

(g) "Outstanding international resource value waters" are the surface waters of the state in the Lake Superior Basin, other than class 7 waters and those waters designated as outstanding resource value waters.

(h) "Outstanding resource value waters" are those that have high water quality, wilderness characteristics, unique scientific or ecological significance, exceptional recreation value, or other special qualities that warrant special protection.

Subd. 2. **Applicability.** This section governs the commissioner's certification of projects seeking financial assistance under section 103F.725, subdivision 1a; 446A.07; 446A.072; or 446A.073.

Subd. 3. **Project review.** The commissioner shall review a municipality's proposed project to determine whether it meets the criteria in this section and the rules adopted under this section. The review must include a determination of the essential project components for wastewater treatment projects.

Subd. 3a. MS 2012 [Repealed, 2014 c 248 s 19]

Subd. 4. **Certifying approved projects.** The commissioner shall certify to the authority each approved project, including for wastewater treatment projects a statement of the essential project components and associated costs.

Subd. 5. **Rules.** (a) The agency shall adopt rules for the administration of the financial assistance program. For wastewater treatment projects, the rules must include:

(1) application requirements;

(2) criteria for the ranking of projects in order of priority based on factors including the type of project and the degree of environmental impact, and scenic and wild river standards; and

(3) criteria for determining essential project components.

(b) Notwithstanding any provision in Minnesota Rules, chapter 7077, to the contrary, for purposes of Minnesota Rules, parts 7077.0117, 7077.0118, and 7077.0119, the commissioner must assign 40 points if a municipality is proposing a project to address emerging contaminants, as defined by the United States Environmental Protection Agency. This paragraph expires June 30, 2030.

Subd. 6. **Transferring money.** As the projects in the programs specified under section 116.18, except the program under subdivision 3c of that section, are completed, any amounts remaining from appropriations for the programs are appropriated to the authority for the wastewater infrastructure funding program in section 446A.072, provided this use of the funds does not violate applicable provisions of any bond or note

resolutions, indentures, or other instruments, contracts, or agreements associated with the source of the funds.

History: *1992 c 601 s 10; 1994 c 628 art 3 s 9; 1994 c 632 art 2 s 32-35; 1996 c 463 s 60; 1998 c 404 s 39,40; 1999 c 86 art 1 s 24; 2000 c 492 art 1 s 44; 2005 c 20 art 1 s 32; 2007 c 96 art 2 s 1; 2013 c 125 art 1 s 26; 1Sp2025 c 15 art 2 s 3*

116.19 MS 2000 [Repealed, 2002 c 379 art 1 s 114]

116.195 BENEFICIAL USE OF WASTEWATER AND STORMWATER; CAPITAL GRANTS FOR DEMONSTRATION PROJECTS.

Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms have the meanings given them.

(b) "Agency" means the Pollution Control Agency.

(c) "Beneficial use of wastewater or stormwater" means:

(1) use of the effluent from a wastewater treatment plant that replaces use of groundwater; or

(2) use of stormwater that replaces the use of groundwater.

(d) "Capital project" means the acquisition or betterment of public land, buildings, and other public improvements of a capital nature for the treatment of wastewater intended for beneficial use or for the use of stormwater to replace groundwater use. Capital project includes projects to retrofit, expand, or construct new treatment facilities.

Subd. 2. **Grants for capital project design.** The agency shall make grant awards to political subdivisions for up to 50 percent of the costs to predesign and design capital projects that demonstrate the beneficial use of wastewater or stormwater. The grant agreement must provide that the predesign and design work being funded is public information and available to anyone without charge. The agency must make the predesign and design work available on its website.

Subd. 3. **Grants for capital project implementation.** (a) The agency shall make grant awards to political subdivisions for up to 50 percent of the costs to acquire, construct, install, furnish, and equip capital projects that demonstrate the beneficial use of wastewater or stormwater. The political subdivision must submit design plans and specifications to the agency as part of the application.

(b) The agency must consult with the Public Facilities Authority and the commissioner of natural resources in reviewing and ranking applications for grants under this section.

(c) The application must identify the uses of the treated wastewater or stormwater and greater weight will be given to applications that include a binding commitment to participate by the user or users.

(d) The agency must give preference to projects that will reduce use of the greatest volume of groundwater from aquifers with the slowest rate of recharge.

Subd. 4. **Application form; procedures.** The agency shall develop an application form and procedures.

Subd. 5. MS 2012 [Repealed, 2014 c 248 s 19]

History: *2008 c 179 s 37; 1Sp2011 c 6 art 2 s 22*

116.201 MS 2012 [Repealed, 2013 c 137 art 2 s 23]

116.202 COAL TAR SEALANT; USE AND SALE PROHIBITED.

Subdivision 1. **Definitions.** The following terms have the meanings given.

(a) "Coal tar sealant product" means a surface applied sealing product containing coal tar, coal tar pitch, coal tar pitch volatiles, or any variation assigned the Chemical Abstracts Service (CAS) number 65996-93-2, 65996-89-6, or 8007-45-2.

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

Subd. 2. **Use prohibited.** Except as provided in subdivision 4, a person shall not apply coal tar sealant products on asphalt-paved surfaces.

Subd. 3. **Sale prohibited.** Except as provided in subdivision 4, a person shall not sell a coal tar sealant product that is formulated or marketed for application on asphalt-paved surfaces.

Subd. 4. **Exemptions.** (a) The commissioner may exempt a person from this section if the commissioner determines that one or both of the following apply:

(1) the person is researching the effects of a coal tar sealant product on the environment; or

(2) the person is developing an alternative technology and the use of a coal tar sealant product is required for research or development.

(b) A request for exemption must be made to the commissioner in writing, including an explanation of why the exemption is needed for research or the development of an alternative technology.

Subd. 5. **Compliance and enforcement.** Local units of government may adopt by reference and enforce the provisions of this section. The commissioner may provide technical support to local units of government for compliance and enforcement of this section. The commissioner may respond to compliance and enforcement cases transcending jurisdictional boundaries, cases requiring statewide corrective actions, or requests for assistance or referral from local units of government.

History: *2013 c 137 art 2 s 17*

116.2021 STATE SALT PURCHASE REPORT AND REDUCTION GOAL.

Subdivision 1. **Definition.** For the purposes of this section, "deicing salt" refers to salt in its solid form used to melt snow and ice, excluding salt used on roads managed by the Department of Transportation.

Subd. 2. **Salt purchase report.** By February 1, 2025, and every year thereafter, the commissioner of the Pollution Control Agency, in cooperation with other state agencies, must submit a report to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over environment and natural resources policy and finance that details the purchase of deicing salt by state agencies, excluding the Department of Transportation, and strategies to meet the salt reduction goal established in subdivision 3.

Subd. 3. **Reduction goal.** It is the goal of the state that no later than January 1, 2030, state agencies will reduce the purchase of deicing salt by 25 percent from the level first reported under subdivision 2.

Subd. 4. **Sunset.** This section expires January 1, 2030.

History: *2024 c 116 art 2 s 19*

116.2022 STATE NITROGEN FERTILIZER PURCHASE REPORT AND REDUCTION GOAL.

Subdivision 1. **Nitrogen fertilizer report.** By February 1, 2025, and every year thereafter, the commissioner of the Pollution Control Agency, in cooperation with other state agencies, must submit a report to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over environment and natural resources policy and finance that details the purchase of nitrogen fertilizer by state agencies and strategies to meet the nitrogen fertilizer reduction goal established in subdivision 2.

Subd. 2. **Reduction goal.** It is the goal of the state that no later than January 1, 2030, state agencies will reduce the purchase of nitrogen fertilizer by 25 percent from the level first reported under subdivision 1.

Subd. 3. **Sunset.** This section expires January 1, 2030.

History: *2024 c 116 art 2 s 20*

NUTRIENTS IN CLEANING AGENTS AND WATER CONDITIONERS

116.21 NUTRIENTS IN CLEANING AGENTS AND WATER CONDITIONERS; CONTROL; STATEMENT OF POLICY.

The legislature seeks to encourage the Minnesota Pollution Control Agency through the passage of sections 116.21 to 116.35, to set standards limiting the amount of nutrients in various cleaning agents and water conditioning agents. The legislature realizes that the nutrients contained in many of these products serve a valuable purpose in increasing their overall effectiveness, but we are also aware that they overstimulate the growth of aquatic life and eventually lead to an acceleration of the natural eutrophication process of our state's waters. Limitations imposed under sections 116.21 to 116.35 should, however, be made taking the following factors into consideration:

(1) the availability of safe, nonpolluting, and effective substitutes;

(2) the difference in the mineral content of water in various parts of the state; and

(3) the differing needs of industrial, commercial and household users of cleaning agents and chemical water conditioners.

History: *1971 c 896 s 1*

116.22 DEFINITIONS.

Subdivision 1. **Applicability.** For purposes of sections 116.21 to 116.35, the terms defined in this section shall have the meanings given them.

Subd. 2. MS 1990 [Renumbered subd 3]

Subd. 2. **Chemical water conditioner.** "Chemical water conditioner" means a water softening chemical, antiscale chemical, corrosion inhibitor or other substance intended to be used to treat water.

Subd. 3. MS 1990 [Renumbered subd 4]

Subd. 3. **Cleaning agent.** "Cleaning agent" means a laundry detergent, dishwashing compound, household cleaner, metal cleaner, degreasing compound, commercial cleaner, industrial cleaner, phosphate compound or other substance intended to be used for cleaning purposes.

Subd. 4. MS 1990 [Renumbered subd 2]

Subd. 4. **Nutrient.** "Nutrient" means a substance or combination of substances which, if added to waters in sufficient quantities, provides nourishment that promotes growth of aquatic vegetation in densities which:

(1) interfere with use of the waters by humans or by any animal, fish or plant useful to humans; or

(2) contribute to degradation or alteration of the quality of the waters to an extent detrimental to their use by humans or by any animal, fish or plant that is useful to humans.

History: *1971 c 896 s 2; 1986 c 444*

116.23 PROHIBITION AND RESTRICTIONS.

Subdivision 1. **Nutrient concentrations.** No person shall manufacture for use or sale in Minnesota or import into Minnesota for resale any cleaning agent or chemical water conditioner which contains a prescribed nutrient in a concentration that is greater than the prescribed maximum permissible concentration of that nutrient in that cleaning agent or chemical water conditioner.

Subd. 2. **Residential dishwasher detergent.** No person shall sell, distribute, offer, or expose for sale at retail any household dishwasher detergent that contains more than 0.5 percent phosphorus by weight. This subdivision does not apply to the sale or distribution of detergents for commercial or institutional dishwashing purposes.

History: *1971 c 896 s 3; 2007 c 131 art 1 s 76*

116.24 RULES.

The Pollution Control Agency may make rules:

(1) prescribing for the purpose of section 116.23 nutrients and the maximum permissible concentration if any, of a prescribed nutrient in any cleaning agent or chemical water conditioner;

(2) respecting the manner in which the concentration of any prescribed nutrient in a cleaning agent or chemical water conditioner shall be determined; and

(3) requiring persons who manufacture in Minnesota any cleaning agent or chemical water conditioner to maintain books and records necessary for the proper enforcement of sections 116.21 to 116.35 and rules thereunder, and to submit samples of cleaning agents or water conditioners to the Pollution Control Agency.

History: *1971 c 896 s 4; 1985 c 248 s 70*

116.25 SEIZURE.

Subdivision 1. **Seizure.** The Pollution Control Agency may seize a cleaning agent or chemical water conditioner which it reasonably believes was manufactured or imported in violation of section 116.23.

Subd. 2. **Storage.** A cleaning agent or chemical water conditioner seized under sections 116.21 to 116.35, may be kept or stored in the building or place where it was seized or may be removed to any other proper place by or at the direction of the Pollution Control Agency.

Subd. 3. **Removal; sample.** Except with the authority of the Pollution Control Agency, no person shall remove, alter or interfere with a cleaning agent or chemical water conditioner seized under sections 116.21 to 116.35, but the Pollution Control Agency shall, at the request of a person from whom it was seized, furnish a sample thereof to the person for analysis.

History: *1971 c 896 s 5*

116.26 RESTORING SEIZED ITEMS.

Subdivision 1. **Applying to district court.** When a cleaning agent or chemical water conditioner has been seized under sections 116.21 to 116.35, any person may within two months after the date of seizure, upon prior notice in accordance with subdivision 2 to the Pollution Control Agency by certified mail, apply to the district court within whose jurisdiction the seizure was made for an order of restoration under subdivision 3.

Subd. 2. **Notice.** Notice under subdivision 1 shall be mailed at least 15 days prior to the day on which the application is to be made to the district court and shall specify:

(1) the district court to which the application is to be made;

(2) the place where and the time when the application is to be heard;

(3) the cleaning agent or chemical water conditioner in regard to which the application is to be made; and

(4) the evidence upon which the applicant relies to establish entitlement to possession of the cleaning agent or chemical water conditioner.

Subd. 3. **Restoring items.** (a) Subject to section 116.27 when upon hearing, the district court is satisfied (1) that the applicant is otherwise entitled to possession of the items seized, and (2) that the items seized are not and will not be required as evidence in proceedings under sections 116.21 to 116.35, the court shall order that the items seized be restored forthwith to the applicant.

(b) Where the court is satisfied that the applicant is otherwise entitled to possession but is not satisfied as to the necessity for retention as evidence, the court shall order restoration to the applicant (1) four months after the date of seizure if no proceedings under section 116.23 have been commenced before that time, or (2) upon the final conclusion of any such proceedings.

Subd. 4. **Disposal.** When no application has been made under subdivision 1 within two months from the date of seizure, or when upon application no order of restoration is made, the items seized shall be delivered to the Pollution Control Agency, which may dispose of them as it sees fit.

History: *1971 c 896 s 6; 1978 c 674 s 60; 1986 c 444*

116.27 ADDITIONAL PROHIBITION.

Subdivision 1. **Phosphorus content.** No manufacturer, wholesaler, or retailer shall sell, possess with intent to sell, or display for sale, a household laundry or dishwashing compound, including household detergents and presoaks, unless a verified or certified test result is filed with the Pollution Control Agency stating the percentage content of phosphorus by weight contained in the product.

Subd. 2. **Tests.** Tests shall be conducted pursuant to the methods and procedures adopted by the federal Water Quality Administration.

History: *1971 c 896 s 7*

116.28 LISTS REQUIRED.

Subdivision 1. **Contents of product.** No household laundry or dishwashing compound, including household detergents and presoaks, shall be sold or displayed for sale unless the product name is on a list prominently displayed near the product display stating the phosphorus content by percentage of weight to

weight of the package contents. The products shall be listed in descending order and in letters and figures not less than one half inch high and proportionately wide. No list shall be required if the Pollution Control Agency adopts and has in effect standards for maximum allowable phosphorus content of household laundry and dishwashing compounds.

Subd. 2. **Current listing; availability.** The Pollution Control Agency shall supply any person upon request with a current listing of household laundry and dishwashing compounds and their phosphorus contents received pursuant to sections 116.21 to 116.35. This list shall be updated periodically.

History: *1971 c 896 s 8; 1974 c 275 s 1,2*

116.29 FORFEITURE.

Subdivision 1. **Conviction.** When a person is convicted of an offense under section 116.28 any cleaning agent or chemical water conditioner seized in accordance with sections 116.21 to 116.35 is forfeited to the Pollution Control Agency and shall be disposed of as it directs.

Subd. 2. **Consent.** When a cleaning agent or chemical water conditioner is seized under sections 116.21 to 116.35, the owner or the person in whose possession it was at the time of seizure consents in writing to its destruction, it is forfeited to the Pollution Control Agency and shall be disposed of as it directs.

History: *1971 c 896 s 9*

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

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

116.32 ORDER TO REFRAIN.

If a person is convicted of an offense under sections 116.21 to 116.35, the court may, in addition to any punishment it may impose, order that person to refrain from any further violations of the provision of sections 116.21 to 116.35, or rules for the violation of which the offender has been convicted, or to cease to carry on any activity specified in the order the carrying on of which, in the opinion of the court, will or is likely to result in any further violation thereof.

History: *1971 c 896 s 12; 1985 c 248 s 70; 1986 c 444*

116.33 PROOF OF OFFENSE.

In a prosecution for an offense under sections 116.21 to 116.35, it is sufficient proof of the offense to establish that it was committed by an employee or agent of the accused whether or not the employee agent is identified or has been prosecuted for the offense, unless the accused establishes that the offense was committed without the accused's knowledge or consent and that the accused exercised all due diligence to prevent its commission.

History: *1971 c 896 s 13; 1986 c 444*

116.34 TIME LIMITED FOR PROCEEDINGS.

Proceedings in respect of an offense under sections 116.21 to 116.35, may be instituted at any time within two years after the time when the subject matter of the proceedings arose.

History: *1971 c 896 s 14*

116.35 TRIAL OF OFFENSES.

Any complaint or information in respect of an offense under sections 116.21 to 116.35, may be heard, tried or determined by a court if the accused is resident or carrying on business within the territorial jurisdiction of that court although the matter of the complaint or information did not arise in that territorial jurisdiction.

History: *1971 c 896 s 15*

RESTRICTED CHEMICALS

116.36 DEFINITIONS.

Subdivision 1. **Applicability.** For the purposes of sections 116.36 to 116.38, the following terms have the meanings given.

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

Subd. 3. **Commissioner.** "Commissioner" means the commissioner of the Pollution Control Agency.

Subd. 4. **PCB.** "PCB" means the class of organic compounds known as polychlorinated biphenyls and includes any of several compounds produced by replacing one or more hydrogen atoms on the biphenyl molecule with chlorine. PCB does not include chlorinated biphenyl compounds that have functional groups attached other than chlorine.

Subd. 5. **Person.** "Person" has the meaning specified in section 115.01, subdivision 10.

History: *1976 c 344 s 1; 1977 c 347 s 16; 1987 c 186 s 15; 1990 c 594 art 1 s 51*

116.37 PCB; PROHIBITED USE.

Subdivision 1. **Certificate of exemption.** Beginning January 1, 1978, no person shall use, possess, sell, purchase or manufacture PCB or any product containing PCB unless the use, possession, sale, purchase or manufacture of PCB or products containing PCB is exempted by the agency. If the agency finds after there is opportunity for a public hearing on an application presented by any person, that no substitutes or feasible alternatives are reasonably available for PCB or a product containing PCB or class of products containing PCB, it shall grant a certificate of exemption which shall clearly set out the permitted use, possession, sale or purchase of PCB or a PCB product containing PCB. If the agency grants a certificate of exemption, it shall be valid for all subsequent uses of PCB or products containing PCB if the subsequent uses are consistent with the terms and conditions of the certificate of exemption. In granting certificates of exemption the agency shall at all times consider the public health and safety threatened by the use of PCB. In the consideration of certificates of exemption for the use or replacement of existing electrical transformers and capacitors the agency shall review, but not be limited to, considerations of the safety of proven alternatives, replacement costs and rules controlling the final disposal of PCB.

Subd. 2. **Exclusion.** In no event shall the certificate of exemption requirement or the labeling requirement of this section apply to any individual person who purchases or otherwise acquires a product containing PCB intended for consumer use in the home, provided that the use has previously been exempted by the agency and that the use is consistent with the terms and conditions of the certificate of exemption. Wastepaper, pulp, or other wood fiber materials purchased for use within this state in the manufacture of recycled paper products are exempt from the requirements of this section.

Subd. 3. **Labels required.** Beginning July 1, 1977, no person in this state shall add PCB in the manufacture of any new item, product or material, nor shall any person in this state sell any new item, product or material to which PCB has been added unless the PCB or products containing PCB are conspicuously labeled to disclose the presence of PCB and the concentrations of PCB.

Subd. 4. **Rules.** The agency shall promulgate rules by January 1, 1977, governing the granting of certificates of exemption and the requirements of labels specified in subdivision 3. The rules governing the requirement of labels specified in subdivision 3 may require other information relating to the public health and environmental effects of PCB and shall apply to persons holding certificates of exemption.

Subd. 5. **Penalties.** Violations of this section and sections 116.36 and 116D.045 shall be subject to the provisions of section 115.071.

History: *1976 c 344 s 2*

116.38 PCB BURNING.

Subdivision 1. **State policy.** The legislature finds that risks to human health must be adequately evaluated before a facility may burn PCBs. The legislature also finds that if there is a risk to human health, all human health must be treated with equal concern, and facilities that cause risks to human health must not be allowed to operate in sparsely populated areas if they would not be allowed to operate in heavily populated areas.

Subd. 2. **EIS required.** The Pollution Control Agency may not allow burning of wastes containing 50 ppm or greater PCBs by permit or otherwise unless an environmental impact statement is completed. It may not renew a permit for burning wastes containing 50 ppm or greater PCBs until an environmental impact statement is completed. This section does not apply to experimental burning of small quantities of waste containing 50 ppm or greater PCBs.

History: *1990 c 594 art 1 s 52*

116.385 TRICHLOROETHYLENE; BAN.

Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms have the meanings given.

(b) "Small business" means a business that has less than 500 full-time equivalent employees.

(c) "Trichloroethylene" means a chemical with the Chemical Abstract Services Registry Number of 79-01-6.

Subd. 2. **Use restriction.** (a) Beginning June 1, 2022, an owner or operator of a facility required to have an air emissions permit issued by the Pollution Control Agency may not use trichloroethylene at its permitted facility, including in any manufacturing, processing, or cleaning processes, except as otherwise provided in this section. Cessation of use must be made enforceable in the air emissions permit for the facility or in an enforceable agreement by June 1, 2022. The commissioner of the Pollution Control Agency must not issue an air emissions permit that authorizes using trichloroethylene at a permitted facility after January 1, 2022, except as described in paragraph (b) and subdivision 4.

(b) If a small business needs additional time to assess replacement chemicals or modifications to facility operations, then by June 1, 2022, the commissioner shall include a schedule of compliance in the facility's permit or enter into an enforceable agreement that requires compliance with this section before June 1, 2023. A small business owner or operator requesting additional time under this paragraph must demonstrate compliance with the health-based value and health risk limits for trichloroethylene, as established by the

Department of Health as of January 1, 2019. Owners or operators may be required to comply with additional restrictions based on impacts from nearby sources or background concentrations. Owners or operators may be required to provide additional information as requested by the commissioner to evaluate site-specific conditions or impacts.

Subd. 3. **Replacement chemicals.** An owner or operator that must comply with this section and elects to replace trichloroethylene with another chemical must replace trichloroethylene with a chemical demonstrated to be less toxic to human health and reviewed in a form determined and approved by the commissioner of the Pollution Control Agency.

Subd. 4. **Exceptions.** (a) The commissioner of the Pollution Control Agency shall grant exceptions to the prohibition in subdivision 2, for any of the following uses where compliance with the health-based value and health risk limits for trichloroethylene established by the Department of Health as of January 1, 2019, is demonstrated:

(1) use of trichloroethylene in closed systems so that no trichloroethylene is emitted from the facility;

(2) holding trichloroethylene or products containing trichloroethylene for distribution to a third party; and

(3) a hospital licensed under sections 144.50 to 144.56, or an academic medical facility.

(b) The commissioner of the Pollution Control Agency may grant exceptions to the prohibition in subdivision 2 through the variance process established in Minnesota Rules, part 7000.7000, for any of the following uses where compliance with the health-based value and health risk limits for trichloroethylene established by the Department of Health as of January 1, 2019, is demonstrated:

(1) a facility that uses trichloroethylene exclusively for research and development, or other laboratory or experimental purposes; and

(2) a facility that processes trichloroethylene for waste disposal.

(c) Owners or operators of facilities seeking an exception under this section must submit information to the commissioner that specifies the exception that applies and provide all information needed to determine applicability.

Subd. 5. **Application of exceptions.** Nothing in subdivision 4 shall be construed to authorize a use of an amount of trichloroethylene that exceeds the levels authorized in a stipulation agreement entered into between the Pollution Control Agency and a permittee that was in effect on June 1, 2022.

Subd. 6. **Short title.** This act is the "White Bear Area Neighborhood Concerned Citizens Group Ban TCE Act."

History: *2020 c 84 s 1*

OZONE LAYER; PRESERVATION

116.39 OZONE LAYER; PRESERVATION.

Subdivision 1. **Sale prohibited.** Except as provided by subdivision 3, after July 1, 1979, no person shall sell or offer for sale in this state any pressurized container which contains as a propellant trichloromonofluoromethane, difluorodichloromethane, dichlorotetrafluoroethane, or any other saturated

chlorofluorocarbon compound or other similar inert fluorocarbon compound that does not contain reactive carbon hydrogen bonds.

Subd. 2. **Warning.** Commencing October 31, 1977, no person shall sell or offer for sale at wholesale in this state a pressurized container using chlorofluorocarbon propellants unless the container has prominently displayed on the front panel this statement: "Warning: Contains a chlorofluorocarbon that may harm the public health and environment by reducing ozone in the upper atmosphere."

Subd. 3. **Other compounds permitted.** Nothing in this section prohibits the sale or use of refrigeration equipment containing chlorofluorocarbon compounds, or the sale of chlorofluorocarbon compounds for use in such equipment. This section shall not apply to the sale of chlorofluorocarbon compounds for the following essential medical uses:

(1) metered-dose steroid human drugs for nasal inhalation;

(2) metered-dose steroid human drugs for oral inhalation;

(3) metered-dose adrenergic bronchodilator human drugs for oral inhalation;

(4) contraceptive vaginal foams for human use; or

(5) cytology fixatives; nor

for other medical uses by or under the supervision of a licensed physician, dentist or veterinarian, or a hospital, nursing home or other health care institution licensed by the Department of Health. This section shall also not apply to the sale of chlorofluorocarbon compounds for use in the cleaning, maintenance, testing and repair of electronic equipment.

Subd. 4. **Penalty.** A violation of this section is a misdemeanor.

History: *1977 c 373 s 1*

116.391 RESILIENT COMMUNITY ASSISTANCE PROGRAM.

Subdivision 1. **Citation.** This section may be cited as the "Minnesota Resilient Community Act."

Subd. 2. **Definitions.** (a) For purposes of this section, the terms defined in this subdivision have the meanings given.

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

(c) "Local government unit" means any unit of government other than a state or federal unit of government and includes watershed districts established according to chapter 103D, soil and water conservation districts, watershed management organizations, counties, towns, cities, port authorities, housing authorities, regional development commissions, school districts, and the Metropolitan Council.

(d) "Tribal government" means any of the Minnesota Tribal governments defined under section 10.65, subdivision 2, clause (4), and includes Tribal organizations designated by any of the Minnesota Tribal governments.

Subd. 3. **Establishment.** (a) The commissioner must establish a resilient community assistance program to:

(1) assist local government units, Tribal governments, and other relevant organizations as determined by the commissioner in adapting to and developing community resilience to impacts of climate change;

(2) help coordinate climate adaptation planning, implementation, and evaluation efforts among state agencies, local government units, Tribal governments, and other relevant organizations; and

(3) address inequities due to social, economic, historical, and political factors that result in some communities having less ability to prepare for, cope with, and recover from impacts of climate change.

(b) To address inequities under paragraph (a), clause (3), the commissioner must seek input and collaboration from disproportionately impacted communities.

Subd. 4. **Program elements.** The resilient community assistance program may include but is not limited to:

(1) developing, assembling, and disseminating information on climate adaptation and resilience;

(2) technical assistance for climate adaptation and resilience;

(3) financial assistance programs that provide grants or loans for resilience planning and for implementing climate adaptation and resilience actions, coordinated with the Public Facilities Authority, as necessary, for state bond-funded projects;

(4) outreach, including seminars, workshops, training programs, and other similar activities, designed to provide education and information on climate adaptation and resilience to local government units, Tribal governments, and other relevant organizations as determined by the commissioner;

(5) coordinating, implementing, and measuring progress on climate adaptation and resilience and measuring local government and Tribal government climate adaptation in Minnesota; and

(6) other efforts needed to support climate adaptation and community resilience in Minnesota as determined by the commissioner.

Subd. 5. **Administration.** (a) In administering the program, the commissioner may coordinate with administrators of other public and private programs that provide technical and financial assistance to local government units, Tribal governments, and other relevant organizations that receive assistance under this section.

(b) The commissioner may make grants to or enter into contracts with public or private entities to operate elements of the program. Grantees under this paragraph must provide the commissioner with periodic reports on their efforts to assist in administering the program.

(c) When operating or participating in elements of the program according to a grant or contract under paragraph (b), a person is an employee of the state who is certified to be acting within the scope of employment for purposes of indemnification under section 3.736, subdivision 9, for claims that arise out of the information, assistance, and recommendations covered by the grant or contract. The state is not obligated to defend or indemnify a grantee or contractor under this subdivision to the extent of the grantee's or contractor's liability insurance. The grantee's or contractor's right to indemnity is not a waiver of limitations, defenses, and immunities available to either the grantee or contractor or the state by law.

Subd. 6. **Award for excellence in community resilience.** The governor or commissioner may issue annual awards in the form of a commendation for excellence in climate adaptation and resilience. The commissioner must administer applications for the awards.

History: *2024 c 116 art 2 s 21*

WASTE FACILITY TRAINING AND CERTIFICATION

116.41 WASTE AND WASTE FACILITIES TRAINING AND CERTIFICATION.

Subdivision 1. MS 1982 [Repealed, 1983 c 373 s 72]

Subd. 1a. MS 1982 [Repealed, 1983 c 373 s 72]

Subd. 2. **Training and certification programs.** (a) The agency shall develop standards of competence for persons operating and inspecting various classes of disposal facilities. The agency shall conduct training programs for persons operating facilities for the disposal of waste and for inspectors of such facilities, and shall charge such fees as are necessary to cover the actual costs of the training programs. All fees received shall be paid into the state treasury and credited to the Pollution Control Agency training account and are appropriated to the agency to pay expenses relating to the training of disposal facility personnel.

(b) The agency shall require operators and inspectors of such facilities to obtain from the agency a certificate of competence. The agency shall conduct examinations to test the competence of applicants for certification, and shall require that certificates be renewed at reasonable intervals. The agency may charge such fees as are necessary to cover the actual costs of receiving and processing applications, conducting examinations, and issuing and renewing certificates. Certificates shall not be required for a private individual for land-spreading and associated interim and temporary storage of sewage sludge on property owned or farmed by that individual.

Subd. 3. **Regulation and enforcement assistance.** The agency shall establish a program to provide technical and financial assistance for regulation and enforcement to counties which have certified operators and inspectors conforming to the requirements of the agency, chapters 400 and 473, and sections 115A.01 to 115A.72.

Subd. 4. **Rules.** The agency shall adopt, amend, and rescind rules as may be necessary to carry out the provisions of this section in accordance with chapter 14.

History: *1973 c 646 s 1; 1980 c 564 art 11 s 13; 1981 c 352 s 29; 1982 c 424 s 130; 1983 c 301 s 118; 1987 c 348 s 31; 1987 c 404 s 146; 1989 c 335 art 4 s 46; 2009 c 37 art 1 s 46*

TOXIC SUBSTANCES DEPOSITION

116.42 ACID DEPOSITION; LEGISLATIVE INTENT.

The legislature recognizes that acid deposition substantially resulting from the conduct of commercial and industrial operations, both within and without the state, poses a present and severe danger to the delicate balance of ecological systems within the state, and that the failure to act promptly and decisively to mitigate or eliminate this danger will soon result in untold and irreparable damage to the agricultural, water, forest, fish, and wildlife resources of the state. It is therefore the intent of the legislature in enacting sections 116.42 to 116.44 to mitigate or eliminate the acid deposition problem by curbing sources of acid deposition within the state and to support and encourage other states, the federal government, and the province of Ontario in recognizing the dangers of acid deposition and taking steps to mitigate or eliminate it within their own jurisdictions.

History: *1982 c 482 s 1; 2016 c 158 art 1 s 30*

116.43 ACID DEPOSITION DEFINED.

As used in sections 116.42 to 116.44, "acid deposition" means the wet or dry deposition from the atmosphere of chemical compounds, usually in the form of rain or snow, having the potential to form an aqueous compound with a pH level lower than the level considered normal under natural conditions, or lower than 5.6.

History: *1982 c 482 s 2; 2016 c 158 art 1 s 31*

116.44 SENSITIVE AREAS; STANDARDS.

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

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

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

(3) existing acid deposition reports and data prepared by the Pollution Control Agency and the federal Environmental Protection Agency. The Pollution Control Agency shall conduct public meetings on the preliminary list of acid deposition sensitive areas. Meetings shall be concluded by March 1, 1983, and a final list published by May 1, 1983.

Subd. 2. **Standards.** (a) By January 1, 1986, the agency shall adopt an acid deposition standard for wet plus dry acid deposition in the acid deposition sensitive areas listed pursuant to subdivision 1.

(b) By January 1, 1986, the agency shall adopt an acid deposition control plan to attain and maintain the acid deposition standard adopted under clause (a), addressing sources both inside and outside of the state which emit more than 100 tons of sulphur dioxide per year. The plan shall include an analysis of the estimated compliance costs for facilities emitting sulphur dioxide. Any emission reductions required inside of the state shall be based on the contribution of sources inside of the state to acid deposition in excess of the standard.

(c) By January 1, 1990, sources located inside the state shall be in compliance with the provisions of the acid deposition control plan.

History: *1982 c 482 s 3; 1984 c 519 s 1; 1989 c 209 art 1 s 11; 1997 c 187 art 1 s 11*

116.45 [Obsolete, 1Sp2005 c 1 art 2 s 161]

116.454 MONITORING PROGRAM.

By July 1, 1993, the agency shall establish a statewide monitoring program for, and inventory of probable sources of, releases into the air, ambient concentrations in the air, and deposition from the air of toxic substances.

History: *1992 c 546 s 3*

STORAGE TANKS

116.46 DEFINITIONS.

Subdivision 1. **Scope.** As used in sections 116.47 to 116.50, the terms defined in this section have the meanings given them.

Subd. 1a. **Aboveground storage tank.** "Aboveground storage tank" means any one or a combination of containers, vessels, and enclosures, including structures and appurtenances connected to them, that is used to contain or dispense regulated substances, and that is not an underground storage tank.

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

Subd. 2a. **Installer.** "Installer" means a person who places, constructs, or repairs an aboveground or underground tank, or permanently takes an aboveground or underground tank out of service.

Subd. 3. **Operator.** "Operator" means a person in control of, or having responsibility for, the daily operation of an underground storage tank.

Subd. 4. **Owner.** "Owner" means a person who owns an underground storage tank and a person who owned it immediately before discontinuation of its use.

Subd. 5. **Person.** "Person" has the meaning given it in section 116.06, subdivision 17.

Subd. 6. **Regulated substance.** "Regulated substance" means:

(1) a hazardous material listed in Code of Federal Regulations, title 49, section 172.101; or

(2) petroleum, including crude oil or a fraction of crude oil that is liquid at a temperature of 60 degrees Fahrenheit and pressure of 14.7 pounds per square inch absolute.

Subd. 7. **Release.** "Release" means a spilling, leaking, emitting, discharging, escaping, leaching, or disposing from an underground storage tank into the environment. Release does not include designed venting consistent with the agency's air quality rules.

Subd. 7a. **Retail location.** "Retail location" means a facility located in the metropolitan area as defined in section 473.121, subdivision 2, where gasoline is offered for sale to the general public for use in automobiles and trucks.

Subd. 7b. **Transport delivery vehicle.** "Transport delivery vehicle" means a liquid fuel cargo tank used to deliver gasoline into underground storage tanks.

Subd. 8. **Underground storage tank.** "Underground storage tank" means any one or a combination of containers including tanks, vessels, enclosures, or structures and underground appurtenances connected to them, that is used to contain or dispense an accumulation of regulated substances and the volume of which, including the volume of the underground pipes connected to them, is ten percent or more beneath the surface of the ground.

Subd. 9. [Renumbered subd 1a]

Subd. 10. **Vapor recovery system.** "Vapor recovery system" means a system which transfers vapors from underground storage tanks during the filling operation to the storage compartment of the transport vehicle delivering gasoline.

History: *1Sp1985 c 13 s 235; 1987 c 389 s 11,12; 2003 c 128 art 1 s 140-142*

116.47 EXEMPTIONS.

Sections 116.48, 116.49, and 116.491 do not apply to:

(1) farm or residential tanks of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes;

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

(3) pipeline facilities, including gathering lines, regulated under the Natural Gas Pipeline Safety Act of 1968, United States Code, title 49, chapter 24, or the Hazardous Liquid Pipeline Safety Act of 1979, United States Code, title 49, chapter 29;

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

(5) stormwater or wastewater collection systems;

(6) flow-through process tanks;

(7) tanks located in an underground area, including basements, cellars, mine workings, drifts, shafts, or tunnels, if the storage tank is located upon or above the surface of the floor;

(8) septic tanks;

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

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

History: *1Sp1985 c 13 s 236; 1987 c 389 s 13; 1993 c 87 s 2*

116.48 NOTIFICATION REQUIREMENTS.

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

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

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

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

Subd. 4. **Deposit information.** Beginning on January 1, 1986, and until July 1, 1987, a person who transfers the title to regulated substances to be placed directly into an underground storage tank must inform the owner or operator in writing of the notification requirement of this section.

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

Subd. 6. **Affidavit.** (a) Before transferring ownership of property that the owner knows contains an underground or aboveground storage tank or contained an underground or aboveground storage tank that had a release for which no corrective action was taken or if required by the agency as a condition of a corrective action under chapter 115C, the owner shall record with the county recorder or registrar of titles of the county in which the property is located an affidavit containing:

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

(2) a description of the tank, of the location of the tank, and of any known release from the tank of a regulated substance to the full extent known or reasonably ascertainable;

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

(4) the name of the owner.

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

(c) Failure to record an affidavit as provided in this subdivision does not affect or prevent any transfer of ownership of the property.

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

Subd. 8. **Notice of tank installation or removal.** Before beginning installation or removal of an underground tank system, owners and operators must notify the commissioner. Notification must be in writing or by telephone at least ten days before the tank installation or removal. Owners and operators must renotify the commissioner if the date of the tank installation or removal changes by more than 48 hours. The notification must include the following information:

(1) the name, address, and telephone number of the site owner;

(2) the location of the site, if different from clause (1);

(3) the date of the tank installation or removal; and

(4) the name of the contractor or company that will install or remove the tank.

History: *1Sp1985 c 13 s 237; 1987 c 389 s 14; 1988 c 686 art 1 s 60,61; 1989 c 226 s 4; 1992 c 490 s 11; 2013 c 114 art 4 s 87*

116.481 MONITORING.

Subdivision 1. **Measuring tank capacity.** (a) By September 1, 1996, all aboveground tanks of 2,000 gallons or more used for storage and subsequent resale of petroleum products must be equipped with:

(1) a gauge in working order that shows the current level of product in the tank; or

(2) an audible or visual alarm which alerts the person delivering fuel into the tank that the tank is within 100 gallons of capacity.

(b) In lieu of the equipment specified in paragraph (a), the owner or operator of a tank may use a manual method of measurement which accurately determines the amount of product in the tank and the amount of capacity available to be used. This information must be readily available to anyone delivering fuel into the tank prior to delivery. Documentation that a tank has the available capacity for the amount of product to be delivered must be transmitted to the person making the delivery.

Subd. 2. **Contents labeled.** (a) By December 1, 1995, all aboveground tanks governed by this section must be numbered and labeled as to the tank contents, total capacity, and capacity in volume increments of 500 gallons or less.

(b) Piping connected to the tank must be labeled with the product carried at the point of delivery and at the tank inlet. Manifolded delivery points must have all valves labeled as to product distribution.

Subd. 3. **Site diagram.** (a) All tanks at a facility shall be shown on a site diagram which is permanently mounted in an area accessible to delivery personnel. The diagram shall show the number, capacity, and contents of tanks and the location of piping, valves, storm sewers, and other information necessary for emergency response, including the facility owner's or operator's telephone number.

(b) Prior to delivering product into an underground or aboveground tank, delivery personnel shall:

(1) consult the site diagram, where applicable, for proper delivery points, tank and piping locations, and valve settings;

(2) visually inspect the tank, piping, and valve settings to determine that the product being delivered will flow only into the appropriate tank; and

(3) determine, using equipment and information available at the site, that the available capacity of the tank is sufficient to hold the amount being delivered.

(c) Delivery personnel must remain in attendance during delivery.

Subd. 4. **Capacity of tank.** A tank may not be filled from a transport vehicle compartment containing more than the available capacity of the tank, unless the hose of the transport vehicle is equipped with a manually operated shutoff nozzle.

Subd. 5. **Exemption.** Aboveground and underground tanks located at refineries, pipeline terminals, and river terminals are exempt from this section.

History: *1995 c 240 art 1 s 13*

116.482 PETROLEUM RELEASE; NOTIFICATION.

(a) When a potential receptor survey is conducted for a petroleum tank release as provided in agency guidance documents, the tank owner must provide information on the results of the survey, reports of all releases, and any corrective actions, as defined in section 115C.02, that are related to the petroleum tank release in an understandable manner to residents contacted in the survey. The information may be provided through personal contact, mail, or email.

(b) An owner may delegate the owner's responsibility under paragraph (a) to the owner's consultant or contractor, as those terms are defined in section 115C.02, or to the operator of the tank.

History: *2008 c 357 s 35*

116.49 ENVIRONMENTAL PROTECTION REQUIREMENTS.

Subdivision 1. **Rules.** The agency must adopt rules applicable to all owners and operators of underground storage tanks. The rules must establish the safeguards necessary to protect human health and the environment. The agency may delay adopting the rules until the United States Environmental Protection Agency proposes regulations for regulated substances, as defined in section 116.46, subdivision 6, clause (1). The agency shall delay adopting the rules for regulated substances, as defined in section 116.46, subdivision 6, clause (2), until the United States Environmental Protection Agency publishes final regulations for underground storage tanks, or February 8, 1987, whichever is earlier.

Subd. 1a. **Tank on tax-forfeited land.** The state, an agency of the state, or a political subdivision is not considered an owner or operator of a tank solely as a result of the forfeiture of title to the tank or real property where the tank is located for nonpayment of taxes, or solely as a result of actions taken to manage, sell, or transfer tax-forfeited land where a tank is located under chapter 282 and other laws applicable to tax-forfeited lands. This subdivision does not relieve the state, a state agency, or a political subdivision from liability for the daily operation of a tank under its control or responsibility located on tax-forfeited land.

Subd. 2. **Interim standards.** Until the rules required by subdivision 1 become effective, a person may not install an underground storage tank unless the tank:

(1) is installed according to requirements of the American Petroleum Institute Bulletin 1615 (November 1979) and all manufacturer's recommendations;

(2) is cathodically protected against corrosion, constructed of noncorrosive material, steel clad with a noncorrosive material, or designed in a manner to prevent the release of any stored substance; and

(3) is constructed to be compatible with the substance to be stored.

Subd. 3. **Vapor recovery system.** Every underground gasoline storage tank at a retail location must be fitted with vapor recovery equipment by January 1, 2006. The equipment must be certified by the manufacturer as capable of collecting 95 percent of hydrocarbons emitted during gasoline transfers from a transport delivery vehicle to an underground storage tank. Product delivery and vapor recovery access points must be on the same side of the transport vehicle when the transport vehicle is positioned for delivery into the underground tank. After January 1, 2006, no gasoline may be delivered to a retail location that is not equipped with a vapor recovery system.

Subd. 4. **Vapor recovery on transports.** All transport delivery vehicles that deliver gasoline into underground storage tanks in the metropolitan area as defined in section 473.121, subdivision 2, must be fitted with vapor recovery equipment. The equipment must recover and manage 95 percent of hydrocarbons emitted during the transfer of gasoline from the underground storage tank and the transport delivery vehicle by January 1, 2006. After January 1, 2006, no gasoline may be delivered to a retail location by a transport vehicle that is not fitted with vapor recovery equipment.

History: *1Sp1985 c 13 s 238; 1990 c 586 s 5; 2003 c 128 art 1 s 143,144*

116.491 TANK INSTALLERS; TRAINING AND CERTIFICATION.

Subdivision 1. **Requirement.** (a) After the effective date of rules adopted under subdivision 3, a person may not install, repair, or take an aboveground or underground tank permanently out of service without first obtaining a certification of competence issued by the agency.

(b) The agency shall conduct examinations to test the competence of applicants for certification, issue documentation of certification, and require certification to be renewed at reasonable intervals. The agency may conduct training programs for installers.

Subd. 2. **Fees.** The agency may charge fees as are necessary to cover the actual costs of processing applications, conducting examinations, issuing and renewing certificates, and providing training programs. The fees received under this section must be credited to the petroleum tank release cleanup fund.

Subd. 3. **Rules.** The agency shall adopt rules containing standards of competence for installers and to implement this section.

History: *1987 c 389 s 15*

116.492 BASEMENT STORAGE TANKS; REMOVAL.

A person who removes a basement heating oil storage tank shall ensure that fill and vent pipes through the basement wall to the outside are also removed or permanently sealed.

History: *1992 c 597 s 3*

116.50 PREEMPTION.

Sections 116.46 to 116.49 preempt conflicting local and municipal rules or ordinances requiring notification or establishing environmental protection requirements for underground storage tanks. A state agency or local unit of government may not adopt rules or ordinances establishing or requiring vapor recovery for underground storage tanks.

History: *1Sp1985 c 13 s 239; 2003 c 128 art 1 s 145*

116.51 MS 1990 [Repealed, 1992 c 522 s 48; 1992 c 595 s 29]

116.52 MS 1990 [Repealed, 1992 c 522 s 48; 1992 c 595 s 29]

116.53 Subdivision 1. MS 1990 [Repealed, 1992 c 522 s 48; 1992 c 595 s 29]

Subd. 2. [Renumbered 144.878, subd 2a]

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

116.55 MS 1987 Supp [Repealed, 1988 c 685 s 44]

116.60 MS 1998 [Repealed, 1999 c 178 s 10]

116.61 MS 1998 [Repealed, 1999 c 178 s 10]

116.62 MS 1998 [Repealed, 1999 c 178 s 10]

116.63 MS 1998 [Repealed, 1999 c 178 s 10]

116.64 MS 1998 [Repealed, 1999 c 178 s 10]

116.65 MS 1998 [Repealed, 1999 c 178 s 10]

116.66 MS 1998 [Repealed, 1995 c 247 art 1 s 41]

116.67 MS 2000 [Repealed, 1Sp2001 c 2 s 162]

CHLOROFLUOROCARBON REGULATION

116.70 DEFINITIONS.

Subdivision 1. **Applicability.** The definitions in this section apply to sections 116.731 to 116.734.

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

Subd. 3. **Chlorofluorocarbons or CFCs.** "Chlorofluorocarbons" or "CFCs" means the substances identified as class I or class II substances under section 602 of the Clean Air Act, United States Code, title 42, section 7401 et seq., as amended by the Clean Air Act Amendments of 1990, Public Law 101-549.

Subd. 3a. MS 2000 [Repealed, 1Sp2001 c 2 s 162]

Subd. 4. MS 2000 [Repealed, 1Sp2001 c 2 s 162]

Subd. 5. [Renumbered subd 3a]

History: *1988 c 671 s 1; 1990 c 560 art 2 s 3; 1992 c 546 s 4; 1Sp2001 c 2 s 138*

116.71 MS 2000 [Repealed, 1Sp2001 c 2 s 162]

116.72 MS 2000 [Repealed, 1Sp2001 c 2 s 162]

116.73 MS 2000 [Repealed, 1Sp2001 c 2 s 162]

116.731 REQUIREMENTS TO RECYCLE CFC'S.

Subdivision 1. **Salvage automobiles.** A person who processes automobiles for salvage must remove CFCs for recycling prior to disposal or sale of the materials containing CFCs. This subdivision does not apply to crushed automobiles or automobiles that have been processed in a manner that makes removal and recovery of CFCs impossible.

Subd. 2. **Refrigeration equipment.** A person processing scrap refrigerators, air conditioning units, dehumidifiers, heat pumps, under-the-counter ice makers, vending machines, drinking water coolers, chillers, commercial refrigeration, industrial process refrigeration, or freezers must remove and recycle, destroy, or properly dispose of the CFCs.

Subd. 3. **Mobile air conditioning equipment.** A person servicing or removing mobile air conditioning equipment must:

(1) recapture CFCs, provide storage for recaptured CFCs, and transfer recaptured CFCs to a recycler; or

(2) recapture CFCs and recycle the CFCs to an allowed use.

Subd. 4. **Servicing and recycling appliances.** (a) A person servicing or recycling refrigerators, air conditioning units, dehumidifiers, heat pumps, under-the-counter ice makers, vending machines, drinking water coolers, chillers, commercial refrigeration, industrial process refrigeration, or freezers must:

(1) recapture CFCs, provide storage for recaptured CFCs, and transfer recaptured CFCs to a recycler; or

(2) recapture CFCs and recycle the CFCs to an allowed use.

(b) The recovered CFCs may be properly disposed of or destroyed.

Subd. 4a. **Venting.** A person may not knowingly vent or otherwise release into the environment any CFC used as a refrigerant.

Subd. 5. **Foam not required to be recycled.** This section does not require recycling of rigid or flexible foam.

Subd. 6. **Rules.** The agency shall adopt rules for recycling CFCs and establish standards for CFC recycling equipment under this section.

History: *1990 c 560 art 2 s 4; 1994 c 585 s 34; 1995 c 147 s 1-3*

116.732 REQUIREMENT TO RECYCLE FIRE EXTINGUISHER HALONS.

A person who recharges, services, or retires fire extinguishers must recapture and recycle halons.

History: *1990 c 560 art 2 s 5*

116.733 MEDICAL DEVICE EXEMPTION.

Laws 1990, chapter 560, article 2, sections 1 and 2, and sections 116.70, 116.731, and 116.732, do not apply to processes using CFCs or halons on medical devices, in sterilization processes in health care facilities, or by a person or facility in manufacturing or selling of medical devices.

History: *1990 c 560 art 2 s 6; 1991 c 199 art 1 s 30*

116.734 UNIFORM CFC REGULATION.

It is the policy of this state to regulate and manage CFCs in a uniform manner throughout the state. Political subdivisions may not adopt, and are preempted from adopting or enforcing, requirements relating to CFCs that are different than state law.

History: *1990 c 560 art 2 s 7*

116.735 TRAINING AND CERTIFICATION.

(a) The agency shall develop standards of competence for persons who engage in activities relating to products that may contain CFCs, as described in section 116.731, subdivisions 1 to 4, and the commissioner may conduct training programs for these persons. The persons shall obtain from the commissioner a certificate of competence or equivalent federal certification that has been approved by the commissioner.

(b) The agency may adopt rules to implement this section.

History: *1994 c 585 s 35; 1995 c 147 s 4*

116.74 MS 2000 [Repealed, 1Sp2001 c 2 s 162]

INFECTIOUS WASTE CONTROL ACT

116.75 CITATION.

Sections 116.76 to 116.82 may be cited as the "Infectious Waste Control Act."

History: *1989 c 337 s 1; 1993 c 206 s 2*

116.76 DEFINITIONS.

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

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

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

Subd. 4. **Commercial transporter.** "Commercial transporter" means a person, other than the United States government, who transports infectious or pathological waste for compensation.

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

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

Subd. 7. MS 1992 [Repealed, 1Sp1993 c 1 art 9 s 75]

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

Subd. 9. **Generator.** "Generator" means a person whose activities produce infectious waste. "Generator" does not include a person who produces sharps as a result of administering medication to oneself. "Generator" does not include an ambulance service licensed under section 144E.10, an eligible community health board, or public health nursing agency as defined in section 116.78, subdivision 10, or a program providing school health service under section 121A.21.

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

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

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

Subd. 13. **Laboratory waste.** "Laboratory waste" means waste cultures and stocks of agents that are generated from a laboratory and are infectious to humans; discarded contaminated items used to inoculate,

transfer, or otherwise manipulate cultures or stocks of agents that are infectious to humans; wastes from the production of biological agents that are infectious to humans; and discarded live or attenuated vaccines that are infectious to humans.

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

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

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

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

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

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

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

History: *1989 c 337 s 2; 1990 c 568 art 2 s 2; 1993 c 206 s 3; 1Sp1993 c 1 art 9 s 2; 1Sp1993 c 6 s 3; 1994 c 585 s 36; 1997 c 199 s 14; 1998 c 397 art 11 s 3; 2010 c 286 s 1; 2015 c 21 art 1 s 109*

116.77 COVERAGE.

Sections 116.75 to 116.83 and 609.671, subdivision 11, cover any person, including a veterinarian, who generates, treats, stores, transports, or disposes of infectious or pathological waste but not including infectious or pathological waste generated by households, farm operations, or agricultural businesses. Except as specifically provided, sections 116.75 to 116.83 do not limit or alter treatment or disposal methods for infectious or pathological waste.

History: *1989 c 337 s 3; 1991 c 344 s 1; 1993 c 206 s 4; 1Sp1993 c 6 s 4; 2016 c 158 art 1 s 32*

116.78 WASTE MANAGEMENT.

Subdivision 1. **Segregation.** All untreated infectious waste must be segregated from other waste material at its point of generation and maintained in separate packaging throughout collection, storage, and transport. Infectious waste must be packaged, contained, and transported in a manner that prevents release of the waste material.

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

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

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

Subd. 4. **Sharps.** (a) A person shall not place sharps with recyclable materials, as defined in section 115A.03.

(b) Sharps, except those generated from a household or from a farm operation or agricultural business:

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

(2) may not be compacted or mixed with other waste material whether or not the sharps are decontaminated unless it is part of an infectious waste decontamination process approved by the commissioner of the Pollution Control Agency that will prevent exposure during transportation and disposal; and

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

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

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

Subd. 7. **Compacting and mixing with other wastes.** Infectious waste may not be compacted or mixed with other waste materials prior to incineration or disposal. Compaction is acceptable if it is part of an infectious waste system, approved by the commissioner of the Pollution Control Agency, that is designed to prevent exposure during storage, transportation, and disposal.

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

Subd. 9. **Disposal of infectious waste by ambulance services.** Any infectious waste, as defined in section 116.76, subdivision 12, produced by an ambulance service in the transport or care of a patient must be properly packaged and disposed of at the destination hospital or at the nearest hospital if the patient is not transported. A hospital must accept the infectious waste if it is properly packaged according to the standards the hospital uses for packaging its own infectious wastes. The hospital may charge the ambulance service a reasonable fee for disposal of the infectious waste. Nothing in this subdivision shall require a hospital to accept infectious waste if the waste is of a type not generated by the hospital or if the hospital cannot safely store the waste. A hospital that accepts infectious waste under this subdivision is not subject to those provisions of section 116.79, subdivision 4, paragraph (a), that apply to the storage or decontamination of infectious or pathological waste generated at a site other than the hospital.

Subd. 10. **Disposal of infectious waste by public health agencies and programs providing school health services.** Any infectious waste, as defined in section 116.76, subdivision 12, produced by an eligible community health board, or public health nursing agency, or a program providing school health services under section 121A.21, must be properly packaged and may be disposed of at a hospital. For purposes of this subdivision, an "eligible community health board or public health nursing agency" is defined as a community health board or public health nursing agency located in a county with a population of less than

40,000. A hospital must accept the infectious waste if it is properly packaged according to the standards the hospital uses for packaging its own infectious wastes. The hospital may charge an eligible community health board or public health nursing agency or a program providing school health services a reasonable fee for disposal of the infectious waste. Nothing in this subdivision shall require a hospital to accept infectious waste if the waste is of a type not generated by the hospital or if the hospital cannot safely store the waste. A hospital that accepts infectious waste under this subdivision is not subject to those provisions of section 116.79, subdivision 4, paragraph (a), that apply to the storage or decontamination of infectious or pathological waste generated at a site other than the hospital.

History: *1989 c 337 s 4; 1990 c 568 art 2 s 3,4; 1991 c 344 s 2,3; 1993 c 249 s 27; 1Sp1993 c 1 art 9 s 3,4; 1998 c 397 art 11 s 3; 2014 c 225 s 5; 2015 c 21 art 1 s 109*

116.79 MANAGEMENT PLANS.

Subdivision 1. **Preparing management plans.** (a) To the extent applicable to the facility, a person in charge of a facility that generates, stores, decontaminates, incinerates, or disposes of infectious or pathological waste must prepare a management plan for the infectious or pathological waste handled by the facility. A person may prepare a common management plan for all generating facilities owned and operated by the person. If a single plan is prepared to cover multiple facilities, the plan must identify common policy and procedures for the facilities and any management procedures that are facility specific. The plan must identify each generating facility covered by the plan. A management plan must list all physicians, dentists, chiropractors, podiatrists, veterinarians, certified nurse practitioners, certified nurse midwives, or physician assistants, employed by, under contract to, or working at the generating facilities, except hospitals or laboratories. A management plan from a hospital must list the number of licensed beds and from a laboratory must list the number of generating employees.

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

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

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

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

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

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

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

(c) If the generator mails sharps for storage, decontamination, or disposal, the plan must specify how the generator will comply with applicable federal laws and rules. The plan must also specify the name, address, and telephone number of the facility to which the sharps are mailed, the name of the person who receives the sharps at the facility, and the annual amount mailed to the facility. If the facility to which the sharps are mailed is not the disposal facility, the plan must also identify the disposal facility.

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

(e) To the extent applicable to the facility, management plans must be accompanied by a statement of the quantity of infectious and pathological waste generated, decontaminated, stored, incinerated, or disposed of at the facility during the previous two-year period. Quantities shall be reported in pounds.

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

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

Subd. 3. MS 1992 [Repealed, 1Sp1993 c 1 art 9 s 75]

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

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

History: *1989 c 337 s 5; 1991 c 344 s 4-6; 1Sp1993 c 1 art 9 s 5,6; 1994 c 585 s 37*

116.80 TRANSPORTING INFECTIOUS WASTE.

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

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

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

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

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

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

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

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

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

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

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

(d) Management plans must be accompanied by a statement of the quantity of infectious waste transported during the previous two-year period. Quantities shall be reported in pounds.

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

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

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

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

(c) The registration is valid for two years.

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

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

History: *1989 c 337 s 6; 1991 c 344 s 7; 1Sp1993 c 1 art 9 s 7,8*

116.801 INCINERATING INFECTIOUS WASTE; PERMIT REQUIRED.

(a) Except as provided in paragraph (b), a person may not construct, or expand the capacity of, a facility for the incineration of infectious waste, as defined in section 116.76, without having obtained an air emission permit from the agency.

(b) This section does not affect permit requirements under the rules of the agency for an incinerator that is upgraded to meet pollution control standards or an incinerator with a capacity of 350 pounds or less per hour that is planned to manage waste generated primarily by the owner or operator of the incinerator.

History: *1991 c 231 s 1*

116.802 INCINERATING INFECTIOUS WASTE; ENVIRONMENTAL IMPACT.

Until the Pollution Control Agency adopts revisions to its air emission rules for incinerators, a new or expanded facility for the incineration of infectious waste that is subject to the permit requirement in section 116.801 may not receive a permit until an environmental impact statement for the facility has been prepared and approved. The Pollution Control Agency is the governmental unit responsible for preparation of an environmental impact statement required under this section.

History: *1991 c 231 s 2*

116.81 RULES.

Subdivision 1. **Agency rules.** The agency, in consultation with the commissioner of health, may adopt rules to implement sections 116.76 to 116.82. The agency, before adopting rules affecting animals or research animal waste, must consult the commissioner of agriculture and the Board of Animal Health.

Subd. 2. MS 1992 [Repealed, 1Sp1993 c 1 art 9 s 75]

History: *1989 c 337 s 7; 1Sp1993 c 1 art 9 s 9*

116.82 AUTHORITY OF LOCAL GOVERNMENT.

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

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

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

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

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

History: *1989 c 337 s 8; 1993 c 206 s 5; 1Sp1993 c 1 art 9 s 10; 1Sp1993 c 6 s 5*

116.83 ENFORCEMENT.

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

Subd. 2. MS 1992 [Repealed, 1Sp1993 c 1 art 9 s 75]

Subd. 3. **Access to information and property.** Subject to section 144.651, the commissioner of the Pollution Control Agency may on presentation of credentials, during regular business hours:

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

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

History: *1989 c 337 s 9; 1991 c 347 art 1 s 18; 1Sp1993 c 1 art 9 s 11,12*

116.835 SAFE SHARPS MANAGEMENT.

(a) A sharps manufacturer that sells or distributes sharps that are usually intended for home use and a pharmaceutical manufacturer that sells or distributes a medication in Minnesota that is usually intended to be self-injected in a home resulting in the generation of sharps shall, on or before July 1, 2011, post to its website a plan that describes how the manufacturer supports the safe collection and proper disposal of the sharps.

(b) The plan required under paragraph (a) shall include, at a minimum, a description of the actions, if any, taken by the manufacturer to do the following:

(1) provide for the safe collection and proper disposal of sharps;

(2) educate consumers about safe management and collection opportunities; and

(3) support efforts by retailers, pharmaceutical distributors, local governments, health care organizations, public health officers, solid waste service providers, organizations representing patients who use sharps, and other groups with interest in protecting public health and safety through the sale, collection, and proper disposal of sharps.

(c) A public health agency or clinic that participates in a needle exchange program must post to its website a plan that describes how the agency or clinic supports the safe collection and proper disposal of the sharps.

History: *2010 c 286 s 2*

MONITORS FOR INCINERATORS

116.84 MONITORS REQUIRED FOR PCB INCINERATORS.

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

History: *1989 c 335 art 1 s 132*

116.85 MONITORS REQUIRED FOR OTHER INCINERATORS.

Subdivision 1. **Emission monitors.** Notwithstanding any other law to the contrary, an incinerator permit that contains emission limits for dioxin, cadmium, chromium, lead, or mercury must, as a condition of the permit, require the installation of an air emission monitoring system approved by the commissioner. The monitoring system must provide continuous measurements to ensure optimum combustion efficiency for the purpose of ensuring optimum dioxin destruction. The system shall also be capable of providing a permanent record of monitored emissions that will be available upon request to the commissioner and the general public. The commissioner shall provide periodic inspection of the monitoring system to determine its continued accuracy.

Subd. 1a. **Mercury testing.** (a) Notwithstanding any other law to the contrary, a facility holding an incinerator permit that contains emission limits for mercury must, as a condition of the permit, conduct periodic stack testing for mercury as described by this subdivision. Hospital waste incinerators having a design capacity of less than 3,000,000 Btu per hour may use mercury segregation practices as an alternative to stack testing if allowed by applicable federal requirements, with the approval of the commissioner.

(b) A facility shall conduct stack testing for mercury at intervals not to exceed three months. An incinerator facility burning greater than 30 percent by weight of refuse-derived fuel must conduct periodic stack testing for mercury at intervals not to exceed 12 months unless a previous test showed a permit exceedence after which the agency may require quarterly testing until permit requirements are satisfied. With the approval of the commissioner, an incinerator facility may use methods other than stack testing for determining mercury in air emissions.

(c) After demonstrating that mercury emissions have been below 50 percent of the facility's permitted mercury limit for three consecutive years, as tested under the conditions of paragraph (b), an incinerator facility may choose to conduct stack testing once every three years or according to applicable federal requirements, whichever is more stringent. The facility shall notify the commissioner of its alternative mercury testing schedule, and the commissioner shall include operating conditions in the facility's permit that ensure that the facility will continue to emit mercury emissions less than 50 percent of the applicable standard.

(d) The provisions of paragraph (c) allowing for less frequent stack testing for mercury apply to a new unit constructed at a facility that has previously met the requirements of paragraph (c), provided that the new unit demonstrates, as tested under the conditions of paragraph (b), that mercury emissions have been below 50 percent of the new unit's permitted mercury limit for one year.

(e) If a test conducted under the provisions of paragraph (c) shows mercury emissions greater than 50 percent of the facility's permitted mercury limit, the facility shall conduct annual mercury stack sampling until emissions are below 50 percent of the facility's permitted mercury limit. Once the facility demonstrates that mercury emissions are again below 50 percent of the facility's permitted mercury limit, the facility may resume testing every three years or according to federal requirements, whichever is more stringent, upon notifying the commissioner.

(f) In amending, modifying, or reissuing a facility's air emissions permit which contains a provision that restricts mercury emissions from the facility the commissioner shall, at a minimum, continue that permit restriction at the same level unless the applicant demonstrates that no good cause exists to do so.

Subd. 2. **Continuously monitored emissions.** Should, at any time after normal startup, the permitted facility's continuously monitored emissions exceed permit requirements, based on accurate and valid emissions data, the facility shall immediately report the exceedance to the commissioner and immediately either commence appropriate modifications to the facility to ensure its ability to meet permitted requirements or commence shutdown if the modifications cannot be completed within 72 hours. Compliance with permit requirements must then be demonstrated based on additional testing.

Subd. 3. **Periodically tested emissions.** Should, at any time after normal startup, the permitted facility's periodically tested emissions exceed permit requirements based on accurate and valid emissions data, the facility shall immediately report the exceedance to the commissioner, shall undertake appropriate steps to ensure the facility's compliance with permitted requirements, and shall demonstrate compliance within 60 days of the initial report of the exceedance. If the commissioner determines that compliance has not been achieved within 60 days, then the facility shall shut down until compliance with permit requirements is demonstrated based on additional testing.

Subd. 4. **Other law.** This section shall not be construed to limit the authority of the agency to regulate incinerator operations under any other law.

History: *1989 c 335 art 1 s 133; 1990 c 594 art 1 s 54; 1997 c 189 s 1; 1999 c 235 s 2; 2010 c 213 s 1*

116.86 MS 1990 [Repealed, 1991 c 254 art 2 s 48]

RESIDENTIAL LEAD PAINT WASTE

116.87 DEFINITIONS.

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

(1) lead paint waste removed with the aid of any chemical paint stripper; or

(2) lead paint waste that is mixed with water and that contains any free liquid.

Subd. 2. **Residence.** The term "residence" has the meaning given in rules adopted under sections 144.9501 to 144.9512.

History: *1Sp1993 c 1 art 9 s 13; 1995 c 213 art 1 s 2; 2007 c 147 art 16 s 20*

116.875 AUTHORIZED MANAGEMENT METHODS.

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

(1) a land disposal facility that meets the requirements of Minnesota Rules, chapter 7045;

(2) a facility that meets the requirements for a new mixed municipal solid waste land disposal facility under Minnesota Rules, chapter 7035, that began operation after January 1, 1989;

(3) a demolition debris land disposal facility equipped with a clay or artificial liner and leachate collection system; or

(4) a solid waste incinerator ash landfill if disposal is approved by the commissioner in accordance with agency rules.

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

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

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

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

History: *1Sp1993 c 1 art 9 s 14*

116.88 PROHIBITED METHODS OF MANAGEMENT.

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

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

History: *1Sp1993 c 1 art 9 s 15*

116.885 RECYCLING AND TREATMENT.

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

History: *1Sp1993 c 1 art 9 s 16*

116.89 ENFORCEMENT.

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

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

History: *1Sp1993 c 1 art 9 s 17*

CITIZEN REPORTS

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

116.91 CITIZEN REPORTS OF ENVIRONMENTAL VIOLATIONS.

The agency shall maintain and publicize a toll-free number to enable citizens to report information about potential environmental violations. The agency may establish a program to pay awards from funds raised from private sources to persons who provide information that leads to the conviction for an environmental crime.

History: *1991 c 347 art 3 s 2*

MERCURY CONTAMINATION; REDUCTION

116.915 MERCURY REDUCTION.

Subdivision 1. **Goal.** It is the goal of the state to reduce mercury contamination by reducing the release of mercury into the air and water of the state by 60 percent from 1990 levels by December 31, 2000, and by 70 percent from 1990 levels by December 31, 2005. The goal applies to the statewide total of releases from existing and new sources of mercury. The commissioner shall publish updated estimates of 1990 releases in the State Register.

Subd. 2. **Reduction strategies.** The commissioner shall implement the strategies recommended by the Mercury Contamination Reduction Initiative Advisory Council and identified on pages 31 to 42 of the Minnesota Pollution Control Agency's report entitled "Report on the Mercury Contamination Reduction Initiative Advisory Council's Results and Recommendations" as transmitted to the legislature by the

commissioner's letter dated March 15, 1999. The commissioner shall solicit, by July 1, 1999, voluntary reduction agreements from sources that emit more than 50 pounds of mercury per year.

Subd. 3. [Obsolete, 1Sp2005 c 1 art 2 s 161]

History: *1999 c 231 s 150*

116.92 MERCURY EMISSIONS; REDUCTION.

Subdivision 1. **Sales.** A person may not sell mercury to another person in this state without providing a material safety data sheet, as defined in United States Code, title 42, section 11049, and requiring the purchaser to sign a statement that the purchaser:

(1) will use the mercury only for a medical, dental, instructional, research, or manufacturing purpose; and

(2) understands the toxicity of mercury and will appropriately store and use it and will not place, or allow anyone under the purchaser's control to place, the mercury in the solid waste stream or in a wastewater disposal system, as defined in section 115.01, subdivision 4.

Subd. 2. **Using mercury.** A person who uses mercury in any application may not place, or deliver the mercury to another person who places residues, particles, scrapings, or other materials that contain mercury in solid waste or wastewater, except for traces of materials that may inadvertently pass through a filtration system during a dental procedure.

Subd. 3. **Labeling; products containing mercury.** (a) A manufacturer or wholesaler may not sell and a retailer may not knowingly sell any of the following items in this state that contain mercury unless the item is labeled in a manner to clearly inform a purchaser or consumer that mercury is present in the item and that the item may not be placed in the garbage until the mercury is removed and reused, recycled, or otherwise managed to ensure that it does not become part of solid waste or wastewater:

(1) a thermostat or thermometer;

(2) an electric switch, individually or as part of another product, other than a motor vehicle;

(3) an appliance;

(4) a medical or scientific instrument;

(5) an electric relay or other electrical device;

(6) a fluorescent or high-intensity discharge lamp, individually or as part of another product; and

(7) laboratory chemicals, reagents, fixatives, and electrodes.

(b) Labeling of items in accordance with mercury product labeling plans approved by another state that is a member of the Interstate Mercury Education and Reduction Clearinghouse (IMERC) shall be considered to be in compliance with this section. The manufacturer shall provide a copy of the labeling plan to the agency and shall notify the agency if the approval is modified.

(c) Manufacturers of products that contain a mercury-containing lamp not intended to be replaceable by the user or consumer shall meet the product labeling requirements of this section by placing the label on the product or in the care and use manual or product instructions.

Subd. 4. **Removing from service; products containing mercury.** (a) When an item listed in this section is removed from service, the mercury in the item must be reused, recycled, or otherwise managed to ensure compliance with section 115A.932.

(b) A person who is in the business of replacing or repairing an item listed in this section in households shall ensure, or deliver the item to a facility that will ensure, that the mercury contained in an item that is replaced or repaired is reused or recycled or otherwise managed in compliance with section 115A.932.

(c) A person may not crush a motor vehicle unless the person has first made a good faith effort to remove all of the mercury switches in the motor vehicle.

(d) An item managed according to the requirements of this section must be transported in a container designed to prevent the escape of mercury into the environment by volatilization or any other means.

Subd. 5. **Thermostats.** (a) The definitions in this paragraph apply to this subdivision:

(1) "contractor" means a person engaged in the business of installing, servicing, or removing thermostats and other heating, ventilation, and air conditioning components, including a contractor removing thermostats in conjunction with renovation and demolition activities in accordance with Minnesota Rules, part 7035.0805;

(2) "qualified contractor" means a contractor:

(i) who employs seven or more service technicians or installers;

(ii) who is located in an area outside of an urban area, as defined by the United States Census Bureau; or

(iii) whose primary business consists of renovation and demolition activities;

(3) "retailer" means a person who sells thermostats of any kind directly to homeowners or other end-users through any selling or distribution mechanism;

(4) "thermostat" means a temperature control device that may contain elemental mercury in a sealed component that serves as a switch or temperature-sensing element and a sealed component that has been removed from a temperature control device; and

(5) "wholesaler" means a person engaged in the distribution and wholesale sale of thermostats and other heating, ventilation, and air conditioning components to contractors who install heating, ventilation, and air conditioning components.

(b) A manufacturer of thermostats that contain mercury or that may replace thermostats that contain mercury is responsible for the costs of collecting and managing the replaced mercury-containing thermostats to ensure that the thermostats do not become part of the solid waste stream.

(c) A manufacturer of thermostats that contain mercury or that may replace thermostats that contain mercury shall, in addition to the requirements of subdivision 3, provide incentives for and sufficient information to purchasers and consumers of the thermostats for the purchasers or consumers to ensure that mercury in thermostats being removed from service is reused or recycled or otherwise managed in compliance with section 115A.932. A manufacturer that has complied with this subdivision is not liable for improper disposal by purchasers or consumers of thermostats.

(d) A manufacturer of thermostats subject to this subdivision, or an organization of manufacturers of thermostats and its officers, members, employees, and agents, may participate in projects or programs to

collect and properly manage waste thermostats. Any person who participates in a project or program is immune from liability under state law relating to antitrust, restraint of trade, unfair trade practices, and other regulation of trade or commerce for activities related to the collection and management of the thermostats under this subdivision.

(e) A manufacturer of thermostats or organization of manufacturers of thermostats that participates in a thermostat collection and management program under this subdivision must report at least annually to the agency. The report must include:

(1) a description of how the program operates;

(2) a description of program components, including incentives provided under this subdivision, and an evaluation of the program components' effectiveness in promoting participation and recovery of thermostats;

(3) eligibility criteria for program participants;

(4) a list of program participants; and

(5) the number of thermostats remitted by each program participant during the reporting period.

(f) A wholesaler, qualified contractor, or retailer may participate as a collection site in a manufacturer's mercury thermostat collection and management program required under this subdivision. A wholesaler or retailer that participates as a collection site in a manufacturer's mercury thermostat collection and management program shall post prominent signs at the wholesaler's or retailer's business location regarding the collection and management of mercury thermostats.

Subd. 5a. **Displacement relays.** (a) A manufacturer of a displacement relay that contains mercury is responsible for the costs of collecting and managing its displacement relays to ensure that the relays do not become part of the solid waste stream.

(b) A manufacturer of a displacement relay that contains mercury shall, in addition to the requirements of subdivision 3, provide incentives for, and sufficient information to, purchasers and consumers of the relay to ensure that the relay does not become part of the waste stream. A manufacturer that has complied with this subdivision is not liable for improper disposal by purchasers or consumers of its relays.

(c) A manufacturer subject to this subdivision, or an organization of such manufacturers and its officers, members, employees, and agents, may participate in projects or programs to collect and properly manage waste displacement relays. Any person who participates in such a project or program is immune from liability under state law relating to antitrust, restraint of trade, unfair trade practices, and other regulation of trade or commerce for activities related to the collection and management of the relays under this subdivision.

(d) For the purposes of this subdivision, a "displacement relay" means an electric flow control device having one or more poles that contain metallic mercury and a plunger which, when energized by a magnetic field, moves into a pool of mercury, displacing the mercury sufficiently to create a closed electrical circuit.

Subd. 6. **Mercury thermometers prohibited.** (a) A manufacturer, wholesaler, or retailer may not sell or distribute at no cost a thermometer containing mercury that was manufactured after June 1, 2001.

(b) Paragraph (a) does not apply to an electronic thermometer with a battery containing mercury if the battery is in compliance with section 325E.125.

(c) A manufacturer is in compliance with this subdivision if the manufacturer:

(1) has received an exclusion or exemption from a state that is a member of the Interstate Mercury Education and Reduction Clearinghouse (IMERC) for replacement parts when no alternative is available or for an application when no feasible alternative is available;

(2) submits a copy of the approved exclusion or exemption to the commissioner; and

(3) meets all of the requirements in the approved exclusion or exemption for the manufacturer's activities within the state.

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

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

Subd. 7a. **Fluorescent and high-intensity discharge lamps; residential applications.** (a) Any information regarding fluorescent and high-intensity discharge lamps containing mercury that is sent by a utility to a customer, present on a utility's website, or contained in a utility's print, radio, or video advertisement, must:

(1) state that the lamps contain mercury;

(2) state that mercury is harmful to the environment;

(3) state that placing the lamps in garbage is illegal; and

(4) provide a toll-free telephone number or website that customers can access to learn how to lawfully dispose of the lamps.

(b) The information under paragraph (a) must be:

(1) provided in a minimum of 12-point type in print or online media; and

(2) provided in a manner that the ordinary consumer will understand that fluorescent and high-intensity discharge lamps contain mercury and must not be placed in garbage in Minnesota.

(c) A television or radio advertisement regarding fluorescent and high-intensity discharge lamps containing mercury must prominently convey the information that the lamps contain mercury and must be recycled.

Subd. 7b. **Ban; mercury-containing general purpose lighting.** (a) For purposes of this subdivision, the following terms have the meanings given:

(1) "compact fluorescent lamp" means a compact low-pressure, mercury-containing, electric-discharge light source:

(i) of any tube diameter or tube length;

(ii) of any lamp size or shape for directional and nondirectional installations, including but not limited to PL, spiral, twin tube, triple twin, 2D, U-bend, and circular;

(iii) in which a fluorescent coating transforms some of the ultraviolet energy generated by the mercury discharge into visible light;

(iv) that has one base or end cap of any type, including but not limited to screw, bayonet, two pins, and four pins;

(v) that is integrally ballasted or non-integrally ballasted; and

(vi) that has light emission between a correlated color temperature of 1700K and 24000K and a Duv of +0.024 and -0.024 in the International Commission on Illumination (CIE) Uniform Color Space (CAM02-UCS);

(2) "linear fluorescent lamp" means a low-pressure, mercury-containing, electric-discharge light source:

(i) of any tube diameter, including but not limited to T5, T8, T10, and T12;

(ii) with a tube length from 0.5 to 8.0 feet, inclusive;

(iii) of any lamp shape, including but not limited to linear, U-bend, and circular;

(iv) in which a fluorescent coating transforms some of the ultraviolet energy generated by the mercury discharge into visible light;

(v) that has two bases or end caps of any type, including but not limited to single-pin, two-pin, and recessed double contact; and

(vi) that has light emission between a correlated color temperature of 1700K and 24000K and a Duv of +0.024 and -0.024 in the CIE CAM02-UCS;

(3) "mercury vapor lamp" means a high-intensity discharge lamp, including clear, phosphor-coated, and self-ballasted screw base lamps, in which the major portion of the light is produced by radiation from mercury typically operating at a partial vapor pressure in excess of 100,000 pascals;

(4) "mercury vapor lamp ballast" means a device that is designed and marketed to start and operate mercury vapor lamps intended for general illumination by providing the necessary voltage and current; and

(5) "specialty application mercury vapor lamp ballast" means a mercury vapor lamp ballast:

(i) that is designed and marketed for operating mercury vapor lamps used in quality inspection, industrial processing, or scientific applications, including fluorescent microscopy and ultraviolet curing; and

(ii) the label of which states "For specialty applications only, not for general illumination" and indicates the specific applications for which the ballast is designed.

(b) Effective January 1, 2025, a person may not sell, offer for sale, or distribute in the state as a new manufactured product a screw- or bayonet-base type compact fluorescent lamp, a mercury vapor lamp, or a mercury vapor lamp ballast, whether sold separately, in a retrofit kit, or in a luminaire. Effective January 1, 2026, a person may not sell, offer for sale, or distribute in the state as a new manufactured product a pin-base type compact fluorescent lamp or a linear fluorescent lamp.

(c) This subdivision does not apply to:

(1) a lamp designed and marketed exclusively for image capture and projection, including for:

(i) photocopying;

(ii) printing, directly or in preprocessing;

(iii) lithography;

(iv) film and video projection; or

(v) holography;

(2) a lamp that has a high proportion of ultraviolet light emission and that:

(i) has high ultraviolet content and ultraviolet power greater than two milliwatts per kilolumen;

(ii) is for germicidal use, such as for destroying DNA, and emits a peak radiation of approximately 253.7 nanometers;

(iii) is designed and marketed exclusively for disinfection or fly-trapping and from which:

(A) the radiation power emitted between 250 and 315 nanometers represents at least five percent of the total radiation power emitted between 250 and 800 nanometers; or

(B) the radiation power emitted between 315 and 400 nanometers represents at least 20 percent of the total radiation power emitted between 250 and 800 nanometers;

(iv) is designed and marketed exclusively for generating ozone when the primary purpose is to emit radiation at approximately 185.1 nanometers;

(v) is designed and marketed exclusively for coral zooxanthellae symbiosis and from which the radiation power emitted between 400 and 480 nanometers represents at least 40 percent of the total radiation power emitted between 250 and 800 nanometers; or

(vi) is designed and marketed exclusively for use in a sunlamp product, as defined in Code of Federal Regulations, title 21, section 1040.20(b)(9) (2022);

(3) specialty application mercury vapor lamp ballasts; or

(4) a compact fluorescent lamp used to replace a lamp in a motor vehicle if the motor vehicle was manufactured on or before January 1, 2020.

(d) Nothing in this section limits the ability of a utility to offer energy-efficient lighting, rebates, or lamp-recycling services or to claim energy savings resulting from such programs through the utility's energy conservation and optimization plans approved by the commissioner of commerce under section 216B.241 or an energy conservation and optimization plan filed by a consumer-owned utility under section 216B.2403.

Subd. 8. **Ban; toys, games, and apparel.** A person may not sell for resale or at retail in this state a toy or game that contains mercury, or an item of clothing or wearing apparel that is exempt from sales tax under section 297A.67, subdivision 8, that contains an electric switch that contains mercury.

Subd. 8a. **Ban; mercury manometers.** After June 30, 1997, mercury manometers for use on dairy farms may not be sold or installed, nor may mercury manometers in use on dairy farms be repaired. After December 31, 2000, all mercury manometers on dairy farms must be removed from use.

Subd. 8b. **Ban; mercury-containing sphygmomanometers.** After August 1, 2007, a person may not sell, offer for sale, distribute, install, or reinstall in the state a sphygmomanometer containing mercury.

Subd. 8c. **Ban; mercury-containing gastrointestinal devices.** After August 1, 2007, a person may not sell, offer for sale, distribute, or use in the state an esophageal dilator, bougie tube, gastrointestinal tube, feeding tube, or similar device containing mercury.

Subd. 8d. **Ban; mercury-containing thermostats.** After August 1, 2007, a person may not sell, offer for sale, distribute, install, or reinstall in the state a product or device that uses a mercury switch to sense and control room temperature through communication with heating, ventilating, or air-conditioning equipment. This subdivision does not apply to a thermostat used to sense and control temperature as part of a manufacturing process.

Subd. 8e. **Ban; mercury-containing switches and relays.** (a) After August 1, 2007, a person may not sell, offer for sale, or distribute in the state a mercury switch or mercury relay individually or as part of another product.

(b) For the purposes of this subdivision:

(1) "mercury relay" means a mercury-containing product or device that opens or closes electrical contacts to affect the operation of other devices in the same or another electrical circuit and includes, but is not limited to, mercury displacement relays, mercury wetted reed relays, and mercury contact relays; and

(2) "mercury switch" means a mercury-containing product or device that opens or closes an electrical circuit or gas valve and includes, but is not limited to, mercury float switches actuated by rising or falling liquid levels, mercury tilt switches actuated by a change in the switch position, mercury pressure switches actuated by a change in pressure, mercury temperature switches actuated by a change in temperature, and mercury flame sensors. A mercury switch does not include a mercury-added thermostat or a mercury diostat.

(c) A manufacturer shall be in compliance with this subdivision if:

(1) it has received an exclusion or exemption from a state that is a member of the Interstate Mercury Education and Reduction Clearinghouse (IMERC) for replacement parts or for a use where no feasible alternative is available;

(2) it submits a copy of the approved exclusion or exemption to the commissioner; and

(3) it meets all of the requirements in the approved exclusion or exemption for its activities within the state.

Subd. 8f. **Ban; mercury diostats.** After January 1, 2008, a person may not sell, offer for sale, or distribute a new gas oven, range, or stove containing a mercury-containing switch that controls a gas valve in an oven or oven portion of a gas range or stove.

Subd. 8g. **Ban; mercury-containing barometers, manometers, and pyrometers.** After January 1, 2008, a person may not sell, offer for sale, or distribute in the state a mercury-containing device used for measuring atmospheric pressure or for measuring pressure of liquids and gases or a mercury-containing device used for measuring the temperature of extremely hot materials, individually or as part of another product.

Subd. 8h. **Ban; mercury in over-the-counter pharmaceuticals.** After January 1, 2008, a person may not sell, offer for sale, or distribute in the state for human use an over-the-counter pharmaceutical product containing mercury.

Subd. 8i. **Ban; mercury in cosmetics, toiletries, and fragrances.** After January 1, 2008, a person may not sell, offer for sale, or distribute in the state a cosmetic, toiletry, or fragrance product containing mercury.

Subd. 8j. **Exclusion for existing equipment.** The prohibitions in subdivisions 6 and 8b to 8g do not apply if a thermometer, switch, relay, or measuring device is used to replace a thermometer, switch, relay, or measuring device that is a component of an industrial measurement system or control system until the system is replaced or a nonmercury component for the system is available. The owner of the system shall notify the commissioner within 30 days of replacing the component and identify the replacement mercury component that was installed.

Subd. 8k. **Ban; mercury in balancing and dampening products and equipment.** A person may not sell, offer for sale, distribute, install, or use in the state a mercury-containing product or mercury-containing equipment that is used for balancing, dampening, or providing a weight or counterweight function.

Subd. 9. **Enforcement; generators of household hazardous waste.** (a) A violation of subdivision 2 or 4, paragraph (a), by a generator of household hazardous waste, as defined in section 115A.96, or a violation of subdivision 8 by a person selling at retail, is not subject to enforcement under section 115.071, subdivision 3.

(b) An administrative penalty imposed under section 116.072 for a violation of subdivision 2 or 4, paragraph (a), by a generator of household hazardous waste, as defined in section 115A.96, or for a violation of subdivision 8 by a person selling at retail, may not exceed $700.

Subd. 10. **Definition of mercury-containing.** For the purposes of this section, "mercury-containing" or "containing mercury" means that the product, component of a product, or chemical formulation contains intentionally added mercury.

History: *1992 c 560 s 3; 1992 c 603 s 37; 1993 c 249 s 28; 1994 c 585 s 38; 1995 c 247 art 1 s 43; 1997 c 62 s 2,3; 1997 c 216 s 116; 2000 c 418 art 1 s 44; 2001 c 47 s 1; 2006 c 201 s 2; 2007 c 109 s 2-13; 2014 c 277 s 2-6; 2024 c 116 art 2 s 22*

116.921 MULTISTATE CLEARINGHOUSE.

The agency is authorized to participate in the Interstate Mercury Education and Reduction Clearinghouse (IMERC) to assist in carrying out the requirements and coordinating any other activities related to the administration of statutes governing the purchase, sale, use, labeling, disposal, and management of mercury and mercury-containing products.

History: *2007 c 109 s 14*

116.925 ELECTRIC ENERGY; MERCURY EMISSIONS REPORT.

Subdivision 1. **Report.** To address the shared responsibility between the providers and consumers of electricity for the protection of Minnesota's lakes, each electric utility, as defined in section 216B.38, subdivision 5, and each person that generates electricity in this state for that person's own use or for sale at retail or wholesale shall provide to the commissioner of the Pollution Control Agency by April 1 an annual report of the amount of mercury emitted in generating that electricity at that person's facilities for the previous calendar year.

Subd. 2. **Contents of report.** (a) A report must include:

(1) a list of all generation facilities owned or operated by the utility or person subject to subdivision 1;

(2) all readily available information regarding the amount of electricity purchased by the utility or person subject to subdivision 1, for use in the state; and

(3) information for each facility owned or operated by the utility or person subject to subdivision 1, stating: (i) the amount of electricity generated at the facility for use or for sale in this state at retail or wholesale; (ii) the amount of fuel used to generate that electricity at the facility; and (iii) the amount of mercury emitted in generating that electricity in the previous calendar year, based on emission factors, stack tests, fuel analysis, or other methods approved by the commissioner. The report must include the mercury content of the fuel if it is determined in conjunction with a stack test.

(b) The following are de minimis standards for small and little-used generation facilities:

(1) less than 240 hours of operation by the combustion unit per year;

(2) a fuel capacity input at the combustion unit of less than 150,000,000 British thermal units per hour; or

(3) an electrical generation unit with maximum output of less than or equal to 15 megawatts.

A utility or person subject to this section who owns or operates a combustion unit that qualifies under one of these de minimis standards is not required to provide the information described in paragraph (a) for that combustion unit.

(c) A report need not be filed for a combustion device for a year in which the device has documented mercury emissions of three pounds or less.

Subd. 3. **Report to consumers.** By January 1, 1999, and biennially thereafter in the report on air toxics required under section 115D.15, the commissioner shall report the amount of mercury emitted in the generation of electricity.

History: *1997 c 191 art 2 s 2*

116.93 LAMP RECYCLING FACILITIES.

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

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

(1) a plan for response to releases, including emergency response;

(2) proof of financial responsibility for closure and any necessary postclosure care at the facility which may include a performance bond or other insurance;

(3) liability insurance or another financial mechanism that provides proof of financial responsibility for response actions required under chapter 115B; and

(4) by March 1 each year, beginning in 2008, an annual report to the agency on the number and type of lamps received from businesses and households in the state and total number of lamps received from all generators outside of the state. The agency shall specify the format for the report under this clause and make the reported information available on the agency's website.

(b) A lamp recycling facility that is licensed or permitted by a county under section 473.811, subdivision 5b, complies with this subdivision if the license or permit held by the facility contains at least all the terms and conditions required by the agency for a license or permit issued under this subdivision.

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

History: *1993 c 249 s 29; 2007 c 109 s 15*

116.931 WHEEL WEIGHTS AND BALANCING PRODUCTS; LEAD AND MERCURY PROHIBITION.

Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms have the meanings given.

(b) "Motor vehicle" means a self-propelled vehicle or a vehicle propelled or drawn by a self-propelled vehicle that is operated on a highway, on a railroad track, on the ground, in the water, or in the air.

(c) "New motor vehicle" means a motor vehicle that has not been previously sold to a person except a distributor, wholesaler, or motor vehicle dealer for resale.

Subd. 2. **Tire service.** When replacing or balancing a tire on a motor vehicle or aircraft, a person may not use a wheel weight or other product for balancing motor vehicle or aircraft wheels if the weight or other balancing product contains lead or mercury that was intentionally added during the manufacture of the product.

Subd. 3. **Sales ban.** A person may not sell or offer to sell or distribute weights or other products for balancing motor vehicle or aircraft wheels if the weight or other balancing product contains lead or mercury that was intentionally added during the manufacture of the product.

Subd. 4. **New motor vehicles.** A person may not sell a new motor vehicle or aircraft that is equipped with a weight or other product for balancing wheels if the weight or other balancing product contains lead or mercury that was intentionally added during the manufacture of the product.

Subd. 5. **Salvage.** A person may not shred or crush, or market for shredding or crushing, any motor vehicle, aircraft, watercraft, or railroad or industrial equipment, or any portion thereof, without:

(1) inspecting the vehicle or equipment; and

(2) removing all weights or other products for balancing wheels or other equipment if the weights or balancing products contain lead or mercury that was intentionally added during the manufacture of the weights or balancing products.

Subd. 6. **Managing wheel weights and balancing products.** Mercury in wheel weights and other balancing products for motor vehicle and aircraft wheels must be recycled or otherwise managed to comply with sections 115A.932 and 116.92 and to ensure that it does not become part of the solid waste stream and is not released to the environment. Lead in wheel weights and other balancing products for motor vehicle and aircraft wheels must be recycled to ensure that it does not become part of the solid waste stream and is not released to the environment.

Subd. 7. **Educational materials; outreach.** Prior to January 1, 2016, the agency shall produce and distribute educational materials on the prohibitions required under this section to businesses subject to the prohibitions and shall conduct additional outreach and education activities to those businesses.

History: *2014 c 277 s 7*

116.94 MS 1994 [Repealed, 1995 c 247 art 1 s 67]

CHEMICALS OF HIGH CONCERN

116.9401 DEFINITIONS.

(a) For the purposes of sections 116.9401 to 116.9407, the following terms have the meanings given them.

(b) "Agency" means the Pollution Control Agency.

(c) "Alternative" means a substitute process, product, material, chemical, strategy, or combination of these that is technically feasible and serves a functionally equivalent purpose to a chemical in a children's product.

(d) "Chemical" means a substance with a distinct molecular composition or a group of structurally related substances and includes the breakdown products of the substance or substances that form through decomposition, degradation, or metabolism.

(e) "Chemical of high concern" means a chemical identified on the basis of credible scientific evidence by a state, federal, or international agency as being known or suspected with a high degree of probability to:

(1) harm the normal development of a fetus or child or cause other developmental toxicity;

(2) cause cancer, genetic damage, or reproductive harm;

(3) disrupt the endocrine or hormone system;

(4) damage the nervous system, immune system, or organs, or cause other systemic toxicity;

(5) be persistent, bioaccumulative, and toxic; or

(6) be very persistent and very bioaccumulative.

(f) "Child" means a person under 12 years of age.

(g) "Children's product" means a consumer product intended for use by children, such as baby products, toys, car seats, personal care products, and clothing.

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

(i) "Department" means the Department of Health.

(j) "Distributor" means a person who sells consumer products to retail establishments on a wholesale basis.

(k) "Green chemistry" means an approach to designing and manufacturing products that minimizes the use and generation of toxic substances.

(l) "Manufacturer" means any person who manufactures a final consumer product sold at retail or whose brand name is affixed to the consumer product. In the case of a consumer product imported into the United States, manufacturer includes the importer or domestic distributor of the consumer product if the person who manufactured or assembled the consumer product or whose brand name is affixed to the consumer product does not have a presence in the United States.

(m) "Priority chemical" means a chemical identified by the Department of Health as a chemical of high concern that meets the criteria in section 116.9403.

(n) "Safer alternative" means an alternative whose potential to harm human health is less than that of the use of a priority chemical that it could replace.

History: *2009 c 37 art 1 s 47*

116.9402 IDENTIFYING CHEMICALS OF HIGH CONCERN.

(a) By July 1, 2010, the department shall, after consultation with the agency, generate a list of chemicals of high concern.

(b) The department must periodically review and revise the list of chemicals of high concern at least every three years. The department may add chemicals to the list if the chemical meets one or more of the criteria in section 116.9401, paragraph (e).

(c) The department shall consider chemicals listed as a suspected carcinogen, reproductive or developmental toxicant, or as being persistent, bioaccumulative, and toxic, or very persistent and very bioaccumulative by a state, federal, or international agency. These agencies may include, but are not limited to, the California Environmental Protection Agency, the Washington Department of Ecology, the United States Department of Health, the United States Environmental Protection Agency, the United Nation's World Health Organization, and European Parliament Annex XIV concerning the Registration, Evaluation, Authorisation, and Restriction of Chemicals.

(d) The department may consider chemicals listed by another state as harmful to human health or the environment for possible inclusion in the list of chemicals of high concern.

History: *2009 c 37 art 1 s 48*

116.9403 IDENTIFYING PRIORITY CHEMICALS.

(a) The department, after consultation with the agency, may designate a chemical of high concern as a priority chemical if the department finds that the chemical:

(1) has been identified as a high-production volume chemical by the United States Environmental Protection Agency; and

(2) meets any of the following criteria:

(i) the chemical has been found through biomonitoring to be present in human blood, including umbilical cord blood, breast milk, urine, or other bodily tissues or fluids;

(ii) the chemical has been found through sampling and analysis to be present in household dust, indoor air, drinking water, or elsewhere in the home environment; or

(iii) the chemical has been found through monitoring to be present in fish, wildlife, or the natural environment.

(b) By February 1, 2011, the department shall publish a list of priority chemicals in the State Register and on the department's Internet website and shall update the published list whenever a new priority chemical is designated.

History: *2009 c 37 art 1 s 49*

116.9405 APPLICABILITY.

The requirements of sections 116.9401 to 116.9407 do not apply to:

(1) chemicals in used children's products;

(2) priority chemicals used in the manufacturing process, but that are not present in the final product;

(3) priority chemicals used in agricultural production;

(4) motor vehicles as defined in chapter 168 or watercraft as defined in chapter 86B or their component parts, except that the use of priority chemicals in detachable car seats is not exempt;

(5) priority chemicals generated solely as combustion by-products or that are present in combustible fuels;

(6) retailers;

(7) pharmaceutical products or biologics;

(8) a medical device as defined in the federal Food, Drug, and Cosmetic Act, United States Code, title 21, section 321(h);

(9) food and food or beverage packaging, except a container containing baby food or infant formula;

(10) consumer electronics products and electronic components, including but not limited to personal computers; audio and video equipment; calculators; digital displays; wireless phones; cameras; game consoles; printers; and handheld electronic and electrical devices used to access interactive software or their associated peripherals; or products that comply with the provisions of directive 2002/95/EC of the European Union, adopted by the European Parliament and Council of the European Union now or hereafter in effect; or

(11) outdoor sport equipment, including snowmobiles as defined in section 84.81, subdivision 3; all-terrain vehicles as defined in section 84.92, subdivision 8; personal watercraft as defined in section 86B.005, subdivision 14a; watercraft as defined in section 86B.005, subdivision 18; and off-highway motorcycles, as defined in section 84.787, subdivision 7, and all attachments and repair parts for all of this equipment.

History: *2009 c 37 art 1 s 50*

116.9406 DONATIONS TO THE STATE.

The commissioner may accept donations, grants, and other funds to carry out the purposes of sections 116.9401 to 116.9407. All donations, grants, and other funds must be accepted without preconditions regarding the outcomes of the regulatory oversight processes set forth in sections 116.9401 to 116.9407.

History: *2009 c 37 art 1 s 51*

116.9407 PARTICIPATING IN INTERSTATE CHEMICALS CLEARINGHOUSE.

The state may cooperate with other states in an interstate chemicals clearinghouse regarding chemicals in consumer products, including the classification of priority chemicals in commerce; organizing and managing available data on chemicals, including information on uses, hazards, risks, and environmental and health concerns; and producing and evaluating information on safer alternatives to specific uses of priority chemicals.

History: *2009 c 37 art 1 s 52*

116.943 PRODUCTS CONTAINING PFAS.

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given.

(b) "Adult mattress" means a mattress other than a crib mattress or toddler mattress.

(c) "Air care product" means a chemically formulated consumer product labeled to indicate that the purpose of the product is to enhance or condition the indoor environment by eliminating odors or freshening the air.

(d) "Automotive maintenance product" means a chemically formulated consumer product labeled to indicate that the purpose of the product is to maintain the appearance of a motor vehicle, including products for washing, waxing, polishing, cleaning, or treating the exterior or interior surfaces of motor vehicles. Automotive maintenance product does not include automotive paint or paint repair products.

(e) "Carpet or rug" means a fabric marketed or intended for use as a floor covering.

(f) "Cleaning product" means a finished product used primarily for domestic, commercial, or institutional cleaning purposes, including but not limited to an air care product, an automotive maintenance product, a general cleaning product, or a polish or floor maintenance product.

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

(h) "Cookware" means durable houseware items used to prepare, dispense, or store food, foodstuffs, or beverages. Cookware includes but is not limited to pots, pans, skillets, grills, baking sheets, baking molds, trays, bowls, and cooking utensils.

(i) "Cosmetic" means articles, excluding soap:

(1) intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for the purpose of cleansing, beautifying, promoting attractiveness, or altering the appearance; and

(2) intended for use as a component of any such article.

(j) "Currently unavoidable use" means a use of PFAS that the commissioner has determined by rule under this section to be essential for health, safety, or the functioning of society and for which alternatives are not reasonably available.

(k) "Fabric treatment" means a substance applied to fabric to give the fabric one or more characteristics, including but not limited to stain resistance or water resistance.

(l) "Intentionally added" means PFAS deliberately added during the manufacture of a product where the continued presence of PFAS is desired in the final product or one of the product's components to perform a specific function.

(m) "Internal components" means internal parts of a product, whether permanently affixed or removable, that are designed and intended to not be touched by a person during intended use or handling. Internal components include parts of a product used for holding batteries regardless of whether the parts are touched when replacing batteries.

(n) "Juvenile product" means a product designed or marketed for use by infants and children under 12 years of age:

(1) including but not limited to a baby or toddler foam pillow; bassinet; bedside sleeper; booster seat; changing pad; child restraint system for use in motor vehicles and aircraft; co-sleeper; crib mattress; highchair; highchair pad; infant bouncer; infant carrier; infant seat; infant sleep positioner; infant swing; infant travel bed; infant walker; nap cot; nursing pad; nursing pillow; play mat; playpen; play yard; polyurethane foam mat, pad, or pillow; portable foam nap mat; portable infant sleeper; portable hook-on chair; soft-sided portable crib; stroller; and toddler mattress;

(2) not including a children's electronic product such as a personal computer, audio and video equipment, calculator, wireless phone, game console, handheld device incorporating a video screen, or any associated peripheral such as a mouse, keyboard, power supply unit, or power cord; or an adult mattress; and

(3) not including:

(i) an off-highway vehicle, as defined in section 84.771, made for children;

(ii) an all-terrain vehicle, as defined in section 84.92, subdivision 8, made for children;

(iii) an off-highway motorcycle, as defined in section 84.787, subdivision 7, made for children;

(iv) a snowmobile, as defined in section 84.81, subdivision 3, made for children;

(v) an electric-assisted bicycle, as defined in section 169.011, subdivision 27, made for children; or

(vi) a replacement part for a vehicle described in items (i) to (v).

(o) "Manufacturer" means the person that creates or produces a product or whose brand name is affixed to the product. In the case of a product imported into the United States, manufacturer includes the importer or first domestic distributor of the product if the person that manufactured or assembled the product or whose brand name is affixed to the product does not have a presence in the United States.

(p) "Medical device" has the meaning given "device" under United States Code, title 21, section 321, subsection (h).

(q) "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS" means a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

(r) "Product" means an item manufactured, assembled, packaged, or otherwise prepared for sale to consumers, including but not limited to its product components, sold or distributed for personal, residential, commercial, or industrial use, including for use in making other products.

(s) "Product component" means an identifiable component of a product, regardless of whether the manufacturer of the product is the manufacturer of the component.

(t) "Ski wax" means a lubricant applied to the bottom of snow runners, including but not limited to skis and snowboards, to improve their grip or glide properties. Ski wax includes related tuning products.

(u) "Textile" means an item made in whole or part from a natural or synthetic fiber, yarn, or fabric. Textile includes but is not limited to leather, cotton, silk, jute, hemp, wool, viscose, nylon, and polyester.

(v) "Textile furnishings" means textile goods of a type customarily used in households and businesses, including but not limited to draperies, floor coverings, furnishings, bedding, towels, and tablecloths.

(w) "Upholstered furniture" means an article of furniture that is designed to be used for sitting, resting, or reclining and that is wholly or partly stuffed or filled with any filling material.

Subd. 2. **Information required.** (a) On or before January 1, 2026, a manufacturer of a product manufactured after July 1, 2023; sold, offered for sale, or distributed in the state; and that contains intentionally added PFAS must submit to the commissioner information that includes:

(1) a brief description of the product, including a universal product code (UPC), stock keeping unit (SKU), or other numeric code assigned to the product;

(2) the purpose for which PFAS are used in the product, including in any product components;

(3) the amount of each PFAS, identified by its chemical abstracts service registry number, in the product, reported as an exact quantity determined using commercially available analytical methods or as falling within a range approved for reporting purposes by the commissioner;

(4) the name and address of the manufacturer and the name, address, and phone number of a contact person for the manufacturer; and

(5) any additional information requested by the commissioner as necessary to implement the requirements of this section.

(b) With the approval of the commissioner, a manufacturer may supply the information required in paragraph (a) for a category or type of product rather than for each individual product.

(c) A manufacturer must submit the information required under this subdivision whenever a new product that contains intentionally added PFAS is sold, offered for sale, or distributed in the state and update and revise the information whenever there is significant change in the information or when requested to do so by the commissioner.

(d) A person may not sell, offer for sale, or distribute for sale in the state a product containing intentionally added PFAS if the manufacturer has failed to provide the information required under this subdivision and the person has received notification under subdivision 4.

Subd. 3. **Information requirement waivers; extensions.** (a) The commissioner may waive all or part of the information requirement under subdivision 2 if the commissioner determines that substantially equivalent information is already publicly available. The commissioner may grant a waiver under this paragraph to a manufacturer or a group of manufacturers for multiple products or a product category.

(b) For a pesticide regulated under chapter 18B, a fertilizer, an agricultural liming material, a plant amendment, or a soil amendment regulated under chapter 18C, a manufacturer may satisfy the requirements of subdivision 2 by submitting the information required by that subdivision as part of its annual registration or approval process under chapter 18B or 18C. For information that is regulated under chapters 18B and

18C, the commissioner and the commissioner of agriculture must jointly determine whether to make the information publicly available based on applicable statutes.

(c) The commissioner may enter into an agreement with one or more other states or political subdivisions of a state to collect information and may accept information to a shared system as meeting the information requirement under subdivision 2.

(d) The commissioner may extend the deadline for submission by a manufacturer of the information required under subdivision 2 if the commissioner determines that more time is needed by the manufacturer to comply with the submission requirement.

Subd. 4. **Testing required and certificate of compliance.** (a) If the commissioner has reason to believe that a product contains intentionally added PFAS and the product is being offered for sale in the state, the commissioner may direct the manufacturer of the product to, within 30 days, provide the commissioner with testing results that demonstrate the amount of each of the PFAS, identified by its chemical abstracts service registry number, in the product, reported as an exact quantity determined using commercially available analytical methods or as falling within a range approved for reporting purposes by the commissioner.

(b) If testing demonstrates that the product does not contain intentionally added PFAS, the manufacturer must provide the commissioner a certificate attesting that the product does not contain intentionally added PFAS, including testing results and any other relevant information.

(c) If testing demonstrates that the product contains intentionally added PFAS, the manufacturer must provide the commissioner with the testing results and the information required under subdivision 2.

(d) A manufacturer must notify persons who sell or offer for sale a product prohibited under subdivision 2 or 5 that the sale of that product is prohibited in this state and provide the commissioner with a list of the names and addresses of those notified.

(e) The commissioner may notify persons who sell or offer for sale a product prohibited under subdivision 2 or 5 that the sale of that product is prohibited in this state.

Subd. 5. **Prohibitions.** (a) Beginning January 1, 2025, a person may not sell, offer for sale, or distribute for sale in this state the following products if the product contains intentionally added PFAS:

(1) carpets or rugs;

(2) cleaning products;

(3) cookware;

(4) cosmetics;

(5) dental floss;

(6) fabric treatments;

(7) juvenile products;

(8) menstruation products;

(9) textile furnishings;

(10) ski wax; or

(11) upholstered furniture.

(b) Paragraph (a) does not prohibit the sale, offer for sale, or distribution for sale of a product that contains intentionally added PFAS only in electronic components or internal components.

(c) The commissioner may by rule identify additional products by category or use that may not be sold, offered for sale, or distributed for sale in this state if they contain intentionally added PFAS and designate effective dates. A prohibition adopted under this paragraph must be effective no earlier than January 1, 2025, and no later than January 1, 2032. The commissioner must prioritize the prohibition of the sale of product categories that, in the commissioner's judgment, are most likely to contaminate or harm the state's environment and natural resources if they contain intentionally added PFAS.

(d) Beginning January 1, 2032, a person may not sell, offer for sale, or distribute for sale in this state any product that contains intentionally added PFAS, unless the commissioner has determined by rule that the use of PFAS in the product is a currently unavoidable use. The commissioner may specify specific products or product categories for which the commissioner has determined the use of PFAS is a currently unavoidable use. The commissioner may not determine that the use of PFAS in a product is a currently unavoidable use if the product is listed in paragraph (a).

(e) The commissioner may not take action under paragraph (c) or (d) with respect to a pesticide, as defined under chapter 18B, a fertilizer, an agricultural liming material, a plant amendment, or a soil amendment as defined under chapter 18C, unless the commissioner of agriculture approves the action.

Subd. 6. **Fees.** The commissioner may establish by rule a fee payable by a manufacturer to the commissioner upon submission of the information required under subdivision 2 to cover the agency's reasonable costs to implement this section. Fees collected under this subdivision must be deposited in an account in the environmental fund.

Subd. 7. **Enforcement.** (a) The commissioner may enforce this section under sections 115.071 and 116.072. The commissioner may coordinate with the commissioners of agriculture, commerce, and health in enforcing this section.

(b) When requested by the commissioner, a person must furnish to the commissioner any information that the person may have or may reasonably obtain that is relevant to show compliance with this section.

Subd. 8. **Exemptions.** (a) This section does not apply to:

(1) a product for which federal law governs the presence of PFAS in the product in a manner that preempts state authority;

(2) a product regulated under section 325F.072 or 325F.075; or

(3) the sale or resale of a used product.

(b) Subdivisions 4 and 5 do not apply to a prosthetic or orthotic device or to any product that is a medical device or drug or that is otherwise used in a medical setting or in medical applications regulated by the United States Food and Drug Administration.

Subd. 9. **Rules.** The commissioner may adopt rules necessary to implement this section. Section 14.125 does not apply to the commissioner's rulemaking authority under this section.

Subd. 10. **Short title.** This section is "Amara's Law."

History: *2023 c 60 art 3 s 21; 1Sp2025 c 1 art 4 s 19,20; 2026 c 127 art 14 s 4*

SMALL BUSINESS ASSISTANCE

116.95 CITATION.

Sections 116.96 to 116.99 may be cited as the "Small Business Air-Quality Compliance Assistance Act."

History: *1992 c 546 s 5*

116.96 DEFINITIONS.

Subdivision 1. **Scope.** The definitions in this section apply to sections 116.96 to 116.99.

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

Subd. 3. **Clean Air Act.** "Clean Air Act" means the federal Clean Air Act, United States Code, title 42, section 7401 et seq., as amended.

Subd. 4. **Commissioner.** "Commissioner" means the commissioner of the Pollution Control Agency.

Subd. 5. **Regulated pollutant.** "Regulated pollutant" means:

(1) a volatile organic compound that participates in atmospheric photochemical reactions;

(2) a pollutant for which a national ambient air quality standard has been promulgated;

(3) a pollutant that is addressed by a standard promulgated under section 7411 or 7412 of the Clean Air Act; or

(4) any pollutant that is regulated under this chapter or air quality rules adopted under this chapter.

Subd. 6. **Small business stationary source.** "Small business stationary source" means a business that:

(1) is owned or operated by a person that employs 100 or fewer individuals;

(2) is a small business concern as defined in the Small Business Act, United States Code, title 15, section 632(a);

(3) is not a major stationary source as defined in section 7661 of the Clean Air Act;

(4) does not emit 50 tons or more per year of any regulated pollutant; and

(5) emits less than 75 tons per year of all regulated pollutants.

History: *1992 c 546 s 6; 1995 c 220 s 107*

116.97 SMALL BUSINESS AIR-QUALITY COMPLIANCE ASSISTANCE PROGRAM.

Subdivision 1. **Creation.** The commissioner shall establish a small business air-quality compliance assistance program that incorporates the small business stationary source technical and environmental compliance assistance program required by section 7661f of the Clean Air Act.

Subd. 2. **Requirements.** The commissioner shall ensure that the program provides at least the following:

(1) direct, timely, one-on-one information and technical assistance to small businesses that are stationary sources on matters including, but not limited to, their legal rights and obligations under federal and state air quality laws and regulations, applicable requirements and alternatives for achieving compliance, permit procedures, preparation of permit applications, sources of technical expertise, consequences of operating in violation, enforcement, fines, penalties, and appeals;

(2) a clearinghouse to provide information and referral to appropriate technical experts concerning Clean Air Act regulatory requirements, compliance methods, and control technologies;

(3) information and assistance on methods of pollution prevention and the prevention and detection of accidental releases;

(4) audits of the operations of small business stationary sources to determine compliance with federal and state air quality laws and regulations, or establishment of a procedure for referring sources to qualified auditors. Audits may include, but need not be limited to, an evaluation of work practices, compliance monitoring procedures, record-keeping requirements, and technical assistance on pollution prevention opportunities and control options;

(5) to the extent permitted by federal and state air quality laws and regulations, procedures for responding to requests from small business stationary sources for modification of work practices or methods compliance because of the financial or technological capability of the source; and

(6) coordination of efforts with trade associations, small business assistance providers, and federal, state, and local governmental agencies that provide information and technical assistance to small businesses, in order to maximize the information and assistance available to small businesses and to prevent duplication of effort and services.

History: *1992 c 546 s 7*

116.98 OMBUDSMAN FOR SMALL BUSINESS AIR-QUALITY COMPLIANCE ASSISTANCE PROGRAM.

Subdivision 1. **Appointment.** The commissioner shall appoint an ombudsman for small business air-quality compliance assistance in the classified service.

Subd. 2. **Duties.** The ombudsman shall provide direct oversight of the small business air-quality compliance assistance program. The ombudsman's duties include, but are not limited to:

(1) conducting independent evaluations of all aspects of the program;

(2) monitoring, reviewing, and providing comments and recommendations to federal, state, and local air quality authorities on laws and regulations that impact small businesses;

(3) facilitating and promoting the participation of small businesses in the development of laws and regulations that affect them;

(4) providing reports to federal, state, and local air quality authorities and the public on the requirements of the Clean Air Act and their impact on small businesses;

(5) disseminating information concerning proposed air quality regulations, control technologies, and other information to small businesses and other interested parties;

(6) participating in and sponsoring meetings and conferences concerning air quality laws and regulations with state and local regulatory officials, industry groups, and small business representatives;

(7) investigating and assisting in the resolution of complaints and disputes from small businesses against state or local air quality authorities;

(8) periodically reviewing the work and services provided by the program with trade associations and small business representatives;

(9) operating a toll-free telephone line to provide free, confidential help on individual source problems and grievances;

(10) referring small businesses to appropriate technical specialists for information and assistance on affordable alternative technologies, process changes, products, and operational methods to help reduce air pollution and accidental releases;

(11) arranging for and assisting in the preparation of program guideline documents to ensure that the language is readily understandable by the lay person;

(12) establishing cooperative programs with trade associations and small businesses to promote and achieve voluntary compliance with federal and state air quality laws and regulations;

(13) establishing cooperative programs with federal, state, and local governmental entities and the private sector to assist small businesses in securing sources of funds to comply with federal, state, and local air quality laws and regulations;

(14) conducting studies to evaluate the impacts of federal and state air quality laws and regulations on the state's economy, local economies, and small businesses;

(15) serving as a voting member of the Small Business Air-Quality Compliance Advisory Council established by section 116.99; and

(16) performing the ombudsman's duties in cooperation and coordination with governmental entities and private organizations as appropriate so as to eliminate overlap and duplication to the extent practicable.

Subd. 3. **Independence of action.** In carrying out the duties imposed by sections 116.96 to 116.99, the ombudsman may act independently of the agency in providing testimony to the legislature, contacting and making periodic reports to federal and state officials as necessary to carry out the duties imposed by sections 116.96 to 116.99, and addressing problems of concern to small businesses.

Subd. 4. **Qualifications.** The ombudsman must be knowledgeable about federal and state air quality laws and regulations, control technologies, and federal and state legislative and regulatory processes. The ombudsman must be experienced in dealing with both private enterprise and governmental entities, arbitration and negotiation, interpretation of laws and regulations, investigation, record keeping, report writing, public speaking, and management.

Subd. 5. **Office support.** The commissioner shall provide the ombudsman with the necessary office space, supplies, equipment, and clerical support to effectively perform the duties imposed by sections 116.96 to 116.99.

History: *1992 c 546 s 8*

116.99 SMALL BUSINESS AIR-QUALITY COMPLIANCE ADVISORY COUNCIL.

Subdivision 1. **Creation.** A Small Business Air-Quality Compliance Assistance Advisory Council is established within the agency.

Subd. 2. **Duties.** The council has the following duties:

(1) rendering advisory opinions on the effectiveness of the program, difficulties encountered, and degree and severity of enforcement;

(2) preparing periodic reports on matters relating to the program as requested by appropriate federal and state agencies;

(3) reviewing information for sources to ensure the information is complete, comprehensive, and understandable to the lay person; and

(4) other duties it finds appropriate to comply with applicable federal or state air quality laws and regulations.

Subd. 3. **Membership.** The council consists of the following members:

(1) two members appointed by the governor who represent the general public and are not owners or representatives of owners who are small business stationary sources;

(2) the commissioner or the commissioner's designee, who shall represent the agency;

(3) four members appointed by the legislature who are owners or representatives of owners of small business stationary sources; and

(4) the commissioner of employment and economic development or the commissioner's designee.

The majority and minority leaders of the house of representatives and the senate shall each appoint one of the members listed in clause (3).

Subd. 4. **Membership terms; compensation; removal.** The membership terms, compensation, and removal of council members are governed by section 15.0575, except that subdivision 5 does not apply.

Subd. 5. **Chair.** The council shall select its chair by a majority vote.

Subd. 6. **Program.** The council may set its own agenda and work program, consistent with the requirements of the Clean Air Act, after consultation with the commissioner and the small business ombudsman established by this chapter.

Subd. 7. **Funding.** The commissioner shall allocate and administer the funds reasonably necessary to cover the operational costs of the council.

Subd. 8. **Staff.** The commissioner shall provide staff services reasonably required by the council.

History: *1992 c 546 s 9; 1995 c 247 art 2 s 54; 1Sp2003 c 4 s 1; 1Sp2005 c 1 art 2 s 161*

116.991 MS 1996 [Repealed, 1997 c 216 s 160]

116.992 MS 1996 [Repealed, 1997 c 216 s 160]

116.993 SMALL BUSINESS ENVIRONMENTAL-IMPROVEMENT LOAN PROGRAM.

Subdivision 1. **Establishment.** A small business environmental-improvement revolving loan program is established to provide loans to small businesses for the purpose of capital equipment purchases that will meet or exceed environmental rules and regulations or for investigation and cleanup of contaminated sites. The small business environmental-improvement revolving loan program replaces the small business environmental loan program in Minnesota Statutes 1996, section 116.991, and the hazardous waste generator loan program in Minnesota Statutes 1996, section 115B.223.

Subd. 2. **Eligible borrower.** To be eligible for a loan under this section, a borrower must:

(1) be a small business corporation, sole proprietorship, partnership, or association;

(2) be a potential emitter of pollutants to the air, ground, or water;

(3) need capital for equipment purchases that will meet or exceed environmental regulations or need capital for site investigation and cleanup;

(4) have less than 100 full-time equivalent employees; and

(5) have an after tax profit of less than $500,000.

Subd. 3. **Loan application and award procedure.** The commissioner of the Pollution Control Agency may give priority to applicants that include, but are not limited to, those subject to Clean Air Act standards adopted under United States Code, title 42, section 7412, those undergoing site investigation and remediation, those involved with facility wide environmental compliance and pollution prevention projects, and those determined by the commissioner to be small business outreach priorities. The commissioner shall decide whether to award a loan to an eligible borrower based on:

(1) the applicant's financial need;

(2) the applicant's ability to secure and repay the loan; and

(3) the expected environmental benefit.

Subd. 4. **Screening committee.** The commissioner shall appoint a screening committee to evaluate applications and determine loan awards. The committee shall have diverse expertise in air quality, water quality, solid and hazardous waste management, site response and cleanup, pollution prevention, and financial analysis.

Subd. 5. **Limit on availability.** Numbers of applications accepted, evaluated, and awarded are based upon the available money in the small business environmental-improvement loan account.

Subd. 6. **Loan conditions.** A loan made under this section must include:

(1) an interest rate that is at or below one-half the prime rate, not to exceed five percent;

(2) a term of payment of not more than seven years; and

(3) an amount not less than $1,000 or exceeding $75,000.

History: *1997 c 216 s 117; 1Sp2019 c 4 art 3 s 103,104*

116.994 SMALL BUSINESS ENVIRONMENTAL-IMPROVEMENT LOAN ACCOUNTING.

Repayments of loans made under section 116.993 must be credited to the environmental fund. Money deposited in the fund under section 116.993 is appropriated to the commissioner for loans under section 116.993.

History: *1997 c 216 s 118; 2003 c 128 art 2 s 40*