

AIR POLLUTION ACT

Act 348, 1965, p.683

336.15 Powers of commission.

Sec. 5. The commission may:

- (a) Establish standards for ambient air quality and for emissions.
- (b) Issue permits for the construction and the operation of air pollution control facilities and source emissions and to require reports of the operation of the air pollution control facilities.
- (c) Compel the attendance of witnesses at proceedings of the commission upon reasonable notice.
- (d) Make findings of fact and determinations.
- (e) Make, modify or cancel orders which require, in accordance with the provisions of this act, the control of air pollution.

(f) Institute in a court of competent jurisdiction proceedings to compel compliance with the provisions of any rule or any determination or order which it may promulgate or issue under this act.

(g) Do such other things as it may deem necessary, proper or desirable in order that it may enforce rules promulgated under this act.

(h) Accept, or when deemed necessary by the commission require to be submitted to it, and consider for approval plans for air cleaning devices or any part thereof and inspect the installation for compliance with the plans.

(i) Enter and inspect any property at reasonable times and places pursuant to reasonable notice for the purpose of investigating either an actual or suspected source of air pollution or ascertaining compliance or noncompliance with any rule which it may promulgate under this act. If in connection with such investigation or inspection, samples of air contaminants are taken for analysis, a duplicate of the analytical report shall be furnished promptly to the person who is suspected of causing such air pollution.

(j) Receive and initiate complaints of air pollution in alleged violation of any rule which it may promulgate under this act and take action with respect thereto as hereinafter provided in this act.

(k) Prepare and develop a general comprehensive plan for the control or abatement of existing air pollution and for the control or prevention of any new air pollution.

(l) Encourage voluntary cooperation by all persons in controlling air pollution and air contamination.

(m) Encourage the formulation and execution of plans by cooperative groups or associations of cities, villages and counties or districts, or other governmental units, industries and others who severally or jointly are or may be the source of air pollution, for the control of pollution.

(n) Cooperate with the appropriate agencies of the United States or other states or any interstate agencies or international agencies with respect to the control of air pollution and air contamination, or for the formulation for the submission to the legislature of interstate air pollution control compacts or agreements.

(o) Conduct or cause to be conducted studies and research with respect to air pollution control, abatement or prevention.

(p) Conduct and supervise programs of air pollution control education including the preparation and distribution of information relating to air pollution control.

(q) Determine by means of field studies and sampling the degree of air pollution in the state.

(r) Provide advisory technical consultation services to local communities.

(s) Serve as the agency of the state for the receipt of moneys from the federal government or other public or private agencies and to expend such moneys after appropriation thereof for the purpose of air pollution control studies or research or enforcement of this act.

336.24a Surveillance fees; purpose; levy; exceptions; formula; maximum fees; restrictions; reports; rules; disbursements to local agencies; reduction of fees; requirements for 1981; suspending enforcement of act or rules; return of fees to local agency; assessment of fee by local agency; levy of fees in certain counties. [M.S.A. 14.58(14a)]

Sec. 14a. (1) In order to provide for increased surveillance, investigation, and other activities necessary to provide greater protection of air of this state and for attainment and maintenance of national ambient air quality standards, the commission, except as provided in subsection (5), shall levy an annual surveillance fee based on the commission's estimate of the surveillance cost to the commission or a local agency as provided in subsection (4) for each manufacturing or commercial location that occupies 3,000 or more square feet of floor space. A manufacturing or commercial location occupying less than 3,000 square feet of floor space that produces contaminants only through the process of heating the premises of the business shall not be subject to a surveillance fee levied pursuant to this subsection. The annual surveillance fee shall be reasonable and uniform as between manufacturing and commercial locations and shall be based on an administrative fee of \$25.00 and an additional fee set by the commission. A manufacturing or commercial location shall not be assessed any fee if the total fee calculated by the formula is \$55.00 or less. The \$55.00 exemption shall increase by any subsequent increases in the unit cost of investigation. The additional fee shall be determined on a graduated basis using a formula developed by rules of the commission. The formula may include the volume and nature of discharge, number of discharge locations, variability of discharge, required laboratory tests, area surveillance, difficulty of survey setup, history of compliance and provisions for compliance, and other factors that the commission considers appropriate to establish the total annual surveillance fee. The total surveillance fees assessed annually shall not exceed the total amount appropriated to the commission or other appropriate state or local agency for the surveillance. The formula may be adjusted to compensate for the appropriation levels for air quality surveillance. Surveillance fees shall be restricted to:

(a) Surveillance, inspection, and pollution prevention including necessary data collection, compliance sampling and analysis directly related to the operations of the fee payers in the aggregate.

(b) Evaluation and issuance of permits to surveillance fee payers.

(c) Ambient air monitoring and state implementation plan revisions directly related to dischargers paying surveillance fees in the aggregate. This does not include air monitoring of automotive pollutants or general air monitoring for other pollutants.

(d) Administrative support, including laboratory, sampling and monitoring equipment directly related to the dischargers who pay surveillance fees in the aggregate. Before February 2 of each year the commission shall inform a discharger and the state treasurer of the annual surveillance fee due from a plant location or major manufacturing component and commercial enterprise as provided by rule. Before March 2 of each year a discharger shall pay to the state treasurer the amount of surveillance fee due. The treasurer shall deposit the fee in the general fund of this state. The treasurer shall report the total annual amount collected to the governor and the legislature before April 16 of each year. In addition, the state or local agency may require an annual report that states the nature of the enterprise, and a list of materials used in or incidental to the person's manufacturing process, including a by-product or waste product which appears on a

commission's register of materials. The commission shall promulgate additional rules necessary or required to implement this section and the applicable federal law or regulation.

(2) The formula for calculating surveillance fees shall be established according to rules adopted by the commission. The maximum annual fee assessed shall not exceed \$16,000.00 per manufacturing or commercial location. An explanation of the formula and a statement of the maximum fee shall be included in each year's appropriations act for the state department of natural resources. The total surveillance fees assessed annually shall not exceed the total amount appropriated to the department of natural resources or other appropriate state or local agency for surveillance. The total amount of revenue generated annually by air pollution surveillance fees shall not comprise more than 55% of the total funding support from all sources in the fiscal year beginning October 1, 1980, 45% in the fiscal year beginning October 1, 1981, 30% in the fiscal year beginning October 1, 1982, 15% in the fiscal year beginning October 1, 1983, and 0% in the fiscal year beginning October 1, 1984, and thereafter, as appropriated by the legislature, of the state air pollution control programs authorized by this act. The amount disbursed to local agencies shall not exceed 55% of their total air pollution control program cost in the fiscal year beginning October 1, 1980, 45% in the fiscal year beginning October 1, 1981, 30% in the fiscal year beginning October 1, 1982, 15% for the fiscal year beginning October 1, 1983, and 0% in the fiscal year beginning October 1, 1984, and thereafter. All surveillance fees shall be reduced each year by a percentage equal to the percentage by which total surveillance fees are reduced from the previous fiscal year pursuant to this subsection.

(3) For the year 1981 only, the commission shall inform a discharger and the state treasurer of the annual surveillance fee due from a manufacturing or commercial location as provided by rule not later than 2 weeks after the effective date of this subsection. For the year 1981 only, a discharger shall pay to the state treasurer the amount of surveillance fee due not later than 6 weeks from the effective date of this subsection.

(4) The commission may suspend enforcement of this act or rule promulgated under this act as to specific counties or local units of government if the commission finds that compliance with the local air pollution control ordinance or rule would effectuate substantial compliance with this act, a rule promulgated under this act, or an applicable federal law or regulation where an agency has an established program of surveillance, investigation, or other activity for the purpose of providing greater protection of air in its area or for attainment and maintenance of national ambient air quality standards equal to or greater than a minimum applicable requirement of this act or an applicable federal law or regulation. That portion of the fee to be returned to the local agency shall be determined by the commission and shall be based upon the portion of cost for the overall air pollution control program borne by the local agency. Except as provided in subsection (5), a local agency shall not assess a fee for its air pollution operations.

(5) In a county in which a city with a population of 1,000,000 or more is located, a county agency which operates a program of surveillance and investigation under an agreement with the state for the purpose of implementing this act, may establish and levy pursuant to this subsection, fees for each manufacturing or commercial location situated within the county that occupies 3,000 or more square feet of floor space. A manufacturing or commercial location occupying less than 3,000 square feet of floor space that produces contaminants only through the process of heating the premises

of the business shall not be subject to a fee levied pursuant to this subsection. Municipally owned solid waste disposal facilities with a capacity of greater than 50 tons a day shall not be subject to a surveillance fee levied pursuant to this section. The annual fee collected by an agency pursuant to this subsection shall be the same as those established by the commission for the balance of the state. A manufacturing or commercial location shall not be assessed any fee if the total fee calculated by the formula is \$55.00 or less. The \$55.00 exemption shall increase by any subsequent increases in the unit cost of investigation.