

CHAPTER 116H

MINNESOTA ENERGY AGENCY

- Sec.
- 116H.01 Findings and purpose.
- 116H.02 Definitions.
- 116H.03 Creation of agency.
- 116H.05 Conflict of interest.
- 116H.06 Jurisdiction.
- 116H.07 Duties.
- 116H.08 Powers.
- 116H.085 Energy conservation information center.
- 116H.09 Energy emergency allocation plan.
- 116H.10 Forecasts, statistics and information.
- 116H.11 State energy policy and conservation report.
- 116H.12 Energy conservation.
- 116H.121 Energy conservation standards in certain public buildings.

- Sec.
- 116H.122 Energy conservation in state owned buildings.
- 116H.123 Energy conservation in university buildings.
- 116H.124 Local governmental surveys and fuel cost estimates.
- 116H.125 Energy conservation in public schools; legislative report.
- 116H.126 Public school surveys.
- 116H.127 Solar energy system standards of performance.
- 116H.128 Review of energy research and demonstration projects.
- 116H.13 Certificate of need.
- 116H.14 Subpoena power.
- 116H.15 Enforcement, penalties.

NOTE: Provisions of this chapter expire December 31, 1979 unless extended by the legislature. See Laws 1974, Chapter 307, Section 19.

**116H.01 FINDINGS AND PURPOSE.** The legislature finds and declares that the present rapid growth in demand for energy is in part due to unnecessary energy use; that a continuation of this trend will result in serious depletion of finite quantities of fuels, land and water resources, and threats to the state's environmental quality; that the state must insure consideration of urban expansion, transit systems; economic development, energy conservation and environmental protection in planning for large energy facilities; that there is a need to carry out energy conservation measures; and that energy planning, protection of environmental values, development of Minnesota energy sources, and conservation of energy require expanded authority and technical capability and a unified, coordinated response within state government.

The legislature seeks to encourage thrift in the use of energy, and to maximize use of energy-efficient systems, thereby reducing the rate of growth of energy consumption, prudently conserving energy resources, and assuring statewide environmental protection consistent with an adequate, reliable supply of energy.

[ 1974 c 307 s 1 ]

**116H.02 DEFINITIONS.** Subdivision 1. For the purposes of sections 116H.01 to 116H.15, the following terms shall have the meanings here given them.

Subd. 2. "Agency" means the Minnesota energy agency as provided in sections 116H.01 to 116H.15.

Subd. 3. "Commission" means the legislative commission on energy.

Subd. 4. "Director" means the director of the Minnesota energy agency.

Subd. 5. "Large energy facility" means any electric power generating plant or combination of plants at a single site with a combined capacity of 50,000 kilowatts or more, any high voltage transmission line with a capacity of 200 kilovolts or more and having more than 100 miles of its length in Minnesota, any facility on a single site designed for or capable of storing more than one million gallons of crude petroleum or petroleum fuels or oil or derivatives thereof, any pipeline greater than six inches in diameter and having more than 50 miles of its length in Minnesota used for the transportation of crude petroleum or petroleum fuels or oil or derivatives thereof, any pipeline for transporting natural or synthetic gas at pressures in excess of 200 pounds per square inch and having more than 50 miles of its length in Minnesota, any facility designed for or capable of storing on a single site more than 100,000 gallons of liquified natural gas or synthetic gas, any underground gas storage facility requiring a permit pursuant to section 84.57, any facility designed or capable of serving as a depot for coal transported into this state for use within the state or transshipment from the state and any petroleum refinery, and any facility intended to convert coal into any other combustible fuel and having the capacity to process in excess of 25 tons per hour.

Subd. 6. "Petroleum supplier" means any petroleum refinery in the state and any entity engaged in transmission or wholesale distribution of more than 100,000 gallons

# MINNESOTA STATUTES 1976

1777

MINNESOTA ENERGY AGENCY 116H.06

of crude petroleum or petroleum fuels or oil or derivatives thereof annually in this state.

Subd. 7. "Coal supplier" means any entity engaged in this state in the wholesale distribution of coal or transportation into this state of any coal intended for use or distribution in the state or transshipment from the state.

Subd. 8. "Utility" means any entity engaged in this state in the generation, transmission or distribution of electric energy and any entity engaged in this state in the transmission or distribution of natural or synthetic natural gas, including, but not limited to a private investor owned utility or a public or municipally owned utility.

Subd. 9. "Construction" means significant physical alteration of a site to install or enlarge a large energy facility, but not including activities incident to preliminary engineering or environmental studies.

Subd. 10. "Decorative gas lamp" means a device installed for the purpose of producing illumination by burning natural, mixed, or LP gas and utilizing either a mantle or an open flame, but does not include portable camp lanterns or gas lamps.

Subd. 11. "Solar energy system" means a set of devices whose primary purpose is to collect solar energy and convert and store it for useful purposes including heating and cooling buildings or other energy-using processes, or to produce generated power by means of any combination of collecting, transferring, or converting solar-generated energy.

[ 1974 c 307 s 2; 1975 c 170 s 1; 1976 c 333 s 1,2 ]

**116H.03 CREATION OF AGENCY.** Subdivision 1. There is hereby created in the executive branch the Minnesota energy agency.

Subd. 2. The agency shall be under the supervision of the director who shall organize the agency and employ such other officers, agents and employees as are necessary to carry out the functions of the agency. Duties of such officers, agents and employees shall be as specified by the director.

Subd. 3. The director shall be appointed by the governor with the advice and consent of the senate, to a four year term which shall coincide with the term of the governor and until his successor is duly appointed and qualified. In appointing the director the governor should give due consideration to the listing of names submitted by the commission pursuant to section 116H.04. The director shall serve at the pleasure of the governor.

A vacancy in the office of director shall be filled by the governor and the new appointee shall immediately take office and carry out all duties until the next session of the legislature when his appointment shall be submitted to the senate for confirmation.

The director may appoint a deputy director and a personal secretary to serve at his pleasure. The salaries of the director and the deputy shall be fixed by the governor until otherwise expressly provided for by law. The deputy may be authorized by the director to perform every duty, power and responsibility imposed on the director unless expressly forbidden by law. The director and his deputy and his personal secretary shall serve in the unclassified service and shall be members of the Minnesota state retirement system.

[ 1974 c 307 s 3; 1976 c 333 s 3 ]

**116H.04** [ Expired ]

**116H.05 CONFLICT OF INTEREST.** No person shall be eligible to continue in office as director unless he has within six months after being appointed divested himself of any interest except fully vested pension rights in any utility, coal or petroleum supplier, or manufacturer of any major component of a large energy facility doing business within or outside this state.

No person who is an employee of the agency shall participate in any manner in any decision or action of the agency where he has a direct or indirect financial interest.

[ 1974 c 307 s 5 ]

**116H.06 JURISDICTION.** The agency has sole authority and responsibility for the administration of sections 116H.01 to 116H.15. Other laws notwithstanding, the authority granted the agency shall supersede the authority given any other agency

# MINNESOTA STATUTES 1976

## 116H.07 MINNESOTA ENERGY AGENCY

1778

whenever overlapping, duplication or additional administrative or legal procedures might occur in the administration of sections 116H.01 to 116H.15. The director shall consult with other state departments or agencies in matters related to energy and shall contract with them to provide appropriate services to effectuate the purposes of sections 116H.01 to 116H.15. Any other department, agency or official of this state or political subdivision thereof which would in any way affect the administration or enforcement of sections 116H.01 to 116H.15 shall cooperate and coordinate all such activities with the agency to assure orderly and efficient administration and enforcement of sections 116H.01 to 116H.15.

The director shall designate a liaison officer from the agency whose duty shall be to insure the maximum possible consistency in procedures and to eliminate duplication between the division and the other agencies that may be involved in energy. The commissioner of administration shall, if and to the extent he deems it efficient and beneficial, transfer to the agency, pursuant to sections 16.125, 16.13 and 16.135, the functions, employees or work of any agency of the state if such functions or work relate to or if such employees are engaged in matters which fall within the jurisdiction of the agency pursuant to sections 116H.01 to 116H.15.

[ 1974 c 307 s 6 ]

**116H.07 DUTIES.** Subdivision 1. It shall be the duty of the director to:

(a) Manage the agency as the central repository within the state government for the collection of data on energy;

(b) Prepare and adopt an emergency allocation plan specifying actions to be taken in the event of an impending serious shortage of energy, or a threat to public health, safety, or welfare;

(c) Undertake a continuing assessment of trends in the consumption of all forms of energy and analyze the social, economic, and environmental consequences of these trends;

(d) Carry out energy conservation measures as specified by the legislature and recommend to the governor and the legislature additional energy policies and conservation measures as required to meet the objectives of sections 116H.01 to 116H.15;

(e) Collect and analyze data relating to present and future demands and resources for all sources of energy, and specify energy needs for the state and various service areas as a basis for planning large energy facilities;

(f) Require certificate of need for construction of large energy facilities;

(g) Evaluate policies governing the establishment of rates and prices for energy as related to energy conservation, and other goals and policies of sections 116H.01 to 116H.15, and make recommendations for changes in energy pricing policies and rate schedules;

(h) Study the impact and relationship of the state energy policies to international, national, and regional energy policies;

(i) Design a state program for the conservation of energy; this program shall include but not be limited to, general commercial, industrial, and residential areas; such program shall also provide for the evaluation of energy systems as they relate to lighting, heating, refrigeration, air conditioning, building design and operation, and appliance manufacturing and operation;

(j) Inform and educate the public about the ways in which persons can conserve energy;

(k) Dispense funds made available for the purpose of research studies and projects of professional and civic orientation, which are related to either energy conservation or the development of alternative energy technologies which conserve nonrenewable energy resources while creating minimum environmental impact;

(l) Charge other governmental departments and agencies involved in energy related activities with specific information gathering goals and require that those goals be met.

[ 1974 c 307 s 7 ]

**116H.08 POWERS.** The director may:

# MINNESOTA STATUTES 1976

1779

## MINNESOTA ENERGY AGENCY 116H.09

(a) Adopt rules and regulations, pursuant to chapter 15 necessary to carry out the purposes of sections 116H.01 to 116H.15;

(b) Make all contracts pursuant to sections 116H.01 to 116H.15 and do all things necessary to cooperate with the United States government, and to qualify for, accept and disburse any private grant intended for the administration of sections 116H.01 to 116H.15. Notwithstanding any other law the agency is designated the state agency to apply for, receive and accept federal funds made available to the state for the purposes of sections 116H.01 to 116H.15.

(c) Contract for professional services if such work or services cannot be satisfactorily performed by employees of the agency or by any other state agency;

(d) Enter into interstate compacts to jointly carry out such research and planning with other states or the federal government where appropriate;

(e) Distribute informational material at no cost to the public upon reasonable request.

[ 1974 c 307 s 8 ]

**116H.085 ENERGY CONSERVATION INFORMATION CENTER.** The director shall establish an energy conservation information center in the agency's offices in St. Paul. The information center shall maintain a toll-free telephone information service and disseminate printed materials on energy conservation topics, including but not limited to, availability of loans and other public and private financing methods for energy conservation physical improvements, the techniques and materials used to conserve energy in buildings, including retrofitting or upgrading insulation and installing weatherstripping, the projected prices and availability of different sources of energy, and the alternative sources of energy.

[ 1976 c 333 s 4 ]

**116H.09 ENERGY EMERGENCY ALLOCATION PLAN.** Subdivision 1. Within nine months after March 29, 1974, the director shall prepare and issue an emergency conservation and allocation plan in the manner set forth in subdivision 2. Such plan shall provide a variety of strategies and staged conservation measures to reduce energy use and in the event of an energy supply emergency, shall establish guidelines and criteria for allocation of fuels to priority users. The plan shall contain alternative conservation actions and allocation plans to reasonably meet various foreseeable shortage circumstances and allow a choice of appropriate responses. The plan shall be consistent with requirements of federal emergency energy conservation and allocation laws and regulations and shall:

(a) Give priority to individuals, institutions, agriculture and businesses which demonstrate they have engaged in energy-saving measures and shall include provisions to insure that:

(1) Immediate allocations to individuals, institutions, agriculture and businesses be based on needs at energy conservation levels;

(2) Successive allocations to individuals, institutions, agriculture and businesses be based on needs after implementation of required action to increase energy conservation;

(3) Needs of individuals and institutions are adjusted to insure the health and welfare of the young, old and infirm;

(b) Insure maintenance of reasonable job safety conditions and avoid environmental sacrifices;

(c) Establish procedures for fair and equitable review of complaints and requests for special exemptions regarding emergency conservation measures or allocations.

Subd. 2. Within four months after March 29, 1974, the director shall circulate, in a manner designed to assure widespread public notice, a tentative plan of energy conservation measures and allocation priorities and criteria, and shall solicit, in a time, form and manner prescribed by him public comments thereon. Further the director may require all utilities, coal suppliers and petroleum suppliers to comment thereon, as prescribed by him, and to submit suggested emergency conservation measures and allocation criteria. The director may by written order, to the extent he deems appropriate, require joint preparation and submission of such comments and proposals by utilities, coal suppliers and petroleum suppliers. Industry participants in such cooperative planning, acting at the request of the director, shall be deemed thereby to have

# MINNESOTA STATUTES 1976

## 116H.10 MINNESOTA ENERGY AGENCY

1780

performed actions permitted by a regulatory body acting under authority of this state within the meaning of section 325.8017, subdivision 2.

Subd. 3. In the process of soliciting public comments on the tentative plan, the director shall hold at least five public meetings in various geographical areas of the state to insure public comment. The final plan shall be based on comments received from the public and utilities, coal suppliers and petroleum suppliers, the independent evaluation and analysis of the director and the guidelines set forth in subdivision 1.

Subd. 4. At least once every five years and whenever construction of a new large energy facility is completed which affects the supply of energy in Minnesota, the director shall review and if necessary revise the emergency conservation and allocation plan.

Subd. 5. Upon a declaration of an energy supply emergency by the executive council or the legislature, the director shall request the division of emergency services to implement and enforce the emergency conservation allocation plan. The executive council and the legislative commission may terminate an energy supply emergency at any time, but no energy supply emergency may continue for longer than 30 days unless renewed by the executive council and the legislative commission. Each renewed energy supply emergency may not continue for longer than 30 days. Each person shall carry out the responsibilities specified in the emergency conservation allocation plan, and violation of any provision of such emergency conservation or allocation requirements shall be deemed a violation of sections 116H.01 to 116H.15 and the rules or regulations promulgated thereunder for purposes of enforcement pursuant to section 116H.15.

[ 1974 c 307 s 9; 1974 c 428 s 5 ]

**116H.10 FORECASTS, STATISTICS AND INFORMATION.** Subdivision 1. In order to further the purposes of sections 116H.01 to 116H.15, the director shall develop and maintain an effective program of collection, compilation, and analysis of energy statistics. The statistical program shall be developed to insure a central state repository of energy data and so that the state may coordinate and cooperate with other governmental data collection and record keeping programs.

Subd. 2. In addition to supplying such current statistical and short range forecasting information as the director may require, each utility, coal supplier, petroleum supplier and large energy facility in the state shall prepare and transmit to the director by July 1, 1975, and every year thereafter, a report specifying in five, ten, and 15 year forecasts the projected demand for energy within their respective service areas and the facilities necessary to meet the demand.

The report shall be in a form specified by the director and contain all information deemed relevant by the director.

Subd. 3. The director shall, to the maximum extent feasible, provide that forecasts required under this section be consistent with material required by other state and federal agencies in order to prevent unnecessary duplication.

Subd. 4. Reports issued pursuant to this section shall be available for public inspection in the office of the agency during normal business hours.

Subd. 5. The director shall review and evaluate forecasts of energy demands and resources as they relate to the most current population growth and development estimates, statewide and regional land use, transportation, and economic development programs and forecasts.

[ 1974 c 307 s 10; 1975 c 170 s 2 ]

**116H.11 STATE ENERGY POLICY AND CONSERVATION REPORT.** Subdivision 1. Beginning January 1, 1976, and at least every two years thereafter, the director shall transmit to the governor and the legislature a comprehensive report designed to identify emerging trends related to energy supply, demand, conservation, public health and safety factors, and to specify the level of statewide and service area energy need. The report shall include, but not be limited to, all of the following:

(a) A final report on the accuracy and acceptability of the energy forecasts received under section 116H.10 and the alternatives to meeting that demand;

(b) An estimate of statewide and geographical area energy need for the forthcoming five and ten year period which, in the judgment of the director, will reasonably balance requirements of state and service area growth and development,

# MINNESOTA STATUTES 1976

1781

MINNESOTA ENERGY AGENCY 116H.12

protection of public health and safety, preservation of environmental quality, and conservation of energy resources. Such forecasts established by the director shall serve as the basis for certification of large energy facilities in section 116H.13;

(c) The anticipated level of statewide and geographical area energy demand for 20 years, which shall serve as the basis for long range action;

(d) The identification of potential adverse social, economic, or environmental effects caused by a continuation of the present energy demand trends;

(e) An assessment of the state's energy resources, including examination of the availability of commercially developable and imported fuels;

(f) The estimated reduction in annual energy consumption resulting from various energy conservation measures;

(g) The status of the department's ongoing studies;

(h) A description of the emergency allocation plan;

(i) Recommendations to the governor and the legislature for administrative and legislative actions to accomplish the purposes of sections 116H.01 to 116H.15.

Subd. 2. Prior to the preparation of a final report, the director shall issue a draft report to the legislative commission on energy, the environmental quality board and any person, upon request, and shall hold a public meeting. Notice of the public meeting shall be provided to each regional development commission.

Subd. 3. The director shall distribute the final report to any person upon request.  
[ 1974 c 307 s 11; 1975 c 271 s 6 ]

**116H.12 ENERGY CONSERVATION.** Subdivision 1. After consultation with the director and the commissioner of public safety, the commissioner of transportation shall, pursuant to chapter 15, promulgate regulations establishing maximum energy use standards for street, highway and parking lot lighting. Such standards shall be consistent with overall protection of the public health, safety and welfare. No new highway, street or parking lot lighting shall be installed in violation of these regulations and existing lighting levels shall be reduced consistent with the regulations as soon as feasible and practical, consistent with overall energy conservation.

Subd. 2. The director may investigate promotional practices by energy suppliers and, pursuant to chapter 15, may promulgate regulations to limit such practices in order to reduce the rate of growth of energy demand.

Subd. 3. After July 1, 1974, no new natural gas outdoor lighting shall be installed in the state.

Subd. 3a. Beginning April 20, 1977, no person shall use a decorative gas lamp in Minnesota except as provided in subdivision 3b. All natural gas utilities and LP gas distributors doing business in Minnesota shall notify each of their customers of this prohibition, in writing, at least 120 days prior to the deadline including such information as the agency may require. The agency shall notify all natural gas utilities and LP gas distributors of this requirement and of the entire form and contents of such notice within 30 days of April 20, 1976, including the necessary technological information to adapt gas lights to electricity.

Subd. 3b. The director may grant a variance where conversion is not possible with reasonable cost.

Subd. 4. In recognition of the compelling need for energy conservation in order to safeguard the public health, safety and welfare, it is necessary to provide building design and construction standards consistent with the most efficient use of energy. Therefore, the commissioner of administration, in consultation with the director, shall, no later than August 1, 1975, and pursuant to chapter 15, promulgate building design and construction standards regarding heat loss control, illumination and climate control. Such standards shall apply to all new buildings and remodeling affecting heat loss control, illumination and climate control. Such standards shall be economically feasible in that the resultant savings in energy procurement shall exceed the cost of the energy conserving requirements amortized over the life of the building. The standards shall become part of the state building code and be effective six months after promulgation.

Subd. 5. The director, in conjunction with the commissioner of administration, shall conduct studies of the state's purchase and use of supplies, automobiles and

# MINNESOTA STATUTES 1976

## 116H.121 MINNESOTA ENERGY AGENCY

1782

equipment having a significant impact on energy use in order to determine the potential for energy conservation. The director may promulgate regulations to insure that energy use and conservation will be considered in state purchasing and, where appropriate, to require certain minimum energy efficiency standards in purchased products and equipment. No state purchasing of equipment or material use shall occur that is not in conformity with these regulations.

Subd. 6. In consultation with the director, the commissioner of transportation shall begin an efficiency study of the present traffic flow system within the state. The study shall consider the feasibility of a computer-coordinated traffic system and other measures for increasing the efficiency of present traffic loads.

Subd. 7. The commissioner of administration shall begin a study of expanding the state telecommunication system to reduce travel between all state departments and agencies.

Subd. 8. The tax study commission shall study the feasibility of encouraging car pools and private busing through the use of tax incentives.

Subd. 9. In conjunction with the motor vehicle services division, the director shall study the feasibility of modifying motor vehicle license fees to reflect energy consumption.

Subd. 10. The director shall report to the legislature not later than March 1, 1977, on the economic and technological feasibility of implementing a program of energy conservation in Minnesota with respect to room air conditioners and standing pilot light equipment. The study shall include consideration of:

- (1) The economic feasibility of the program and the impact on consumers, agriculture, business and interstate commerce;
- (2) The technological feasibility of implementing the program including safety considerations;
- (3) The potential reduction in energy consumed in Minnesota which would result from implementing the program;
- (4) Substantial state need for the program in relation to the progress of similar energy conservation programs undertaken by the federal energy agency under the mandate of the federal energy policy and conservation act of 1975.

For the purposes of this subdivision "economic feasibility" means that the benefits from reduced energy consumption and the savings in operating costs throughout the estimated average life of the product outweigh:

- (a) Any increase to purchasers in initial charges for, or, maintenance expenses of, the product which is likely to result from implementing the program;
- (b) Any lessening of the utility, safety, dependability or performance of the product; and
- (c) Any negative effects on competition.

[ 1974 c 307 s 12; 1975 c 65 s 1; 1976 c 166 s 7; 1976 c 333 s 5-7 ]

**116H.121 ENERGY CONSERVATION STANDARDS IN CERTAIN PUBLIC BUILDINGS.** Before February 1, 1977, the commissioner of administration in consultation with the director, shall amend the rules concerning heat loss, illumination, and climate control standards promulgated pursuant to Minnesota Statutes, 1975 Supplement, Section 116H.12, Subdivision 4, to include standards for all existing buildings heated by oil, coal, gas, or electric units which are owned by the state, the university of Minnesota, any city, any county, or any school district. Compliance with standards adopted pursuant to this section shall not be mandatory for buildings owned by any city, county or school district.

[ 1976 c 333 s 8 ]

**116H.122 ENERGY CONSERVATION IN STATE OWNED BUILDINGS.** Before January 1, 1980, the commissioner of administration, in cooperation with the director, shall survey all buildings which are heated by oil, coal, gas, or electric units and which are owned by the state of Minnesota, including buildings and associated facilities of the state university system, the state fairgrounds as defined in section 37.01, the Minnesota historical society building, and all buildings under the administration or supervision of the commissioners of natural resources, corrections, welfare, or transportation, to determine the energy savings that can be accomplished through insula-

# MINNESOTA STATUTES 1976

1783

MINNESOTA ENERGY AGENCY 116H.125

tion, climate control or illumination modifications. The survey shall determine, based upon a formula specified by the director, the estimated remaining useful life of each building, together with the present degree and estimated cost of compliance with the energy conservation standards promulgated pursuant to section 116H.121. The survey shall include an estimate, based upon a formula specified by the director, of the annual potential savings in fuel procurement costs for existing heating and cooling systems which would be realized for each state owned building if it were improved to comply with the energy conservation standards. Buildings heated by oil or interruptable gas shall be surveyed first. If the commissioner determines that a modification is economically feasible, in that savings in fuel procurement costs will exceed the cost of the modification amortized over the remaining useful life of the building he shall recommend implementation of the modification to the legislature. The commissioner shall submit to the legislature an interim progress report by January 1, 1977 and a final report by January 1, 1980.

[ 1976 c 333 s 9 ]

**116H.123 ENERGY CONSERVATION IN UNIVERSITY BUILDINGS.** Before January 1, 1980, the university of Minnesota, after consultation with the director, shall survey all buildings and associated facilities of the university of Minnesota which are heated by oil, coal, electric, or gas units to determine whether energy savings could be accomplished through insulation, climate control or illumination modifications. The survey shall determine, based upon a formula specified by the director, the estimated remaining useful life of each building, together with the present degree and estimated cost of compliance with the energy conservation standards promulgated pursuant to section 116H.121. The survey shall include an estimate, based upon a formula specified by the director, of the annual potential savings in fuel procurement costs for existing heating and cooling systems, which savings would be realized for each university owned building if it were improved to comply with the energy conservation standards. Buildings heated by oil or interruptable gas shall be surveyed first. If the university determines, based upon a formula specified by the director, that a modification is economically feasible, in that estimated savings in fuel procurement costs will exceed the cost of the modification amortized over the remaining useful life of the building, it shall implement the modification in a manner designed to maximize the reduction in costs resulting from the modification. The university shall submit to the legislature an interim progress report before January 1, 1977 and a final report before January 1, 1980, indicating the number and percentage of university owned buildings surveyed, the estimated costs of implementing the economically feasible modifications and its preliminary findings, recommendations, and priorities for implementing economically feasible modifications based upon the continuing survey.

[ 1976 c 333 s 10 ]

**116H.124 LOCAL GOVERNMENTAL SURVEYS AND FUEL COST ESTIMATES.** Before January 1, 1980, the governing body of each city and county shall complete a survey of all existing city owned or county owned buildings within their respective jurisdictions which buildings are heated by oil, coal, electric, or gas units. Buildings heated by oil or interruptable gas shall be surveyed first. The survey shall determine, based upon a formula specified by the director, the estimated remaining useful life of each building, together with the present degree and estimated cost of compliance with the energy conservation standards promulgated pursuant to section 116H.121. The governing body of a city or county may contract with any municipal building official appointed pursuant to section 16.861, or with the state building inspector to perform the energy conservation survey. Each governing body shall estimate, based upon a formula specified by the director, the annual potential savings in fuel procurement costs for existing heating and cooling systems, which savings would be realized for each building within its jurisdiction if that building were improved to comply with the energy conservation standards. Each governing body shall file the energy conservation survey and estimated fuel procurement data for the buildings within its jurisdiction with the director before December 31, 1978, for his review and comment.

[ 1976 c 333 s 11 ]

**116H.125 ENERGY CONSERVATION IN PUBLIC SCHOOLS; LEGISLATIVE REPORT.** Before February 1, 1977, the commissioner of education after consultation with the director shall analyze the reports required under section 120.78, and report to



# MINNESOTA STATUTES 1976

## 116H.126 MINNESOTA ENERGY AGENCY

1784

the legislature on the energy efficiency of public school buildings including the recommendations of the commissioner of education and the director.

[ 1976 c 333 s 12 ]

**116H.126 PUBLIC SCHOOL SURVEYS.** Before January 1, 1980, each school district shall complete a survey of all existing public school buildings which it owns or operates and which are heated by oil, gas, coal, or electric units in order to determine the estimated remaining useful life of each building, together with the present degree and estimated cost of compliance with the energy conservation standards promulgated pursuant to section 116H.121. Buildings heated by oil or interruptable gas shall be surveyed first. The results of the energy conservation survey shall be recorded on a form furnished by the director. A school district may contract with any municipal building official appointed pursuant to section 16.861 or with the state building inspector to perform the energy conservation survey. Each school district shall estimate, based upon a formula specified by the director, the annual savings in fuel procurement costs for existing heating and cooling systems, which savings would be realized for each public school building within the district if it were improved to comply with the energy conservation standards.

Each school district shall file the energy conservation survey and estimated fuel procurement data for each public school building within the district with the director before December 31, 1978, for his review and comment.

[ 1976 c 333 s 13 ]

**116H.127 SOLAR ENERGY SYSTEM STANDARDS OF PERFORMANCE.** The building code division of the department of administration in consultation with the agency shall promulgate rules by December 31, 1976, concerning quality and performance standards which are in reasonable conformance with the Interim Performance Criteria for Solar Heating and Combined Heating/Cooling Systems and Dwellings, National Bureau of Standards, January 1, 1975; and the Interim Performance Criteria for Commercial Solar Heating and Combined Heating/Cooling Systems and Facilities, National Aeronautics and Space Administration, February 28, 1975, to insure that within the existing state of development, solar energy systems as defined in section 116H.02, subdivision 11, which are sold or installed within this state, are effective and represent a high standard of quality of material, workmanship, design, and performance. The department of administration in consultation with the energy agency shall modify existing standards and promulgate new standards subsequent to December 31, 1976, as new technology and materials become available, or as standards are revised by the federal government.

Manufacturers or retailers of solar energy systems shall disclose to each bona fide potential purchaser of a system the extent to which the system meets or exceeds each quality standard.

[ 1976 c 333 s 14 ]

**116H.128 REVIEW OF ENERGY RESEARCH AND DEMONSTRATION PROJECTS.** The director shall continuously identify, monitor, and evaluate in terms of potential direct benefit to, and possible implementation in Minnesota, research studies and demonstration projects of alternative energy systems and methodologies currently performed in Minnesota and other states and countries including:

- (a) Solar energy systems for heating and cooling;
- (b) Energy systems using wind, agricultural wastes, forestry products, peat, and other nonconventional energy resources;
- (c) Devices and technologies increasing the energy efficiency of energy consuming appliances, equipment, and systems;
- (d) Hydroelectric power; and
- (e) Such other projects as the director deems appropriate and of direct benefit to Minnesota and other states of the upper midwest.

[ 1976 c 333 s 15 ]

**116H.13 CERTIFICATE OF NEED.** Subdivision 1. The director shall, pursuant to chapter 15 and sections 116H.01 to 116H.15, promulgate assessment of need criteria to be used in the determination of need for large energy facilities pursuant to this section. The assessment of need criteria for electric generation facilities and electric

# MINNESOTA STATUTES 1976

1785

MINNESOTA ENERGY AGENCY 116H.14

transmission lines shall be promulgated no later than September 15, 1975. The assessment of need criteria for all other large energy facilities shall be promulgated no later than July 1, 1976.

Subd. 2. On and after the effective date of the assessment of need criteria adopted pursuant to subdivision 1, no large energy facility shall be sited or constructed in Minnesota without the issuance of a certificate of need by the director pursuant to sections 116H.01 to 116H.15 and consistent with the criteria for assessment of need.

Subd. 3. No proposed large energy facility shall be certified for construction unless the applicant has justified its need. In assessing need, the director shall evaluate:

(1) The accuracy of the long range energy demand forecasts on which the necessity for the facility is based;

(2) The effect of existing or possible energy conservation programs under sections 116H.01 to 116H.15 or other federal or state legislation on long term energy demand;

(3) The relationship of the proposed facility to overall state energy needs;

(4) Promotional activities which may have given rise to the demand for this facility;

(5) Socially beneficial uses of the output of this facility, including its uses to protect or enhance environmental quality;

(6) The effects of the facility in inducing future development;

(7) Possible alternatives for satisfying the energy demand including but not limited to potential for increased efficiency of existing energy generation facilities;

(8) The policies, rules and regulations of other state and federal agencies and local governments.

Subd. 4. After promulgation of the criteria for assessment of need, any utility, coal supplier or petroleum supplier shall apply for a certificate of need to construct a new large energy facility. The application shall be on forms and in a manner established by the director. In reviewing each application the director shall hold at least one public hearing pursuant to chapter 15.

Subd. 5. Within six months of the submission of an application, the director shall approve or deny a certificate of need for the facility. Such approval or denial of the certificate shall be accompanied by a statement of the reasons for the decision. Issuance of the certificate may be made contingent upon modifications required by the director.

Subd. 6. Any application for a certificate of need shall be accompanied by a fee not to exceed \$50,000. The director shall establish by regulation pursuant to chapter 15 and sections 116H.01 to 116H.15, a schedule of fees based on the output or capacity of the facility and the difficulty of assessment of need. Funds collected in this manner shall be credited to the general fund of the state treasury.

Subd. 7. Other state agencies authorized to issue permits for siting, construction or operation of large energy facilities shall present their position regarding need and participate in the public hearing process prior to the issuance or denial of a certificate of need. Issuance or denial of certificates of need shall be the sole and exclusive prerogative of the director and said determinations and certificates shall be binding upon other state departments and agencies, regional, county and local governments and special purpose government districts except as provided in sections 116C.01 to 116C.08 and 116D.04, subdivision 9.

Subd. 8. This section shall not apply in any case where the director shall determine after being advised by the attorney general that its application has been preempted by federal law.

[ 1974 c 307 s 13; 1975 c 170 s 3,4 ]

**116H.14 SUBPOENA POWER.** The director shall have the power, for the purposes of sections 116H.01 to 116H.15, to issue subpoenas for production of books, records, correspondence and other information and to require attendance of witnesses. Such subpoenas may be served anywhere in the state by any person authorized to serve processes of courts of record. If a person does not comply with a subpoena, the director may apply to the district court of Ramsey county and the court shall compel

# MINNESOTA STATUTES 1976

## 116H.15 MINNESOTA ENERGY AGENCY

1786

obedience to the subpoena by a proper order. A person failing to obey the order is punishable by the court as for contempt.

[ 1974 c 307 s 14 ]

**116H.15 ENFORCEMENT, PENALTIES.** Subdivision 1. Any person who violates sections 116H.01 to 116H.15 or any rule or regulation promulgated hereunder or knowingly submits false information in any report required by sections 116H.01 to 116H.15 shall be guilty of a misdemeanor. Each day of violation shall constitute a separate offense.

Subd. 2. The provisions of sections 116H.01 to 116H.15 or any rules or regulations promulgated hereunder may be enforced by injunction, action to compel performance or other appropriate action in the district court of the county wherein the violation takes place. The attorney general shall bring any action under this subdivision upon the request of the director, and the existence of an adequate remedy at law shall not be a defense to an action brought under this subdivision.

Subd. 3. When the court finds that any person has violated sections 116H.01 to 116H.15 or any rule or regulation thereunder, has knowingly submitted false information in any report required by sections 116H.01 to 116H.15, or has violated any court order issued under sections 116H.01 to 116H.15, the court may impose a civil penalty of not more than \$10,000 for each violation. These penalties shall be paid to the general fund in the state treasury.

[ 1974 c 307 s 15 ]