

CHAPTER 116H

MINNESOTA ENERGY AGENCY

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116H.001 EXPIRATION. Sections 116H.03 to 116H.06 shall expire on June 30, 1983, unless renewed by the legislature. In the event that sections 116H.03 to 116H.06 are allowed to expire, the governor is hereby empowered to transfer the duties and responsibilities under this chapter to whatever agency or department or combination thereof which the governor deems appropriate.

[1977 c 381 s 7]

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:

(a) Any electric power generating plant or combination of plants at a single site with a combined capacity of 50,000 kilowatts or more, or any facility of 5,000 kilowatts or more which requires oil, natural gas, or natural gas liquids as a fuel and for which an installation permit has not been applied for by May 19, 1977 pursuant to Minn. Reg. APC 3(a);

(b) Any high voltage transmission line with a capacity of 200 kilovolts or more and with more than 50 miles of its length in Minnesota; or, any high voltage transmission line with a capacity of 300 kilovolts or more with more than 25 miles of its length in Minnesota;

(c) 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 their derivatives, unless the facility would be at an existing petroleum storage site and would constitute an in-

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crease of less than 20 percent in the storage capacity at that site;

(d) Any pipeline greater than six inches in diameter and having more than 50 miles of its length in Minnesota used for the transportation of coal, crude petroleum or petroleum fuels or oil or their derivatives;

(e) Any pipeline for transporting natural or synthetic gas at pressures in excess of 200 pounds per square inch with more than 50 miles of its length in Minnesota;

(f) Any facility designed for or capable of storing on a single site more than 100,000 gallons of liquified natural gas or synthetic gas;

(g) Any underground gas storage facility requiring a permit pursuant to section 84.57;

(h) 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;

(i) Any petroleum refinery;

(j) Any nuclear fuel processing or nuclear waste storage or disposal facility; and

(k) Any facility intended to convert any material into any other combustible fuel and having the capacity to process in excess of 25 tons of the material 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 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; 1977 c 381 s 8]

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.

Subd. 3. The director shall be appointed by the governor under the provisions of section 15.06.

The director may appoint a deputy director and a personal secretary to serve at his pleasure. 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; 1977 c 305 s 20,21]

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 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. The director shall:

(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 sources and uses of energy and 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;

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(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; 1977 c 381 s 9]

116H.08 POWERS. The director may:

(a) Adopt rules 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 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 or other 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; 1978 c 786 s 1]

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.087 ENERGY CONSERVATION PUBLICITY. The director of the energy agency in consultation with the director of the housing finance agency shall develop pamphlets and radio and television messages on the energy conservation and housing programs available in Minnesota. The pamphlets shall include information on available tax credits for residential energy conservation measures, residential retrofitting loan and grant programs, and data on the economics of energy conservation measures. Before the pamphlets or media messages are released for general distribution they shall be reviewed by the appropriate standing committees of the legislature.

[1977 c 381 s 22]

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 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.

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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, 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. 1a. Beginning July 1, 1978, the use of outdoor display lighting shall be limited as provided in subdivision 1b. For purposes of this section, "outdoor display lighting" shall include building facade lighting, other decorative lighting, and all billboards and advertising signs except those which identify a commercial establishment which is open for business at that hour.

Subd. 1b. The director shall develop proposed rules, pursuant to chapter 15, by October 1, 1977, setting standards covering permissible hours of operation, quantity and efficiency of outdoor display lighting and defining "outdoor display lighting".

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 shall conduct studies and make recommendations concerning the purchase and use by the state and its political subdivisions of supplies, motor vehicles and equipment having a significant impact on energy use in order to determine the potential for energy conservation. The director may promulgate rules pursuant to chapter 15 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. Beginning January 1, 1978, no new room air conditioner shall be sold or installed or transported for resale into Minnesota unless it has an energy efficiency ratio of 7.0 or higher. For purposes of this subdivision, "energy efficiency ratio" means the ratio of the cooling capacity of the air conditioner in British thermal units per hour to the total electrical input in watts under designated operating conditions. This subdivision shall not apply to air conditioners in Minnesota on October 1, 1977. No person may transport non-complying units into this state in excess of what he can reasonably anticipate selling prior to January 1, 1978.

Subd. 11. Beginning January 1, 1979, no new residential

(a) forced air type central furnace,

(b) cooking appliance manufactured with an electrical supply cord, or

(c) clothes drying equipment

designed to burn natural gas equipped with a continuously burning pilot shall be sold or installed in Minnesota.

[1974 c 307 s 12; 1975 c 65 s 1; 1976 c 166 s 7; 1976 c 333 s 5-7; 1977 c 381 s 11-14]

116H.121 ENERGY CONSERVATION STANDARDS IN CERTAIN PUBLIC BUILDINGS. Subdivision 1. 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 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, except as otherwise provided by this section.

Subd. 2. Effective January 1, 1978, the illumination standards promulgated pursuant to subdivision 1, shall be mandatory for all public buildings where economically feasible. For the purposes of this subdivision, "public building" means any building which is open to the public during normal business hours and which exceeds 5,000 square feet in gross floor area. The director shall specify the formula for determining economic feasibility and shall take appropriate measures prior to January 1, 1978 to inform building owners and managers of the requirements of this subdivision and to assist them in complying with it.

Subd. 3. No enclosed structure or portion of an enclosed structure constructed after January 1, 1978 and used primarily as a commercial parking facility for three or more motor vehicles shall be heated. Incidental heating resulting from building exhaust air passing through a parking facility shall not be prohibited, provided that substantially all useful heat has previously been removed from the air.

[1976 c 333 s 8; 1977 c 381 s 15]

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 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 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 at least half the buildings within its jurisdiction with the director before December 31, 1978, and all remaining buildings by December 31, 1979, for his review and comment.

[1976 c 333 s 11; 1977 c 381 s 16]

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 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 at least half the public school buildings within the district with the director before December 31, 1978, and all remaining buildings by December 31, 1979, for his review and comment.

[1976 c 333 s 13; 1977 c 381 s 17]

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.129 ENERGY CONSERVATION STANDARDS FOR EXISTING RESIDENCES. Subdivision 1. Before January 1, 1979, the commissioner of administration, in consultation with the director and the appropriate standing committees of the legislature, shall promulgate minimum energy efficiency standards for existing residences. The standards shall be economically feasible in that the resultant savings in energy procurement costs, based on current and projected average residential energy costs in Minnesota as certified by the director in the state register, will exceed the cost of the energy conserving requirements amortized over the five-year period subsequent to the incurring of such cost. The costs computed under this section shall include reasonable inflation and interest factors.

Subd. 2. For the purposes of subdivisions 3 to 7, the following terms shall have the meanings given them.

(a) "Residence" means any dwelling for habitation either seasonally, meaning all or a portion of the months of December through March, or permanently by one or more persons. A residence may be owned or rented and may be part of a multi-dwelling or multi-purpose building, but shall not include buildings such as hotels, hospitals, motels, dormitories, sanitariums, nursing homes, schools and other buildings used for educational purposes, or correctional institutions. A mobile home as defined in section 168.011, subdivision 8, shall be a residence for purposes of this section.

(b) "Time of sale" means the time when a written purchase agreement is executed by the buyer, or, in the absence of a purchase agreement, at the time of the execution of any document providing for the conveyance of a residence.

(c) "Energy disclosure report" means the written and signed evaluation by a person certified pursuant to subdivision 6 made on an approved form, representing to the actual buyer of the residence evaluated that the evaluator has used reasonable care and diligence, and has found no instance of noncompliance with the items contained on the approved form as of the date thereon except as specifically designated.

(d) "Applicable energy efficiency standards" means those standards established under subdivision 1 which are not shown to be economically infeasible for the building in question.

Subd. 3. **Energy conservation for rental property.** Effective January 1, 1980, all residences constructed prior to January 1, 1976, which are renter-occupied during all or a portion of the months of November through April shall be in compliance with

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standards pursuant to subdivision 1 pertaining to caulking and weatherstripping of exterior joints and sealing of other openings in the building envelope. Effective July 1, 1983, all residences which are renter-occupied during all or a portion of the months of November through April shall be in compliance with all applicable energy efficiency standards.

Subd. 4. Inspections. The energy agency shall conduct inspections on a random basis for compliance with the provisions of subdivision 3.

Subd. 5. Residential energy disclosure program. By March 1, 1979, the commissioner of administration, in consultation with the director of the energy agency and the appropriate standing committees of the legislature, shall promulgate rules providing for residential energy disclosure requirements and shall approve forms for the purposes of this subdivision. The rules and forms shall provide only for the disclosure of structural characteristics, energy use characteristics relating to energy consumption and conservation, and the extent of compliance with standards adopted pursuant to subdivision 1. Nothing in the forms shall indicate or be deemed to indicate that the residence meets all state building code specifications.

Subd. 6. Building evaluators. By August 1, 1979, the commissioner of administration shall certify evaluators in each county of the state who are qualified to determine the compliance of a residence with applicable energy disclosure requirements. The commissioner of administration shall, by rule pursuant to chapter 15, establish standards for the certification and performance of evaluators and set a fee for the certification of evaluators which is sufficient to cover the ongoing costs of the program once it is established. The commissioner shall encourage the certification of existing groups of trained municipal personnel and individuals from public service organizations. Effective August 1, 1979, each certified evaluator shall, on request of the owner, inspect any residence and report the degree to which it complies with applicable energy disclosure requirements. The inspections shall be made within 30 days of the request.

Subd. 7. Disclosure report. Effective October 1, 1979, no owner or agent shall sell by conveyance or contract for conveyance a residence constructed before January, 1976, without providing to the buyer, prior to the time of sale, a copy of an energy disclosure report for the residence unless the buyer has been provided a copy of the form used in making an energy disclosure report and has declared in writing that he waives his right to a report. If the residence has been evaluated subsequent to April 6, 1978, no new evaluation shall be required for five years after the date of the evaluation, if a copy of the last evaluation has been delivered to the prospective buyer. The provisions of this subdivision shall not apply to the sale or conveyance of any residence to a public body or by a sheriff, constable, marshal or other public or court officer in the performance of his official duties as such, or to trustees in bankruptcy or any other person or persons acting under the direction or authority of any court, state or federal, in selling a residence, except as to a public sale ordered by a probate court, in which case this subdivision shall apply.

Subd. 8. Before January 1, 1978, the commissioner of administration, in consultation with the director, shall by rule amend the standards concerning heat loss, illumination, and climate control promulgated pursuant to section 116H.12, subdivision 4, to require that electrical service to individual dwelling units in buildings containing two or more units be separately metered, with individual metering readily accessible to the individual occupants. The standards authorized by this subdivision shall only apply to buildings constructed after the effective date of the amended standards. Buildings intended for occupancy primarily by persons who are 62 years of age or older or handicapped, or which contain a majority of units not equipped with complete kitchen facilities, shall be exempt from the provisions of this subdivision.

[1977 c 381 s 18; 1978 c 786 s 2,3]

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 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.

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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 person proposing to construct a large energy facility shall apply for a certificate of need prior to construction of the 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; 1977 c 381 s 19]

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 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]