

## CHAPTER 216C

DEPARTMENT OF PUBLIC SERVICE; ENERGY  
DIVISION

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**216C.01 DEFINITIONS.**

Subdivision 1. **Applicability.** The definitions in this section apply to section 216C.02 and those sections renumbered by Laws 1987, chapter 312, article 1, section 10.

Subd. 2. **Commissioner.** "Commissioner" means the commissioner of the department of public service.

Subd. 3. **Department.** "Department" means the department of public service.

**History:** 1987 c 186 s 15; 1987 c 312 art 1 s 7

**216C.02 POWERS AND DUTIES OF COMMISSIONER; RULES.**

Subdivision 1. **Powers.** (a) The commissioner may:

(1) apply for, receive, and spend money received from federal, municipal, county, regional, and other government agencies and private sources;

(2) apply for, accept, and disburse grants and other aids from public and private sources;

(3) contract for professional services if work or services required or authorized to be carried out by the commissioner cannot be satisfactorily performed by employees of the department or by another state agency;

(4) enter into interstate compacts to carry out research and planning jointly with other states or the federal government when appropriate;

(5) upon reasonable request, distribute informational material at no cost to the public; and

(6) enter into contracts for the performance of the commissioner's duties with fed-

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eral, state, regional, metropolitan, local, and other agencies or units of government and educational institutions, including the University of Minnesota, without regard to the competitive bidding requirements of chapters 16A and 16B.

(b) The commissioner shall collect information on conservation and other energy-related programs carried on by other agencies, by public utilities, by cooperative electric associations, by municipal power agencies, by other fuel suppliers, by political subdivisions, and by private organizations. Other agencies, cooperative electric associations, municipal power agencies, and political subdivisions shall cooperate with the commissioner by providing information requested by the commissioner. The commissioner may by rule require the submission of information by other program operators. The commissioner shall make the information available to other agencies and to the public and, as necessary, shall recommend to the legislature changes in the laws governing conservation and other energy-related programs to ensure that:

- (1) expenditures on the programs are adequate to meet identified needs;
- (2) the needs of low-income energy users are being adequately addressed;
- (3) duplication of effort is avoided or eliminated;
- (4) a program that is ineffective is improved or eliminated; and
- (5) voluntary efforts are encouraged through incentives for their operators.

The commissioner shall appoint an advisory task force to help evaluate the information collected and formulate recommendations to the legislature. The task force must include low-income energy users.

(c) By January 15 of each year, the commissioner shall report to the legislature on the projected amount of federal money likely to be available to the state during the next fiscal year, including grant money and money received by the state as a result of litigation or settlements of alleged violations of federal petroleum pricing regulations. The report must also estimate the amount of money projected as needed during the next fiscal year to finance a level of conservation and other energy-related programs adequate to meet projected needs, particularly the needs of low-income persons and households, and must recommend the amount of state appropriations needed to cover the difference between the projected availability of federal money and the projected needs.

**Subd. 2. Appropriation.** Money received by the commissioner under this section must be deposited in the state treasury and is appropriated to the commissioner for the purpose for which the money has been received. The money appropriated by this subdivision does not cancel and is available until expended. This appropriation does not apply to money resulting from litigation or settlements of alleged violations of federal petroleum pricing regulations.

**Subd. 3. Rules.** The commissioner may adopt rules under chapter 14 to carry out the commissioner's duties and responsibilities under this section and those sections renumbered by Laws 1987, chapter 312, article 1, section 10.

**History:** 1987 c 186 s 15; 1987 c 312 art 1 s 8; 1989 c 338 s 4; 1991 c 235 art 1 s 3

## 216C.05 FINDINGS AND PURPOSE.

The legislature finds and declares that continued growth in demand for energy will cause severe social and economic dislocations, and that the state has a vital interest in providing for: increased efficiency in energy consumption, the development and use of renewable energy resources wherever possible, and the creation of an effective energy forecasting, planning and education program.

The legislature further finds and declares that the protection of life, safety and financial security for citizens during an energy crisis is of paramount importance.

Therefore, the legislature finds that it is in the public interest to review, analyze and encourage those energy programs that will minimize the need for annual increases in fossil fuel consumption by 1990 and the need for additional electrical generating plants, and provide for an optimum combination of energy sources consistent with environmental protection and the protection of citizens.

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The legislature intends to monitor, through energy policy planning and implementation, the transition from historic growth in energy demand to a period when demand for traditional fuels becomes stable and the supply of renewable energy resources is readily available and adequately utilized.

*History: 1974 c 307 s 1; 1980 c 579 s 4; 1981 c 356 s 248; 1987 c 312 art 1 s 10 subd 1*

## 216C.06 DEFINITIONS.

Subdivision 1. **Scope.** For the purposes of sections 216C.05 to 216C.30, the following terms shall have the meanings here given them.

Subd. 2. **Earth sheltered.** "Earth sheltered" means constructed so that 50 percent or more of the exterior surface is covered or in contact with earth. Exterior surface includes all walls and roof, but excludes garages and other accessory buildings. Earth covering on walls is measured from the floor of the structure's lowest level. Earth covering on the roof must be at least 12 inches deep to be included in calculations of earth covering. Partially completed buildings shall not be considered earth sheltered.

Subd. 3. **Petroleum supplier.** "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. 4. **Coal supplier.** "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. 5. **Utility.** "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. 6. **Construction.** "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. 7. **Decorative gas lamp.** "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. 8. **Solar energy system.** "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.

Subd. 9. **Building energy report.** "Building energy report" means a questionnaire designed to collect information on a building concerning its energy use and other basic factors that relate to energy use.

Subd. 10. **Mini-audit.** "Mini-audit" means a brief, on site, inspection designed to observe and record building energy use systems and related factors. The primary objective is to identify energy saving measures that can be implemented quickly and at low cost.

Subd. 11. **Maxi-audit.** "Maxi-audit" means a detailed engineering analysis of energy saving building improvements, including modifications to building structure; heating, ventilating and air conditioning systems; operation practices; lighting; and other factors that relate to energy use. The primary objective is to quantify the economic and engineering feasibility of energy saving improvements which require capital expenditures or major operational modifications.

Subd. 12. **Wind energy conversion system or WECS.** "Wind energy conversion system" (WECS) means any device, such as a wind charger, windmill, or wind turbine, which converts wind energy to a form of usable energy.

Subd. 13. **Photovoltaic device.** "Photovoltaic device" means a system of components that generates electricity from incident sunlight by means of the photovoltaic effect, whether or not the device is able to store the energy produced for later use.

**History:** 1974 c 307 s 2; 1975 c 170 s 1; 1976 c 333 s 1,2; 1977 c 381 s 8; Ex1979 c 2 s 10-12; 1981 c 356 s 248; 1982 c 561 s 1; 1982 c 563 s 2; 1983 c 231 s 2; 1987 c 312 art 1 s 10 subd 1; 1992 c 511 art 8 s 1

#### 216C.07 CONFLICT OF INTEREST.

No person shall be eligible to continue in office as commissioner unless that person has within six months after being appointed completed divestiture 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 department shall participate in any manner in any decision or action of the commissioner where that person has a direct or indirect financial interest.

**History:** 1974 c 307 s 5; 1981 c 356 s 125,248; 1986 c 444; 1987 c 312 art 1 s 10 subd 1

#### 216C.08 JURISDICTION.

The commissioner has sole authority and responsibility for the administration of sections 216C.05 to 216C.30. Other laws notwithstanding, the authority granted the commissioner shall supersede the authority given any other agency whenever overlapping, duplication or additional administrative or legal procedures might occur in the administration of sections 216C.05 to 216C.30. The commissioner 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 216C.05 to 216C.30. 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 216C.05 to 216C.30 shall cooperate and coordinate all activities with the commissioner to assure orderly and efficient administration and enforcement of sections 216C.05 to 216C.30.

The commissioner shall designate a liaison officer whose duty shall be to insure the maximum possible consistency in procedures and to eliminate duplication between the commissioner and the other agencies that may be involved in energy.

**History:** 1974 c 307 s 6; 1980 c 509 s 29; 1981 c 356 s 126,248; 1987 c 312 art 1 s 10 subd 1

#### 216C.09 DUTIES.

The commissioner shall:

(a) manage the department 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 216C.05 to 216C.30;

(e) collect and analyze data relating to present and future demands and resources for all sources of energy;

(f) evaluate policies governing the establishment of rates and prices for energy as

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related to energy conservation, and other goals and policies of sections 216C.05 to 216C.30, and make recommendations for changes in energy pricing policies and rate schedules;

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

(h) design and implement a state program for the conservation of energy; this program shall include but not be limited to, general commercial, industrial, and residential, and transportation 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;

(i) inform and educate the public about the sources and uses of energy and the ways in which persons can conserve energy;

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

(k) charge other governmental departments and agencies involved in energy related activities with specific information gathering goals and require that those goals be met;

(l) design a comprehensive program for the development of indigenous energy resources. The program shall include, but not be limited to, providing technical, informational, educational, and financial services and materials to persons, businesses, municipalities, and organizations involved in the development of solar, wind, hydro-power, peat, fiber fuels, biomass, and other alternative energy resources. The program shall be evaluated by the alternative energy technical activity; and

(m) dispense loans, grants, or other financial aid from money received from litigation or settlement of alleged violations of federal petroleum pricing regulations made available to the department for that purpose. The commissioner shall adopt rules under chapter 14 for this purpose. Money dispersed under this clause must not include money received as a result of the settlement of the parties and order of the United States District Court for the District of Kansas in the case of *In Re Department of Energy Stripper Well Exemption Litigation*, 578 F. Supp. 586 (D.Kan. 1983) and all money received after August 1, 1988, by the governor, the commissioner of finance, or any other state agency resulting from overcharges by oil companies in violation of federal law.

Further, the commissioner may participate fully in hearings before the public utilities commission on matters pertaining to rate design, cost allocation, efficient resource utilization, utility conservation investments, small power production, cogeneration, and other rate issues. The commissioner shall support the policies stated in section 216C.05 and shall prepare and defend testimony proposed to encourage energy conservation improvements as defined in section 216B.241.

**History:** 1974 c 307 s 7; 1977 c 381 s 9; 1981 c 356 s 127,248; 1982 c 563 s 3; 1983 c 179 s 1; 1983 c 289 s 44; 1984 c 654 art 2 s 99; 1987 c 312 art 1 s 10 subd 1; 1988 c 617 s 1

## 216C.10 POWERS.

The commissioner may:

(1) adopt rules under chapter 14 as necessary (1) carry out the purposes of sections 216C.05 to 216C.30 and, when necessary for the purposes of section 216C.15, adopt emergency rules under sections 14.29 to 14.36;

(2) make all contracts under sections 216C.05 to 216C.30 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 216C.05 to 216C.30;

(3) provide on-site technical assistance to units of local government in order to enhance local capabilities for dealing with energy problems;

(4) administer for the state, energy programs under federal law, regulations, or guidelines, except for the low-income home energy assistance program and low-income weatherization programs administered by the department of jobs and training, and coordinate the programs and activities with other state agencies, units of local government, and educational institutions;

(5) develop a state energy investment plan with yearly energy conservation and alternative energy development goals, investment targets, and marketing strategies;

(6) perform market analysis studies relating to conservation, alternative and renewable energy resources, and energy recovery;

(7) assist with the preparation of proposals for innovative conservation, renewable, alternative, or energy recovery projects;

(8) manage and disburse funds made available for the purpose of research studies or demonstration projects related to energy conservation or other activities deemed appropriate by the commissioner;

(9) intervene in certificate of need proceedings before the public utilities commission;

(10) collect fees from recipients of loans, grants, or other financial aid from money received from litigation or settlement of alleged violations of federal petroleum pricing regulations, which fees must be used to pay the department's costs in administering those financial aids; and

(11) collect fees from proposers and operators of conservation and other energy-related programs that are reviewed, evaluated, or approved by the department, other than proposers that are political subdivisions or community or nonprofit organizations, to cover the department's cost in making the review, evaluation, or approval and in developing additional programs for others to operate.

Notwithstanding any other law, the commissioner is designated the state agent to apply for, receive, and accept federal or other funds made available to the state for the purposes of sections 216C.05 to 216C.30.

**History:** 1974 c 307 s 8; 1978 c 786 s 1; Ex1979 c 2 s 13; 1981 c 85 s 2; 1981 c 356 s 128,248; 1982 c 424 s 130; 1983 c 289 s 45; 1984 c 604 s 1; 1984 c 640 s 32; 1Sp1985 c 14 art 9 s 75; 1987 c 312 art 1 s 10 subd 1; 1988 c 617 s 2; 1989 c 338 s 5

#### **216C.11 ENERGY CONSERVATION INFORMATION CENTER.**

The commissioner shall establish an energy information center in the department'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 alternative sources of energy.

The energy information center shall serve as the official Minnesota alcohol fuels information center and shall disseminate information, printed, by the toll-free telephone information service, or otherwise on the applicability and technology of alcohol fuels.

The information center shall include information on the potential hazards of energy conservation techniques and improvements in the printed materials disseminated. The commissioner shall not be liable for damages arising from the installation or operation of equipment or materials recommended by the information center.

The information center shall use the information collected under section 216C.02, subdivision 1, to maintain a central source of information on conservation and other energy-related programs, including both programs required by law or rule and programs developed and carried on voluntarily. In particular, the information center shall compile and maintain information on policies covering disconnections or denials of

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fuel during cold weather adopted by public utilities and other fuel suppliers not governed by Minnesota Rules, parts 7820.1500 to 7820.2300, including the number of households disconnected or denied fuel and the duration of the disconnections or denials.

**History:** 1976 c 333 s 4; Ex1979 c 2 s 14; 1980 c 579 s 5; 1981 c 356 s 129,248; 1987 c 312 art 1 s 10 subd 1; 1989 c 338 s 6

## 216C.12 ENERGY CONSERVATION PUBLICITY.

The commissioner in consultation with other affected agencies or departments shall develop informational materials, pamphlets and radio and television messages on energy conservation and housing programs available in Minnesota, renewable energy resources, and energy supply and demand. The printed materials 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 and renewable resource measures. Copies of printed materials shall be distributed to members of the appropriate standing committees of the legislature.

**History:** 1977 c 381 s 22; 1980 c 579 s 6; 1981 c 356 s 130,248; 1987 c 312 art 1 s 10 subd 1

## 216C.13 POST-SECONDARY ENERGY EDUCATION.

The commissioner, in consultation with the state board of education, the higher education coordinating board, the state board for community colleges, the state university board, and the board of regents of the University of Minnesota, shall assist in the development and implementation of adult and post-secondary energy education programs.

**History:** Ex1979 c 2 s 15; 1981 c 356 s 131,248; 1982 c 563 s 4; 1987 c 312 art 1 s 10 subd 1

## 216C.14 COMMUNITY ENERGY PLANNING; GRANTS.

**Subdivision 1. Purpose.** In order to improve the energy planning capabilities of local governments, the commissioner shall make grants to counties and cities, however organized. The commissioner when making grants shall give priority to those units of government that submit proposals that could result in significant savings of traditional energy sources, development of renewable energy systems, and broad community involvement. The commissioner shall give priority to local units of government that provide staff or other support for a program and who request grants for programs which can be duplicated by other local governments. The grants may be used to purchase materials, employ staff or contract with other units of government or qualified consultants.

The commissioner shall not make grants of more than 45 percent of the amount appropriated for those purposes to cities and counties located within the seven county metropolitan area. A single grant to a city or county shall not exceed \$50,000.

**Subd. 2. Qualifying expenditures.** Community energy planning grants may be used for the following purposes:

(a) to gather, monitor, and analyze local energy supply, demand, and cost information;

(b) to prepare comprehensive community energy plans;

(c) to implement comprehensive energy plans that the unit of government is authorized to undertake for the management of problems resulting from:

(1) rising energy cost;

(2) lack of efficient public and private transportation;

(3) lack of community conservation efforts;

(4) lack of widespread renewable energy sources; and

(5) lack of energy components in comprehensive plans and local ordinances;

(d) to assist neighborhood organizations in counties and cities to do energy planning by making grants to the local unit of government; and

(e) any other purposes deemed appropriate by the commissioner.

**Subd. 3. Administration; rules.** The commissioner shall determine priorities pursuant to subdivisions 1 and 2, and shall promulgate rules for the submission and review of applications in accordance with the provisions of chapter 14. For this purpose the commissioner may adopt emergency rules pursuant to the provisions of sections 14.29 to 14.36.

**History:** 1980 c 579 s 7; 1981 c 356 s 132,248; 1982 c 424 s 130; 1984 c 640 s 32; 1987 c 312 art 1 s 10 subd 1

### 216C.15 ENERGY SUPPLY EMERGENCY CONSERVATION AND ALLOCATION PLAN.

**Subdivision 1. Priorities and requirements.** The commissioner shall maintain an emergency conservation and allocation plan. The 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, shall be based on reasonable energy savings or transfers from scarce energy resources 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 programs, controls, standards, priorities or quotas for the allocation, conservation and consumption of energy resources; and for the suspension and modification of existing standards and the establishment of new standards affecting or affected by the use of energy resources, including those related to the type and composition of energy sources, and to the hours and days during which public buildings, commercial and industrial establishments, and other energy consuming facilities may or are required to remain open;

(d) establish programs to control the use, sale or distribution of commodities, materials, goods or services;

(e) establish regional programs and agreements for the purpose of coordinating the energy resources, programs and actions of the state with those of the federal government, of local governments, and of other states and localities; and

(f) determine at what level of an energy supply emergency situation the pollution control agency shall be requested to ask the governor to petition the president for a temporary emergency suspension of air quality standards as required by the Clean Air Act, United States Code, title 42, section 7410f;

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

**Subd. 2. Periodic revision.** At least once every five years and whenever construction of a new large energy facility is completed which affects the supply of energy in



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Minnesota, the commissioner shall review and if necessary revise the emergency conservation and allocation plan. Revisions of the emergency conservation and allocation plan shall be adopted pursuant to the rulemaking procedures in chapter 14 and reviewed by the appropriate standing committees of the legislature. The commissioner may also make revisions to the plan pursuant to sections 14.29 to 14.36, and the emergency rules powers of section 216C.10, clause (a), when a declared or impending energy supply emergency requires.

**Subd. 3. Declaration of energy supply emergency.** The executive council or the legislature may declare an energy supply emergency when an acute shortage of energy exists by issuing a declaration which indicates the nature of the emergency, the area or areas threatened if less than the whole state is threatened, and the conditions causing the emergency. The declaration shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and shall be promptly filed with the commissioner, the division of emergency management and the secretary of state. Upon a declaration of an energy supply emergency by the executive council or the legislature, the governor and the division of emergency management, in consultation with the commissioner, shall implement and enforce the emergency conservation and allocation plan or any part thereof. Revisions of the plan shall be made by the commissioner in accordance with subdivision 2. The executive council or the legislature may terminate an energy supply emergency at any time by issuing a declaration which terminates the energy supply emergency and indicates the conditions which make possible termination of the emergency, but no energy supply emergency may continue for longer than 30 days unless renewed by the legislature. Each renewed energy supply emergency may not continue for longer than 30 days, unless otherwise provided by law. 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 216C.05 to 216C.30 and the rules promulgated thereunder for purposes of enforcement pursuant to section 216C.30.

**History:** 1974 c 307 s 9; 1974 c 428 s 5; Ex1979 c 2 s 16-18; 1981 c 356 s 133-135, 248; 1982 c 424 s 130; 1984 c 640 s 32; 1987 c 71 s 2; 1987 c 312 art 1 s 10 subd 1

## 216C.16 STATE PETROLEUM SET-ASIDE PROGRAM.

**Subdivision 1. Purpose.** The purpose of this section is to grant to the commissioner authority to exercise specific power to deal with shortages of refined petroleum products. Authority granted shall be exercised for the purpose of minimizing the adverse impacts of shortages and dislocations upon the citizens and the economy of the state and nation.

**Subd. 2. Establishment.** The commissioner shall establish and is responsible for a state set-aside system for motor gasoline and middle distillates to provide emergency petroleum requirements and thereby relieve the hardship caused by shortage, supply dislocations, or other emergencies. The commissioner, for purposes of administration, may exercise all of the powers granted by this chapter.

**Subd. 3. Definitions.** As used in this section:

(a) "Middle distillates" means distillates obtained between kerosene and lubricating oil fractions in the refining process, including but not limited to, kerosene, number one and number two heating oil and diesel fuel;

(b) "Motor gasoline" means a liquid mixture of hydrocarbons produced by the distillation of petroleum and used chiefly as a fuel in internal combustion engines;

(c) "Prime supplier" means the producer or supplier now or hereafter making the first sale of middle distillates or motor gasoline subject to the state set-aside for consumption within the state;

(d) "State set-aside" means the amount of middle distillates or motor gasoline required to be made available by a prime supplier for utilization by the commissioner to resolve or mitigate emergencies or hardships due to shortages of supply.

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**Subd. 4. Set-aside required.** Every prime supplier shall allocate for sale or exchange monthly upon order of the commissioner a volume of motor gasoline and middle distillate not exceeding the monthly set-aside amount. The amount of gasoline subject to monthly set-aside shall be an amount equal to three percent of the prime supplier's monthly supply estimate. The amount of middle distillate subject to monthly set-aside shall be an amount equal to four percent of the prime supplier's monthly supply estimate.

**Subd. 5. Report of estimated volume; program's allocation.** Every prime supplier shall file with the commissioner a monthly report of its estimated volume of gasoline and middle distillate deliveries. The report shall be in a form prescribed by the commissioner and shall be submitted by the 25th day of the month preceding the month covered by the report. Each prime supplier shall allocate monthly for sale or exchange upon order of the commissioner three percent of estimated motor gasoline supplies and four percent of estimated middle distillate supplies as shown by the report.

**Subd. 6. Prime supplier obligations.** Each prime supplier shall designate a representative to act for and on behalf of the prime supplier in respect to department state set-aside orders to be issued to the prime supplier. A prime supplier shall provide the amount of allocated product stated in the energy state set-aside order.

**Subd. 7. Rules.** The commissioner shall adopt rules, including emergency rules pursuant to sections 14.29 to 14.36, to govern the administration of the set-aside system. Rules shall cover matters such as the form and procedure for applications for set-aside allocations by dealers of bulk purchasers, reports on available gasoline and middle distillate supplies, orders and procedure for set-aside allocation and distribution and other rules deemed necessary or desirable in the implementation and administration of the set-aside system, including monthly reports of anticipated deliveries and actual sales of gasoline, middle distillates, propane, aviation fuels, and residual oils.

**Subd. 8. Criteria.** The commissioner may allocate gasoline and middle distillates from the set-aside system in accordance with the criteria in section 216C.15 and rules adopted pursuant thereto. The commissioner may prescribe additional priorities by rule.

**History:** 1981 c 356 s 136,248; 1982 c 424 s 130; 1982 c 563 s 5,6; 1983 c 289 s 115 subd 1; 1984 c 640 s 32; 1987 c 312 art 1 s 10 subd 1

## 216C.17 ENERGY FORECASTS, STATISTICS AND INFORMATION.

**Subdivision 1. Energy data program.** In order to further the purposes of sections 216C.05 to 216C.30, the commissioner 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. Forecasts.** In addition to supplying the current statistical and short range forecasting information the commissioner requires, each utility, coal supplier, petroleum supplier and large energy facility in the state shall prepare and transmit to the commissioner by July 1 of each year, 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 commissioner and contain all information deemed relevant by the commissioner.

**Subd. 3. Duplication.** The commissioner 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. Public inspection.** Reports issued pursuant to this section, other than individual corporate reports classified as nonpublic data in section 13.68, shall be available for public inspection in the office of the department during normal business hours.

**Subd. 5. Evaluation.** The commissioner shall review and evaluate forecasts of

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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.

**History:** 1974 c 307 s 10; 1975 c 170 s 2; 1981 c 311 s 39; 1981 c 356 s 137,248; 1982 c 545 s 24; 1982 c 563 s 7; 1987 c 312 art 1 s 10 subd 1

## 216C.18 STATE ENERGY POLICY AND CONSERVATION REPORT.

Subdivision 1. **Report.** By July 1 of 1988 and every four years thereafter, the commissioner shall issue a comprehensive report designed to identify major emerging trends and issues in energy supply, consumption, conservation, and costs. The report shall include the following:

- (1) projections of the level and composition of statewide energy consumption under current government policies and an evaluation of the ability of existing and anticipated facilities to supply the necessary energy for that consumption;
- (2) projections of how the level and the composition of energy consumption would be affected by new programs or new policies;
- (3) projections of energy costs to consumers, businesses, and government;
- (4) identification and discussion of key social, economic, and environmental issues in energy;
- (5) explanations of the department's current energy programs and studies; and
- (6) recommendations.

Subd. 1a. **Rate plan.** The energy policy and conservation report shall include a section prepared by the public utilities commission. The commission's section shall be prepared in consultation with the commissioner and shall include, but not be limited to, all of the following:

- (a) a description and analysis of the commission's rate design policy as it pertains to the goals stated in sections 216B.164, 216B.241, and 216C.05, including a description of all energy conservation improvements ordered by the commission; and
- (b) recommendations to the governor and the legislature for administrative and legislative actions to accomplish the purposes of sections 216B.164, 216B.241, and 216C.05.

Subd. 2. **Draft report; public meeting.** Prior to the preparation of a final report, the commissioner shall issue a draft report to 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. **Final report, distribution.** The commissioner shall distribute the final report to any person upon request.

**History:** 1974 c 307 s 11; 1975 c 271 s 6; Ex1979 c 2 s 19; 1981 c 356 s 138,248; 1982 c 561 s 3; 1982 c 563 s 8; 1983 c 179 s 2; 1983 c 231 s 3; 1983 c 289 s 115 subd 1; 1984 c 654 art 2 s 100; 1987 c 186 s 15; 1987 c 312 art 1 s 10 subd 1

## ENERGY CONSERVATION

### 216C.19 ENERGY CONSERVATION.

Subdivision 1. **Roadway lighting; rules.** After consultation with the commissioner and the commissioner of public safety, the commissioner of transportation shall adopt rules under chapter 14 establishing minimum energy efficiency standards for street, highway, and parking lot lighting. The standards must be consistent with overall protection of the public health, safety and welfare. No new highway, street or parking lot lighting may be installed in violation of these rules. Existing lighting equipment, excluding roadway sign lighting, with lamps with initial efficiencies less than 70 lumens per watt must be replaced when worn out with light sources using lamps with initial efficiencies of at least 70 lumens per watt.

Subd. 2. **Outdoor display lighting.** Beginning July 1, 1980, the use of outdoor dis-

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play lighting shall be limited as provided in subdivision 3. 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. 3. Rules on outdoor lighting.** The commissioner shall adopt rules, pursuant to chapter 14, setting standards covering permissible hours of operation, quantity and efficiency of outdoor display lighting and defining "outdoor display lighting."

**Subd. 4. Rules on promotional practices.** The commissioner may investigate promotional practices by energy suppliers and, pursuant to chapter 14, may promulgate rules to limit such practices in order to reduce the rate of growth of energy demand.

**Subd. 5. Natural gas outdoor lighting prohibited.** After July 1, 1974, no new natural gas outdoor lighting shall be installed in the state.

**Subd. 6. Variance for decorative gas lamp.** Beginning April 20, 1977, no person shall use a decorative gas lamp in Minnesota except as provided in this subdivision and in subdivision 7. The commissioner shall, at the request of a homeowner who is 65 years old or older, grant a variance allowing the homeowner to operate a decorative gas lamp or lamps at the homeowner's principal place of residence. The variance shall be valid for the life of the recipient but shall be renewed every four years. The commissioner may not issue a variance after August 1, 1992, except variances issued before that date may be renewed under this subdivision.

**Subd. 7. Exemption for old gas lamps.** Gas lamps installed prior to April 20, 1977, by or at the request of a municipality, on a public street or right of way, may be used as street lighting.

**Subd. 8. Applicability to building code; rules.** 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 shall, pursuant to chapter 14, adopt rules governing building design and construction standards regarding heat loss control, illumination and climate control. To the maximum extent practicable, the rules providing for the energy portions of the building code shall be based on and conform to model codes generally accepted throughout the United States. The rules shall apply to all new buildings and remodeling affecting heat loss control, illumination and climate control. The rules 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 rules adopted pursuant to this subdivision, shall be part of the state building code. Notwithstanding the provisions of this subdivision, all applications for approval of building specifications and plans may be submitted to the state building inspector as provided in section 16B.66.

**Subd. 9. Energy use by state; rules.** The commissioner 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 commissioner may adopt rules pursuant to chapter 14 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 rules.

**Subd. 10. Traffic study.** In consultation with the commissioner, 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. 11. Study to expand state telecommunication system.** The commissioner of administration shall begin a study of expanding the state telecommunication system to reduce travel between all state departments and agencies.

**Subd. 12. Study of license fees and vehicle energy consumption.** In conjunction with

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the motor vehicle services division, the commissioner shall study the feasibility of modifying motor vehicle license fees to reflect energy consumption.

**Subd. 13. New room air conditioners.** No new room air conditioner shall be sold or installed or transported for resale into Minnesota unless it has an energy efficiency ratio equal to or greater than the values adopted under subdivision 8.

**Subd. 14. Certain gas-powered equipment prohibited.** 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. This subdivision does not apply to forced air type furnaces designed for installation in manufactured homes.

**Subd. 15. Fluorescent lamp ballasts.** No person may sell or install a fluorescent lamp ballast in this state that does not comply with the energy efficiency standards for fluorescent lamp ballasts adopted by the commissioner under subdivision 8.

**Subd. 16. Lamps.** The commissioner shall adopt rules under chapter 14 setting minimum efficiency standards for specific incandescent lamps. The rules must establish minimum efficiency standards for incandescent lamps of specific lamp type and wattage where an energy-saving substitute lamp is currently produced by at least two lamp manufacturers. The rules must include, but not be limited to, the following lamps: 40-watt A17 and A19 lamps, 60-watt A17 and A19 lamps, 75-watt A17 and A19 lamps, 100-watt A17 and A19 lamps, and 150-watt A21 lamps, where each is a general-purpose incandescent lamp with rated voltage between 114 and 131 volts with diffuse coating. The minimum efficiency standard must be set to exceed the efficiency of the original lamp. For incandescent lamps for which minimum standards have been established, no lamp may be sold in Minnesota unless it meets or exceeds the minimum efficiency standards adopted under this section.

**Subd. 17. Motors.** No motor covered by this subdivision, excluding those sold as part of an appliance, may be sold in Minnesota unless its nominal efficiency meets or exceeds the values adopted under subdivision 8.

**Subd. 18. Commercial heating, air conditioning, and ventilating equipment.** (a) This subdivision applies to electrically operated unitary and packaged terminal air conditioners and heat pumps, electrically operated water-chilling packages, gas- and oil-fired boilers, and warm air furnaces and combination warm air furnaces and air conditioning units installed in buildings housing commercial or industrial operations.

(b) No commercial heating, air conditioning, or ventilating equipment covered by this subdivision may be sold or installed in Minnesota unless it meets or exceeds the minimum performance standards established by ASHRAE standard 90.1.

**Subd. 19. Showerheads; faucets.** (a) No showerhead, other than a safety shower showerhead, may be sold or installed in Minnesota if it permits a maximum water use in excess of 2.5 gallons per minute when measured at a flowing water pressure of 80 pounds per square inch.

(b) No kitchen faucet or kitchen replacement aerator may be sold or installed in Minnesota if it permits a maximum water use in excess of 2.5 gallons per minute when measured at a flowing water pressure of 80 pounds per square inch.

(c) No lavatory faucet or lavatory replacement aerator may be sold or installed in Minnesota if it permits a maximum water use in excess of two gallons per minute when measured at a flowing water pressure of 80 pounds per square inch.

**Subd. 20. Conservation rules.** The commissioner shall adopt rules to implement subdivisions 13 and 16 to 19, including rules governing testing of products covered by those sections. The rules must make allowance for wholesalers, distributors, or retailers who have inventory or stock which was acquired prior to July 1, 1993. The rules must consider appropriate efficiency requirements for motors used infrequently in agricultural and other applications.

**History:** 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; Ex1979 c 2 s 20-24; 1980 c 579 s 8; 1981 c 85 s 3,4; 1981 c 356 s 139-145,248; 1981 c 365 s 9; 1982 c 424 s 130; 1982 c 563 s 9; 1984 c 544 s 89; 1984 c 654 art 2 s 101; 1985 c 50 s 1; 1985 c 248 s 70; 1987 c 312 art 1 s 10 subd 1; 1988 c 617 s 3,4; 1992 c 597 s 4-10

**NOTE:** Subdivision 13, as amended by section 5, and subdivisions 16, 17, 18, and 19, as added by sections 6 to 9 of Laws 1992, chapter 597, are effective July 1, 1993. See Laws 1992, chapter 597, section 22.

### 216C.195 ENERGY CODE AMENDMENTS; COMMERCIAL BUILDINGS.

**Subdivision 1. Commissioner to adopt.** Not later than September 1, 1992, the commissioner of public service shall adopt amendments to the energy code portion of the Minnesota building code to implement energy-efficient standards for new commercial buildings.

**Subd. 2. Adoption of ASHRAE/IES 90.1 standard.** The standards adopted under subdivision 1 must require energy efficiency at least as stringent as:

- (1) the "minimum performance" standards for opaque building envelopes; and
- (2) the January 1, 1992, standards for heating, ventilating and air conditioning, and water heating as proposed in ASHRAE/IES standard 90.1.

**Subd. 3. Lighting standards.** The standards adopted under subdivision 1 must be at least as stringent as lighting standards for new federal buildings (for 1993) in Code of Federal Regulations, title 10, section 435.103.

**History:** 1991 c 235 art 1 s 5

### 216C.20 ENERGY CONSERVATION IN PUBLIC BUILDINGS.

**Subdivision 1. Applicability.** The rules concerning heat loss, illumination, and climate control standards adopted pursuant to section 216C.19, subdivision 8, shall 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. Consideration of economic feasibility.** The illumination standards promulgated pursuant to subdivision 1, are 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 commissioner shall specify the formula for determining economic feasibility.

**Subd. 3. Parking ramps.** 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.

**History:** 1976 c 333 s 8; 1977 c 381 s 15; 1981 c 356 s 146,147,248; 1987 c 312 art 1 s 10 subd 1

### 216C.21 ENERGY CONSERVATION IN STATE-OWNED BUILDINGS.

By June 30, 1982, the commissioner of administration, in cooperation with the commissioner, shall complete a mini-audit or maxi-audit of all buildings which are heated and 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, human services, and transportation. The commissioner of administration shall 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

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section 216C.20. The commissioner of administration shall estimate the annual potential savings in units of fuel and fuel procurement costs which would be realized for each state-owned building if its operating procedures were modified and it were improved to comply with each of the energy conservation standards promulgated pursuant to section 216C.20. If appropriations are inadequate to complete a mini-audit or maxi-audit of all state-owned buildings, the commissioner of administration shall give priority to buildings of 25,000 or more square feet. If the commissioner of administration 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, the commissioner shall recommend implementation of the modification to the legislature. The commissioner of administration shall submit to the legislature an annual progress report on January 1 of each year and a final progress report by December 31, 1982, indicating the number and percentage of state-owned buildings surveyed, the estimated costs of implementing the economically feasible modifications, the energy savings and costs resulting from implementing such modifications, and findings, recommendations, and priorities for implementing economically feasible modifications.

**History:** 1976 c 333 s 9; Ex1979 c 2 s 25; 1981 c 356 s 148,248; 1984 c 654 art 5 s 58; 1986 c 444; 1987 c 312 art 1 s 10 subd 1

## **216C.22 ENERGY CONSERVATION IN UNIVERSITY BUILDINGS.**

By June 30, 1982, the University of Minnesota, after consultation with the commissioner, shall complete a mini-audit or a maxi-audit of all buildings and associated facilities of the University of Minnesota which are heated. The university shall 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 216C.20. The university shall estimate the annual potential savings in units of fuel and fuel procurement costs for existing heating and cooling systems, which savings would be realized for each university owned building if its operating procedures were modified and it were improved to comply with each of the energy conservation standards promulgated pursuant to section 216C.20. If appropriations are inadequate to complete a mini-audit or maxi-audit of all university owned buildings, the university shall give priority to buildings of 25,000 or more square feet. If the university determines 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 annual progress report on January 1 of each year and a final report by December 31, 1982, indicating the number and percentage of university owned buildings surveyed, the estimated costs of implementing the economically feasible modifications, the energy savings and costs resulting from implementing such modifications, and its preliminary findings, recommendations, and priorities for implementing economically feasible modifications.

**History:** 1976 c 333 s 10; Ex1979 c 2 s 26; 1981 c 356 s 149,248; 1987 c 312 art 1 s 10 subd 1

## **216C.23 LOCAL GOVERNMENTAL SURVEYS AND FUEL COST ESTIMATES.**

**Subdivision 1. Mini-audits and maxi-audits.** On or before June 30, 1980, based upon analysis of the building energy reports, the commissioner shall indicate to the governing body of each city and county those buildings upon which a mini-audit, a maxi-audit, or both, shall be performed. The audit results shall be recorded on a form furnished by the commissioner, and filed with the commissioner by December 31, 1982.

**Subd. 2. Appeal from decision of commissioner.** The governing body of any city or county may appeal the decision of the commissioner pursuant to subdivision 1 by submitting in writing to the commissioner the reasons for the appeal. No appeal may be considered by the commissioner if received later than three months after notification

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to the city or county that a mini-audit or maxi-audit shall be performed. The commissioner shall review all appeals and respond to the governing body within one month of receipt of the appeal indicating whether the appeal is granted in full, granted in part, or denied.

**Subd. 3. Certification of auditors.** The commissioner may certify persons to perform mini-audits and maxi-audits, and to complete the building energy reports.

**Subd. 4. Acceptance of equivalent energy survey.** The commissioner may accept the results of an equivalent energy survey in place of the building energy report or audits required under this section.

**History:** 1976 c 333 s 11; 1977 c 381 s 16; Ex1979 c 2 s 27; 1981 c 356 s 150,248; 1987 c 312 art 1 s 10 subd 1

## 216C.24 PUBLIC SCHOOL BUILDING ENERGY REPORTS AND AUDITS.

**Subdivision 1. Mini-audits and maxi-audits.** On or before July 1, 1980, based upon the analysis of the building energy reports which school districts were required by law to submit by December 31, 1979, the commissioner shall indicate to each school district those buildings upon which a mini-audit, maxi-audit, or both, shall be performed. The audit results shall be recorded on a form furnished by the commissioner and filed with the commissioner by December 31, 1982.

**Subd. 2. Appeal from decision of commissioner.** Any school district may appeal the decision of the commissioner pursuant to subdivision 1 by submitting in writing to the commissioner the reasons for the appeal. No appeal may be considered by the commissioner if received later than three months after notification to the school district that a mini-audit or maxi-audit shall be performed. The commissioner shall review all appeals and respond to the school district within one month of receipt of the appeal indicating whether the appeal is granted in full, granted in part, or denied.

**Subd. 3. Certification of auditors.** The commissioner may certify persons to perform mini-audits and maxi-audits.

**Subd. 4. Acceptance of equivalent energy surveys.** The commissioner may accept the results of an equivalent energy survey in place of the audits required under this section.

**Subd. 5. Exception for pending closure of school building.** A school district intending to permanently close or otherwise discontinue use of any existing public school building by January 1, 1985, shall not be required to comply with this section as to those buildings, if a certification of intent to close the building is filed with the commissioner.

**Subd. 6. Outreach for energy audit interpretation.** The commissioner shall establish a program to assist school officials in the understanding of energy audits performed on their schools. The program will also provide suggestions and assistance in the application for any state or federal grants or loans relating to energy conservation for which the school may be eligible.

**History:** 1976 c 333 s 13; 1977 c 381 s 17; Ex1979 c 2 s 28; 1981 c 356 s 151,248; 1981 c 358 art 7 s 1-3; 1983 c 301 s 124; 1987 c 312 art 1 s 10 subd 1

## 216C.25 SOLAR ENERGY SYSTEM STANDARDS.

The commissioner of administration in consultation with the commissioner shall adopt rules 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 216C.06, subdivision 8, which are sold or installed within this state, are effective and represent a high standard of quality of material, workmanship, design, and performance. The commissioner of administration



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in consultation with the energy commissioner shall amend the rules 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.

**History:** 1976 c 333 s 14; 1981 c 356 s 152,248; 1987 c 312 art 1 s 10 subd 1

## 216C.26 ENERGY RESEARCH PROJECTS; REVIEW.

The commissioner 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 and energy conservation 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) other projects the commissioner deems appropriate and of direct benefit to Minnesota and other states of the upper midwest.

**History:** 1976 c 333 s 15; 1981 c 356 s 153,248; 1982 c 563 s 10; 1987 c 312 art 1 s 10 subd 1

## 216C.261 ALTERNATIVE ENERGY ENGINEERING ACTIVITY.

Subdivision 1. **Creation, goals.** To further the development of indigenous energy resources and energy conservation, the commissioner shall establish an alternative energy engineering activity. The activity shall facilitate the development of specific projects in the public and private sectors and provide a broad range of information, education, and engineering assistance services necessary to accelerate energy conservation and alternative energy development in the state.

Subd. 2. **Duties.** The alternative energy engineering activity shall:

- (1) provide on-site technical assistance for alternative energy and conservation projects;
- (2) develop information materials and educational programs to meet the needs of engineers, technicians, developers, and others in the alternative energy field;
- (3) conduct feasibility studies when the results of the studies would be of benefit to others working in the same area;
- (4) facilitate development of energy projects through assistance in finding financing, meeting regulatory requirements, gaining public and private support, limited technical consultation, and similar forms of assistance; and
- (5) work with and use the services of Minnesota design professionals.

**History:** 1984 c 654 art 2 s 102; 1987 c 312 art 1 s 10 subd 1

## 216C.262 OPTIMAL LOW-INCOME WEATHERIZATION.

The commissioner shall contract with the Building Energy Research Center at the University of Minnesota for the purpose of determining optimal weatherization for low-income weatherization programs. The alternative energy engineering activity shall provide technical assistance.

**History:** 1984 c 654 art 2 s 103; 1987 c 312 art 1 s 10 subd 1

## 216C.27 ENERGY CONSERVATION IN EXISTING RESIDENCES.

Subdivision 1. **Rules.** The commissioner shall adopt rules containing minimum

energy efficiency standards for existing residences. The standards shall be appropriate for evaluation of the energy efficiency of each major type of residential housing including, but not limited to, one to four family dwellings, apartment buildings, manufactured homes, condominium buildings, and type of ownership. 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 commissioner in the State Register, will exceed the cost of the energy conserving requirements amortized over the ten-year period subsequent to the incurring of the cost. The costs computed under this section shall include reasonable inflation and interest factors. Subject to the provisions of subdivision 4, with respect to low-rent housing which is owned by a public housing authority or a housing and redevelopment authority as described in chapter 462, compliance with the standards established by the commissioner shall be determined based upon audits conducted by or on behalf of the housing and redevelopment authority or the public housing authority in conformance with the requirements of Code of Federal Regulations, title 24, sections 965.301 to 965.310. Audits which are conducted by individuals other than employees of the housing and redevelopment authority or the public housing authority shall be conducted by evaluators who are certified pursuant to subdivision 6 or section 216C.31. The determination of the economic feasibility of implementation of the standards in low-rent housing shall be made in accordance with the procedures established by the United States Department of Housing and Urban Development to implement Code of Federal Regulations, title 24, sections 965.301 to 965.310.

**Subd. 2. Definitions.** 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 November through April, or permanently by one or more persons. A residence may be part of a multidwelling or multipurpose 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 manufactured home as defined in section 168.011, subdivision 8, shall be a residence for purposes of this section.

(b) "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 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 commissioner shall conduct inspections on a random basis for compliance with the provisions of subdivision 3. The commissioner may authorize a municipality, with its consent, to conduct the inspections within the municipality's jurisdiction, or to otherwise enforce the provisions of subdivision 3. Any municipality which conducts an inspection or other enforcement program shall have authority under all subdivisions of section 216C.30 to enforce the provisions of subdivision 3; provided that 100 percent of the penalties for violation of subdivision 3 shall be paid to the municipality. With respect to low-rent housing owned by a public housing authority or a housing and redevelopment authority described in sections 469.001 to 469.047, the commissioner or the municipality which conducts the inspection shall submit the results of the inspection to the housing and redevelopment authority or the public housing authority for review. If the housing and redevelopment authority or the public housing authority does not concur in the findings of the commissioner or the municipality, then the housing and redevelopment authority or the public housing

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authority and the commissioner or the municipality shall select a mutually acceptable independent third party or panel of experts knowledgeable in the area of energy conservation. The results of the inspection, the conclusions of the commissioner or the municipality as to compliance with the standards established pursuant to subdivision 1, and the basis for such conclusions, and the position of the housing and redevelopment authority or the public housing authority and the basis for such position shall be submitted to the independent third party or panel for a determination of the specific energy conservation measures which must be completed for compliance with the standards established pursuant to subdivision 1. The costs of the independent third party or panel shall be paid equally by the housing and redevelopment authority or the public housing authority and the commissioner or the municipality.

**Subd. 5. Enforcement after inspection.** If the commissioner determines, after an inspection conducted by or on behalf of the department, that a renter-occupied residence is not in compliance with the standards prescribed pursuant to subdivision 1, the commissioner may issue to the owner of the renter-occupied residence or the owner's agent a determination of noncompliance and may commence a contested case proceeding under sections 14.57 to 14.62. The determination shall (1) specify the reasons for the determination, (2) include a copy of the inspection report, (3) state the actions that must be taken to bring the residence into compliance with the standards, (4) state that if the residence is not brought into compliance with the standards within 90 days following the date of the determination, a contested case proceeding will be commenced, and (5) specify a fine that will be assessed upon the conclusion of the contested case proceeding in the absence of a showing of good cause in that proceeding. The contested case proceeding hearing shall be held in the county in which the renter-occupied residence is located. Notwithstanding the provisions of sections 14.50 and 14.61, the administrative law judge in the contested case proceeding shall make findings of fact and conclusions of law and issue a decision, and if the administrative law judge decides that the residence is not in compliance with the standards, the administrative law judge shall enter an order directing the owner to take such affirmative action as in the judgment of the administrative law judge will effectuate the purposes of this section.

**Subd. 6. Fines for noncompliance; exception.** If the administrative law judge issues a decision, following a contested case proceeding commenced pursuant to subdivision 4a, that a renter-occupied residence is not in compliance with the standards prescribed pursuant to subdivision 1 and that the owner of the renter-occupied residence has not proven a good cause, as defined by rule or emergency rule adopted by the commissioner, for failure to comply with the standards prescribed pursuant to subdivision 1, the administrative law judge shall assess a fine against the owner in accordance with a schedule of fines adopted by the commissioner by rule or emergency rule. This subdivision shall not apply in the case of low-rent housing owned by a public housing authority or a housing and redevelopment authority as defined in section 469.002.

**Subd. 7. Building evaluators.** The commissioner shall certify evaluators in each county of the state who are qualified to determine the compliance of a residence with applicable energy efficiency standards. The commissioner shall, by rule pursuant to chapter 14, adopt 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 qualified individuals from community-based organizations and public service organizations. Each certified evaluator shall, on request of the owner, inspect any residence and report the degree to which it complies with applicable energy efficiency standards established pursuant to subdivision 1. The inspections shall be made within 30 days of the request. The commissioner shall enter into an agreement with the department of education for the provision of evaluator training through the technical colleges. The commissioner may contract with the technical colleges to reduce the training costs to the students. The commissioner may eliminate the examination fee for persons seeking upgraded certificates. The commissioner may also establish requirements for continuing education, periodic recertification, and revocation of certification for evaluators.

Subd. 8. **Separate metering for electric service.** The standards concerning heat loss, illumination, and climate control adopted pursuant to section 216C.19, subdivision 8, shall 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.

**History:** 1977 c 381 s 18; 1978 c 786 s 2,3; Ex1979 c 2 s 29-31; 1980 c 579 s 9; 1981 c 85 s 5; 1981 c 255 s 2,5; 1981 c 356 s 154-158,248; 1981 c 365 s 9; 1982 c 424 s 23-25,130; 1983 c 301 s 125,126; 1984 c 595 s 1-5; 1984 c 640 s 32; 1986 c 444; 1987 c 258 s 12; 1987 c 291 s 196; 1987 c 312 art 1 s 10 subd 1; 1989 c 209 art 2 s 1; 1989 c 246 s 2

#### 216C.29 SUBPOENA POWER.

The commissioner shall have the power, for the purposes of sections 216C.05 to 216C.30, to issue subpoenas for production of books, records, correspondence and other information and to require attendance of witnesses. The 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 commissioner 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.

**History:** 1974 c 307 s 14; 1981 c 356 s 160,248; 1987 c 312 art 1 s 10 subd 1

#### 216C.30 ENFORCEMENT, PENALTIES, REMEDIES.

Subdivision 1. **Misdemeanor.** Any person who violates any provision of this chapter or section 325F.20 or 325F.21, or any rule promulgated thereunder, or knowingly submits false information in any report required by this chapter or section 325F.20 or 325F.21 shall be guilty of a misdemeanor. Each day of violation shall constitute a separate offense.

Subd. 2. **Equitable remedies.** The provisions of this chapter and sections 325F.20 and 325F.21, or any rules 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 commissioner, and the existence of an adequate remedy at law shall not be a defense to an action brought under this subdivision.

Subd. 3. **Money penalty.** When the court finds that any person has violated any provision of this chapter or section 325F.20 or 325F.21, or any rule thereunder, has knowingly submitted false information in any report required by this chapter or section 325F.20 or 325F.21, or has violated any court order issued under this chapter or section 325F.20 or 325F.21, 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.

Subd. 4. **Housing authorities exempt.** With respect to low-rent housing, the provisions of subdivisions 1 and 3 shall not apply to a violation by a housing and redevelopment authority described in chapter 462 or a public housing authority, or an employee of either, of section 216C.27 or any rule promulgated thereunder.

Subd. 5. **Remedies additional for health and safety violations.** For purposes of sections 504.18 and 566.18 to 566.33, the weatherstripping, caulking, storm window, and storm door energy efficiency standards for renter-occupied residences prescribed by section 216C.27, subdivisions 1 and 3, are health and safety standards and the penalties and remedies provided in this section are in addition to and do not limit remedies otherwise available to tenants of renter-occupied residences.

**History:** 1974 c 307 s 15; Ex1979 c 2 s 33; 1981 c 356 s 161,248; 1982 c 563 s 11-13; 1984 c 595 s 6,7; 1985 c 248 s 70; 1987 c 312 art 1 s 10 subd 1

**216C.31 ENERGY AUDIT PROGRAMS.**

The commissioner shall develop and administer state programs of energy audits of residential and commercial buildings including those required by United States Code, title 42, sections 8211 to 8222 and sections 8281 to 8284. The commissioner shall continue to administer the residential energy audit program as originally established under the provisions of United States Code, title 42, sections 8211 to 8222; through July 1, 1986 irrespective of any prior expiration date provided in United States Code, title 42, section 8216. The commissioner may approve temporary programs if they are likely to result in the installation of as many conservation measures as would have been installed had the utility met the requirements of United States Code, title 42, sections 8211 to 8222. The consumer services division and the attorney general may release information on consumer comments about the operation of the program to the commissioner.

*History:* 1980 c 579 s 12; 1981 c 356 s 162,248; 1983 c 289 s 47; 1983 c 301 s 127; 1984 c 654 art 2 s 104; 1987 c 312 art 1 s 10 subd 1

**216C.315 ALTERNATIVE ENERGY ECONOMIC ANALYSIS.**

The commissioner shall carry out the following energy economic analysis duties:

- (a) provide continued analysis of alternative energy issues for the biennial report, certificates of need, and legislative requests;
- (b) provide alternative energy information to consumers and business;
- (c) assist in the maintenance and improvement of alternative energy input-output multipliers and market penetration models;
- (d) provide analysis of alternative energy data.

*History:* 1983 c 301 s 128; 1987 c 312 art 1 s 10 subd 1

**216C.32 ENERGY-EFFICIENT BUILDING EDUCATION.**

The commissioner shall develop a program to provide information and training to persons in the state who influence the energy efficiency of new buildings, including contractors, engineers and architects on techniques and standards for the design and construction of buildings which maximize energy efficiency. The program may include the production of printed materials and the development of training courses.

*History:* 1980 c 579 s 28; 1981 c 356 s 163,248; 1982 c 563 s 14; 1987 c 312 art 1 s 10 subd 1

**216C.33 MINNESOTA BIOMASS CENTER.**

**Subdivision 1. Creation, purpose.** The commissioner, in consultation with the commissioner of agriculture, may organize a Minnesota biomass center.

The center shall be the focus of biomass energy activities for the state. To the maximum extent possible, the center shall coordinate its activities and the use of its staff and facilities with those of other entities involved in biomass energy projects.

**Subd. 2. Duties.** The center shall:

- (1) Coordinate existing education and training programs for biomass energy production and use within the state and develop new programs where necessary. Educational programs shall cover all types of biomass energy production use, including but not limited to production from grain, biowaste, and cellulosic materials;
- (2) Serve as a central information resource in conjunction with existing agencies and academic institutions in order to provide information to the public on the production and use of biomass energy. The center shall obtain and analyze available information on biomass energy topics and prepare it for distribution to ensure that the public receives the most accurate and up-to-date information available;
- (3) Participate in necessary research projects to assist in technological advancement in areas of biomass energy production, distribution, and use. The center shall also study the environmental and safety aspects of biomass energy use;

(4) Support and coordinate financing activities for biomass energy production, including providing technical assistance and manuals to individuals and groups seeking private, local, state or federal funding. The center shall be responsible for evaluating projects for any state assistance that may become available;

(5) Develop consumer information and protection programs for all aspects of biomass energy production and use;

(6) Investigate marketing and distribution needs within the state;

(7) Review state and federal laws and regulations affecting biomass energy production and use, and evaluate regulatory incentives in order to provide the legislature with legislative proposals for the encouragement of biomass energy production and use within the state.

**History:** 1980 c 579 s 29; 1981 c 85 s 6; 1981 c 356 s 164,248; 1987 c 312 art 1 s 10 subd 1

## FINANCIAL ASSISTANCE

### 216C.34 MONEY FOR SCHOOLS AND GOVERNING BODIES.

Money to pay part or all of the actual costs of mini-audits, maxi-audits and energy conservation measures performed by or for schools and governing bodies shall be available from legislative appropriations made for that purpose in accordance with the priorities established in section 216C.35. Money appropriated pursuant to this section is available to school districts and local governmental units that submitted acceptable mini-audits or maxi-audits after April 9, 1976 and before July 1, 1979.

**History:** Ex1979 c 2 s 34; 1980 c 579 s 13; 1981 c 356 s 248; 1987 c 312 art 1 s 10 subd 1

### 216C.35 PRIORITIES FOR FUNDING.

All applications for funding shall be made to the commissioner. Applications shall be accompanied by a report on the energy using characteristics of the building and any other information the commissioner may reasonably require. A school or local government may apply to the commissioner to receive reimbursement for up to the reasonable costs of mini-audits or maxi-audits performed pursuant to section 216C.23 or 216C.24. In the event that the applicant receives federal money pursuant to the National Energy Conservation Policy Act, Public Law Number 95-619 that is intended to be used to pay part or all of the costs of a mini-audit or maxi-audit, the applicant shall receive state money, which, when combined with federal money received, equals the reasonable costs of the mini-audit or maxi-audit.

**History:** Ex1979 c 2 s 35; 1981 c 356 s 165,248; 1987 c 312 art 1 s 10 subd 1

### 216C.36 DISTRICT HEATING AND ENERGY IMPROVEMENTS; AID.

**Subdivision 1. Policies.** Developing and improving efficient and economical district heating systems and certain public works capital improvements that conserve energy or substitute a lower cost, more plentiful, or indigenous fuel is a public purpose for state and local financing and a proper function of state and local government. Climate and geography make a reliable, economic supply of energy essential for industry, commerce, and residential heating. Imported supplies of certain fuels are increasingly costly, unreliable, and environmentally disadvantageous. District heating systems employing cogeneration techniques and innovative technology offer an important means of increasing the efficiency of Minnesota's energy systems and reducing the state's reliance on imported energy supplies. The combination of the large initial capital cost and investors' lack of familiarity with district heating has made the private market reluctant to provide the necessary capital for district heating projects. As a result, public leadership, cooperation, and aid are needed to demonstrate the feasibility of district heating systems by establishing economically viable municipal district heating systems as demonstration projects. Qualified energy improvements may offer municipalities

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opportunities for reducing energy costs or generating revenues from wastes. Municipal district heating systems and other qualified improvements may be financed by loans from the state and from other sources available to municipalities.

**Subd. 2. Definitions.** In this section:

(a) "Authority" means the Minnesota public facilities authority.

(b) "Construction costs" means all costs associated with the construction, modification or expansion of a district heating system except for preliminary planning costs and detailed design costs. Construction costs include the cost of debt service from the time a construction loan is made until five years after the beginning of the operation of the district heating system constructed or the part of the system being modified or expanded.

(c) "District heating" means the use of a central energy conversion facility to produce hot water or steam for a district heating system. District heating facilities may also produce electricity in addition to hot water or steam.

(d) "Municipality" means any county, home rule charter or statutory city, town, school district or a municipal power agency formed pursuant to sections 453.53 to 453.62. Municipality also means a public utility, as defined in section 452.01, subdivision 3, owned and operated by a city, however organized. For purposes of a district heating system only, municipality also means a nonprofit corporation organized pursuant to the provisions of chapter 317A whose membership is limited to the mayor and governing body of the city in which the district heating system is located.

(e) "District heating system" means any existing or proposed facility for (1) the production, through cogeneration or otherwise, of hot water or steam to be used for district heating, or (2) the transmission and distribution of hot water or steam for district heating either directly to heating consumers or to another facility or facilities for transmission and distribution, or (3) any part or combination of the foregoing facilities.

(f) "Qualified energy improvement" means a cost-effective capital improvement to public land, buildings, or energy using systems, other than a district heating system, including the purchase or installation of equipment to reduce the usage of conventional energy sources or to use alternative energy resources. Qualified energy improvements also include waste-to-energy facilities that meet the criteria specified in subdivision 8a and any rule adopted under that subdivision. Qualified energy improvements shall meet all environmental and permitting standards established by state and federal law.

**Subd. 3. Eligibility, district heating.** The commissioner of finance, upon recommendation of the authority, may make loans to municipalities for the acquisition, construction, expansion, or modification of district heating systems. A loan shall be made only to a municipality that has demonstrated to the authority that:

(a) the municipality has the financial capability to sponsor the project;

(b) the project is technologically feasible;

(c) the district heating project will become a cogeneration facility or the project will utilize hot water or, if the project involves an existing district steam heating system, the project will become integrated with a hot water district heating system, or the project will allow the use of nonpetroleum fuels or will construct an efficient heat transmission system; and

(d) the municipality has made adequate provision to assure proper and efficient operation and maintenance of the project after construction is completed.

**Subd. 3a. Eligibility, qualified energy improvements.** The commissioner of finance, upon recommendation of the authority, may make loans to a municipality for the acquisition, construction, or expansion of a qualified energy improvement. A loan shall be made only to a municipality that has demonstrated that:

(a) the municipality has the financial capability to sponsor the qualified energy improvement;

(b) the improvement is technologically feasible;

(c) the improvement conforms to criteria specified in subdivision 8a and any rule adopted under it; and

(d) the municipality has made adequate provision to assure proper and efficient operation and maintenance of the improvement after construction is completed.

**Subd. 3b. Grant eligibility, district heating.** The authority may provide district heating system planning grants to municipalities certified by the commissioner of public service as eligible to receive planning grants. The municipality must demonstrate that a community heatload survey and map have been successfully completed, that potential district heating load is sufficiently large to justify further consideration, and that sufficient resources are available for the municipality to meet its financial requirements. Eligible planning grant costs include project definition, development of preliminary financing and distribution system plans, and obtaining commitment for detailed planning or design and preparation of a final report. The amount of the grant to a municipality is limited to 90 percent of eligible planning costs and shall not exceed \$70,000 as established by rule or emergency rule.

**Subd. 3c. Grant eligibility, qualified energy improvements.** The authority may provide qualified energy improvement planning grants to municipalities certified by the commissioner of public service as eligible to receive planning grants. The municipality must demonstrate that sufficient resources are available for the municipality to meet its financial requirements. Eligible planning grant costs include definition of the improvement, development of preliminary financing plans, and obtaining commitment for detailed planning or design and preparation of a final report. The amount of a grant to a municipality is limited to 90 percent of eligible planning costs and must not exceed \$100,000 as established by rule or emergency rule.

**Subd. 4. Priorities, district heating.** The authority shall give higher priority to a project that does more to achieve the following goals:

- (a) the district heating conversion facility employs cogeneration techniques;
- (b) the facility uses renewable or nonpetroleum sources of energy;
- (c) the district heating facility will save petroleum or natural gas;
- (d) the operation of the district heating facility will not have an adverse impact on the environment;
- (e) the district heating facility may readily be expanded to serve additional customers or to supply additional amounts of energy, and market demand for the energy exists;
- (f) the project has obtained additional financing from the federal government, private sources, or other sources of capital; and
- (g) other goals the authority finds desirable for district heating systems.

**Subd. 4a. Priorities, energy improvements.** The authority shall give higher priority to qualified energy improvements that best meet the following goals:

- (a) to increase the proportion of a municipality's energy needs that are met by renewable or indigenous energy resources;
- (b) to provide a cost reduction or revenue source for the municipality;
- (c) to provide multiple benefits to residents within the municipality; and
- (d) to demonstrate technologies for solid waste treatment.

**Subd. 5. Loan application.** Application for a loan to be made pursuant to subdivision 6 or 7 shall be made by a municipality to the authority on a form prescribed by the authority. The authority shall determine:

- (a) whether or not the project or proposed energy improvement is eligible for a loan;
- (b) the priority of the project or qualified energy improvement when ranked with other eligible projects or improvements for which a loan application has been submitted;
- (c) the total estimated cost of the project or improvement;
- (d) the amount of the loan for which the project or improvement is eligible;
- (e) the terms upon which the loan would be made; and



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(f) the means by which the municipality proposes to finance the project or improvement, including:

(1) a loan authorized by state law; or

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

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

(4) the appropriation of proceeds of bonds or other money of the municipality to an account for the construction of the project or improvement; or

(5) user charges, franchise fees, special assessments or taxes; or

(6) any or all of the means referred to in clauses (1) to (5).

**Subd. 6. Loans, district heating and qualified energy improvements.** Upon the recommendation of the authority pursuant to subdivision 8, the commissioner of finance shall make loans to municipalities on the following terms:

(a) In the case of loans for design costs, the maximum amount of the loan shall be limited by the provisions of this clause. For cities of the first class and counties containing a city of the first class, individually or through the exercise of joint powers agreements, the amount of the loan shall not exceed 40 percent of the design costs. For counties containing one city of the first class not exceeding 100,000 inhabitants, the amount of the loan for that portion of the county excluding the city of the first class shall not exceed 90 percent of the design costs. For cities of the second, third and fourth class, and other municipalities, the amount of the loan shall not exceed 90 percent of the design costs.

(b) In the case for loans for construction costs, a municipality must demonstrate that all design activities have been completed; that the project or improvement is economically and technologically feasible; that the district heating system or qualified energy improvement will be constructed, and that it has made adequate provisions to assure proper and efficient operation and maintenance of the project or improvement. For cities of the first class and counties containing a city of the first class, individually or through the exercise of joint powers agreements, the amount of the loan shall be up to 50 percent of the construction costs. For counties containing one city of the first class not exceeding 100,000 inhabitants, the amount of the loan for that portion of the county excluding the city of the first class shall not exceed 90 percent of the construction costs. For cities of the second class, the amount of the loan shall be up to 80 percent of the construction costs. For cities of the third or fourth class, and other municipalities, the amount of the loan shall be up to 90 percent of the construction costs.

(c) A loan made pursuant to this section is repayable over a period of not more than 20 years from the date the loan is made. Interest shall accrue from the date of the loan at a rate of interest assigned at the date of loan commitment, but the first payment of interest shall not be due until one year after the loan was made. Principal payments shall begin not more than five years after receipt of the loan on a level payment schedule. The loan may be amortized in accordance with repayment schedules not exceeding 25 years in length. Any outstanding balance of the principal at the end of the repayment period must be repaid along with the final scheduled payment. Interest attributable to the first year of deferred payment shall be amortized in equal periodic payments over the remainder of the term of the loan. For each loan, the initial deposit to the state bond fund required by section 16A.641, subdivision 10, shall be made by the commissioner of finance, and no loan may be refused solely because the municipality does not provide the initial deposit.

(d) The authority may also pledge a segregated portion of the energy development fund to guarantee or insure bonds and notes, or the interest rate thereon, issued by the commissioner of finance on behalf of the state of Minnesota for purposes of this section or section 216C.37.

(e) The borrowing municipality must provide adequate security, as determined by the commissioner of finance, to insure repayment of the loan. The security provided

may include letters of credit, the pledging of state aids to be received by the municipality or other sufficient and tangible security.

**Subd. 7. Modern steam systems; definition.** (a) A municipality which has operating within its boundaries a modern steam district heating system owned by a district heating utility may apply for a loan or grant under this section even though the district heating project for which the loan or grant application is made may be planned, constructed, or owned by a district heating utility. The loan or grant application shall be treated in the same manner as loan or grant applications for district heating projects where the projects are to be planned, constructed, or owned by a municipality.

All or a portion of the proceeds of a loan made to a municipality described in this subdivision may be used to make loans to a district heating utility to provide financial assistance for the planning, modification, expansion or construction of a district heating project. Prior to making the loan to the district heating utility, the municipality shall:

(1) adopt a district heating plan which identifies the areas of the city to be served by district heating; a time schedule indicating when service would be available in different areas of the city and the type of service to be offered; and

(2) enter into a written agreement with the district heating utility which includes a requirement that the district heating utility restrict expansion of its existing steam system within its current geographic boundaries as determined by the municipality and develop a hot water system on a specific time schedule.

(b) The powers, authority and obligations granted to a municipality under this subdivision are supplemental to the powers, authority and obligations granted all municipalities under this section.

(c) As used in this subdivision, "modern steam district heating system" means a steam district heating system with condensate return built after 1970 and before May 30, 1981. "District heating utility" means any person, corporation, or other legal entity which owns or operates or plans to own or operate a district heating system. "District heating project" means a new district heating system, or the expansion or modification of the existing modern steam district heating system.

**Subd. 8. Priority lists for loan approval.** The commissioner of public service shall prepare and submit to the authority separate priority lists of loan requests for district heating systems and qualified energy improvements. The priority list for district heating loans must be based on the requirements under subdivisions 3, 4, 5, 6, and 7. The priority list for qualified energy improvements must be based on the requirements under subdivisions 3a, 3c, 4a, 5, and 6. The commissioner of finance shall sell bonds and the authority shall make loans for district heating projects and qualified energy improvements only upon the recommendation of the commissioner of public service.

**Subd. 8a. Criteria for qualified energy improvements.** Qualified energy improvements eligible for loans must meet criteria established in rule by the commissioner of public service. Rules shall include criteria for analyzing the cost-effectiveness of improvements. Rules relating to qualified energy improvements involving a waste-to-energy facility must be adopted in consultation with the office of waste management, the authority, and the pollution control agency. An improvement involving a waste-to-energy facility must be part of a solid waste management plan approved by the pollution control agency or a plan approved under section 473.803.

**Subd. 9. Payment; obligation.** The commissioner of finance shall not pay money to a municipality pursuant to an approved loan until the commissioner has determined that:

(a) Financing of the project or improvement as proposed by the municipality is assured by an irrevocable undertaking, by resolution of the governing body of the municipality, to use all money made available by the financing plan exclusively for the eligible costs of the project or improvement, and to pay any additional amount by which the cost of the project or improvement exceeds the estimate by the appropriation to the construction account of additional money of the municipality or the proceeds of additional bonds to be issued by the municipality; and that

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(b) The governing body of the municipality has adopted a resolution obligating the municipality to repay the loan according to the terms in the loan. The obligation may be payable from user charges, franchise fees, special assessments or other money available to the municipality. The resolution shall obligate the municipality to annually impose and collect user charges, franchise fees, special assessments, or to use any other money available to it from any other specified source, in amounts and at times that if collected in full will annually produce at least five percent in excess of the amount needed for all annual costs of the system, including annual repayment on state loans. A municipality may also pledge to levy an ad valorem tax to guarantee the payments under the loan agreement. For the purpose of repaying the loan, the municipality by resolution of its governing body may fix the rates and charges for district heating system or qualified energy improvement service and products, may enter into contracts for the payment by others of costs of construction, maintenance, and use of the project or improvement in accordance with section 444.075 and may pledge the revenues derived therefrom. The commissioner of finance shall condition a loan upon the establishment of rates and charges or the execution of contracts sufficient to produce annually the revenues pledged for repayment of all annual costs of the system, including annual repayment of the state loan.

**Subd. 10. Receipts.** All principal and interest payments received by the commissioner of finance in repayment of the loans authorized by this section shall be deposited in the state treasury and credited to the state bond fund and are appropriated to the commissioner of finance for the purposes of that account.

**Subd. 11. Rules.** The commissioner shall adopt rules and may adopt emergency rules necessary to carry out the programs of this section. The commissioner of public service shall adopt rules for the administration of programs under this section. The commissioner of public service may adopt emergency rules pursuant to sections 14.29 to 14.36, meeting the requirements of this section. The rules shall contain as a minimum:

- (a) procedures for application by municipalities; and
- (b) criteria for reviewing grant and loan applications.

**History:** 1981 c 334 s 1; 1981 c 356 s 248; 1982 c 424 s 130; 1982 c 561 s 10,11; 1983 c 301 s 129; 1984 c 640 s 32; 1984 c 654 art 2 s 105; 1985 c 289 s 8; 1Sp1985 c 13 s 246; 1986 c 444; 1987 c 186 s 15; 1987 c 275 s 7; 1987 c 312 art 1 s 10 subd 1; 1987 c 384 art 2 s 1; 1987 c 386 art 3 s 10-15; 1989 c 304 s 137; 1989 c 335 art 1 s 269

## 216C.37 ENERGY CONSERVATION INVESTMENT LOANS.

**Subdivision 1. Definitions.** In this section:

(a) "Commissioner" means the commissioner of public service. Upon passage of legislation creating a body known as the Minnesota public facilities authority, the duties assigned to the commissioner in this section are delegated to the authority.

(b) "Maxi-audit" means a detailed engineering analysis of energy-saving improvements to existing buildings or stationary energy-using systems, including (1) modifications to building structures; (2) heating, ventilating, and air conditioning systems; (3) operation practices; (4) lighting; and (5) other factors that relate to energy use. The primary purpose of the engineering analysis is to quantify the economic and engineering feasibility of energy-saving improvements that require capital expenditures or major operational modifications.

(c) "Energy conservation investments" mean all capital expenditures that are associated with conservation measures identified in a maxi-audit and that have a ten-year or less payback period. Public school districts that received a federal institutional building grant in 1984 to convert a heating system to wood, and that apply for an energy conservation investment loan to match a federal grant for wood conversion, shall be allowed to calculate payback of conservation measures based on the costs of the traditional fuel in use prior to the wood conversion.

(d) "Municipality" means any county, statutory or home rule charter city, town,

school district, or any combination of those units operating under an agreement to jointly undertake projects authorized in this section.

**Subd. 2. Eligibility.** The commissioner shall approve loans to municipalities for energy conservation investments. A loan may be made to a municipality that has demonstrated that it has complied with all the appropriate provisions of this section and has made adequate provisions to assure proper and efficient operation of the municipal facilities after improvements and modifications are completed.

**Subd. 3. Application.** Application for a loan to be made pursuant to this section shall be made by a municipality to the commissioner on a form the commissioner prescribes by rule. The commissioner shall review each application to determine:

- (a) whether or not the municipality's proposal is complete;
- (b) whether the project is eligible for a loan;
- (c) the amount of the loan for which the project is eligible; and
- (d) the means by which the municipality proposes to finance the project including:
  - (1) a loan authorized by this section;
  - (2) a grant of money appropriated by state law;
  - (3) a grant to the municipality by an agency of the federal government within the amount of money then appropriated to that agency; or
  - (4) the appropriation of other money of the municipality to an account for the construction of the project.

**Subd. 4. Loans.** The commissioner shall approve loans to municipalities on the following conditions:

(a) A municipality must demonstrate that the project is economically feasible, and that it has made adequate provisions to assure proper and efficient operation of the facility once the project is completed.

(b) A loan made pursuant to this section is repayable over a period of not more than ten years from the date the loan is made. Interest shall accrue from the date the loan is made, but the first payment of interest or principal shall not be due until one year after the loan was made. The principal shall be amortized in equal periodic payments over the remainder of the term of the loan. The accrued interest on the balance of the loan principal shall be due with each payment. Interest attributable to the first year of deferred payment shall be paid in the same manner as principal.

(c) Public schools shall receive funding priority whenever approvable loan applications exceed available funds.

**Subd. 5. Payment; obligation.** The commissioner shall not approve payment to a municipality pursuant to an approved loan until the commissioner has determined that financing of the project is assured by an irrevocable undertaking, by resolution of the governing body of the municipality, to annually levy or otherwise collect an amount of money sufficient to pay the principal and interest due on the loan as well as any of the commissioner of finance's administrative expenses according to the terms of the loan.

**Subd. 6. Receipts; appropriation.** The commissioner of finance shall deposit in the state treasury all principal and interest payments received in repayment of the loans authorized by this section. These payments shall be credited to the bond proceeds fund and are appropriated to the commissioner of finance for the purposes of that account.

**Subd. 7. Rules.** The commissioner shall adopt rules necessary to implement this section. The commissioner shall adopt emergency rules pursuant to sections 14.29 to 14.36, meeting the requirements of this section. The rules shall contain as a minimum:

- (a) procedures for application by municipalities;
- (b) criteria for reviewing loan applications; and
- (c) procedures and guidelines for program monitoring, closeout, and evaluation.

**Subd. 8. Technical support.** The commissioner of public service shall prepare and submit to the authority the technical evaluation of all applicants under this section.

**History:** 1983 c 289 s 115 subd 1; 1983 c 323 s 1; 1984 c 640 s 32; 1Sp1985 c 12 art

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*7 s 1; 1986 c 444; 1987 c 186 s 15; 1987 c 289 s 1; 1987 c 312 art 1 s 10 subd 1; 1987 c 386 art 3 s 16,17; 1989 c 271 s 31*

## **216C.373 SUPERINSULATED HOME DEMONSTRATION PROJECT.**

The superinsulated home demonstration project funded under Laws 1981, chapter 356, section 30, shall be continued under the direction of the commissioner and the center to monitor and document new projects and projects in progress. The project shall:

- (a) work with the financial community to bring energy cost and savings into mortgage underwriting standards;
- (b) develop a definition of superinsulation for use by financial institutions.

**History:** *1983 c 301 s 132; 1987 c 312 art 1 s 10 subd 1*

## **216C.38 BUILDING ENERGY RESEARCH CENTER.**

**Subdivision 1. Energy partnership.** To improve the energy efficiency of buildings, the commissioner shall administer a building energy research center that shall be a cooperative effort among the commissioner, the University of Minnesota, technical colleges, and certain associations and businesses from the private sector. The center's goal is to become a nationally recognized center for building research.

**Subd. 2. Purpose.** The purpose of the building energy research center is to:

- (a) conduct studies of Minnesota building experience;
- (b) disseminate information acquired relating to building energy efficiency;
- (c) conduct continuing education courses;
- (d) provide limited energy and design consultation services for innovative projects;
- (e) coordinate and stimulate research efforts; and
- (f) seek private sector pledges to match appropriations for this program.

**History:** *1983 c 301 s 133; 1987 c 258 s 12; 1987 c 312 art 1 s 10 subd 1; 1989 c 246 s 2*

## **216C.381 COMMUNITY ENERGY PROGRAM.**

**Subdivision 1. Findings.** The legislature finds that community based energy programs are an effective means of implementing improved energy practices including conservation, greater efficiency in energy use, and the use of alternative resources. Further, community based energy programs are found to be a public purpose for which public money may be spent.

**Subd. 2. Community energy councils; creation.** Statutory and home rule charter cities, counties, or Indian tribal governments of federally recognized Minnesota based bands or tribes, individually or through the exercise of joint powers agreements, may create community energy councils. Membership on a council shall include representatives of labor, small business, voluntary organizations, senior citizens, and low and moderate income residents, and may include city, county, and Indian tribal government officials, and other interested parties.

**Subd. 3. Powers and duties.** In order to develop and implement community based energy programs, a community energy council may:

- (1) analyze social and economic impacts caused by energy expenditures;
- (2) plan, coordinate, advertise, and provide energy programs to minimize negative social and economic impacts;
- (3) seek, accept, and disburse grants and other aids from public or private sources for purposes authorized in this subdivision; and
- (4) exercise other powers and duties imposed on it by statute, charter, or by ordinance.

**Subd. 4. Department assistance.** The commissioner may provide professional and

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financial assistance to communities to establish community energy councils, and develop and implement community energy programs, within available resources.

**History:** 1984 c 654 art 2 s 106; 1987 c 312 art 1 s 10 subd 1; 1988 c 617 s 5