

## CHAPTER 216C

### ENERGY PLANNING AND CONSERVATION

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**216C.01 DEFINITIONS.**

Subdivision 1. **Applicability.** The definitions in this section apply to this chapter.

Subd. 1a. **Alternative fuel.** "Alternative fuel" means natural gas; liquefied petroleum gas; hydrogen; coal-derived liquefied fuels; electricity; methanol, denatured ethanol, and other alcohols; mixtures containing 85 percent or more, or other percentage as may be set by regulation by the Secretary of the United States Department of Energy, by volume of methanol, denatured ethanol, and other alcohols with gasoline or other fuels; fuels other than alcohol that are derived from biological materials; and other fuel that the Secretary of the United States Department of Energy determines by regulation to be an alternative fuel within the meaning of section 301(2) of the National Energy Policy Act of 1992, Public Law 102-486, and intended for use in motor vehicles.

Subd. 1b. **Alternative fuel vehicle.** "Alternative fuel vehicle" means a dedicated, flexible, or dual-fuel vehicle operated primarily on an alternative fuel.

Subd. 2. **Commissioner.** "Commissioner" means the commissioner of commerce.

Subd. 2a. **Dedicated fuel vehicle.** "Dedicated fuel vehicle" means a vehicle that operates solely on alternative fuels.

Subd. 3. **Department.** "Department" means the Department of Commerce.

Subd. 4. **Dual-fuel vehicle.** "Dual-fuel vehicle" means a vehicle that is capable of operating on an alternative fuel and is capable of operating on gasoline or diesel fuel.

**History:** 1987 c 186 s 15; 1987 c 312 art 1 s 7; 1993 c 254 s 2-5; 1995 c 264 art 2 s 5,6; 1998 c 254 art 1 s 65; 1Sp2001 c 4 art 6 s 47-49; 2011 c 76 art 1 s 33

**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 federal, 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 16C.

(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; 1998 c 386 art 2 s 68

### **216C.03 STATE GOVERNMENT ENERGY-SAVINGS PLAN.**

The commissioner of commerce, in coordination with the commissioners of the agencies listed in section 15.01, the chancellor of the Minnesota State Colleges and Universities, and the president of the University of Minnesota, shall identify policy options, barriers, and economic benefits and costs for state government operations to achieve the energy-savings goals in section 216B.2401 and the resulting carbon emissions reductions. The commissioner of commerce must issue a report to the legislature by February 1, 2008.

**History:** 2007 c 136 art 2 s 7

## ENERGY PLANNING

### 216C.05 FINDINGS AND PURPOSE.

Subdivision 1. **Energy planning.** 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.

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.

Subd. 2. **Energy policy goals.** It is the energy policy of the state of Minnesota that:

(1) the per capita use of fossil fuel as an energy input be reduced by 15 percent by the year 2015, through increased reliance on energy efficiency and renewable energy alternatives; and

(2) 25 percent of the total energy used in the state be derived from renewable energy resources by the year 2025.

**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; 2007 c 136 art 1 s 2

**216C.051** MS 2006 Subdivision 1. [Repealed, 1Sp2003 c 11 art 3 s 16]

Subd. 2. MS 2006 [Renumbered 3.8851, subdivision 1]

Subd. 2a. MS 2006 [Renumbered 3.8851, subd. 2]

Subd. 3. MS 2006 [Renumbered 3.8851, subd. 3]

Subd. 3a. MS 2006 [Renumbered 3.8851, subd. 4]

Subd. 4. [Repealed, 1Sp2003 c 11 art 3 s 16]

Subd. 4a. [Repealed by amendment, 2008 c 296 art 1 s 14]

Subd. 5. [Repealed, 1Sp2003 c 11 art 3 s 16]

Subd. 6. [Repealed by amendment, 2008 c 296 art 1 s 14]

Subd. 7. [Repealed by amendment, 2008 c 296 art 1 s 14]

Subd. 8. MS 2006 [Renumbered 3.8851, subd. 5]

Subd. 8a. [Repealed by amendment, 2008 c 296 art 1 s 14]

Subd. 9. [Repealed by amendment, 2008 c 296 art 1 s 14]

Subd. 10. MS 2006 [Renumbered 3.8851, subd. 6]

Subd. 11. MS 2006 [Renumbered 3.8851, subd. 7]

**216C.052** Subdivision 1. [Repealed, 2011 c 97 s 34]

Subd. 2. [Repealed, 2011 c 97 s 34]

Subd. 3. MS 2006 [Expired, 2001 c 212 art 8 s 10; 2005 c 97 art 3 s 16; 2006 c 281 art 4 s 11]

Subd. 4. [Repealed, 2011 c 97 s 34]

### **216C.053 RENEWABLE ENERGY DEVELOPMENT.**

The commissioner of commerce must engage in activities to encourage deployment of cost-effective renewable energy developments within the state. The commissioner shall compile and maintain information concerning existing and potential renewable energy developments and resources in the state. The commissioner shall provide, as appropriate, this information in proceedings for the determination of need for large energy facilities and for the review of a utility's integrated resource plan. To the extent practicable, and in addition to any other obligation of an electric utility to furnish information, an electric utility seeking to add generation to its supply portfolio to serve Minnesota consumers shall provide the commissioner with notice of its intention.

**History:** 2005 c 97 art 2 s 5

### **216C.054 ANNUAL TRANSMISSION ADEQUACY REPORT TO LEGISLATURE.**

The commissioner of commerce, in consultation with the Public Utilities Commission, shall annually by January 15 submit a written report to the chairs and the ranking minority members of the legislative committees with primary jurisdiction over energy policy that contains a narrative describing what electric transmission infrastructure is needed within the state over the next 15 years and what specific progress is being made to meet that need. To the extent possible, the report must contain a description of specific transmission needs and the current status of proposals to address that need. The report must identify any barriers to meeting transmission infrastructure needs and make recommendations, including any legislation, that are necessary to overcome those barriers. The report must be based on the best available information and must describe what assumptions are made as the basis for the report. If the commissioner determines that there are difficulties in accurately assessing future transmission infrastructure needs, the commissioner shall explain those difficulties as part of the report. The commissioner is not required to conduct original research to support the report. The commissioner may utilize information the commissioner, the commission, and the Office of Energy Security possess and utilize in carrying out their existing statutory duties related to the state's transmission infrastructure. The report must be in easily understood, nontechnical terms.

**History:** 2009 c 110 s 28

### **216C.055 KEY ROLE OF SOLAR AND BIOMASS RESOURCES IN PRODUCING THERMAL ENERGY.**

The annual legislative proposals required to be submitted by the commissioners of commerce and the Pollution Control Agency under section 216H.07, subdivision 4, must include

proposals regarding the use of solar energy and the combustion of grasses, agricultural wastes, trees, and other vegetation to produce thermal energy for heating commercial, industrial, and residential buildings and for industrial processes if the commissioners determine that such policies are appropriate to achieve the state's greenhouse gas emissions-reduction goals. No legal claim against any person is allowed under this section. This section does not apply to the combustion of municipal solid waste or refuse-derived fuel to produce thermal energy. For purposes of this section, removal of woody biomass from publicly owned forests must be consistent with the principles of sustainable forest management.

**History:** 2009 c 110 s 29

## 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. [Renumbered subd 14]

Subd. 2a. **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. 3. [Renumbered subd 15]

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. [Renumbered subd 18]

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. [Renumbered subd 17]

Subd. 9. [Renumbered subd 2a]

Subd. 10. [Repealed, 1997 c 7 art 1 s 91]

Subd. 11. [Repealed, 1997 c 7 art 1 s 91]

Subd. 12. [Renumbered subd 19]

Subd. 13. [Renumbered subd 16]

Subd. 14. **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. 15. **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. 16. **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.

Subd. 17. **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. 18. **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. 19. **Wind energy conversion system (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.

**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 COMMISSIONER DUTIES.**

(a) The commissioner shall:

(1) manage the department as the central repository within the state government for the collection of data on energy;

(2) 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;

(3) 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;

(4) 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;

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

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

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

(8) 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;

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

(10) 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;

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

(12) 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, hydropower, peat, fiber fuels, biomass, and other alternative energy resources. The program shall be evaluated by the alternative energy technical activity; and



(13) 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.

(b) 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; 2005 c 97 art 4 s 3; 2008 c 356 s 6

### **216C.10 COMMISSIONER POWERS.**

(a) The commissioner may:

(1) adopt rules under chapter 14 as necessary to carry out the purposes of sections 216C.05 to 216C.30;

(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, 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 reviewal, evaluation, or approval and in developing additional programs for others to operate.

(b) 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; 1994 c 483 s 1; 1996 c 305 art 2 s 39; 2004 c 206 s 31

#### **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.

**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; 2009 c 110 s 30; 2011 c 97 s 27

#### **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 POSTSECONDARY ENERGY EDUCATION.**

The commissioner, in consultation with the commissioner of education, the Minnesota Office of Higher Education, the Board of Trustees of the Minnesota State Colleges and

Universities, and the Board of Regents of the University of Minnesota, shall assist in the development and implementation of adult and postsecondary 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; 1995 c 212 art 3 s 59; 1996 c 395 s 18; 1998 c 398 art 5 s 55; 2003 c 130 s 12; 2005 c 107 art 2 s 60*

#### **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:

- (1) to gather, monitor, and analyze local energy supply, demand, and cost information;
- (2) to prepare comprehensive community energy plans;
- (3) to implement comprehensive energy plans that the unit of government is authorized to undertake for the management of problems resulting from:
  - (i) rising energy cost;
  - (ii) lack of efficient public and private transportation;
  - (iii) lack of community conservation efforts;
  - (iv) lack of widespread renewable energy sources; and
  - (v) lack of energy components in comprehensive plans and local ordinances;
- (4) to assist neighborhood organizations in counties and cities to do energy planning by making grants to the local unit of government; and
- (5) 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.

**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; 1996 c 305 art 2 s 40*

#### **216C.145 MICROENERGY LOAN PROGRAM.**

Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this section.

(b) "Small-scale renewable energy" projects include solar thermal water heating, solar electric or photovoltaic equipment, small wind energy conversion systems of less than 250 kW, anaerobic digester gas systems, microhydro systems up to 100 kW, and heating and cooling applications using geothermal energy.

(c) "Unit of local government" means any home rule charter or statutory city, county, commission, district, authority, or other political subdivision or instrumentality of this state, including a sanitary district, park district, the Metropolitan Council, a port authority, an economic development authority, or a housing and redevelopment authority.

Subd. 2. **Program established.** The commissioner of commerce shall develop, implement, and administer a microenergy loan program under this section.

Subd. 3. **Loan purposes.** (a) The commissioner may issue low-interest, long-term loans to units of local government to finance community-owned or publicly owned small scale renewable energy systems or to provide loans or other aids to small businesses to install small-scale renewable energy systems.

(b) The commissioner may participate in loans made by the Housing Finance Agency to residential property owners, private developers, nonprofit organizations, or units of local government under sections 462A.05, subdivisions 14 and 18; and 462A.33 for the construction, purchase, or rehabilitation of residential housing to facilitate the installation of small-scale renewable energy systems in residential housing and cost-effective energy conservation improvements identified in an energy efficiency audit. The commissioner shall assist the Housing Finance Agency in assessing the technical qualifications of loan applicants.

Subd. 4. **Technical standards.** The commissioner shall determine technical standards for small-scale renewable energy systems to qualify for loans under this section.

Subd. 5. **Loan proposals.** (a) At least once a year, the commissioner shall publish in the State Register a request for proposals from units of local government for a loan under this section. Within 45 days after the deadline for receipt of proposals, the commissioner shall select proposals based on the following criteria:

(1) the reliability and cost-effectiveness of the renewable technology to be installed under the proposal;

(2) the extent to which the proposal effectively integrates with the conservation and energy efficiency programs of the energy utilities serving the proposer;

(3) the total life cycle energy use and greenhouse gas emissions reductions per dollar of installed cost;

(4) the diversity of the renewable energy technology installed under the proposal;

(5) the geographic distribution of projects throughout the state;

(6) the percentage of total project cost requested;

(7) the proposed security for payback of the loan; and

(8) other criteria the commissioner may determine to be necessary and appropriate.

Subd. 6. **Loan terms.** A loan under this section must be issued at the lowest interest rate required to recover principal and interest plus the costs of issuing the loan, and must be for a minimum of 15 years, unless the commissioner determines that a shorter loan period of no less than ten years is necessary and feasible.

Subd. 7. **Account.** A microenergy loan account is established in the state treasury. Money in the account consists of the proceeds of revenue bonds issued under section 216C.146, interest and other earnings on money in the account, money received in repayment of loans from the account, legislative appropriations, and money from any other source credited to the account.

Subd. 8. **Appropriation.** Money in the account is appropriated to the commissioner of commerce to make microenergy loans under this section and to the commissioner of management and budget to pay debt service and other costs under section 216C.146. Payment of debt service costs and funding reserves take priority over use of money in the account for any other purpose.

**History:** 2008 c 356 s 7; 2009 c 101 art 2 s 109

## **216C.146 MICROENERGY LOAN REVENUE BONDS.**

Subdivision 1. **Bonding authority; definition.** (a) The commissioner of management and budget, if requested by the commissioner of commerce, shall sell and issue state revenue bonds for the following purposes:

- (1) to make microenergy loans under section 216C.145;
- (2) to pay the costs of issuance, debt service, and bond insurance or other credit enhancements, and to fund reserves; and
- (3) to refund bonds issued under this section.

(b) The aggregate principal amount of bonds for the purposes of paragraph (a), clause (1), that may be outstanding at any time may not exceed \$20,000,000; the principal amount of bonds that may be issued for the purposes of paragraph (a), clauses (2) and (3), is not limited.

(c) For the purpose of this section, "commissioner" means the commissioner of management and budget.

Subd. 2. **Procedure.** The commissioner may sell and issue the bonds on the terms and conditions the commissioner determines to be in the best interests of the state. The bonds may be sold at public or private sale. The commissioner may enter into any agreements or pledges the commissioner determines necessary or useful to sell the bonds that are not inconsistent with section 216C.145. Sections 16A.672 to 16A.675 apply to the bonds. The proceeds of the bonds issued under this section must be credited to the microenergy loan account created under section 216C.145.

Subd. 3. **Revenue sources.** The debt service on the bonds is payable only from the following sources:

- (1) revenue credited to the microenergy loan account from the sources identified in section 216C.145 or from any other source; and
- (2) other revenues pledged to the payment of the bonds.

Subd. 4. **Refunding bonds.** The commissioner may issue bonds to refund outstanding bonds issued under subdivision 1, including the payment of any redemption premiums on the bonds and any interest accrued or to accrue to the first redemption date after delivery of the refunding bonds. The proceeds of the refunding bonds may, at the discretion of the commissioner, be applied to the purchases or payment at maturity of the bonds to be refunded, or the redemption of the outstanding bonds on the first redemption date after delivery of the refunding bonds and may, until so used, be placed in escrow to be applied to the purchase, retirement, or redemption. Refunding bonds issued under this subdivision must be issued and secured in the manner provided by the commissioner.

Subd. 5. **Not a general or moral obligation.** Bonds issued under this section are not public debt, and the full faith, credit, and taxing powers of the state are not pledged for their payment. The bonds may not be paid, directly in whole or in part from a tax of statewide application on any class of property, income, transaction, or privilege. Payment of the bonds is limited to the revenues explicitly authorized to be pledged under this section. The state neither makes nor has a moral obligation to pay the bonds if the pledged revenues and other legal security for them is insufficient.

Subd. 6. **Trustee.** The commissioner may contract with and appoint a trustee for bondholders. The trustee has the powers and authority vested in it by the commissioner under the bond and trust indentures.

Subd. 7. **Pledges.** A pledge made by the commissioner is valid and binding from the time the pledge is made. The money or property pledged and later received by the commissioner is immediately subject to the lien of the pledge without any physical delivery of the property or money or further act, and the lien of the pledge is valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the commissioner, whether or not those parties have notice of the lien or pledge. Neither the order nor any other instrument by which a pledge is created need be recorded.

Subd. 8. **Bonds; purchase and cancellation.** The commissioner, subject to agreements with bondholders that may then exist, may, out of any money available for the purpose, purchase bonds of the commissioner at a price not exceeding (1) if the bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date thereon, or (2) if the bonds are not redeemable, the redemption price applicable on the first date after the purchase upon which the bonds become subject to redemption plus accrued interest to that date.

Subd. 9. **State pledge against impairment of contracts.** The state pledges and agrees with the holders of any bonds that the state will not limit or alter the rights vested in the commissioner to fulfill the terms of any agreements made with the bondholders, or in any way impair the rights and remedies of the holders until the bonds, together with interest on them, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders, are fully met and discharged. The commissioner may include this pledge and agreement of the state in any agreement with the holders of bonds issued under this section.

**History:** 2008 c 356 s 8; 2009 c 101 art 2 s 109

## **216C.15 EMERGENCY ENERGY 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:

(1) give priority to individuals, institutions, agriculture, businesses, and public transit under contract with the commissioner of transportation or the Metropolitan Council which demonstrate they have engaged in energy-saving measures and shall include provisions to insure that:

- (i) immediate allocations to individuals, institutions, agriculture, businesses, and public transit be based on needs at energy conservation levels;
  - (ii) successive allocations to individuals, institutions, agriculture, businesses, and public transit be based on needs after implementation of required action to increase energy conservation; and
  - (iii) needs of individuals, institutions, and public transit are adjusted to insure the health and welfare of the young, old and infirm;
- (2) insure maintenance of reasonable job safety conditions and avoid environmental sacrifices;
  - (3) 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;
  - (4) establish programs to control the use, sale or distribution of commodities, materials, goods or services;
  - (5) 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;
  - (6) 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; and
  - (7) 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 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.

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; 1993 c 83 s 4; 1994 c 628 art 3 s 16; 1996 c 305 art 2 s 41

### **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.

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 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; 1995 c 233 art 2 s 56

## **216C.17 ENERGY FORECASTS AND STATISTICS; REPORT.**

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.** Except as provided in subdivision 3, 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. Electric utilities submitting advance forecasts as part of an integrated resource plan filed pursuant to section 216B.2422 and Public Utilities Commission rules are excluded from the annual reporting requirement in subdivision 2.

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 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; 1993 c 327 s 14; 1994 c 644 s 5,6

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

Subdivision 1. **Report on trends and issues.** 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:

- (1) 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
- (2) 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 display 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; exception.** After July 1, 1974, no new natural gas outdoor lighting shall be installed in the state. However, the installation and use of natural gas outdoor lighting that is equipped with either an automatic daytime shutoff device or is otherwise capable of being switched on and off, is permitted.

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 subdivisions 5 and 7. The commissioner shall grant a permanent variance allowing a homeowner who received a variance in 1977 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. The commissioner shall not issue a variance to any other person to use a decorative gas lamp or lamps.

Subd. 7. **Exemption for old gas lamp.** 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. [Repealed, 2000 c 297 s 5]

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. [Repealed, 1996 c 310 s 1]

Subd. 11. [Repealed, 1996 c 310 s 1]

Subd. 12. [Repealed, 1996 c 310 s 1]

Subd. 13. **New room air conditioner.** 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 required by applicable federal laws and the United States Department of Energy regulations codified in Code of Federal Regulations, title 10, including applicable interpretations of the regulations issued by that department.

Subd. 14. **Certain gas-powered equipment prohibited.** No new residential

- (1) forced-air-type central furnace;
- (2) cooking appliance manufactured with an electrical supply cord; or
- (3) clothes-drying equipment,

that is designed to burn natural gas shall be sold or installed in Minnesota, unless it meets or exceeds the efficiency standards required by applicable federal laws and the United States Department of Energy regulations codified in Code of Federal Regulations, title 10, including applicable interpretations of the regulations issued by that department.

Subd. 15. **Fluorescent lamp ballast.** 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. **Lamp.** No new lamp may be sold in Minnesota unless it meets or exceeds the minimum efficiency standards required by applicable federal laws and the United States Department of Energy regulations codified in Code of Federal Regulations, title 10, including applicable interpretations of the regulations issued by that department.

Subd. 17. **Motor.** No new motor covered by this subdivision, excluding those sold as part of an appliance, may be sold or installed in Minnesota unless its nominal efficiency meets or exceeds the values adopted under section 326B.106.

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. **Showerhead; faucet.** No new showerhead, kitchen faucet or kitchen replacement aerator, or lavatory faucet or lavatory replacement aerator may be sold or installed in Minnesota unless it meets or exceeds the efficiency standards required by applicable federal laws and the United States Department of Energy regulations codified in Code of Federal Regulations, title 10, including applicable interpretations of the regulations issued by that department.

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; 1995 c 161 s 1-5; 1997 c 191 art 1 s 8; 1998 c 350 s 4; 1999 c 135 s 5; 2009 c 86 art 1 s 32*

**216C.195** [Repealed, 2000 c 297 s 5]

## **216C.20 ENERGY CONSERVATION IN PUBLIC BUILDING.**

Subdivision 1. **Applicability.** The rules concerning heat loss, illumination, and climate control standards adopted pursuant to section 326B.106, subdivision 1, 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 ramp.** 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; 2000 c 297 s 2; 2007 c 140 art 4 s 61; art 13 s 4*

**216C.21** [Repealed, 1996 c 310 s 1]

**216C.22** [Repealed, 1996 c 310 s 1]

**216C.23** [Repealed, 1996 c 310 s 1]

**216C.24** [Repealed, 1996 c 310 s 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 17, 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 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 PROJECT; 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:

- (1) solar energy systems for heating and cooling;
- (2) energy systems using wind, agricultural wastes, forestry products, peat, and other nonconventional energy resources;
- (3) devices and technologies increasing the energy efficiency of energy-consuming appliances, equipment, and systems;
- (4) hydroelectric power; and
- (5) 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.263 OIL OVERCHARGE MONEY FOR ENERGY CONSERVATION.**

The oil overcharge money that is not otherwise appropriated by law or dedicated by court order is appropriated to the commissioner for energy conservation projects that directly serve low-income Minnesotans. This appropriation is available until spent.

**History:** 1998 c 273 s 3; 2005 c 97 art 4 s 6

### **216C.264 COORDINATING RESIDENTIAL WEATHERIZATION PROGRAMS.**

Subdivision 1. **Agency designation.** The department is the state agency to apply for, receive, and disburse money made available to the state by federal law for the purpose of weatherizing the residences of low-income persons. The commissioner must coordinate available federal money with state money appropriated for this purpose.

Subd. 2. **Grants.** The commissioner must make grants of federal and state money to community action agencies and other public or private nonprofit agencies for the purpose of weatherizing the residences of low-income persons.

Subd. 3. **Benefits of weatherization.** In the case of any grant made to an owner of a rental dwelling unit for weatherization, the commissioner must require that (1) the benefits of weatherization assistance in connection with the dwelling unit accrue primarily to the low-income family that resides in the unit; (2) the rents on the dwelling unit will not be raised because of any increase in value due solely to the weatherization assistance; and (3) no undue or excessive enhancement will occur to the value of the dwelling unit.

Subd. 4. [Repealed by amendment, 2011 c 97 s 28]

Subd. 5. **Grant allocation.** The commissioner must distribute supplementary state grants in a manner consistent with the goal of producing the maximum number of weatherized units. Supplementary state grants are provided primarily for the payment of additional labor costs for the federal weatherization program, and as an incentive for the increased production of weatherized units.

Criteria for the allocation of state grants to local agencies include existing local agency production levels, emergency needs, and the potential for maintaining or increasing acceptable levels of production in the area.

An eligible local agency may receive advance funding for 90 days' production, but thereafter must receive grants solely on the basis of program criteria.

Subd. 6. **Eligibility criteria.** To the extent allowed by federal regulations, the commissioner must ensure that the same income eligibility criteria apply to both the weatherization program and the energy assistance program.

**History:** 1998 c 273 s 4; 2005 c 97 art 4 s 6; 2011 c 97 s 28

### **216C.265 EMERGENCY ENERGY ASSISTANCE; FUEL FUNDS.**

Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this section.

(b) "Energy provider" means a person who provides heating fuel, including natural gas, electricity, fuel oil, propane, wood, or other form of heating fuel, to residences at retail.

(c) "Fuel fund" means a fund established by an energy provider, the state, or any other entity that collects and distributes money for low-income emergency energy assistance and meets the minimum criteria, including income eligibility criteria, for receiving money from the federal Low-Income Home Energy Assistance Program and the program's Incentive Fund for Leveraging Non-Federal Resources.

Subd. 2. **Energy providers; requirement.** Each energy provider may solicit contributions from its energy customers for deposit in a fuel fund established by the energy provider, a fuel fund established by another energy provider or other entity, or the statewide fuel account established in subdivision 3, for the purpose of providing emergency energy assistance to low-income households that qualify under the federal eligibility criteria of the federal Low-Income Home Energy Assistance Program. Solicitation of contributions from customers may be made at least annually and may provide each customer an opportunity to contribute as part of payment of bills for provision of service or provide an alternate, convenient way for customers to contribute.

Subd. 3. **Statewide fuel account; appropriation.** The commissioner must establish a statewide fuel account. The commissioner may develop and implement a program to solicit contributions, manage the receipts, and distribute emergency energy assistance to low-income households, as defined in the federal Low-Income Home Energy Assistance Program, on a statewide basis. All money remitted to the commissioner for deposit in the statewide fuel account is appropriated to the commissioner for the purpose of developing and implementing the program. No more than ten percent of the money received in the first two years of the program may be used for the administrative expenses of the commissioner to implement the program and no more than five percent of the money received in any subsequent year may be used for administration of the program.

Subd. 4. **Emergency Energy Assistance Advisory Council.** The commissioner must appoint an advisory council to advise the commissioner on implementation of this section. At least one-third of the advisory council must be composed of persons from households that are eligible for emergency energy assistance under the federal Low-Income Home Energy Assistance Program. The remaining two-thirds of the advisory council must be composed of persons representing energy providers, customers, local energy assistance providers, existing fuel fund delivery agencies, and community action agencies. Members of the advisory council may receive expenses, but no other compensation, as provided in section 15.059, subdivision 3. Appointment and removal of members is governed by section 15.059.

**History:** 1998 c 273 s 5; 2005 c 97 art 4 s 6

#### **216C.266 DATA PRIVACY; ENERGY PROGRAMS.**

Data on individuals collected, maintained, or created because an individual applies for benefits or services provided by the energy assistance and weatherization programs is private data on individuals and must not be disseminated except pursuant to section 13.05, subdivisions 3 and 4.

**History:** 1998 c 273 s 6; 2005 c 97 art 4 s 6

**216C.27** Subdivision 1. [Repealed, 2007 c 136 art 3 s 7]



Subd. 2. [Repealed, 2007 c 136 art 3 s 7]

Subd. 3. [Repealed, 2007 c 136 art 3 s 7]

Subd. 4. [Repealed, 2007 c 136 art 3 s 7]

Subd. 5. [Repealed, 2007 c 136 art 3 s 7]

Subd. 6. [Repealed, 2007 c 136 art 3 s 7]

Subd. 7. [Repealed, 2007 c 136 art 3 s 7]

Subd. 8. [Renumbered 16B.61, subd 8]

### **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. [Repealed, 2008 c 277 art 1 s 98]

Subd. 5. [Repealed, 2007 c 136 art 3 s 7]

**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; 1999 c 199 art 2 s 6

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

The commissioner shall develop state programs of energy audits of residential and commercial buildings including the training and qualifications necessary for the auditing of residential and commercial buildings under the auspices of a program created under section 216B.241.

**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; 2007 c 136 art 3 s 3

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

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

- (1) provide continued analysis of alternative energy issues for the biennial report, certificates of need, and legislative requests;
- (2) provide alternative energy information to consumers and business;
- (3) assist in the maintenance and improvement of alternative energy input-output multipliers and market penetration models;
- (4) 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 SCHOOL OR GOVERNING BODY.

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.

**History:** Ex1979 c 2 s 35; 1981 c 356 s 165,248; 1987 c 312 art 1 s 10 subd 1; 1997 c 7 art 1 s 92

### 216C.36 [Repealed, 1993 c 327 s 24]

### 216C.37 ENERGY CONSERVATION INVESTMENT LOAN.

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

(a) "Commissioner" means the commissioner of commerce.

(b) "Energy conservation investments" means all capital expenditures that are associated with conservation measures identified in an energy project study, and that have a ten-year or less payback period.

(c) "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.

(d) "Energy project study" means a study of one or more energy-related capital improvement projects analyzed in sufficient detail to support a financing application. At a minimum, it must include one year of energy consumption and cost data, a description of existing conditions, a description of proposed conditions, a detailed description of the costs of the project, and calculations sufficient to document the proposed energy savings.

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:

- (1) whether or not the municipality's proposal is complete;
- (2) whether the calculations and estimates contained in the energy project study are appropriate, accurate, and reasonable;
- (3) whether the project is eligible for a loan;
- (4) the amount of the loan for which the project is eligible; and
- (5) the means by which the municipality proposes to finance the project including:
  - (i) a loan authorized by this section;
  - (ii) a grant of money appropriated by state law;
  - (iii) a grant to the municipality by an agency of the federal government within the amount of money then appropriated to that agency; or
  - (iv) the appropriation of other money of the municipality to an account for the construction of the project.

Subd. 3a. **Additional information.** During application review, the commissioner may request additional information about a proposed energy conservation investment, including information on project cost. Failure to provide information requested disqualifies a loan applicant.

Subd. 3b. **Public accessibility of loan application data.** Data contained in an application submitted to the commissioner for a loan to be made pursuant to this section, including supporting technical documentation, is classified as "public data not on individuals" under section 13.02, subdivision 14.

Subd. 4. **Conditions for loan approval; repayment.** 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 management and budget's administrative expenses according to the terms of the loan.

Subd. 6. **Receipts; appropriation.** The commissioner of management and budget 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 management and budget for the purposes of that account.

Subd. 7. **Rules.** The commissioner shall adopt rules necessary to implement this section. The rules shall contain as a minimum:

- (1) procedures for application by municipalities;
- (2) criteria for reviewing loan applications; and
- (3) procedures and guidelines for program monitoring, closeout, and evaluation.

Subd. 8. [Repealed, 1994 c 616 s 12]

**History:** 1983 c 289 s 115 subd 1; 1983 c 323 s 1; 1984 c 640 s 32; 1Sp1985 c 12 art 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; 1993 c 163 art 1 s 28; 1993 c 327 s 15; 1994 c 616 s 2-5; 1996 c 305 art 2 s 42; 1Sp2001 c 4 art 6 s 51; 2009 c 101 art 2 s 109

### 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:

- (1) work with the financial community to bring energy cost and savings into mortgage underwriting standards;
- (2) 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:

- (1) conduct studies of Minnesota building experience;

- (2) disseminate information acquired relating to building energy efficiency;
- (3) conduct continuing education courses;
- (4) provide limited energy and design consultation services for innovative projects;
- (5) coordinate and stimulate research efforts; and
- (6) 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. **Council 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 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

### **216C.385 CLEAN ENERGY RESOURCE TEAMS.**

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 production and use of renewable resources such as wind, solar, biomass, and biofuels. Further, community-based energy programs are found to be a public purpose for which public money may be spent.

Subd. 2. **Mission, organization, and membership.** The clean energy resource teams (CERT's) project is an innovative state, university, and nonprofit partnership that serves as a catalyst for community energy planning and projects. The mission of CERT's is to give citizens a voice in the energy planning process by connecting them with the necessary technical resources to identify and implement community-scale renewable energy and energy efficiency projects. In

2003, the Department of Commerce designated the CERT's project as a statewide collaborative venture and recognized six regional teams based on their geography: Central, Northeast, Northwest, Southeast, Southwest, and West-Central. Membership of CERT's may include but is not limited to representatives of utilities; federal, state, and local governments; small business; labor; senior citizens; academia; and other interested parties. The Department of Commerce may certify additional clean energy resource teams by regional geography, including teams in the Twin Cities metropolitan area.

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

- (1) analyze social and economic impacts caused by energy expenditures;
- (2) analyze regional renewable and energy efficiency resources and opportunities;
- (3) link community members and community energy projects to the knowledge and capabilities of the University of Minnesota, the State Energy Office, nonprofit organizations, and regional community members, among others;
- (4) plan, set priorities for, provide technical assistance to, and catalyze local energy efficiency and renewable energy projects that help to meet state energy policy goals and maximize local economic development opportunities;
- (5) provide a broad-based resource and communications network that links local, county, and regional energy efficiency and renewable energy project efforts around the state (both interregional and intraregional);
- (6) seek, accept, and disburse grants and other aids from public or private sources for purposes authorized in this subdivision;
- (7) provide a convening and networking function within CERT's regions to facilitate education, knowledge formation, and project replication; and
- (8) exercise other powers and duties imposed on it by statute, charter, or ordinance.

Subd. 4. **Department assistance.** The commissioner, via the clean energy resource teams, may provide professional, technical, organizational, and financial assistance to regions and communities to develop and implement community energy programs and projects, within available resources.

**History:** 2007 c 57 art 2 s 27

## **216C.39 RURAL WIND ENERGY DEVELOPMENT REVOLVING LOAN FUND.**

Subdivision 1. **Establishment.** A rural wind energy development revolving loan fund is established as an account in the special revenue fund in the state treasury. The commissioner of management and budget shall credit to the account the amounts authorized under this section and appropriations and transfers to the account. Earnings, such as interest, dividends, and any other earnings arising from fund assets, must be credited to the account.

Subd. 2. **Purpose.** The rural wind energy development revolving loan fund is created to provide financial assistance, through partnership with local owners and communities, in developing community wind energy projects that meet the specifications of section 216B.1612, subdivision 2, paragraph (h).

Subd. 3. **Expenditures.** Money in the fund is appropriated to the commissioner of commerce, and may be used to make loans to qualifying owners of wind energy projects, as

defined in section 216B.1612, subdivision 2, paragraph (h), to assist in funding wind studies and transmission interconnection studies. The loans must be structured for repayment within 30 days after the project begins commercial operations or two years from the date the loan is issued, whichever is sooner. The commissioner may pay reasonable and actual costs of administering the loan program, not to exceed interest earned on fund assets.

Subd. 4. **Limitations.** A loan may not be approved for an amount exceeding \$100,000. This limit applies to all money loaned to a single project or single entity, whether paid to one or more qualifying owners and whether paid in one or more fiscal years.

Subd. 5. **Administration; eligible projects.** (a) Applications for a loan under this section must be made in a manner and on forms prescribed by the commissioner. Loans to eligible projects must be made in the order in which complete applications are received by the commissioner. Loan funds must be disbursed to an applicant within ten days of submission of a payment request by the applicant that demonstrates a payment due to the Midwest Independent System Operator. Interest payable on the loan amount may not exceed 1.5 percent per annum.

(b) A project is eligible for a loan under this program if:

(1) the project has completed an adequate interconnection feasibility study that indicates the project may be interconnected with system upgrades of less than ten percent of the estimated project costs;

(2) the project has a signed power purchase agreement with an electric utility or provides evidence that the project is under serious consideration for such an agreement by an electric utility;

(3) the ownership and structure of the project allows it to qualify as a community-based energy development (C-BED) project under section 216B.1612, and the developer commits to obtaining and maintaining C-BED status; and

(4) the commissioner has determined that sufficient funds are available to make a loan to the project.

**History:** 2007 c 57 art 2 s 28; 2009 c 101 art 2 s 109

**216C.40** [Expired, 1993 c 254 s 6]

#### **216C.41 RENEWABLE ENERGY PRODUCTION INCENTIVE.**

Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this section.

(b) "Qualified hydroelectric facility" means a hydroelectric generating facility in this state that:

(1) is located at the site of a dam, if the dam was in existence as of March 31, 1994; and

(2) begins generating electricity after July 1, 1994, or generates electricity after substantial refurbishing of a facility that begins after July 1, 2001.

(c) "Qualified wind energy conversion facility" means a wind energy conversion system in this state that:

(1) produces two megawatts or less of electricity as measured by nameplate rating and begins generating electricity after December 31, 1996, and before July 1, 1999;

(2) begins generating electricity after June 30, 1999, produces two megawatts or less of electricity as measured by nameplate rating, and is:



(i) owned by a resident of Minnesota or an entity that is organized under the laws of this state, is not prohibited from owning agricultural land under section 500.24, and owns the land where the facility is sited;

(ii) owned by a Minnesota small business as defined in section 645.445;

(iii) owned by a Minnesota nonprofit organization;

(iv) owned by a tribal council if the facility is located within the boundaries of the reservation;

(v) owned by a Minnesota municipal utility or a Minnesota cooperative electric association;  
or

(vi) owned by a Minnesota political subdivision or local government, including, but not limited to, a county, statutory or home rule charter city, town, school district, or any other local or regional governmental organization such as a board, commission, or association; or

(3) begins generating electricity after June 30, 1999, produces seven megawatts or less of electricity as measured by nameplate rating, and:

(i) is owned by a cooperative organized under chapter 308A other than a Minnesota cooperative electric association; and

(ii) all shares and membership in the cooperative are held by an entity that is not prohibited from owning agricultural land under section 500.24.

(d) "Qualified on-farm biogas recovery facility" means an anaerobic digester system that:

(1) is located at the site of an agricultural operation; and

(2) is owned by an entity that is not prohibited from owning agricultural land under section 500.24 and that owns or rents the land where the facility is located.

(e) "Anaerobic digester system" means a system of components that processes animal waste based on the absence of oxygen and produces gas used to generate electricity.

**Subd. 2. Incentive payment; appropriation.** (a) Incentive payments must be made according to this section to (1) a qualified on-farm biogas recovery facility, (2) the owner or operator of a qualified hydropower facility or qualified wind energy conversion facility for electric energy generated and sold by the facility, (3) a publicly owned hydropower facility for electric energy that is generated by the facility and used by the owner of the facility outside the facility, or (4) the owner of a publicly owned dam that is in need of substantial repair, for electric energy that is generated by a hydropower facility at the dam and the annual incentive payments will be used to fund the structural repairs and replacement of structural components of the dam, or to retire debt incurred to fund those repairs.

(b) Payment may only be made upon receipt by the commissioner of commerce of an incentive payment application that establishes that the applicant is eligible to receive an incentive payment and that satisfies other requirements the commissioner deems necessary. The application must be in a form and submitted at a time the commissioner establishes.

(c) There is annually appropriated from the renewable development account under section 116C.779 to the commissioner of commerce sums sufficient to make the payments required under this section, in addition to the amounts funded by the renewable development account as specified in subdivision 5a.

**Subd. 3. Eligibility window.** Payments may be made under this section only for:

(a) electricity generated from:

(1) a qualified hydroelectric facility that is operational and generating electricity before December 31, 2011;

(2) a qualified wind energy conversion facility that is operational and generating electricity before January 1, 2008; or

(3) a qualified on-farm biogas recovery facility from July 1, 2001, through December 31, 2017; and

(b) gas generated from a qualified on-farm biogas recovery facility from July 1, 2007, through December 31, 2017.

**Subd. 4. Payment period.** (a) A facility may receive payments under this section for a ten-year period. No payment under this section may be made for electricity generated:

(1) by a qualified hydroelectric facility after December 31, 2021;

(2) by a qualified wind energy conversion facility after December 31, 2018; or

(3) by a qualified on-farm biogas recovery facility after December 31, 2015.

(b) The payment period begins and runs consecutively from the date the facility begins generating electricity or, in the case of refurbishment of a hydropower facility, after substantial repairs to the hydropower facility dam funded by the incentive payments are initiated.

**Subd. 5. Amount of payment; wind facilities limit.** (a) An incentive payment is based on the number of kilowatt-hours of electricity generated. The amount of the payment is:

(1) for a facility described under subdivision 2, paragraph (a), clause (4), 1.0 cent per kilowatt-hour; and

(2) for all other facilities, 1.5 cents per kilowatt-hour.

For electricity generated by qualified wind energy conversion facilities, the incentive payment under this section is limited to no more than 200 megawatts of nameplate capacity.

(b) For wind energy conversion systems installed and contracted for after January 1, 2002, the total size of a wind energy conversion system under this section must be determined according to this paragraph. Unless the systems are interconnected with different distribution systems, the nameplate capacity of one wind energy conversion system must be combined with the nameplate capacity of any other wind energy conversion system that is:

(1) located within five miles of the wind energy conversion system;

(2) constructed within the same calendar year as the wind energy conversion system; and

(3) under common ownership.

In the case of a dispute, the commissioner of commerce shall determine the total size of the system, and shall draw all reasonable inferences in favor of combining the systems.

(c) In making a determination under paragraph (b), the commissioner of commerce may determine that two wind energy conversion systems are under common ownership when the underlying ownership structure contains similar persons or entities, even if the ownership shares differ between the two systems. Wind energy conversion systems are not under common ownership solely because the same person or entity provided equity financing for the systems.

**Subd. 5a. Renewable development account.** The Department of Commerce shall authorize payment of the renewable energy production incentive to wind energy conversion systems that are

eligible under this section or Laws 2005, chapter 40, to on-farm biogas recovery facilities, and to hydroelectric facilities. Payment of the incentive shall be made from the renewable energy development account as provided under section 116C.779, subdivision 2.

**Subd. 6. Ownership; financing; cure.** (a) For the purposes of subdivision 1, paragraph (c), clause (2), a wind energy conversion facility qualifies if it is owned at least 51 percent by one or more of any combination of the entities listed in that clause.

(b) A subsequent owner of a qualified facility may continue to receive the incentive payment for the duration of the original payment period if the subsequent owner qualifies for the incentive under subdivision 1.

(c) Nothing in this section may be construed to deny incentive payment to an otherwise qualified facility that has obtained debt or equity financing for construction or operation as long as the ownership requirements of subdivision 1 and this subdivision are met. If, during the incentive payment period for a qualified facility, the owner of the facility is in default of a lending agreement and the lender takes possession of and operates the facility and makes reasonable efforts to transfer ownership of the facility to an entity other than the lender, the lender may continue to receive the incentive payment for electricity generated and sold by the facility for a period not to exceed 18 months. A lender who takes possession of a facility shall notify the commissioner immediately on taking possession and, at least quarterly, document efforts to transfer ownership of the facility.

(d) If, during the incentive payment period, a qualified facility loses the right to receive the incentive because of changes in ownership, the facility may regain the right to receive the incentive upon cure of the ownership structure that resulted in the loss of eligibility and may reapply for the incentive, but in no case may the payment period be extended beyond the original ten-year limit.

(e) A subsequent or requalifying owner under paragraph (b) or (d) retains the facility's original priority order for incentive payments as long as the ownership structure requalifies within two years from the date the facility became unqualified or two years from the date a lender takes possession.

**Subd. 7. Eligibility process.** (a) A qualifying project is eligible for the incentive on the date the commissioner receives:

- (1) an application for payment of the incentive;
- (2) one of the following:
  - (i) a copy of a signed power purchase agreement;
  - (ii) a copy of a binding agreement other than a power purchase agreement to sell electricity generated by the project to a third person; or
  - (iii) if the project developer or owner will sell electricity to its own members or customers, a copy of the purchase order for equipment to construct the project with a delivery date and a copy of a signed receipt for a nonrefundable deposit; and
- (3) any other information the commissioner deems necessary to determine whether the proposed project qualifies for the incentive under this section.

(b) The commissioner shall determine whether a project qualifies for the incentive and respond in writing to the applicant approving or denying the application within 15 working days of receipt of the information required in paragraph (a). A project that is not operational within 18 months of receipt of a letter of approval is no longer approved for the incentive. The commissioner shall notify an applicant of potential loss of approval not less than 60 days prior to

the end of the 18-month period. Eligibility for a project that loses approval may be reestablished as of the date the commissioner receives a new completed application.

**History:** 1994 c 643 s 71; 1995 c 245 s 4-8; 1997 c 216 s 124; 1999 c 223 art 2 s 34,35; 2000 c 488 art 2 s 15; 2001 c 212 art 5 s 1-3; 1Sp2001 c 4 art 2 s 21; 2002 c 398 s 6; 2003 c 128 art 3 s 44; 1Sp2003 c 11 art 2 s 9-15; 2004 c 228 art 1 s 35,76 subd 10; 2005 c 40 s 1; 2005 c 97 art 9 s 1; 1Sp2005 c 1 art 4 s 51-53; 2006 c 281 art 4 s 12,13; 2006 c 282 art 11 s 10,11; 2007 c 57 art 2 s 29; 2008 c 363 art 6 s 6,7; 2009 c 110 s 31

## **216C.42 DEFINITIONS; ENERGY IMPROVEMENTS FOR BUILDINGS.**

Subdivision 1. **Scope.** For the purpose of this section and section 216C.43, the terms defined in this section have the meanings given them.

Subd. 2. **Energy improvement project.** "Energy improvement project" means a project to improve energy efficiency in a building or facility, including the design, acquisition, installation, construction, and commissioning of equipment or improvements to a building or facility, and training of building or facility staff necessary to properly operate and maintain the equipment or improvements.

Subd. 3. **Energy project study.** "Energy project study" means a technical and financial study of one or more energy improvement projects, including:

- (1) an analysis of historical energy consumption and cost data;
- (2) a description of existing equipment, structural elements, operating characteristics, and other conditions affecting energy use;
- (3) a description of the proposed energy improvement projects;
- (4) a detailed budget for the proposed project;
- (5) calculations sufficient to demonstrate the expected energy savings; and
- (6) if a geothermal energy improvement, whether the project is calculated to produce savings in terms of nongeothermal energy and costs.

Subd. 4. **Financing agreement.** "Financing agreement" means a tax-exempt lease-purchase agreement entered into by a local government and a financial institution under a standard project financing agreement offered under section 216C.43, subdivision 6.

Subd. 5. **Local government.** "Local government" means a Minnesota county, statutory or home rule charter city, town, school district, park district, or any combination of those units operating under an agreement to exercise powers jointly.

Subd. 6. **Program.** "Program" means the energy improvement financing program for local governments authorized by section 216C.43.

Subd. 7. **Supplemental cash flow agreement.** "Supplemental cash flow agreement" means an agreement by the commissioner to lend funds to a local government up to an amount necessary to ensure that the cumulative payments made by the local government under a financing agreement minus the amount loaned by the commissioner do not exceed the actual energy and operating cost savings attributable to the energy improvement project for the term of the supplemental cash flow agreement.

**History:** 2008 c 356 s 9

**216C.43 ENERGY IMPROVEMENT FINANCING PROGRAM FOR LOCAL GOVERNMENT.**

Subdivision 1. **Commissioner's authority and duties; local government authority.** The commissioner shall administer this section. A local government may enter into contracts for the purposes of this section with the commissioner, the primary contractor, other contracted technical service providers, and participating financial institutions.

Subd. 2. **Program eligibility; voluntary program participation; targeted technical services.** A local government may elect to participate in the program. The commissioner may prioritize and target technical services offered under subdivision 4 to local governments that the commissioner determines offer the greatest potential for cost-effective energy improvement projects.

Subd. 3. **Primary contractor for technical, financial, and program management services.** The commissioner may enter into a contract for the delivery of technical services, financial management, marketing, and administrative services necessary for implementation of the program.

Subd. 4. **Targeted technical services.** The commissioner shall offer technical services to targeted local governments to conduct energy project studies. The commissioner may contract with one or more qualified technical service providers to conduct energy project studies for targeted local governments. The commissioner may require full or partial reimbursement of costs for technical services provided to a local government, subject to terms and conditions specified and agreed to by contract before the delivery of technical services. A local government may independently procure technical services to conduct an energy project study, but the energy project study must be reviewed and approved by the commissioner to qualify an energy improvement project for a financing agreement under subdivision 6 or a supplemental cash flow agreement under subdivision 7.

Subd. 5. **Participation of technical service providers statewide.** Program activities must be implemented to encourage statewide participation of engineers, architects, energy auditors, contractors, and other technical service providers. The commissioner may provide training on energy project study requirements and procedures to technical service providers.

Subd. 6. **Standard project financing agreement.** The commissioner shall solicit proposals from private financial institutions and may enter into a standard project financing agreement with one or more financial institutions. A standard project financing agreement must specify terms and conditions uniformly available to all participating public entities for financing to implement energy improvement projects under this section. A local government may choose to finance an energy improvement project by means other than a standard project financing agreement, but a supplemental cash flow agreement under subdivision 7 must not be offered unless the commissioner determines that the other financing means creates no greater potential obligation under a supplemental cash flow agreement than would be created through a standard project financing agreement.

Subd. 7. **Supplemental cash flow agreement.** (a) The commissioner may offer a supplemental cash flow agreement to a participating local government for qualifying energy improvement projects. The term of a supplemental cash flow agreement may not exceed 15 years. Terms and conditions of a supplemental cash flow agreement must be agreed to by contract prior to a local government entering into a financing agreement.

(b) A supplemental cash flow agreement must include, but is not limited to:

- (1) specification of methods and procedures to measure and verify energy cost savings;
- (2) obligations of the local government to operate and maintain the energy improvements;
- (3) procedures to modify the supplemental cash flow agreement if the local government modifies operating characteristics of its building or facility in a manner that adversely affects energy cost savings;
- (4) interest charged on the loan, which may not exceed the interest on the related financial agreement; and
- (5) procedures for resolution of disputes.

(c) The commissioner must limit aggregate exposure to liability for payments under existing supplemental cash flow agreements to an amount no more than the appropriation available to make those payments.

Subd. 8. **Qualifying energy improvement projects.** A local government may submit to the commissioner, on a form prescribed by the commissioner, an application for a financing agreement authorization and supplemental cash flow agreement for energy improvement projects. The commissioner shall approve an energy improvement project for a supplemental cash flow agreement and authorize eligibility for a financing agreement if the commissioner determines that:

- (1) the application has been approved by the governing body or agency head of the local government;
- (2) the project is technically and economically feasible;
- (3) the local government has made adequate provision for the operation and maintenance of the project;
- (4) the project proposer has fully explored the use of conservation investment plan opportunities under section 216B.241 with the utilities providing gas and electric service to the project;
- (5) the project is calculated to result in a positive cash flow in each year the financing agreement is in effect; and
- (6) adequate money will be available to the commissioner to fulfill the supplemental cash flow agreement.

Energy improvement projects under this section are not subject to section 123B.71.

Subd. 9. **Program costs.** Program costs incurred by the commissioner or a public entity that are not direct costs to implement energy improvement projects may be paid with program money appropriated under subdivision 10.

Subd. 10. **Funding; appropriation; receipts.** Petroleum violation escrow funds appropriated to the commissioner by Laws 1988, chapter 686, article 1, section 38, for state energy loan programs for schools, hospitals, and public buildings, and reappropriated by Laws 2007, chapter 57, article 2, section 30, are appropriated to the commissioner for the purposes of this section and are available until spent. The commissioner may transfer up to \$1,000,000 of this appropriation to the commissioner of administration for the purposes of section 16B.322.

Subd. 11. **CIP energy-savings goals.** A utility or association may count toward its energy-savings goals under section 216B.241, subdivision 1c, the energy savings resulting from

its investment in an energy improvement project.

Subd. 12. **Report.** Beginning January 15, 2009, and each year thereafter, the commissioner shall submit to the chairs and ranking minority members of the senate and house of representatives committees on energy finance a report containing, at a minimum, the following information regarding projects implemented under this section:

- (1) the total number of projects;
- (2) the amount of calculated and, if available, actual energy savings for each project;
- (3) the cost of each project; and
- (4) the total amount paid for technical services provided under subdivision 4 for each project.

**History:** 2008 c 356 s 10

### 216C.435 DEFINITIONS.

Subdivision 1. **Scope.** For the purposes of this section and section 216C.436, the terms defined in this section have the meanings given them.

Subd. 2. **Authority.** "Authority" means a housing and redevelopment authority or economic development authority created pursuant to section 469.003, 469.004, or 469.091, a port authority pursuant to section 469.049, 469.1082, or special law, or another entity authorized by law to exercise the powers of an authority created pursuant to one of those sections.

Subd. 3. **City.** "City" means a home rule charter or statutory city.

Subd. 4. **Energy audit.** "Energy audit" means a formal evaluation of the energy consumption of a building by a certified energy auditor, whose certification is approved by the commissioner, for the purpose of identifying appropriate energy improvements that could be made to the building and including an estimate of the length of time a specific energy improvement will take to repay its purchase and installation costs, based on the amount of energy saved and estimated future energy prices.

Subd. 5. **Energy improvement.** "Energy improvement" means:

- (1) any renovation or retrofitting of a building to improve energy efficiency that is permanently affixed to the property and that results in a net reduction in energy consumption without altering the principal source of energy;
- (2) permanent installation of new or upgraded electrical circuits and related equipment to enable electrical vehicle charging; or
- (3) a renewable energy system attached to, installed within, or proximate to a building that generates electrical or thermal energy from a renewable energy source.

Subd. 6. **Implementing entity.** "Implementing entity" means the local government or an authority designated by the local government by resolution to implement and administer programs described in section 216C.436.

Subd. 7. **Local government.** "Local government" means a city, county, or town.

Subd. 8. **Qualifying real property.** "Qualifying real property" means a single-family or multifamily residential dwelling, or a commercial or industrial building, that the implementing entity has determined, after review of an energy audit or renewable energy system feasibility

study, can be benefited by installation of energy improvements.

Subd. 9. **Renewable energy.** "Renewable energy" means energy produced by means of solar thermal, solar photovoltaic, wind, or geothermal resources.

Subd. 10. **Renewable energy system feasibility study.** "Renewable energy system feasibility study" means a written study, conducted by a contractor trained to perform that analysis, for the purpose of determining the feasibility of installing a renewable energy system in a building, including an estimate of the length of time a specific renewable energy system will take to repay its purchase and installation costs, based on the amount of energy saved and estimated future energy prices. For a geothermal energy improvement, the feasibility study must calculate net savings in terms of nongeothermal energy and costs.

Subd. 11. **Solar photovoltaic.** "Solar photovoltaic" has the meaning given in section 216C.06, subdivision 16, and must meet the requirements of section 216C.25.

Subd. 12. **Solar thermal.** "Solar thermal" has the meaning given to "qualifying solar thermal project" in section 216B.2411, subdivision 2, paragraph (e).

**History:** 2010 c 216 s 3; 2010 c 389 art 7 s 11-13

## **216C.436 ENERGY IMPROVEMENTS PROGRAM FOR LOCAL GOVERNMENTS.**

Subdivision 1. **Program authority.** An implementing entity may establish a program to finance energy improvements to enable owners of qualifying real property to pay for cost-effective energy improvements to the qualifying real property with the net proceeds and interest earnings of revenue bonds authorized in this section. An implementing entity may limit the number of qualifying real properties for which a property owner may receive program financing.

Subd. 2. **Program requirements.** A financing program must:

(1) impose requirements and conditions on financing arrangements to ensure timely repayment;

(2) require an energy audit or renewable energy system feasibility study to be conducted on the qualifying real property and reviewed by the implementing entity prior to approval of the financing;

(3) require the inspection of all installations and a performance verification of at least ten percent of the energy improvements financed by the program;

(4) require that all cost-effective energy improvements be made to a qualifying real property prior to, or in conjunction with, an applicant's repayment of financing for energy improvements for that property;

(5) have energy improvements financed by the program performed by licensed contractors as required by chapter 326B or other law or ordinance;

(6) require disclosures to borrowers by the implementing entity of the risks involved in borrowing, including the risk of foreclosure if a tax delinquency results from a default;

(7) provide financing only to those who demonstrate an ability to repay;

(8) not provide financing for a qualifying real property in which the owner is not current on mortgage or real property tax payments;

(9) require a petition to the implementing entity by all owners of the qualifying real property requesting collections of repayments as a special assessment under section 429.101;



(10) provide that payments and assessments are not accelerated due to a default and that a tax delinquency exists only for assessments not paid when due; and

(11) require that liability for special assessments related to the financing runs with the qualifying real property.

Subd. 3. **Retail and end use prohibited.** Energy generated by an energy improvement may not be sold, transmitted, or distributed at retail and may not provide for end use of the electrical energy from an off-site facility. On-site generation is allowed to the extent provided for in section 216B.1611.

This section does not modify the exclusive service territories or exclusive right to serve as provided in sections 216B.37 to 216B.43.

Subd. 4. **Financing terms.** Financing provided under this section must have:

(1) a weighted average maturity not exceeding the useful life of the energy improvements installed, as determined by the implementing entity, but in no event may a term exceed 20 years;

(2) a principal amount not to exceed the lesser of ten percent of the assessed value of the real property on which the improvements are to be installed or the actual cost of installing the energy improvements, including the costs of necessary equipment, materials, and labor, the costs of each related energy audit or renewable energy system feasibility study, and the cost of verification of installation; and

(3) an interest rate sufficient to pay the financing costs of the program, including the issuance of bonds and any financing delinquencies.

Subd. 5. **Coordination with other programs.** A financing program must include cooperation and coordination with the conservation improvement activities of the utility serving the qualifying real property and other public and private energy improvement programs.

Subd. 6. **Certificate of participation.** Upon completion of a project, an implementing entity shall provide a borrower with a certificate stating participation in the program and what energy improvements have been made with financing program proceeds.

Subd. 7. **Repayment.** An implementing entity that finances an energy improvement under this section must:

(1) secure payment with a lien against the benefited qualifying real property; and

(2) collect repayments as a special assessment as provided for in section 429.101 or by charter.

If the implementing entity is an authority, the local government that authorized the authority to act as implementing entity shall impose and collect special assessments necessary to pay debt service on bonds issued by the implementing entity under subdivision 8, and shall transfer all collections of the assessments upon receipt to the authority.

Subd. 8. **Bond issuance; repayment.** (a) An implementing entity may issue revenue bonds as provided in chapter 475 for the purposes of this section.

(b) The bonds must be payable as to both principal and interest solely from the revenues from the assessments established in subdivision 7.

(c) No holder of bonds issued under this subdivision may compel any exercise of the taxing power of the implementing entity that issued the bonds to pay principal or interest on the bonds,

and if the implementing entity is an authority, no holder of the bonds may compel any exercise of the taxing power of the local government. Bonds issued under this subdivision are not a debt or obligation of the issuer or any local government that issued them, nor is the payment of the bonds enforceable out of any money other than the revenue pledged to the payment of the bonds.

**History:** 2010 c 216 s 4; 2010 c 389 art 7 s 14-19

#### **216C.44 BUSINESS ENERGY USE ACCOUNTABILITY.**

Subdivision 1. **Citation.** This section may be cited as the Business Energy Accountability Act of 2008.

Subd. 2. **Definition.** For the purpose of this section, "municipality" means a statutory or home rule charter city or town, or county for unincorporated areas of a county.

Subd. 3. **Energy accountability form.** The commissioner of commerce shall create an energy inventory form for use by a municipality for purposes of subdivision 4. The form must be designed so a business can enter information concerning the following energy uses for the business:

- (1) total gross electric use per year;
- (2) electric supplier;
- (3) total gross natural gas use per year;
- (4) natural gas supplier;
- (5) heating type;
- (6) air conditioning type and use per year;
- (7) business-owned motor vehicles;
- (8) miles traveled by business-owned motor vehicles;
- (9) chemicals used, including oils and cleaners;
- (10) water use per year; and
- (11) industrial sewage discharge.

The annual total gross use information required by clauses (1) and (3) must not require itemization by a business of each end use of electricity and natural gas.

The form must be designed, to the extent possible, so that its use by a municipality may qualify for grants.

Subd. 4. **Municipal inventory.** A municipality applying for grants or doing inventories covered under subdivision 3 must make the state form available to businesses located within the municipality the inventory form prescribed by subdivision 3. The business is not required to complete the inventory but may elect to do so and provide the completed inventory to the municipality.

Subd. 5. **Data practices.** Data provided by a business on the completed inventory for business energy use accountability is nonpublic as defined in section 13.02.

**History:** 2008 c 331 s 1