

**HOUSE OF REPRESENTATIVES**

**EIGHTY-EIGHTH SESSION**

**H. F. No. 2834**

- 03/06/2014 Authored by Hortman and Kahn  
The bill was read for the first time and referred to the Committee on Energy Policy
- 03/19/2014 Adoption of Report: Amended and re-referred to the Committee on Commerce and Consumer Protection Finance and Policy
- 03/26/2014 Adoption of Report: Re-referred to the Committee on Energy Policy
- 03/31/2014 Adoption of Report: Amended and Placed on the General Register  
Read Second Time
- 04/22/2014 Calendar for the Day, Amended  
Read Third Time as Amended  
Passed by the House as Amended and transmitted to the Senate to include Floor Amendments

1.1 A bill for an act  
 1.2 relating to energy; modifying, adding, or authorizing provisions governing  
 1.3 medically necessary equipment, propane sales, low-income rate discounts,  
 1.4 interconnection of distributed renewable generation, electric vehicle charging  
 1.5 tariffs, on-bill payment programs, energy efficiency programs, emissions  
 1.6 reduction planning, certificates of need, solar energy systems, and transmission  
 1.7 lines; requiring a report; amending Minnesota Statutes 2012, sections 216B.098,  
 1.8 subdivision 5; 216B.16, subdivision 14; 216B.1611, by adding a subdivision;  
 1.9 216B.241, by adding a subdivision; 216B.2422, by adding a subdivision;  
 1.10 216B.243, subdivision 8; 216C.41, subdivision 4; 216C.436, subdivision 4, by  
 1.11 adding a subdivision; 216E.01, by adding a subdivision; 216E.04, subdivision  
 1.12 2; 239.051, subdivision 29; 239.785, by adding a subdivision; 325E.027;  
 1.13 515.07; 515B.2-103; 515B.3-102; Laws 2013, chapter 57, section 2; Laws  
 1.14 2014, chapter 145, section 1; proposing coding for new law in Minnesota  
 1.15 Statutes, chapters 216B; 216E; 500; repealing Minnesota Rules, parts 3300.0800;  
 1.16 3300.0900; 3300.1000, subparts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15,  
 1.17 17, 18, 19, 20, 21, 22, 23, 24, 25, 25a, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35,  
 1.18 36; 3300.1100; 3300.1200; 3300.1300; 3300.1400; 3300.1500; 3300.1600;  
 1.19 3300.1700; 3300.1800; 3300.1900; 7607.0100; 7607.0110; 7607.0120;  
 1.20 7607.0130; 7607.0140; 7607.0150; 7607.0160; 7607.0170; 7607.0180;  
 1.21 7610.0300; 7685.0100; 7685.0120; 7685.0130; 7685.0140.

1.22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.23 Section 1. Minnesota Statutes 2012, section 216B.098, subdivision 5, is amended to  
 1.24 read:

1.25 Subd. 5. **Medically necessary equipment.** (a) A utility shall reconnect or  
 1.26 continue service to a customer's residence where a medical emergency exists or where  
 1.27 medical equipment requiring electricity necessary to sustain life is in use, provided that  
 1.28 the utility receives ~~from a medical doctor~~ written certification, or initial certification by  
 1.29 telephone and written certification within five business days, that failure to reconnect or  
 1.30 continue service will impair or threaten the health or safety of a resident of the customer's  
 1.31 household. ~~The customer must enter into a payment agreement.~~

2.1 (b) Certification of the necessity for service is required. Certification may be  
2.2 provided by:

2.3 (1) a licensed medical doctor;

2.4 (2) a licensed physician assistant;

2.5 (3) an advanced practice registered nurse, as defined in section 148.171; or

2.6 (4) a registered nurse, but only to the extent of verifying the current diagnosis or  
2.7 prescriptions made by a licensed medical doctor for the customer or member of the  
2.8 customer's household.

2.9 (c) Except as provided in paragraph (d), a certification may not extend beyond six  
2.10 months from the date of written certification.

2.11 (d) If a utility determines that a longer certification is appropriate given a particular  
2.12 customer's circumstances, the utility may, at its sole discretion, extend the duration of a  
2.13 certification for up to 12 months.

2.14 (e) A certification may be renewed, provided that the renewal complies with this  
2.15 subdivision. A certification may be renewed by the same or another medical professional  
2.16 who meets the qualifications of paragraph (b).

2.17 (f) A customer whose account is in arrears must contact and enter into a payment  
2.18 agreement with the utility. The payment agreement must consider a customer's financial  
2.19 circumstances and any extenuating circumstances of the household. The payment  
2.20 agreement may, at the discretion of the utility, contain a provision by which the utility  
2.21 forgives all or a portion of the amount in which the account is in arrears, which, if  
2.22 implemented, extinguishes individual liability for the amount forgiven.

2.23 **Sec. 2. [216B.0991] DEFINITIONS.**

2.24 Subdivision 1. **Scope.** For the purposes of sections 216B.0991 to 216B.0995, the  
2.25 terms defined in this section have the meanings given them.

2.26 Subd. 2. **Customer.** "Customer" means a person who has an established relationship  
2.27 with a propane distributor and whose propane system meets the safety guidelines  
2.28 established by the propane distributor for residential heating service.

2.29 Subd. 3. **LIHEAP.** "LIHEAP" means the low-income home energy assistance  
2.30 program.

2.31 Subd. 4. **Propane distributor.** "Propane distributor" means a person who sells  
2.32 propane at retail to customers as their primary residential heat source; propane distributors  
2.33 are not public utilities.

2.34 Subd. 5. **Residential heating service.** "Residential heating service" means the  
2.35 provision of the primary source of heat for the interior of a residential structure.

3.1 Sec. 3. **[216B.0992] PRICE AND FEE DISCLOSURE.**

3.2 A propane distributor must provide a document listing the current per-gallon price of  
3.3 propane and all additional charges, fees, and discounts that pertain to residential heating  
3.4 service. The document must be:

3.5 (1) made available to the general public upon request; and

3.6 (2) provided to new customers before residential heating service is initiated.

3.7 Sec. 4. **[216B.0993] BUDGET PAYMENT PLAN.**

3.8 (a) A propane distributor who offers customers a budget payment plan must make  
3.9 that same plan available to all customers, including those who participate in the LIHEAP  
3.10 program.

3.11 (b) A budget payment plan must equalize a customer's estimated annual propane bill  
3.12 by dividing it into equal monthly payments. Any budget plan started after the propane  
3.13 distributor's traditional budget plan start date will be divided by the remaining months  
3.14 in the budget plan year. Any positive balance remaining at the end of a year may, at the  
3.15 customer's discretion, be provided to the customer as a cash payment or carried over as a  
3.16 credit on the customer's bill for the next year.

3.17 (c) A propane distributor must notify a customer on a budget payment plan of a price  
3.18 or fee change that may affect the monthly amount due under the budget payment plan  
3.19 by more than 20 percent.

3.20 (d) A propane distributor may alter or terminate the plan if a customer has failed to  
3.21 pay two monthly payments during the period of the budget payment plan. In lieu of the  
3.22 requirements of this section, the parties may enter into a mutually agreeable plan.

3.23 Sec. 5. **[216B.0994] PROPANE PURCHASE CONTRACTS.**

3.24 A propane distributor is prohibited from adding any service, distribution,  
3.25 transportation, or similar fees to customer billings for those customers who have entered  
3.26 into a contract for prepurchasing or capitated pricing of propane for the period of the  
3.27 contract provided that:

3.28 (1) the customer has met all obligations of that contract; and

3.29 (2) the propane distributor can receive product from its contracted supply points and  
3.30 a force majeure has not been declared by the propane distributor's supplier.

3.31 Sec. 6. **[216B.0995] TERMS OF SALE.**

3.32 Subdivision 1. **Cash sales.** A propane distributor with an available supply of  
3.33 propane must not refuse to sell propane to a customer who:

4.1 (1) pays the distributor's established price upon delivery in cash, by certified or  
 4.2 cashier's check, or by commercial money order or its equivalent; or

4.3 (2) receives energy assistance from LIHEAP or a governmental or private agency  
 4.4 that has funds available to pay for a delivery.

4.5 Subd. 2. **LIHEAP participation; delivery.** A propane distributor who accepts  
 4.6 LIHEAP payments must, upon request, make available to its customers information  
 4.7 regarding LIHEAP, including income eligibility and contact information for organizations  
 4.8 accepting LIHEAP applications.

4.9 Subd. 3. **Third-party credit disclosure.** A propane distributor must not make  
 4.10 known the names of past or present delinquent customers to other propane distributors,  
 4.11 except in the course of a routine credit check performed when a prospective customer  
 4.12 applies for credit privileges.

4.13 Sec. 7. Minnesota Statutes 2012, section 216B.16, subdivision 14, is amended to read:

4.14 Subd. 14. **Low-income electric rate discount.** A public utility shall fund an  
 4.15 affordability program for low-income customers in an amount based on a 50 percent electric  
 4.16 rate discount on the first 400 kilowatt-hours consumed in a billing period for low-income  
 4.17 residential customers of the utility at a base annual funding level of \$8,000,000. The annual  
 4.18 funding level shall increase in the calendar years subsequent to each commission approval  
 4.19 of a rate increase for the public utility's residential customers by the same percentage as the  
 4.20 approved residential rate increase. Costs for the program shall be included in the utility's  
 4.21 base rate. For the purposes of this subdivision, "low-income" describes a customer who is  
 4.22 receiving assistance from the federal low-income home energy assistance program. The  
 4.23 affordability program must be designed to target participating customers with the lowest  
 4.24 incomes and highest energy costs in order to lower the percentage of income they devote  
 4.25 to energy bills, increase their payments, lower utility service disconnections, and lower  
 4.26 decrease costs associated with collection activities on their accounts. For low-income  
 4.27 customers who are 62 years of age or older or disabled, the program must, in addition to  
 4.28 any other program benefits, include a 50 percent electric rate discount on the first 400  
 4.29 kilowatt-hours consumed in a \$15 discount in each billing period. For the purposes of this  
 4.30 subdivision, "public utility" includes only those public utilities with more than 200,000  
 4.31 residential electric service customers. The commission may issue orders necessary to  
 4.32 implement, administer, and recover the costs of the program on a timely basis.

4.33 **EFFECTIVE DATE.** This section is effective October 1, 2014.

5.1 Sec. 8. Minnesota Statutes 2012, section 216B.1611, is amended by adding a  
5.2 subdivision to read:

5.3 Subd. 3a. **Project information.** (a) Beginning July 1, 2014, each electric utility  
5.4 shall request an applicant for interconnection of distributed renewable energy generation  
5.5 to provide the following information, in a format prescribed by the commissioner:

5.6 (1) the nameplate capacity of the facility in the application;

5.7 (2) the preincentive installed cost and cost components of the generation system  
5.8 at the facility;

5.9 (3) the energy source of the facility; and

5.10 (4) the zip code in which the facility is to be located.

5.11 (b) The commissioner shall develop or identify a system to collect and process the  
5.12 information under this subdivision for each utility, and make non-project-specific data  
5.13 available to the public on a periodic basis as determined by the commissioner, and in a  
5.14 format determined by the commissioner. The commissioner may solicit proposals from  
5.15 outside parties to develop the system. The commissioner may only collect data authorized  
5.16 in paragraph (a), and may not require submission of any additional data that could be used  
5.17 to personally identify any individual applicant or utility customer.

5.18 (c) Electric utilities collecting and transferring data under this subdivision are not  
5.19 responsible for the accuracy, completeness, or quality of the information under this  
5.20 subdivision.

5.21 (d) Except as provided in paragraph (b), any information provided by an applicant to  
5.22 the commissioner under this subdivision is nonpublic data as defined in section 13.02,  
5.23 subdivision 9.

5.24 **EFFECTIVE DATE.** This section is effective July 1, 2014, and applies to  
5.25 applications received on or after that date.

5.26 Sec. 9. **[216B.1614] ELECTRIC VEHICLE CHARGING TARIFF.**

5.27 Subdivision 1. **Definitions.** (a) For the purposes of this section, the terms defined in  
5.28 this subdivision have the meanings given them.

5.29 (b) "Electric vehicle" has the meaning given in section 169.011, subdivision 26a.

5.30 (c) "Public utility" has the meaning given in section 216B.02, subdivision 4.

5.31 (d) "Renewable energy" has the meaning given in section 216B.169, subdivision 2,  
5.32 paragraph (d).

5.33 Subd. 2. **Required tariff.** (a) By February 1, 2015, each public utility selling  
5.34 electricity at retail must file with the commission a tariff that allows a customer to purchase  
5.35 electricity solely for the purpose of recharging an electric vehicle. The tariff must:

- 6.1 (1) contain either a time-of-day or off-peak rate, as elected by the public utility;  
6.2 (2) offer a customer the option to purchase electricity:  
6.3 (i) from the utility's current mix of energy supply sources; or  
6.4 (ii) entirely from renewable energy sources, subject to the conditions established  
6.5 under section 216B.169, subdivision 2, paragraph (b), and subdivision 3, paragraph (a); and  
6.6 (3) be made available to the residential customer class.  
6.7 (b) The public utility may, at its discretion, offer the tariff to other customer classes.  
6.8 (c) The commission shall, after notice and opportunity for public comment, approve,  
6.9 modify, or reject the tariff. The commission may approve the tariff if the public utility  
6.10 has demonstrated that the tariff:  
6.11 (1) appropriately reflects off-peak versus peak cost differences in the rate charged;  
6.12 (2) includes a mechanism to allow the recovery of costs reasonably necessary to  
6.13 comply with this section, including costs to inform and educate customers about the  
6.14 financial, energy conservation, and environmental benefits of electric vehicles and to  
6.15 publicly advertise and promote participation in the customer-optional tariff;  
6.16 (3) provides for clear and transparent customer billing statements including, but not  
6.17 limited to, the amount of energy consumed under the tariff; and  
6.18 (4) incorporates the cost of metering or submetering within the rate charged to  
6.19 the customer.  
6.20 (d) Within 60 days of commission approval of a public utility's tariff filed under this  
6.21 section, the public utility shall make the tariff available to customers.  
6.22 (e) The utility may at any time propose revisions to a tariff filed under this  
6.23 subdivision based on changing costs or conditions.  
6.24 Subd. 3. **Data reporting.** Each public utility providing a tariff under this section  
6.25 shall periodically report to the commission, as established by the commission and on a form  
6.26 prescribed by the commission, the following information, organized on a per-quarter basis:  
6.27 (1) the number of customers who have arranged to purchase electricity under the  
6.28 tariff;  
6.29 (2) the total amount of electricity sold under the tariff; and  
6.30 (3) other data required by the commission.  
6.31 **EFFECTIVE DATE.** This section is effective the day following final enactment.

6.32 Sec. 10. Minnesota Statutes 2012, section 216B.241, is amended by adding a  
6.33 subdivision to read:

6.34 Subd. 5d. **On-bill loan repayment programs.** (a) For the purposes of this  
6.35 subdivision:

7.1 (1) "utility" means a public utility, municipal utility, or cooperative electric  
7.2 association that provides electric or natural gas service to retail customers; and

7.3 (2) "on-bill loan repayment program" means a program in which a utility collects  
7.4 on a customer's bill repayment of a loan to the customer by an eligible lender to finance  
7.5 the customer's investment in eligible energy conservation or renewable energy projects,  
7.6 and remits loan repayments to the lender.

7.7 (b) A utility may include as part of its conservation improvement plan an on-bill  
7.8 loan repayment program to enable a customer to finance eligible projects with installment  
7.9 loans originated by an eligible lender. An eligible project is one that is either an energy  
7.10 conservation improvement, or a project that uses an eligible renewable energy source as  
7.11 that term is defined in section 216B.2411, subdivision 2, paragraph (b), but does not  
7.12 include mixed municipal solid waste or refuse-derived fuel from mixed municipal solid  
7.13 waste. An eligible renewable energy source also includes solar thermal technology that  
7.14 collects the sun's radiant energy and transfers it to a storage medium for distribution as  
7.15 energy to heat or cool air or water, and meets the requirements of section 216C.25. To be  
7.16 an eligible lender, a lender must:

7.17 (1) have a federal or state charter and be eligible for federal deposit insurance;

7.18 (2) be a government entity, including an entity established under chapter 469, that  
7.19 has authority to provide financial assistance for energy efficiency and renewable energy  
7.20 projects;

7.21 (3) be a joint venture by utilities established under section 452.25; or

7.22 (4) be licensed, certified, or otherwise have its lending activities overseen by a  
7.23 state or federal government agency.

7.24 The commissioner must allow a utility broad discretion in designing and  
7.25 implementing an on-bill loan repayment program, provided that the program complies  
7.26 with this subdivision.

7.27 (c) A utility may establish an on-bill loan repayment program for all customer  
7.28 classes or for a specific customer class.

7.29 (d) A public utility that implements an on-bill repayment program under this  
7.30 subdivision must enter into a contract with one or more eligible lenders that complies  
7.31 with the requirements of this subdivision and contains provisions addressing capital  
7.32 commitments, loan origination, transfer of loans to the public utility for on-bill loan  
7.33 repayment, and acceptance of loans returned due to delinquency or default.

7.34 (e) A public utility's contract with a lender must require the lender to: (1) comply  
7.35 with all applicable federal and state laws, rules, and regulations related to lending practices  
7.36 and consumer protection; (2) conform to reasonable and prudent lending standards; and (3)

8.1 provide to businesses that sell, install, and maintain eligible projects the ability to participate  
8.2 in an on-bill repayment program under this subdivision that is nondiscriminatory.

8.3 (f) A public utility's contract with a lender may provide:

8.4 (1) for the public utility to purchase loans from the lender with a condition that the  
8.5 lender must purchase back loans in delinquency or default; or

8.6 (2) for the lender to retain ownership of loans with the public utility servicing the  
8.7 loans through on-bill repayment as long as payments are current.

8.8 The risk of default must remain with the lender. The lender shall not have recourse  
8.9 against the public utility except in the event of negligence or breach of contract by the utility.

8.10 (g) If a public utility customer makes a partial payment on a utility bill that includes  
8.11 a loan installment, the partial payment must be credited first to the amount owed for  
8.12 utility service, including taxes and fees. A public utility may not suspend or terminate  
8.13 a customer's utility service for delinquency or default on a loan that is being serviced  
8.14 through the public utility's on-bill loan repayment program.

8.15 (h) An outstanding balance on a loan being repaid under this subdivision is a financial  
8.16 obligation only of the customer who is signatory to the loan, and not to any subsequent  
8.17 customer occupying the property associated with the loan. If the utility purchases loans  
8.18 from the lender as authorized under paragraph (f), clause (1), the utility must return to the  
8.19 lender a loan not repaid when a customer borrower no longer occupies the property.

8.20 (i) Costs incurred by a public utility under this subdivision are recoverable as provided  
8.21 in section 216B.16, subdivision 6b, paragraph (c), including reasonable incremental costs  
8.22 for billing system modifications necessary to implement and operate an on-bill loan  
8.23 repayment program and for ongoing costs to operate the program. Approved costs may be  
8.24 counted toward a utility's conservation spending requirements under subdivisions 1a and  
8.25 1b. Energy savings from energy conservation improvements resulting from this section  
8.26 may be counted toward satisfying a utility's energy-savings goals under subdivision 1c.

8.27 (j) This subdivision does not require a utility to terminate or modify an existing  
8.28 financing program and does not prohibit a utility from establishing an on-bill financing  
8.29 program in which the utility provides the financing capital.

8.30 (k) A municipal utility or cooperative electric association that implements an on-bill  
8.31 loan repayment program shall design the program to address the issues identified in  
8.32 paragraphs (d) to (h) as determined by the governing board of the utility or association.

8.33 Sec. 11. Minnesota Statutes 2012, section 216B.2422, is amended by adding a  
8.34 subdivision to read:

9.1            Subd. 2c. **Long-range emission reduction planning.** Each utility required to file a  
9.2 resource plan under subdivision 2 shall include in the filing a narrative identifying and  
9.3 describing: (1) the costs, opportunities, and technical barriers to the utility continuing to  
9.4 make progress on its system toward achieving the state greenhouse gas emission reduction  
9.5 goals established in section 216H.02, subdivision 1; and (2) the technologies, alternatives,  
9.6 and steps the utility is considering to address those opportunities and barriers.

9.7            Sec. 12. Minnesota Statutes 2012, section 216B.243, subdivision 8, is amended to read:

9.8            Subd. 8. **Exemptions.** This section does not apply to:

9.9            (1) cogeneration or small power production facilities as defined in the Federal Power  
9.10 Act, United States Code, title 16, section 796, paragraph (17), subparagraph (A), and  
9.11 paragraph (18), subparagraph (A), and having a combined capacity at a single site of less  
9.12 than 80,000 kilowatts; plants or facilities for the production of ethanol or fuel alcohol; or  
9.13 any case where the commission has determined after being advised by the attorney general  
9.14 that its application has been preempted by federal law;

9.15            (2) a high-voltage transmission line proposed primarily to distribute electricity to  
9.16 serve the demand of a single customer at a single location, unless the applicant opts to  
9.17 request that the commission determine need under this section or section 216B.2425;

9.18            (3) the upgrade to a higher voltage of an existing transmission line that serves the  
9.19 demand of a single customer that primarily uses existing rights-of-way, unless the applicant  
9.20 opts to request that the commission determine need under this section or section 216B.2425;

9.21            (4) a high-voltage transmission line of one mile or less required to connect a new or  
9.22 upgraded substation to an existing, new, or upgraded high-voltage transmission line;

9.23            (5) conversion of the fuel source of an existing electric generating plant to using  
9.24 natural gas; ~~or~~

9.25            (6) the modification of an existing electric generating plant to increase efficiency,  
9.26 as long as the capacity of the plant is not increased more than ten percent or more than  
9.27 100 megawatts, whichever is greater; or

9.28            (7) a wind energy conversion system or solar electric generation facility if the system  
9.29 or facility is owned and operated by an independent power producer and the electric  
9.30 output of the system or facility is not sold to an entity that provides retail or wholesale  
9.31 electric service in Minnesota other than an entity that is a federally recognized regional  
9.32 transmission organization or independent system operator.

9.33            **EFFECTIVE DATE.** This section is effective the day following final enactment.

9.34            Sec. 13. Minnesota Statutes 2012, section 216C.41, subdivision 4, is amended to read:

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

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

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

10.5 (3) by a qualified on-farm biogas recovery facility after December 31, ~~2015~~ 2017.

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

10.10 Sec. 14. Minnesota Statutes 2012, section 216C.436, subdivision 4, is amended to read:

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

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

10.15 (2) a principal amount not to exceed the lesser of ~~ten~~ 20 percent of the assessed value  
10.16 of the real property on which the improvements are to be installed or the actual cost of  
10.17 installing the energy improvements, including the costs of necessary equipment, materials,  
10.18 and labor, the costs of each related energy audit or renewable energy system feasibility  
10.19 study, and the cost of verification of installation; and

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

10.22 Sec. 15. Minnesota Statutes 2012, section 216C.436, is amended by adding a  
10.23 subdivision to read:

10.24 Subd. 9. **Supplemental funding sources.** (a) An implementing entity is authorized  
10.25 to establish, acquire, and use additional or alternative funding sources for the purposes  
10.26 of this section.

10.27 (b) For the purposes of this subdivision, additional or alternative funding sources  
10.28 may include, but are not limited to, issuance of general obligation bonds in a manner  
10.29 consistent with the requirements of chapter 475.

10.30 Sec. 16. Minnesota Statutes 2012, section 216E.01, is amended by adding a subdivision  
10.31 to read:

11.1            Subd. 8a. **Solar energy generating system.** "Solar energy generating system"  
11.2            means a set of devices whose primary purpose is to produce electricity by means of any  
11.3            combination of collecting, transferring, or converting solar-generated energy.

11.4            Sec. 17. **[216E.021] SOLAR ENERGY SYSTEM SIZE DETERMINATION.**

11.5            (a) This section must be used to determine whether a combination of solar energy  
11.6            generating systems meets the definition of large electric power generating plant and is  
11.7            subject to the commission's siting authority jurisdiction under this chapter. The alternating  
11.8            current nameplate capacity of one solar energy generating system must be combined with  
11.9            the alternating current nameplate capacity of any other solar energy generating system that:

11.10           (1) is constructed within the same 12-month period as the solar energy generating  
11.11           system; and

11.12           (2) exhibits characteristics of being a single development, including but not limited  
11.13           to ownership structure, an umbrella sales arrangement, shared interconnection, revenue  
11.14           sharing arrangements, and common debt or equity financing.

11.15           (b) The commissioner of commerce shall provide forms and assistance for applicants  
11.16           to make a request for a size determination. Upon written request of an applicant, the  
11.17           commissioner shall provide a written size determination within 30 days of receipt of the  
11.18           request and of any information requested by the commissioner. In the case of a dispute,  
11.19           the chair of the Public Utilities Commission shall make the final size determination.

11.20           Sec. 18. Minnesota Statutes 2012, section 216E.04, subdivision 2, is amended to read:

11.21           Subd. 2. **Applicable projects.** The requirements and procedures in this section  
11.22           apply to the following projects:

11.23           (1) large electric power generating plants with a capacity of less than 80 megawatts;

11.24           (2) large electric power generating plants that are fueled by natural gas;

11.25           (3) high-voltage transmission lines of between 100 and 200 kilovolts;

11.26           (4) high-voltage transmission lines in excess of 200 kilovolts and less than five miles  
11.27           in length in Minnesota;

11.28           (5) high-voltage transmission lines in excess of 200 kilovolts if at least 80 percent  
11.29           of the distance of the line in Minnesota will be located along existing high-voltage  
11.30           transmission line right-of-way;

11.31           (6) a high-voltage transmission line service extension to a single customer between  
11.32           200 and 300 kilovolts and less than ten miles in length; and

- 12.1 (7) a high-voltage transmission line rerouting to serve the demand of a single  
12.2 customer when the rerouted line will be located at least 80 percent on property owned or  
12.3 controlled by the customer or the owner of the transmission line; and  
12.4 (8) large electric power generating plants that are powered by solar energy.

12.5 Sec. 19. Minnesota Statutes 2012, section 239.051, subdivision 29, is amended to read:

12.6 Subd. 29. **Refinery, terminal.** "Refinery" or "terminal" means a petroleum refinery,  
12.7 pipeline terminal, river terminal, storage facility, or other point of origin where liquefied  
12.8 petroleum gas or petroleum products are manufactured, or imported by rail, truck, barge, or  
12.9 pipe; and held, stored, transferred, offered for distribution, distributed, offered for sale, or  
12.10 sold. For the purpose of restricting petroleum product blending, this definition includes all  
12.11 refineries and terminals within and outside of Minnesota, but does not include a licensed  
12.12 distributor's bulk storage facility that is used to store petroleum products for which the  
12.13 petroleum inspection fee charged under this chapter is either not due or has been paid.

12.14 Sec. 20. Minnesota Statutes 2012, section 239.785, is amended by adding a subdivision  
12.15 to read:

12.16 Subd. 7. **Notification of product unavailability; terminal operators.** A person  
12.17 who operates a terminal where liquefied petroleum gas is loaded into transport trucks for  
12.18 subsequent distribution shall notify the commissioner within 24 hours when liquefied  
12.19 petroleum gas is physically not available for sale to licensed distributors.

12.20 Sec. 21. Minnesota Statutes 2012, section 325E.027, is amended to read:

12.21 **325E.027 DISCRIMINATION PROHIBITION.**

12.22 (a) No dealer or distributor of liquid propane gas or number 1 or number 2 fuel oil  
12.23 who has signed a low-income home energy assistance program vendor agreement with the  
12.24 Department of Commerce may refuse to deliver liquid propane gas or number 1 or number  
12.25 2 fuel oil to any person located within the dealer's or distributor's normal delivery area  
12.26 who receives direct grants under the low-income home energy assistance program if:

12.27 (1) the person has requested delivery;

12.28 (2) the dealer or distributor has product available;

12.29 (3) the person requesting delivery is capable of making full payment at the time of  
12.30 delivery; and

12.31 (4) the person is not in arrears regarding any previous fuel purchase from that dealer  
12.32 or distributor.

13.1 (b) A dealer or distributor making delivery to a person receiving direct grants  
13.2 under the low-income home energy assistance program may not charge that person any  
13.3 additional costs or fees that would not be charged to any other customer and must make  
13.4 available to that person any discount program on the same basis as the dealer or distributor  
13.5 makes available to any other customer.

13.6 (c) The commissioner of commerce may enforce this section using any of the  
13.7 authority granted to the commissioner under section 45.027.

13.8 Sec. 22. **[500.216] LIMITS ON CERTAIN RESIDENTIAL SOLAR ENERGY**  
13.9 **SYSTEMS PROHIBITED.**

13.10 Subdivision 1. **General rule.** A private entity may not prohibit or refuse to permit  
13.11 installation, maintenance, or use of a roof-mounted solar energy system by the owner of a  
13.12 single-family dwelling notwithstanding any covenant, restriction, or condition contained  
13.13 in a deed, security instrument, homeowners association document, or any other instrument  
13.14 affecting the transfer, sale of, or an interest in real property, except as provided in this  
13.15 section.

13.16 Subd. 2. **Applicability.** This section applies to single-family dwellings, whether  
13.17 attached or detached, where the dwelling owner is responsible for maintenance, repair,  
13.18 replacement, and insurance of the roof of the dwelling.

13.19 Subd. 3. **Definitions.** (a) The definitions in this subdivision apply to this section.

13.20 (b) "Private entity" means a homeowners association, community association, or  
13.21 other association that is subject to a homeowners association document.

13.22 (c) "Homeowners association document" means a document containing the  
13.23 declaration, articles of incorporation, bylaws, or rules and regulations of:

13.24 (1) a common interest community, as defined in section 515B.1-103, regardless of  
13.25 whether the common interest community is subject to chapter 515B; and

13.26 (2) a residential community that is not a common interest community.

13.27 (d) "Solar energy system" has the meaning given in section 216C.06, subdivision 17.

13.28 Subd. 4. **Allowable conditions.** (a) This section does not prohibit a private entity  
13.29 from requiring that:

13.30 (1) a licensed contractor install a solar energy system;

13.31 (2) a roof-mounted solar energy system not extend above the peak of a pitched roof  
13.32 or beyond the edge of the roof;

13.33 (3) the owner or installer of a solar energy system indemnify or reimburse the private  
13.34 entity or its members for loss or damage caused by the installation, maintenance, use,  
13.35 repair, or removal of a solar energy system;

14.1 (4) the owner and each successive owner of a solar energy system list the private  
14.2 entity as a certificate holder on the homeowner's insurance policy;

14.3 (5) the owner and each successive owner of a solar energy system be responsible for  
14.4 removing the system if reasonably necessary for the repair, maintenance, or replacement  
14.5 of common elements or limited common elements, as defined in section 515B.1-103; or

14.6 (6) the owner not modify the existing style of roof design or type of roofing material.

14.7 (b) A private entity may impose additional reasonable conditions on the installation,  
14.8 maintenance, or use of solar energy systems. Additional conditions imposed under  
14.9 this paragraph are presumed to be reasonable if they do not, in aggregate, decrease the  
14.10 projected generation of energy by a solar energy system by more than ten percent or, in  
14.11 aggregate, increase the cost of the labor and materials of the solar energy system by  
14.12 more than ten percent, compared with the generation of energy and the cost of labor and  
14.13 materials certified by the designer or installer of the solar energy system as originally  
14.14 proposed without the restrictions. A private entity may obtain an alternative bid and  
14.15 design from a solar energy system designer or installer for the purposes of this paragraph.

14.16 (c) A solar energy system must meet applicable standards and requirements imposed  
14.17 by the state and by governmental units, as defined in section 462.384.

14.18 (d) A solar energy system for heating water must be certified by the Solar Rating  
14.19 Certification Corporation (SRCC) or an equivalent certification agency. A solar energy  
14.20 system for producing electricity must meet all applicable safety and performance standards  
14.21 established by the National Electrical Code, the Institute of Electrical and Electronics  
14.22 Engineers, and accredited testing laboratories, including, but not limited to, Underwriters  
14.23 Laboratories and, where applicable, rules of the Public Utilities Commission regarding  
14.24 safety and reliability.

14.25 (e) If approval by a private entity is required for the installation or use of a solar  
14.26 energy system, the application for approval must be processed and approved in the same  
14.27 manner as an application for approval of an architectural modification to the property, and  
14.28 must not be willfully avoided or delayed. A private entity may deny an application if it  
14.29 fails to satisfy any of the conditions allowed under this subdivision. A private entity shall  
14.30 approve or deny an application in writing. If an application is not denied in writing within  
14.31 60 days from the date of receipt of the application, the application is deemed approved  
14.32 unless the delay is the result of a reasonable request for additional information.

14.33 Sec. 23. Minnesota Statutes 2012, section 515.07, is amended to read:

14.34 **515.07 COMPLIANCE WITH COVENANTS, BYLAWS, AND RULES.**

15.1 Each apartment owner shall comply strictly with the bylaws and with the  
15.2 administrative rules adopted pursuant thereto, as either of the same may be lawfully  
15.3 amended from time to time, and with the covenants, conditions, and restrictions set forth in  
15.4 the declaration or in the owner's deed to the apartment. Failure to comply with any of the  
15.5 same shall be ground for an action to recover sums due, for damages or injunctive relief or  
15.6 both maintainable by the manager or board of directors on behalf of the association of  
15.7 apartment owners or, in a proper case, by an aggrieved apartment owner. This chapter is  
15.8 subject to ~~section~~ sections 500.215 and 500.216.

15.9 Sec. 24. Minnesota Statutes 2012, section 515B.2-103, is amended to read:

15.10 **515B.2-103 CONSTRUCTION AND VALIDITY OF DECLARATION AND**  
15.11 **BYLAWS.**

15.12 (a) All provisions of the declaration and bylaws are severable.

15.13 (b) The rule against perpetuities may not be applied to defeat any provision of  
15.14 the declaration or this chapter, or any instrument executed pursuant to the declaration  
15.15 or this chapter.

15.16 (c) In the event of a conflict between the provisions of the declaration and the  
15.17 bylaws, the declaration prevails except to the extent that the declaration is inconsistent  
15.18 with this chapter.

15.19 (d) The declaration and bylaws must comply with ~~section~~ sections 500.215 and  
15.20 500.216.

15.21 Sec. 25. Minnesota Statutes 2012, section 515B.3-102, is amended to read:

15.22 **515B.3-102 POWERS OF UNIT OWNERS' ASSOCIATION.**

15.23 (a) Except as provided in subsections (b) and (c), and subject to the provisions of the  
15.24 declaration or bylaws, the association shall have the power to:

15.25 (1) adopt, amend and revoke rules and regulations not inconsistent with the articles  
15.26 of incorporation, bylaws and declaration, as follows: (i) regulating the use of the common  
15.27 elements; (ii) regulating the use of the units, and conduct of unit occupants, which may  
15.28 jeopardize the health, safety or welfare of other occupants, which involves noise or  
15.29 other disturbing activity, or which may damage the common elements or other units;  
15.30 (iii) regulating or prohibiting animals; (iv) regulating changes in the appearance of the  
15.31 common elements and conduct which may damage the common interest community;  
15.32 (v) regulating the exterior appearance of the common interest community, including,  
15.33 for example, balconies and patios, window treatments, and signs and other displays,  
15.34 regardless of whether inside a unit; (vi) implementing the articles of incorporation,

- 16.1 declaration and bylaws, and exercising the powers granted by this section; and (vii)  
16.2 otherwise facilitating the operation of the common interest community;
- 16.3 (2) adopt and amend budgets for revenues, expenditures and reserves, and levy and  
16.4 collect assessments for common expenses from unit owners;
- 16.5 (3) hire and discharge managing agents and other employees, agents, and  
16.6 independent contractors;
- 16.7 (4) institute, defend, or intervene in litigation or administrative proceedings (i) in  
16.8 its own name on behalf of itself or two or more unit owners on matters affecting the  
16.9 common elements or other matters affecting the common interest community or, (ii) with  
16.10 the consent of the owners of the affected units on matters affecting only those units;
- 16.11 (5) make contracts and incur liabilities;
- 16.12 (6) regulate the use, maintenance, repair, replacement, and modification of the  
16.13 common elements and the units;
- 16.14 (7) cause improvements to be made as a part of the common elements, and, in the  
16.15 case of a cooperative, the units;
- 16.16 (8) acquire, hold, encumber, and convey in its own name any right, title, or interest  
16.17 to real estate or personal property, but (i) common elements in a condominium or planned  
16.18 community may be conveyed or subjected to a security interest only pursuant to section  
16.19 515B.3-112, or (ii) part of a cooperative may be conveyed, or all or part of a cooperative  
16.20 may be subjected to a security interest, only pursuant to section 515B.3-112;
- 16.21 (9) grant or amend easements for public utilities, public rights-of-way or other  
16.22 public purposes, and cable television or other communications, through, over or under  
16.23 the common elements; grant or amend easements, leases, or licenses to unit owners for  
16.24 purposes authorized by the declaration; and, subject to approval by a vote of unit owners  
16.25 other than declarant or its affiliates, grant or amend other easements, leases, and licenses  
16.26 through, over or under the common elements;
- 16.27 (10) impose and receive any payments, fees, or charges for the use, rental, or  
16.28 operation of the common elements, other than limited common elements, and for services  
16.29 provided to unit owners;
- 16.30 (11) impose interest and late charges for late payment of assessments and, after  
16.31 notice and an opportunity to be heard before the board or a committee appointed by it,  
16.32 levy reasonable fines for violations of the declaration, bylaws, and rules and regulations  
16.33 of the association;
- 16.34 (12) impose reasonable charges for the review, preparation and recordation of  
16.35 amendments to the declaration, resale certificates required by section 515B.4-107,  
16.36 statements of unpaid assessments, or furnishing copies of association records;

17.1 (13) provide for the indemnification of its officers and directors, and maintain  
17.2 directors' and officers' liability insurance;

17.3 (14) provide for reasonable procedures governing the conduct of meetings and  
17.4 election of directors;

17.5 (15) exercise any other powers conferred by law, or by the declaration, articles  
17.6 of incorporation or bylaws; and

17.7 (16) exercise any other powers necessary and proper for the governance and  
17.8 operation of the association.

17.9 (b) Notwithstanding subsection (a) the declaration or bylaws may not impose  
17.10 limitations on the power of the association to deal with the declarant which are more  
17.11 restrictive than the limitations imposed on the power of the association to deal with other  
17.12 persons.

17.13 (c) Notwithstanding subsection (a), powers exercised under this section must comply  
17.14 with ~~section~~ sections 500.215 and 500.216.

17.15 Sec. 26. Laws 2013, chapter 57, section 2, is amended to read:

17.16 Sec. 2. **TRANSMISSION LINE; CERTIFICATE OF NEED REQUIRED**  
17.17 **AND EVIDENCE REQUIRED.**

17.18 (a) A high-voltage transmission line with a capacity of 100 kilovolts or more proposed  
17.19 to be located within a city in the metropolitan area as defined in Minnesota Statutes,  
17.20 section 473.121, subdivision 2, for which a route permit application was filed between  
17.21 June 2011 and August 2011, and a certificate of need application was filed between June  
17.22 2012 and August 2012, to rebuild approximately eight miles of 69 kilovolt transmission  
17.23 with a high-voltage transmission line to meet local area distribution needs, must be  
17.24 approved in a certificate of need proceeding conducted under Minnesota Statutes, section  
17.25 216B.243. The certificate of need may be approved only if the commission finds by clear  
17.26 and convincing evidence that there is no feasible and available distribution level alternative  
17.27 to the transmission line. In making its findings the commission shall consider the factors  
17.28 provided in applicable law and rules including, without limitation, cost-effectiveness,  
17.29 energy conservation, and the protection or enhancement of environmental quality.

17.30 (b) Further proceedings regarding the routing of a high-voltage transmission line  
17.31 described in this section shall be suspended until the Public Utilities Commission has  
17.32 made a determination that the transmission line is needed.

17.33 (c) If an application for a certificate of need described in paragraph (a) is withdrawn  
17.34 or otherwise abandoned, this section shall apply to any high-voltage transmission line of  
17.35 100 kilovolts or more proposed to meet the same needs as the line described in paragraph

18.1 (a) and that follows a route that is similar to that of the line subject to paragraph (a). In  
18.2 addition, a certificate of need for a line subject to this paragraph is not effective until  
18.3 30 days following the adjournment of the regular legislative session next following  
18.4 commission approval of the certificate of need.

18.5 **EFFECTIVE DATE.** This section is effective the day following final enactment.

18.6 Sec. 27. Laws 2014, chapter 145, section 1, is amended to read:

18.7 Section 1. **LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM;**  
18.8 **SUPPLEMENTAL APPROPRIATION.**

18.9 (a) \$20,000,000 is appropriated in fiscal year 2014 from the general fund to the  
18.10 commissioner of commerce for the purpose of providing additional heating assistance  
18.11 through the low-income home energy assistance program under United States Code, title  
18.12 42, sections 8621 to 8630, and Minnesota Statutes, section 216C.02, subdivision 1. No  
18.13 more than ~~five~~ eight percent of this appropriation may be used for expenses to administer  
18.14 the program. Any unspent balance available on June 30, 2014, cancels to the general fund.

18.15 (b) The funding provided in this section shall supplement, and not replace, any  
18.16 federal or other funding existing or otherwise available for heating assistance in Minnesota.

18.17 (c) The commissioner shall disburse the funds provided in this section in a manner  
18.18 consistent with the requirements of the federal low-income home energy assistance  
18.19 program under United States Code, title 42, sections 8621 to 8630.

18.20 Sec. 28. **LEGISLATIVE ENERGY COMMISSION; PROPANE CONVERSION**  
18.21 **STRATEGIES.**

18.22 (a) The Legislative Energy Commission is required to investigate the feasibility of  
18.23 converting propane gas users to alternative sources of energy, including but not limited to  
18.24 renewable technologies, such as geothermal ground-source heat pumps and solar thermal,  
18.25 and nonrenewable sources, such as natural gas. The investigation, among other things,  
18.26 should assess the technical and economic issues for converting nonmetropolitan users of  
18.27 propane to users of alternative sources of heat. The investigation should assess to what  
18.28 extent increased residential weatherization efforts could decrease the need for delivered  
18.29 fuels.

18.30 (b) The commission is requested to complete its investigations so that any  
18.31 recommendations for legislation are completed by January 15, 2015.

18.32 **EFFECTIVE DATE.** This section is effective the day following final enactment.

19.1       Sec. 29. **REPEALER.**

19.2           Subdivision 1. **Weatherization assistance.** Minnesota Rules, parts 3300.0800;  
19.3 3300.0900; 3300.1000, subparts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 19,  
19.4 20, 21, 22, 23, 24, 25, 25a, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, and 36; 3300.1100;  
19.5 3300.1200; 3300.1300; 3300.1400; 3300.1500; 3300.1600; 3300.1700; 3300.1800; and  
19.6 3300.1900, are repealed.

19.7           Subd. 2. **Energy conservation loan program.** Minnesota Rules, parts 7607.0100;  
19.8 7607.0110; 7607.0120; 7607.0130; 7607.0140; 7607.0150; 7607.0160; 7607.0170; and  
19.9 7607.0180, are repealed.

19.10          Subd. 3. **Electric utilities; extended forecasts.** Minnesota Rules, part 7610.0300,  
19.11 is repealed.

19.12          Subd. 4. **Cooling systems replacement; energy efficiency criteria.** Minnesota  
19.13 Rules, parts 7685.0100; 7685.0120; 7685.0130; and 7685.0140, are repealed.

**3300.0800 PURPOSE.**

The purpose of parts 3300.0800 to 3300.1900 is to develop and implement a state weatherization assistance program under the authority of Minnesota Statutes, section 268.37 in the dwellings of low-income persons in order both to aid those persons least able to afford higher utility costs and to conserve needed energy.

**3300.0900 ADMINISTRATION OF GRANTS.**

Grants awarded under parts 3300.0800 to 3300.1900 shall be administered in accordance with the following:

A. Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments, issued as Office of Management and Budget Circular A-102 Revised and found in the Federal Register, volume 42, pages 45828-45891 (1977);

B. Grants and Agreements With Institutions of Higher Education, Hospitals, and other Nonprofit Organizations, issued as Office of Management and Budget Circular A-110 and found in the Federal Register, volume 41, pages 32016-32037 (1976);

C. Audit of Federal Operations and Programs, issued as Office of Management and Budget Circular A-73 and found in the Federal Register, volume 43, pages 12404-12406 (1978);

D. Cost Principles for State and Local Governments, issued as Office of Management and Budget Circular A-87 and found in the Federal Register, volume 46, pages 9548-9554 (1981);

E. Evaluation, Review and Coordination of Federal and Federally Assisted Programs and Projects, issued as Office of Management and Budget Circular A-95 and found in the Federal Register, volume 40, pages 2052-2065 (1976);

F. Notification to States of Grant-in-Aid Information, issued as United States Treasury Circular 1082 and found in the Federal Register, volume 41, page 2652 (1976); and

G. Withdrawal of Cash From the Treasury for Advances Under Federal Grant and Other Programs, issued as United States Treasury Circular 1075 and found in the Code of Federal Regulations, title 31, part 205 (1980).

**3300.1000 DEFINITIONS.**

Subpart 1. **Scope.** As used in parts 3300.0800 to 3300.1900 the following terms have the meanings given them.

**3300.1000 DEFINITIONS.**

Subp. 2. **Agency.** "Agency" means an organization that receives funds under parts 3300.0800 to 3300.1900 to operate a weatherization program.

**3300.1000 DEFINITIONS.**

Subp. 3. **Assistant commissioner.** "Assistant commissioner" means the assistant commissioner of the Division of Training and Community Services of the Department of Employment and Economic Development.

**3300.1000 DEFINITIONS.**

Subp. 4. **Community action agency.** "Community action agency" means a private corporation or public agency as defined in Minnesota Statutes, section 256E.31, subdivision 1.

**3300.1000 DEFINITIONS.**

Subp. 5. **Commissioner.** "Commissioner" means the commissioner of the Department of Employment and Economic Development.

**3300.1000 DEFINITIONS.**

Subp. 6. **Conditioned space.** "Conditioned space" means an area inside the building envelope where the air temperature can be altered by a heating or cooling device.

**3300.1000 DEFINITIONS.**

Subp. 7. **Cosmetic items.** "Cosmetic items" means items that only enhance the aesthetic appearance of the property. Some examples of "cosmetic items" are finishes, decorative

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fenestration, and elevation materials such as aluminum siding, board and batten, clapboard, brick, stone, shakes, and asphalt siding.

**3300.1000 DEFINITIONS.**

Subp. 8. **Cost of employment.** "Cost of employment" means compensation for services as defined in Office of Management and Budget Circular A-87, Attachment B, A.10, A.13, and A.14, as cited in part 3300.0900, item D.

**3300.1000 DEFINITIONS.**

Subp. 9. **Department.** "Department" means the Department of Employment and Economic Development.

**3300.1000 DEFINITIONS.**

Subp. 10. **Dwelling unit.** "Dwelling unit" means a house or household. It includes stationary mobile homes, homes, apartments, and groups of rooms or single rooms occupied as separate living quarters.

**3300.1000 DEFINITIONS.**

Subp. 11. **Elderly person.** "Elderly person" means a person who is 60 years of age or older.

**3300.1000 DEFINITIONS.**

Subp. 12. **Eligible dwelling unit.** "Eligible dwelling unit" means a dwelling unit that is occupied by a low-income family unit.

**3300.1000 DEFINITIONS.**

Subp. 13. **Family unit.** "Family unit" means all persons living together in a dwelling unit.

**3300.1000 DEFINITIONS.**

Subp. 14. **Grantee.** "Grantee" means an organization that receives funds under this rule to operate a weatherization program.

**3300.1000 DEFINITIONS.**

Subp. 15. **Grantor.** "Grantor" means the Division of Training and Community Services, Department of Employment and Economic Development, state of Minnesota.

**3300.1000 DEFINITIONS.**

Subp. 17. **Heating degree days.** "Heating degree days" means the difference in temperature, in degrees Fahrenheit between the mean temperature for the day and 65 degrees Fahrenheit on any day when the mean temperature is less than 65 degrees Fahrenheit. Data for this factor is from Monthly Normals of Temperature, Precipitation and Heating and Cooling Degree Days, 1941 to 1970, issued by the National Oceanic and Atmospheric Administration (United States Department of Commerce, 1973).

**3300.1000 DEFINITIONS.**

Subp. 18. **Heating or cooling source.** "Heating or cooling source" means a device that can raise or lower temperatures in a dwelling unit as part of the permanent heating, ventilating, and air conditioning system installed in the dwelling unit. It includes furnaces, heat pumps, stoves, boilers, heaters, fireplaces, air conditioners, fans, and solar devices.

**3300.1000 DEFINITIONS.**

Subp. 19. **Independent contractor.** "Independent contractor" means an entity that furnishes materials or provides labor or both in the weatherization of buildings of low-income persons.

**3300.1000 DEFINITIONS.**

Subp. 20. **Indian tribe.** "Indian tribe" means any tribe, band, nation, or other organized group or community of Native Americans, including any Alaska native village, or regional or village corporation as defined in or established under the Alaska Native Claims Settlement Act, United States Code, title 43, sections 1601 to 1628 (1977 and Supplement III 1980), which:

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A. is recognized as eligible for special programs and services provided by the United States to Native Americans because of its status as Native American; or

B. is located on or near a federal or state reservation or rancheria.

**3300.1000 DEFINITIONS.**

Subp. 21. **Low-income.** "Low-income" means having a total household income in relation to family size which:

A. is at or below 125 percent of the poverty level determined in accordance with criteria established by the Director of the Federal Office of Management and Budget in Code of Federal Regulations, title 45, section 1060 (1981); or

B. is the basis for which cash assistance payments have been paid during the preceding 12-month period under titles IV and XVI of the Social Security Act, Statutes at Large, volume 49, page 620, chapter 531 (1935), codified in scattered sections of United States Code, volume 42.

**3300.1000 DEFINITIONS.**

Subp. 22. **Mechanical equipment.** "Mechanical equipment" means control devices or apparatus that is primarily designed to improve the heating or cooling efficiency of a dwelling unit and that will be permanently affixed to an existing heating or cooling source. It includes a flue damper, clock setback thermostat, filter, and replacement limit switches.

**3300.1000 DEFINITIONS.**

Subp. 23. **Multifamily dwelling unit.** "Multifamily dwelling unit" means a dwelling unit that is located in a structure containing more than one dwelling unit.

**3300.1000 DEFINITIONS.**

Subp. 24. **Number of low-income, owner-occupied dwelling units in the county.** "Number of low-income, owner-occupied dwelling units in the county" means the number of those dwelling units in a county as determined by the department.

**3300.1000 DEFINITIONS.**

Subp. 25. **Number of low-income, renter-occupied dwelling units in the county.** "Number of low-income, renter-occupied dwelling units in the county" means the number of those dwelling units in a county as determined by the department.

**3300.1000 DEFINITIONS.**

Subp. 25a. **Person with a disability.** "Person with a disability" means a person who, in the opinion of a qualified medical person, is permanently physically or mentally disabled. "Qualified medical person" means a qualified physician or chiropractor authorized to practice in the state of Minnesota.

**3300.1000 DEFINITIONS.**

Subp. 26. **Repair material.** "Repair material" means an item necessary for the effective performance or preservation of weatherization materials. "Repair material" includes lumber used to frame or repair windows and doors that could not otherwise be caulked or weather-stripped, and protective materials, such as paint, used to seal materials installed under this program. "Repair material" also includes furnace efficiency modifications limited to:

A. replacement burners;

B. devices for modifying fuel openings, including one-time replacement of furnace filters; and

C. electrical or mechanical furnace ignition systems that replace standing gas pilot lights.

**3300.1000 DEFINITIONS.**

Subp. 27. **Regional clearinghouse.** "Regional clearinghouse" means the local regional development commission that has the authority under title IV of the Intergovernmental Cooperation Act of 1968, United States Code, volume 42, sections 4231 to 4233 (1977), to review and comment with respect to projects funded by the federal and state governments.

**3300.1000 DEFINITIONS.**

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Subp. 28. **Rental dwelling unit.** "Rental dwelling unit" means a dwelling unit occupied by a person who pays periodic sums of money to occupy the dwelling unit.

**3300.1000 DEFINITIONS.**

Subp. 29. **Separate living quarters.** "Separate living quarters" means those in which the occupants do not regularly live and eat with any other persons in the structure and which have either direct access from the outside of the building or through a common hall, or complete kitchen facilities for the exclusive use of the occupants. The occupants may be a single family, one person living alone, two or more families living together, or any other group of related or unrelated persons who share living arrangements.

**3300.1000 DEFINITIONS.**

Subp. 30. **Single-family dwelling unit.** "Single-family dwelling unit" means a structure containing no more than one dwelling unit.

**3300.1000 DEFINITIONS.**

Subp. 31. **State.** "State" means the state of Minnesota.

**3300.1000 DEFINITIONS.**

Subp. 32. **Weatherization crew.** "Weatherization crew" means a group of weatherization laborers with a weatherization supervisor.

**3300.1000 DEFINITIONS.**

Subp. 33. **Weatherization laborer.** "Weatherization laborer" means a person who performs weatherization and repair activities necessary to complete work on eligible dwelling units. The work may include auditing, inspecting, delivery, and physical warehousing of weatherization materials and equipment.

**3300.1000 DEFINITIONS.**

Subp. 34. **Weatherization project.** "Weatherization project" means a project conducted in a single geographical area which undertakes to weatherize dwelling units that are thermally inefficient.

**3300.1000 DEFINITIONS.**

Subp. 35. **Weatherization supervisor.** "Weatherization supervisor" means a person who inspects weatherization and repair activities and who is responsible for crew laborers' conduct, performance, and evaluation.

**3300.1000 DEFINITIONS.**

Subp. 36. **Weatherization materials.** "Weatherization materials" means materials used to weatherize homes as defined in Code of Federal Regulations, title 10, sections 456.101 to 456.914 (1980) amended by Federal Register, volume 45, pages 63449, 63453, 63793 (1980).

**3300.1100 ALLOCATION OF FUNDS.**

Subpart 1. **Determination.** The department shall allocate funds by county to eligible grantees with a demonstrated ability to administer and deliver weatherization services. The department shall determine whether or not a grantee has a demonstrated ability to administer and deliver weatherization services by taking into account the criteria in subpart 4. Equal weight shall be given to each of the criteria. The department shall also allocate funds to eligible grantees who have been engaged in contracting for the construction and repair of real property.

Subp. 2. **Contracts.** All contracts between the state and a grantee will run for six months beginning July 1.

Subp. 3. **Termination of grant.** A grant shall be terminated if the department determines, after a public hearing conducted by the Office of Administrative Hearings, that the grantee has been ineffective in meeting the purpose of Minnesota Statutes, section 268.37.

Subp. 4. **Criteria.** In making a determination under subpart 3, the department shall evaluate the performance of the grantee and shall consider:

A. how quickly the weatherization project achieves the goals of Minnesota Statutes, section 268.37;

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- B. whether the grantee has adhered to the plan submitted;
- C. the quality of work performed through the grantee; and
- D. the number, qualifications, and experience of staff members of the grantee.

**3300.1200 GRANT APPLICATIONS.**

Subpart 1. **Application procedure.** Applications to the department must contain a plan for the use of state funds which is submitted not later than 30 days after receipt of written notice from the department of the availability of funds for each year. The department shall review each timely application and if the submission complies with the applicable provisions of this rule, approve a final budget and issue a notice of grant award.

Subp. 2. **Application.** Each application must include:

- A. the name and address of the grantee responsible for administering the program;
- B. a financial schedule which indicates the monthly funding requirements based on projected production;
- C. staffing patterns for all weatherization personnel to allow local program grantees to attain production goals;
- D. a written review of the plan by the regional clearinghouse; and
- E. a statement by grantee ensuring that:
  - (1) no dwelling unit may be weatherized without written documentation that the unit is eligible for weatherization as provided in parts 3300.0800 to 3300.1900;
  - (2) there is an outreach process used to obtain applications together with a description of that process; and
  - (3) it will establish a priority system for client applications.

Each application must state the minimum number of dwelling units to be completed by each grantee which are to be established by the department.

Subp. 3. **Maximum amount of material in dwelling unit.** The grantee shall ensure that no eligible dwelling unit receives more than \$750 in material and that each dwelling unit is weatherized according to the priority list established by the department as found in subparts 4 and 5. The department shall waive the \$750 restriction for individual eligible dwelling units on written application documenting that the material costs on the applicant's dwelling exceed \$750 and that all activities are eligible according to the agency's priority list. A waiver will be granted if the eligible dwelling exceeds 1,500 square feet, or is two story, or requires more than 16 storm windows. If a waiver is granted, the total material expenditures may not exceed \$1,000. For purposes of subparts 4 and 5, home types have the following meanings:

- A. "Type I" means homes with accessible attics;
- B. "Type II" means homes with inaccessible basements;
- C. "Type III" means homes with solid walls;
- D. "Type IV" means homes with knee wall construction;
- E. "Type V" means mobile homes.

Subp. 4. **Department's memorandum; weatherization priorities for home types I-IV, 8-28-81.** The following list of priorities is a departmental memorandum:

Weatherization deliverers will follow the priority list given below. If the particular activity listed currently exists or cannot be done, then an explanation must be made on the Retro Tech Job Sheet. If the client will not permit certain activities, then a statement with an explanation of the refusal to permit work, signed by the client, must be in the file.

Priorities

I. General Heat Waste

- A. Caulk all exterior envelope infiltration points including:
  - 1. Window and door frames.
  - 2. Sill plates.
  - 3. Foundation cracks.
  - 4. Corners of buildings.
  - 5. Under door sills.
  - 6. Around all electrical & plumbing entrances.
  - 7. All other infiltration areas.

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- B. Install hot water heater jackets except where a vent damper is present.
  - C. Insulate hot water pipes in accessible unheated space.
  - D. Weatherstrip movable windows and doors between conditioned and unconditioned space, including basement doors, attic scuttles and knee wall entrances.
  - E. Install gaskets on electrical boxes located on the interior side of exterior walls.
  - F. Replace or reset broken or loose glass.
- II. Insulate Attic area
- A. To R-38
  - B. Vent in accordance with FHA/HUD Minimum Property Standards. (No vapor barrier 1 to 150 ratio; with vapor barrier 1 to 300 ratio.)
  - C. Insulate attic scuttle doors to R-30; dam access area allowing entry to attic.
- III. Insulate exterior walls to minimum of R-11.
- IV. Insulate rim joist area to a minimum of R-19 with vapor barrier on warm side.
- V. Insulate above-grade foundation walls to R-11. When insulation is applied to interior side of the foundation wall, extend insulation 2 feet below grade.
- On crawl space, either insulate perimeter foundation wall to R-11 or floor to minimum of R-19 where freezing of pipes is not a factor.
- VI. Install storm windows on single-glazed windows where storm windows are missing or existing storm windows are deteriorated beyond repair.
- VII. Install new primary doors and windows only where old ones are beyond repair and cannot be weatherstripped.

Optional Items – Only after all of the required items are completed and if maximum material limit has not been reached.

I. Clock set back thermostats.

II. Storm doors.

Subp. 5. **Department's memorandum; mobile home priorities, 8-28-81.** The following list of priorities is a departmental memorandum:

Priorities for Type V Home

I. General Heat Waste

A. Caulk all exterior envelope infiltration points including:

- 1. Window and door frames.
- 2. Corners of buildings.
- 3. Under door sills.
- 4. Around all electrical and plumbing entrances.
- 5. Along all siding seams.
- 6. Around all "through the wall" accessories.

B. Install hot water heater jackets on electrical water heaters, or  
Insulate water heater closet on gas and oil fired water heaters.

C. Insulate hot water pipes where accessible.

D. Replace all worn weather stripping on all movable windows.

E. Weatherstrip all exterior prime doors.

F. Replace or reset broken or loose glass.

II. Insulate ceiling to maximum extent possible not to exceed R-38 and install at least two 8-inch round vents or equivalent.

III. Insulate floor to maximum extent possible not to exceed R-38.

IV. Install storm windows on those single glazed windows where the original storm is either missing or damaged beyond repair.

V. Install new prime doors and windows where existing ones are beyond repair.

Optional Items (Only after all required items are completed.)

I. Replace damaged or missing storm door.

II. Repair and tighten skirting – certify that permanent vent equaling 36 sq. in. per 25 lineal feet of skirt is installed if skirting repair is done.

**3300.1300 ALLOWABLE EXPENDITURES.**

Expenditures shall be limited to:

- A. the cost of purchase, delivery, and storage of weatherization materials;
- B. transportation of weatherization materials, tools, equipment, and work crews to a storage site and to the dwelling work site;
- C. maintenance, operation, and insurance of vehicles to transport items in item B;
- D. maintenance of tools and equipment;
- E. purchases of tools, equipment, and vehicles;
- F. payments to an independent contractor for furnishing materials or providing labor or both in the weatherization of dwellings of low-income persons;
- G. the cost of employment of weatherization supervisors;
- H. the cost of employment of weatherization laborers;
- I. the cost, not to exceed \$150 per dwelling unit, for repair materials and repairs to the heating source necessary to make the installation of weatherization materials effective;
- J. building permits where applicable;
- K. the cost of liability insurance for weatherization projects for personal injury and property damage;
- L. administrative expenses not to exceed 7.5 percent of each grantee's allocation; and
- M. weatherization of a building containing eligible rental dwelling units if at least 66 percent of the rental units in the building are eligible dwelling units and if the landlord or landlord's agent agrees in writing that the grantee may do the weatherization work and that rents will not be raised because of the weatherization work.

All purchases in item E with an acquisition value of \$300 or more must have written approval from the department. Purchasing must follow procedures outlined in Office of Management and Budget Circulars A-87, A-102, and A-110, as cited in part 3300.0900.

**3300.1400 UNALLOWABLE EXPENDITURES.**

Grant funds may not be used for any of the following purposes:

- A. to weatherize a dwelling unit that has been weatherized previously with grant funds from the United States Department of Energy or state assistance under Minnesota Statutes, section 268.37 or parts 3300.0800 to 3300.1900, unless the dwelling unit has been damaged by fire, flood, or an act of God, and repair of the damage to weatherization materials is not paid for by insurance;
- B. to weatherize a dwelling unit that is vacant or designated for acquisition or clearance by a federal, state, or local government program within 12 months from the date weatherization of the dwelling unit would be scheduled to be completed; or
- C. to purchase cosmetic items, remodeling items, or a heating or cooling source.

**3300.1500 OVERSIGHT RESPONSIBILITY.**

The department shall supervise the projects of the grantees in the following manner:

- A. At least once every three months the department shall monitor and evaluate the operation of projects carried out by the grantees receiving financial assistance under parts 3300.0800 to 3300.1900 through on-site inspections, reviews of reports submitted by grantees, and inspection of their books and records.
- B. The grantee shall give the department access, for the purpose of audit and examination, to any books, documents, papers, information, and records of any weatherization project receiving financial assistance under parts 3300.0800 to 3300.1900.
- C. The commissioner shall conduct an annual audit of the records of a grantee receiving financial assistance under parts 3300.0800 to 3300.1900.

**3300.1600 RECORD KEEPING.**

Record keeping shall be in accordance with Office of Management and Budget Circular A-87 as cited in part 3300.0900, item D. Each grantee receiving state financial assistance under parts 3300.0800 to 3300.1900 shall keep records the department requires, including records which fully disclose the amount and disposition by each grantee of funds received under parts 3300.0800 to 3300.1900, the total cost of the weatherization project for which the assistance was given or

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used, including all sources and amounts of funds for the project or program, and other records the department deems necessary for an effective audit and performance evaluation.

**3300.1700 MONTHLY REPORTS.**

Each grantee receiving financial assistance under parts 3300.0800 to 3300.1900 shall submit a monthly program performance report and a monthly financial report or invoice to the department.

**3300.1800 GRANTING PROCESS.**

When the department approves an application for a grant, it shall notify the grantee, in writing, of the approval. The department and the grantee shall sign a grant contract. The grant contract must specify what report requirements and other grant requirements must be met prior to any obligation of funds. Payments on grant contracts shall be made on the basis of grantee activity in the program. Cash on hand in excess of 30-day program requirements shall not be delivered. Payments to grantees shall be reviewed in comparison to expenditures to determine cash needs. Grantees shall report expenditures monthly on forms to be supplied by the department. The department shall require the grantees to project the next month's cash needs on the previous month's expenditure report. If the grantee determines that it cannot fulfill its obligations under the plan in whole or part, the grantee may request an amendment or revision of the existing approved plan and resubmit a new plan or amendments within 30 days after the written notice of request for consideration. The request from the grantee must be in writing detailing its specific views with supporting data and arguments.

**3300.1900 VARIANCES.**

Subpart 1. **Granting of variance.** The department shall grant a variance to the use of materials required by part 3300.1000, subpart 36, if it appears that:

- A. product or test standards have changed; and
- B. granting the variance would not adversely affect the public health or safety; and
- C. granting the variance would not conflict with applicable building codes.

Subp. 2. **Written request for a variance.** A grantee may submit to the department a written request for a variance documenting the need to include or exclude additional or existing materials required by part 3300.1000, subpart 36. If the agency initiates the variance as a result of a United States Department of Energy directive it will notify all grantees in accordance with subpart 3. If the agency denies a request for a variance it shall notify the applicant, in writing, of the reasons for the denial.

Subp. 3. **Notification of variance.** The department shall notify all grantees, in writing, that a variance has been granted. Notification will be issued within 30 days after the granting of the variance.

**7607.0100 DEFINITIONS.**

Subpart 1. **Scope.** The terms defined in this part and in Minnesota Statutes, section 216C.37, subdivision 1, apply to parts 7607.0110 to 7607.0180.

Subp. 2. **Applicant.** "Applicant" means an eligible municipality.

Subp. 3. **Municipality.** "Municipality" means any county, statutory or home rule charter city, town, school district, or any combination of those units under an agreement to jointly undertake projects authorized in this section.

Subp. 4. **Authority.** "Authority" means the Minnesota Public Facilities Authority.

Subp. 5. **Project.** "Project" means all proposed work set forth in an application for a loan to a municipality.

Subp. 6. **Maxi-audit.** "Maxi-audit" means a detailed analysis of energy-saving improvements to existing buildings or stationary energy-using systems, including:

- A. modifications to building structures;
- B. heating, ventilating, and air conditioning systems;
- C. operation practice;
- D. lighting; and
- E. other factors that relate to energy use.

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The primary purpose of the engineering analysis is to quantify the economic and engineering feasibility of energy-saving improvements that require capital expenditures of major operational modifications.

A maxi-audit must be performed by or under the direction of and signed by a professional mechanical or electrical engineer or by an architect registered in Minnesota.

Subp. 7. **Conservation measure.** "Conservation measure" means an energy conservation measure that is an installation to a building on stationary energy-using system, and that is primarily intended to reduce energy consumption or allow the use of an alternate energy source including solar, wind, peat, wood, and agricultural residue.

Subp. 8. **Building.** "Building" means an existing building owned and operated by a municipality.

Subp. 9. **Stationary energy-using system.** A "stationary energy-using system" means any permanent structure or system owned and operated by a municipality that requires energy consumption for its function.

Subp. 10. **Payback.** "Payback" means the simple payback that is equal to the design, acquisition, and installation costs of a conservation measure divided by the estimated first year energy cost savings attributable to that measure.

**7607.0110 MUNICIPAL ENERGY LOAN ELIGIBILITY CRITERIA.**

Subpart 1. **In general.** The authority shall approve energy loans to municipalities to cover the costs of capital expenditures that are conservation measures that have paybacks of ten years or less as specified in a maxi-audit in compliance with Minnesota Statutes, section 216C.37, and parts 7607.0110 to 7607.0140.

Loans are available to municipalities that have not previously received or been offered loan funds under this program, for new projects in municipalities that previously received or were offered loan funds under this program, and as amendments to loans for conservation measures in progress that are experiencing cost overruns or for previously unidentified but related work necessary to successful implementation of a previously approved conservation measure if the payback remains at ten years or less. With the exception of amendments as described above, the authority shall not approve more than one loan for the same conservation measure in the same building or stationary energy-using systems.

Subp. 2. **Prior approval required.** Except for a loan amendment under subpart 1, projects that have been contracted for or begun before the authority notifies the municipality that the loan application is approved are not eligible. This prior approval requirement applies to the acquisition and installation costs as identified in the maxi-audit.

Subp. 3. **New construction.** Only projects for existing buildings and energy-using systems are eligible. New construction is not eligible except if it is a necessary part of successful implementation of a conservation measure for an existing building or energy-using system.

**7607.0120 MAXIMUM LOAN AMOUNT.**

To assure equitable statewide distribution of loan funds, given that loans will be issued on a first-come, first-served basis, the authority shall establish a maximum loan amount of \$1,500,000 for each municipality.

**7607.0130 MUNICIPAL ENERGY LOAN APPLICATION.**

Subpart 1. **In general.** A municipality shall submit an application to the authority on a form provided by the authority. An application must be completed, dated, and signed in ink by a duly authorized official of the applicant and must include the authorized official's title.

Subp. 2. **Contents.** The application must contain:

- A. the municipality name or school district or vocational center number;
- B. the complete mailing address of the applicant, including the county;
- C. the contact person's name, title, and telephone number;
- D. the federal employer identification number;
- E. a list of buildings and stationary energy-using systems included in the request and the dollar amount requested per building or system;
- F. the name and address of each building or system, including the county;
- G. the total floor area in square feet for each building;

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H. the original construction date for each system, building, and building additions;

I. the state legislative district;

J. a summary description of each conservation measure, its maxi-audit item number, its estimated cost, the loan amount requested, its estimated annual energy-cost savings, its estimated annual fuel and electric savings, its estimated payback, and the estimated dates the conservation measure will be started and completed; and

K. a certification to assure proper and efficient operation of the building or system once the project is completed.

An application must also contain an irrevocable resolution of the governing body of the municipality to annually levy or otherwise collect sufficient funds to guarantee loan repayment and a maxi-audit for each building and energy-using system involved in the project. One copy of the application is required.

#### **7607.0140 MUNICIPAL ENERGY LOAN APPLICATION REVIEW.**

Subpart 1. **Administrative review.** The authority shall examine the loan application to verify that the applicant is eligible, that the required forms and reports are included and are correctly completed, that an irrevocable resolution of the governing body of the municipality is included, and that the estimated start and end dates of the conservation measures included in the project are reasonable.

Subp. 2. **Technical review.** The authority shall forward a copy of the application to the commissioner of commerce. The commissioner of commerce shall prepare and submit to the authority a technical evaluation of the application. The technical evaluation must be on the forms provided by the authority.

Conservation measures with paybacks of ten years or less that are identified and described in maxi-audits are eligible. The minimum requirements for maxi-audits are as provided in Code of Federal Regulations, title 10, section 455.42 (May 21, 1981). Loans may not be awarded to buildings or systems with a remaining useful life less than or equal to the payback of the conservation measures proposed. Loans may not be awarded for a conservation measure if the payback of the conservation measure proposed is greater than or equal to the useful life of the measure.

The commissioner of commerce shall examine a maxi-audit that accompanies a loan application to verify that conservation measures requested are analyzed with adequate details of the existing conditions and proposed changes using appropriate calculation procedures, and that the proposed measures are eligible.

Subp. 3. **Review results.** The commissioner of commerce shall forward the technical evaluation of an application to the authority. The authority shall accept, reject, or modify a loan application request as necessary based on the administrative and the technical review. The authority shall give to an applicant whose application is rejected a notice of problems encountered in the review process and options available to correct them for resubmission of the application.

#### **7607.0150 LOAN APPROVAL; DISBURSEMENT OF FUNDS.**

Subpart 1. **Authority approval; priority.** The authority shall approve loans that comply with Minnesota Statutes, section 216C.37, and with parts 7607.0110 to 7607.0140, on a first-come, first-served basis based on the order in which eligible and complete loan applications are received by the authority. If eligible and complete loan applications received at the same time cannot all be funded due to a lack of available funds, the authority shall first approve loans to school districts. If funds are not available for all eligible applications from school districts, the authority shall approve loans so that each affected district receives an equal percentage of the eligible loan amount request. If the available funds are adequate to fully fund all eligible applications from school districts, but not all other eligible applications, the authority shall approve loans to school districts for the full eligible loan amount request and approve loans to other eligible municipalities so that each affected applicant receives an equal percentage of the eligible loan amount request.

Subp. 2. **Execution of loan contract and disbursement of funds.** Upon approval of a municipal energy loan, the authority shall send a loan contract to the applicant. The authority shall attach to a loan contract a loan repayment schedule based on the approved loan application according to Minnesota Statutes, section 216C.37, subdivision 4, paragraph (b). The applicant shall have a duly authorized official execute and return the loan contract to the Department of Management and Budget for execution of the loan contract by state officials and for disbursement

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of the loan funds. Loan funds must be disbursed for the reimbursement of eligible project costs upon execution of and according to the terms of the loan contract.

#### **7607.0160 MONITORING MUNICIPAL ENERGY LOANS, REPORTS.**

Subpart 1. **In general.** A municipality that receives a loan from the authority shall submit the reports listed in subparts 2 to 5.

Subp. 2. **Annual project status report.** The municipality shall submit to the authority, on forms provided by the authority, an annual project status report covering the period from July 1 to June 30. This report is due each July 31 until the project is completed. The project status report must indicate the progress of the implementation of the measures funded, problems encountered, the effect of the problems on the project, and the corrective action taken. If at any time the municipality fails to substantially comply with the start and end dates given in the loan application as approved, and if the municipality cannot reasonably justify to the authority its lack of progress, the entire loan amount may become due and payable at the discretion of the authority.

Subp. 3. **Quarterly financial report.** A municipality shall submit to the authority, on forms provided by the authority, a quarterly financial status report that indicates expenditures of loan funds through the last date of each quarter. This report is due within 30 days of the end of each calendar quarter until the project is completed.

Subp. 4. **Final report.** Within 60 days of the completion of the project, the municipality shall submit to the authority, on forms provided by the authority, a final project status report and a financial status report that gives actual expenditures of the measures implemented.

Subp. 5. **Annual energy report.** The municipality shall submit to the commissioner of commerce, on forms provided by the authority, an annual energy use and energy expenditure report by fuel type. The report is due each October 31 for the duration of the loan contract period, or for a minimum of three years after project completion if the loan is paid in less than three years, unless the authority cancels this requirement before the end of the loan contract period.

#### **7607.0170 MUNICIPAL ENERGY LOAN PROGRAM EVALUATION.**

The authority shall evaluate the program's effectiveness in reducing the energy costs of participating municipalities. The municipalities shall provide the authority with information that is reasonably needed to conduct an evaluation of the loan program, including the reports required in part 8300.2507.

#### **7607.0180 CLOSURE OF MUNICIPAL ENERGY LOAN ACCOUNT.**

If the authority determines that the project that was approved for loan funds has been implemented, it shall authorize closure of the loan account upon full repayment.

#### **7610.0300 WHO MUST FILE.**

The following utilities must file the information required by parts 7610.0100 to 7610.0700: Northern States Power Company, Minnesota Power, Otter Tail Power Company, Interstate Power Company, Minnkota Power Cooperative, Cooperative Power Association, United Power Association and Dairyland Power Cooperative, and the Southern Minnesota Municipal Power Agency. Data that is compiled within the same calendar year for either an extended forecast or a certificate of need application may be substituted interchangeably to satisfy those portions of both sets of rules that have identical data requirements. For these cases, references to the material substituted and a copy of the appropriate reference material must be submitted to meet the reporting requirements.

#### **7685.0100 AUTHORITY, APPLICABILITY, AND PURPOSE.**

Subpart 1. **Authority.** The commissioner is authorized by Minnesota Statutes, section 446A.21, subdivision 2, to establish energy efficiency criteria for replacement cooling systems.

Subp. 2. **Applicability.** This chapter applies to all applications for loans for replacement of once-through cooling systems with environmentally acceptable cooling systems under Minnesota Statutes, section 446A.21.

Subp. 3. **Purpose.** Loans for replacement of once-through cooling systems with environmentally acceptable cooling systems under Minnesota Statutes, section 446A.21, must not be approved unless the system complies with the energy efficiency criteria of part 7685.0130.

#### **7685.0120 DEFINITIONS.**

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Subpart 1. **Scope.** The definitions in this part apply to parts 7685.0100 to 7685.0140.

Subp. 2. **CFC.** "CFC" means a chlorofluorocarbon refrigerant.

Subp. 3. **Commissioner.** "Commissioner" means the commissioner of commerce.

Subp. 4. **Cooling efficiency.** "Cooling efficiency" means an expression of energy or energy performance in items A to C.

A. Kilowatts per ton (kW/ton) is the total electrical input (kW) divided by the net cooling capacity (in tons).

B. Coefficient of performance is the net cooling capacity divided by the energy input rate, when both are expressed in the same unit of measure.

C. One ton of cooling capacity equals 12,000 Btu's per hour, or 3.516 kilowatts.

Subp. 5. **Once-through cooling system.** "Once-through cooling system" means a once-through system that has been issued a permit by the Department of Natural Resources to use in excess of 5,000,000 gallons of water annually from a groundwater source.

Subp. 6. **Once-through system.** "Once-through system" means a space heating, ventilation, air conditioning (HVAC), or refrigeration system used for any type of temperature or humidity control application, using groundwater that circulates through the system and is then discharged without reusing it for a higher priority purpose.

### **7685.0130 ENERGY EFFICIENCY CRITERIA.**

Subpart 1. **Cooling efficiency.** All systems must meet the cooling efficiency criteria established in this subpart.

A. The cooling efficiency of a new centrifugal or rotary screw chiller must be 0.61 kW/ton or less (or equivalent if other energy sources are used) at standard rating conditions specified in ARI Standard 550-1992.

B. The cooling efficiency of a previously used (existing) centrifugal or rotary screw chiller that has been rebuilt or modified must be 0.70 kW/ton or less (or equivalent if other energy sources are used) at standard rating conditions specified in ARI Standard 550-1992.

C. The coefficient of performance of a new absorption chiller must be at least 0.90 at standard rating conditions specified in ARI Standard 560-1992.

D. The cooling efficiency of district cooling systems must be at least one kW/ton based on seasonal performance of the district cooling system.

Subp. 2. **Noncompliance of CFC systems.** A system using CFC refrigerants does not comply with the energy efficiency criteria of this part.

Subp. 3. **Cooling efficiency certification.** The cooling efficiency of a system must be certified by a mechanical engineer registered in Minnesota using data provided by the equipment manufacturer.

### **7685.0140 INCORPORATIONS BY REFERENCE.**

Subpart 1. **Incorporated items.** The standards in items A and B are incorporated by reference.

A. ARI Standard 550-1992, Standard for Centrifugal and Rotary Screw Water-Chilling Packages.

B. ARI Standard 560-1992, Standard for Absorption Water Chilling and Water Heating Packages.

Subp. 2. **Availability.** The standards incorporated by reference are available for public inspection at the Minnesota State Law Library and through the Minitex interlibrary loan system. In addition, ARI standards are available through the Air-Conditioning & Refrigeration Institute, 4301 North Fairfax Drive, Suite 425, Arlington, VA 22203.