

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

STATE OF MINNESOTA

DEPARTMENT OF TRANSPORTATION

DIVISION OF PUBLIC TRANSPORTATION

IN THE MATTER OF THE ADOPTION OF)
RULES PERTAINING TO IMPLEMENTATION)
OF THE RAIL USER LOAN GUARANTEE)
PROGRAM)

ORDER ADOPTING
RULES AS AMENDED

The above-entitled matter came on for hearing before Hearing Examiner Harry Seymour Crump for the Department of Transportation on the 5th day of March, 1980, at 10:00 a.m. in the State Capitol Building, Room 125, and after proper notice required by Minn. Stat. §15.0412 (1978) was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all of the testimony, having considered all of the evidence adduced, having made non-substantial changes pursuant to recommendations of the hearing examiner, having confirmed the need for the above captioned rules and the reasonableness thereof upon the records, files and proceedings herein and applicable statutory standards or criteria, and hereby specifically adopting the Findings of Fact, Conclusions and Recommendations of the hearing examiner.

NOW, THEREFORE, IT IS ORDERED that these rules identified as the Rail User Loan Guarantee Program, as amended, are adopted this 12th day of June, 1980, pursuant to authortity vested in me by Minn. Stat. §222.58 (1978).

STATE OF MINNESOTA

RICHARD P. BRAUN

AG. copy

Rail User Loan Guarantee Program

Rules as Adopted

14 MCAR § 1.4006 Authority and definitions.

A. Authority. These rules are adopted pursuant to the provisions of Minn. Stat., §§ 222.55 to 222.62 (1978 & 1979 Supp.).

B. Definitions. The following terms as they appear in these rules shall have these meanings:

1. "Account" means the Rail User Loan Guarantee Account established by Minn. Stat., § 222.57 as amended by Laws of 1979, Ex. Sess. ch. 1 § 40.

2. "Act" means the Rail User Loan Guarantee Act, Minn. Stat., §§ 222.55 to 222.62 (1978 & 1979 Supp.).

3. "Borrower" means any "rail user" as that term is defined in Minn. Stat., § 222.56, subd. 7 (1978).

4. "Capital Improvements" means the purchase, rehabilitation or construction of physical facilities or equipment to improve rail service. Operating expenses are not considered capital improvements.

5. "Capital Investment" means the cost of labor, materials and other incidental costs of rehabilitation of a rail line, including acquisition of right of way and structures.

6. "Collateral" means the security pledged for the loan which ~~may include but is not limited to~~ includes land, buildings, machinery, equipment, furniture, fixtures, accounts receivable, marketable securities, cash surrender value of life insurance and assignment of leases or leasehold interests~~.~~ and other similar types property interests. changed per HE 9

7. "Commissioner" means the Commissioner of the Department of Transportation, State of Minnesota.

8. "Department" means the Minnesota Department of Transportation.

9. "Interest Adjustment" means that portion of the interest on a guaranteed loan ~~that may be~~ paid by the commissioner pursuant to Minn. Stat. 1979 Supplement, § 222.58, subd. 5a. ~~(1978)~~

10. "Lender" shall have the meaning given it in Minn. Stat., § 222.56, subd. 4.

11. "Loan" means a loan or advance of credit to a rail user for the purpose of making a capital investment in rail line rehabilitation.

12. "Personal Guarantee" means an individual or corporate obligation to repay the loan.

13. "Railroad" means a common carrier by rail as defined by 49 U.S.C. § 1(3), (1970).

14. "Rail Line" means a railroad roadbed, right-of-way, track structure and other appurtenances of railroad right-of-way, including, ~~but not limited to,~~ public-use sidings.

15. "Rail User" means any person or entity described by Minn. Stat., § 222.48, subd. 6.

16. "Rehabilitation" means the rebuilding of a rail line or portions thereof and the implementation of other projects that will improve rail service.

14 MCAR § 1.4007 Application procedure.

A. Loans by state or federally chartered banks.

1. All information required to be submitted to the commissioner to support consideration for acceptance as an

insured eligible loan shall be submitted in duplicate, and include:

a. A written statement under oath executed by the borrower that the proceeds of the loan will be used solely for participation in contracts for rail line rehabilitation or other capital improvements.

b. A copy of the contract for rail line rehabilitation which must contain:

(1) The identification of the participating parties.

(2) The total amount of the contract for rehabilitation.

(3) The respective share of the amount of the contract for rehabilitation to be provided by each participating party.

(4) The conditions for repayment of the total amount of the contract to the participating parties.

(5) The nature of the capital improvements to be made.

(6) Identity of the escrow agent, if any.

c. The loan application taken by the lender, together with all supporting documents and data, pertinent to the lender's credit consideration, including the following:

(1) Principal amount of the loan and repayment terms.

(2) The collateral offered.

(3) Investigative credit data developed.

(4) Borrower's statement of present financial condition, including schedule of assets, liabilities, capital or net worth and income and expenses and statements for the immediately preceding three fiscal years.

(5) Application of person or persons, if any, making personal guarantee of such a loan together with their statement of financial condition as required in (4) above.

d. The form of the promissory note to be executed, complete except for signatures, and any personal guarantee forms to be executed by a person or persons providing guarantee of repayment of the loan.

e. The form of the security agreements or mortgages to be executed in connection with the loan, complete except for signatures; including the complete legal description of the property, personal or real, to be pledged, supplemented in addition by:

(1) A statement of the collateral's condition, marketability and appraised value, including the source of the appraisal.

(2) A statement of priority of such lien or security interest position based on official records search.

(3) Evidence of insurance coverage against customary perils and the availability of suitable loss payable assignments.

f. A lender's sworn statement to the commissioner which includes:

(1) The citation of Minnesota Statutes under which the interest rate and other expenses in connection with

the loan are deemed lawful.

(2) ~~Certification~~ Documentation of lender's appraisal and consent to make the loan in the amount applied for which may be conditioned upon the granting of the commitment for insurance by the commissioner.

g. An executed agreement between the lender and borrower that upon granting of the committment for insurance by the commissioner that:

(1) Funds will be disbursed only under the terms and for the purposes set forth in the application for insurance.

(2) Liens and security interests provided for in the application and documents offered in the application for insurance will be filed, recorded or otherwise perfected by the lender.

(3) Reasonable care shall be exercised by the lender or its agents to protect the interest of the State.

(4) A copy of the Notice of Default required by the Act to be sent to the borrower within 90 days of default of the loan shall also be sent to any person or persons guaranteeing the loan.

(5) If default is continued for 180 days and borrower has not made arrangements to meet his obligation, the lender shall promptly notify the commissioner of the circumstances of default and file a claim for benefits under the Act.

B. Loans by municipalities, county or rural development financing authorities.

1. All information required to be submitted to the

commissioner for consideration for commitment to insure any eligible loan shall be submitted in duplicate and include:

a. The information required by Part A, paragraphs 1. a. through g. (3) of this rule.

b. A copy of the application for the revenue bond project together with any attachments required to be submitted to the Minnesota Department of Commerce, Securities Division.

c. Evidence of the approval of the application for the revenue bond project by the Commissioner of Securities.

d. A statement that upon granting of the commitment for insurance by the commissioner that a copy of the Notice of Default required by the Act to be sent to the borrower by the trustee within 15 days of the default of the terms of the revenue agreement will also be sent to any person or persons guaranteeing the agreement.

e. A statement that after 90 days, if default continues, the trustee shall file a claim with the commissioner stating the nature of the default.

14 MCAR § 1.4008 Requirements for obtaining approval of commitments for insuring loans prior to their execution or disbursement.

A. Eligibility requirements for loans by state or federally chartered banks; Terms.

1. Principal Amount. The original bona fide principal amount of any loan shall not exceed:

a. An amount which can be shown to be fully secured by the ~~unencumbered~~ equity determined by the current appraised value of the collateral to be pledged by or on behalf of the borrower; or

b. An amount which can be reasonably documented and shown to be secured by the value found in the personal guarantee up to a maximum proportion of 40 percent of the original bona fide principal with the remaining proportion to be fully secured in the manner prescribed in a. above.

2. Interest rate. The interest rate agreed upon between the borrower and the lender shall be expressed clearly in the loan agreement in annual percentage rate terms and include the manner in which lapsed periods of time are to be calculated for purposes of application of that rate, if interest is to be calculated or collected in intervals of less than one calendar year.

3. Repayment terms. The loan agreement shall provide for repayment terms which:

a. Include a schedule of installment payments of principal and interest which will extinguish the original bona fide principal of the loan over a term not exceeding ~~15~~ 10 years from the date of execution of the loan. HE 13

b. Include a schedule of periodic installment payments of principal and interest coming due at least each 3 months or such lesser intervals as are reasonably consistent with the revenue income flow determined to support the ability on the part of the borrower to repay the obligation.

c. Provide that the first such installment of principal and interest may be scheduled so as to coincide with the first anticipated revenue.

d. Include language which provides that no re-financing, extension or deferment of the originally contracted obligation as approved for insurance or its security, or otherwise ?

as would operate to modify the original contract terms may be made between the borrower and the lender unless such considerations are in writing and expressly approved by the commissioner.

e. Include language which effectively renders the obligation as documented to be nontransferable as to all or any part of its interests without prior written approval of the commissioner.

f. The commissioner shall grant the approvals called for by this section if the loan agreement remains substantially the same, the loan agreement is in accordance with these rules, and the risks to the state by the change in the agreement are not increased and the interests of the state are fully protected.

inserted, HE 14 & see CHE memo

4. No loan agreement may be the subject of any extension of time or deferment of originally scheduled installment payments which would result in the final contracted payment of principal or interest or combination thereof to fall due at a date more than ~~15~~ 10 years from the date of origin without prior written approval of the commissioner.

B. Eligiblity requirements for loans by municipalities, county or rural development financing authorities; terms.

1. Principal amount. The original bona fide principal amount as to the amount insured of any revenue agreement, exclusive of interest and expense shall not exceed:

a. An amount which can be shown to be fully secured by the ~~unencumbered~~ equity determined by the current appraised value of the collateral to be pledged by or on behalf of the borrower, or

b. An amount which can be reasonably documented and shown to be secured by the value found in the personal guarantee

up to a maximum proportion of 40 percent of the original bona fide principal with the remaining proportion to be fully secured in the manner prescribed in a. above.

2. Repayment of revenue agreement. The repayment of the revenue agreement shall be such that it will produce income and revenue sufficient to provide for the repayment of principal and interest on all bonds issued thereunder when due.

3. Repayment of revenue agreement: terms. The revenue agreement shall provide for:

a. Repayment terms, including a schedule of installment payments of principal and interest, which will extinguish the original bona fide principal of the bonds over a period not to exceed ~~15~~ 10 years from the date of origin.

b. Language which provides that no revision of the revenue agreement may be made between the borrower and the lender unless such revisions are approved by the commissioner. ?

c. Language which would effectively render the revenue agreement nontransferable as to all or any part of its interest without the expressed approval of the commissioner. ?

d. The commissioner shall grant the approvals called for by this section if the loan agreement remains substantially the same, the loan agreement is in accordance with these rules, and the risks to the state by the change in the agreement are not increased and the interests of the state are fully protected.

inserted pee HE 14 + see CHE memo

14 MCAR § 1.4009. Interest adjustment.

A. Eligibility requirements.

1. In order to be eligible for an interest adjustment

an applicant must demonstrate inability to obtain a loan at an interest rate of 7% or less from other sources.

2. Only guaranteed loans that comply with 14 MCAR § 1.4007 and 1.4008 shall be eligible for interest adjustment.

B. Repayment procedures.

1. The borrower shall reimburse the commissioner for any amounts paid as an interest adjustment within one year after the final payment to a lending institution is due on the loan. The reimbursement to the commissioner may be made in equal installments over the period of one year or in a single payment at the close of that year.

2. If the borrower has no proprietory right in the property to be rehabilitated, then a promissory note shall be negotiated between the borrower and the commissioner prior to the granting of a loan guarantee to insure repayment of the interest adjustment.

APPROVED AS TO FORM AND LEGALITY

JUL 14 1980 19____

WARREN SPANNAUS, ATTORNEY GENERAL

BY Jerry Anderson

SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JUL 15 1980
Joan Anderson Growe
Secretary of State
9:30 AM

Our File: [redacted]609

ADMIN 1000 (Rev. 1/73)
SF-00006-01

STATE OF [redacted]NESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : RICHARD P. BRAUN
Commissioner of Transportation

DATE: July 16, 1980

Attn: GILBERT S. BUFFINGTON

FROM : JERRY ANDERSON
Special Assistant
Attorney General

PHONE: 296-1288

SUBJECT: Rules as Approved In the Matter of the Adoption of Rules Pertaining to Implementation of the Rail User Loan Guarantee Program.

Enclosed herewith are the rules you have submitted for approval. These rules have been approved by this office and filed with the Secretary of State. Note that they have NOT been filed with the State Register; this must be done promptly by your agency.

Upon receipt and before transmittal to your agency, however, it is important that you recheck these rules as to:

1. Affixation of the stamps of the Attorney General and Secretary of State to the last page of the rules;

2. Coverage by these stamps of all rules submitted; and

3. Inclusion of all pages of the rules in the approved set.

Directly following the approved rules is a complete set of required documents and transcript which must be retained with the rules by you or your agency.

If you have any questions in this regard, please contact me.

JA/bw
Enclosure
cc: Duane Harves
Susan Robertson

Our File # 609

Permanent Rule X

Temporary Rule

RULES REVIEW CHECKLIST

DATE RULES RECEIVED 6/26 DUE DATE 7/16

Resubmitted and Received

a. Returned to Agency w/o Filing w/Secretary of State

b. Approved 7/14 Date Sent Back to Agency 7/16

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1. Rules as Adopted ✓
2. Rules as Proposed ✓
3. Certificate of Board's Authorizing Resolution, where applicable N/A
4. Order for Hearing ✓
5. Notice of Hearing ✓ 3.4.80
   Sufficiency ✓
6. Secretary of State's List ✓ (one copy only)
7. Certificate of Acquisition of Secretary of State's List ✓
8. Secretary of State's Certification of Delivery of Secretary of State's List to Agency ✓
9. Affidavit of Mailing ✓
   At least 30 days prior to hearing ✓
10. Publication in State Register ✓
    At least 30 days prior to hearing ✓ 1-28-80
11. Statement of Need and Evidence ✓
12. Hearing Examiner's Report ✓
13. Agency's Findings of Fact ✓ designated "Post Hearing Comments"
14. Certificate of Board's Resolution Adopting Rules, where applicable N/A.
15. Order Adopting ✓
16. Report of Chief Hearing Examiner ✓
17. Order Approving Incorporation by Reference, where applicable N/A
18. Certificate of Compliance with Rulemaking Procedures ✓
19. Copy of Notice of Intent to Solicit Outside Opinion, where applicable ✓
20. Petition by Public, where applicable N/A

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

DEPARTMENT OFFICE OF HEARING EXAMINERS

Office Memorandum

TO : KENNETH BJORK
Department of Transportation

DATE: June 23, 1980

FROM : DUANE R. HARVES
Chief Hearing Examiner

PHONE: 6-8100

SUBJECT: OUR FILE: DOT-80-023-HC
RULES RELATING TO THE RAIL USER LOAN GUARANTEE PROGRAM

Enclosed with this memorandum is your file which was sent to me for the Chief Hearing Examiner's review pursuant to 9 MCAR § 2.110, together with the Chief Hearing Examiner's report.

You will note that I have found that the rules are not substantially different from those as proposed and that the agency has complied with the provisions of Minn. Stat. § 15.0412, subd. 4.

As we discussed when you were at the office, two of the sections of Rule 14 MCAR § 1.4008 are troublesome. These are sections A.3.f. and B.3.d. In both of these sections, the words "in the opinion of the commissioner" appear. These words generally raise the question of discretionary language in the rules which, as you are well aware, have difficulty upon review for legality. In this case, it would appear that the phrase is redundant and, thus, really not needed. Thus, the removal of the phrase may aid you in getting the rules approved and I do not believe their removal would in any way change the intent or the content of the rule. The removal of the words would not be a substantial change.

deleted p. 8, 9

DRH:sh
Enc.
cc: Harry Crump

DOT-80-023-HC

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE DEPARTMENT OF TRANSPORTATION

IN THE MATTER OF THE PROPOSED)
ADOPTION OF RULES FOR THE)
IMPLEMENTATION OF THE RAIL)
USER LOAN GUARANTEE PROGRAM.)

ORDER OF THE
CHIEF HEARING EXAMINER

WHEREAS, a hearing was held on March 5, 1980, before Harry Seymour Crump, a Hearing Examiner of the State Office of Hearing Examiners, on the above-entitled matter in compliance with Minn. Stat. § 15.0412, subd. 4; and

WHEREAS, the Report of the Hearing Examiner made pursuant to Minn. Stat. § 15.052, subd. 3, was issued to the Department of Transportation (hereinafter "Department") on April 14, 1980; and

WHEREAS, the Department has now determined to adopt rules pursuant to Minn. Stat. § 15.0412, subd. 4; and

WHEREAS, the Department has submitted said rules to the Chief Hearing Examiner for review pursuant to Minn. Stat. § 15.052, subd. 4, and 9 MCAR § 2.110; and

WHEREAS, the Chief Hearing Examiner finds that the final proposed rules are not substantially different from those proposed at the public hearing and that the Department has met all requirements of Minn. Stat. § 15.0412, subd. 4.

NOW, THEREFORE, upon receipt of this Order, the Department has the responsibility of submitting the complete hearing record and the rules as adopted by the Department to the Attorney General, notifying all persons who requested to be informed that the hearing record has been submitted to the Attorney General, and publishing in the State Register, all pursuant to Minn. Stat. § 15.0412, subd. 4.

Dated this 23rd day
of June, 1980.

DUANE R. HARVES
Chief Hearing Examiner

Rules as Proposed (all new material)

14 MCAR § 1.4006 Authority and Definitions.

A. Authority. These rules are adopted pursuant to the provisions of Minn. Stat., §§ 222.55 to 222.62 (1978 & 1979 Supp.).

B. Definitions. The following terms as they appear in these rules shall have these meanings:

1. "Account" means the Rail User Loan Guarantee Account established by Minn. Stat., § 222.57 as amended by Laws of 1979, Ex. Sess., ch. 1 § 40.

2. "Act" means the Rail User Loan Guarantee Act, Minn. Stat., §§ 222.55 to 222.62 (1978 & 1979 Supp.).

3. "Borrower" means any "rail user" as that term is defined in Minn. Stat., § 222.56, subd. 7 (1978).

4. "Capital Improvements" means the purchase, rehabilitation or construction of physical facilities or equipment to improve rail service. Operating expenses are not considered capital improvements.

5. "Capital Investment" means the cost of labor, materials and other incidental costs of rehabilitation of a rail line, including acquisition of right of way and structures.

6. "Collateral" means the security pledged for the loan which may include but is not limited to land, buildings, machinery, equipment, furniture, fixtures, accounts receivable, marketable securities, cash surrender value of life insurance and assignment of leases or leasehold interests.

7. "Commissioner" means the Commissioner of the Department of Transportation, State of Minnesota.

8. "Department" means the Minnesota Department of Transportation.

9. "Interest Adjustment" means that portion of the interest on a guaranteed loan that may be paid by the Commissioner pursuant to Minn. Stat., § 222.58, subd. 5 (1978).

10. "Lender" shall have the meaning given it in Minn. Stat., § 222.56, subd. 4.

11. "Loan" means a loan or advance of credit to a rail user for the purpose of making a capital investment in rail line rehabilitation.

12. "Personal Guarantee" means an individual or corporate obligation to repay the loan.

13. "Railroad" means a common carrier by rail as defined by 49 U.S.C. § 1(3), (1970).

14. "Rail Line" means a railroad roadbed, right-of-way, track structure and other appurtenances of railroad right-of-way, including but not limited to, public-use sidings.

15. "Rail User" means any person or entity described by Minn. Stat., § 222.48, subd. 6.

16. "Rehabilitation" means the rebuilding of a rail line or portions thereof and the implementation of other projects that will improve rail service.

14 MCAR § 1.4007 Application Procedure.

A. Loans by state or federally chartered banks.

1. All information required to be submitted to the Commissioner to support consideration for acceptance as an

insured eligible loan shall be submitted in duplicate, and include:

a. A written statement under oath executed by the borrower that the proceeds of the loan will be used solely for participation in contracts for rail line rehabilitation or other capital improvements.

b. A copy of the contract for rail line rehabilitation which must contain:

(1) The identification of the participating parties.

(2) The total amount of the contract for rehabilitation.

(3) The respective share of the amount of the contract for rehabilitation to be provided by each participating party.

(4) The conditions for repayment of the total amount of the contract to the participating parties.

(5) The nature of the capital improvements to be made.

(6) Identity of the escrow agent, if any.

c. The loan application taken by the lender, together with all supporting documents and data, pertinent to the lenders credit consideration, including the following:

(1) Principal amount of the loan and repayment terms.

(2) The collateral offered.

(3) Investigative credit data developed.

(4) Borrower's statement of present financial condition, including schedule of assets, liabilities, capital or net worth and income and expenses and statements for the immediately preceding three fiscal years.

(5) Application of person or persons, if any, making personal guarantee of such a loan together with their statement of financial condition as required in (4) above.

d. The form of the promissory note to be executed, complete except for signatures, and any personal guarantee forms to be executed by a person or persons providing guarantee of repayment of the loan.

e. The form of the security agreements or mortgages to be executed in connection with the loan, complete except for signatures; including the complete legal description of the property, personal or real, to be pledged, supplemented in addition by:

(1) A statement of the collateral's condition, marketability and appraised value, including the source of the appraisal.

(2) A statement of priority of such lien or security interest position based on official records search.

(3) Evidence of insurance coverage against customary perils and the availability of suitable loss payable assignments.

f. A lender's sworn statement to the Commissioner which includes:

(1) The citation of Minnesota Statutes under which the interest rate and other expenses in connection with

the loan are deemed lawful.

(2) Certification of lender's appraisal and consent to make the loan in the amount applied for which may be conditioned upon the granting of the commitment for insurance by the Commissioner.

g. An executed agreement between the lender and borrower that upon granting of the commitment for insurance by the Commissioner that:

(1) Funds will be disbursed only under the terms and for the purposes set forth in the application for insurance.

(2) Liens and security interests provided for in the application and documents offered in the application for insurance will be filed, recorded or, otherwise, perfected by the lender.

(3) Reasonable care shall be exercised by the lender or its agents to protect the interest of the State.

(4) A copy of the Notice of Default required by the Act to be sent to the borrower within 90 days of default of the loan shall also be sent to any person or persons guaranteeing the loan.

(5) If default is continued for 180 days and borrower has not made arrangements to meet his obligation, the lender shall promptly notify the Commissioner of the circumstances of default and file a claim for benefits under the Act.

B. Loans by municipalities, county or rural development financing authorities.

1. All information required to be submitted to the

Commissioner for consideration for commitment to insure any eligible loan shall be submitted in duplicate and include:

a. The information required by Part A, paragraphs (1) (a) through (g) (3) of this rule.

b. A copy of the application for the revenue bond project together with any attachments required to be submitted to the Minnesota Department of Commerce, Securities Division.

c. Evidence of the approval of the application for the revenue bond project by the Commissioner of Securities.

d. A statement that upon granting of the commitment for insurance by the Commissioner that a copy of the Notice of Default required by the Act to be sent to the borrower by the trustee within 15 days of the default of the terms of the revenue agreement will also be sent to any person or persons guaranteeing the agreement.

e. A statement that after 90 days, if default continues, the trustee shall file a claim with the Commissioner stating the nature of the default.

14 MCAR § 1.4008 Requirements for Obtaining Approval of Commitments for Insuring Loans Prior to their Execution or Disbursement.

A. Eligibility requirements for loans by state or federally chartered banks; Terms.

1. Principal Amount. The original bona fide principal amount of any loan shall not exceed:

a. An amount which can be shown to be fully secured by the unencumbered current appraised value of the collateral to be pledged by or on behalf of the borrower; or

b. An amount which can be reasonably documented and shown to be secured by the value found in the personal guarantee

up to a maximum proportion of 40 percent of the original bona fide principal with the remaining proportion to be fully secured in the manner prescribed in a. above.

2. Interest rate. The interest rate agreed upon between the borrower and the lender shall be expressed clearly in the loan agreement in annual percentage rate terms and include the manner in which lapsed periods of time are to be calculated for purposes of application of that rate, if interest is to be calculated or collected in intervals of less than one calendar year.

3. Repayment terms. The loan agreement shall provide for repayment terms which:

a. Include a schedule of installment payments of principal and interest which will extinguish the original bona fide principal of the loan over a term not exceeding 15 years from the date of execution of the loan.

b. Include a schedule of periodic installment payments of principal and interest coming due at least each 3 months or such lesser intervals as are reasonably consistent with the revenue income flow determined to support the ability on the part of the borrower to repay the obligation.

c. Provide that the first such installment of principal and interest may be scheduled so as to coincide with the first anticipated revenue.

d. Include language which provides that no refinancing, extension or deferment of the originally contracted obligation as approved for insurance or its security, or otherwise as would operate to modify the original contract terms may be made

between the borrower and the lender unless such considerations are in writing and expressly approved by the Commissioner.

e. Include language which effectively renders the obligation as documented to be nontransferable as to all or any part of its interests without prior written approval of the Commissioner.

4. No loan agreement may be the subject of any extension of time or deferment of originally scheduled installment payments which would result in the final contracted payment of principal or interest or combination thereof to fall due at a date more than 15 years from the date of origin without prior written approval of the Commissioner.

B. Elgibility requirements for loans by municipalities, county or rural development financing authorities; Terms.

1. Principal amount. The original bona fide principal amount as to the amount insured of any revenue agreement, exclusive of interest and expense shall not exceed:

a. An amount which can be shown to be fully secured by the unencumbered current appraised value of the collateral to be pledged by or on behalf of the borrower, or

b. An amount which can be reasonably documented and shown to be secured by the value found in the personal guarantee up to a maximum proportion of 40 percent of the original bona fide principal with the remaining proportion to be fully secured in the manner prescribed in a. above.

2. Repayment of revenue agreement. The repayment of the revenue agreement shall be such that it will produce income and revenue sufficient to provide for the repayment of principal

and interest on all bonds issued thereunder when due.

3. Repayment of revenue agreement: Terms. The revenue agreement shall provide for:

a. Repayment terms, including a schedule of installment payments of principal and interest, which will extinguish the original bona fide principal of the bonds over a period not to exceed 15 years from the date of origin.

b. Language which provides that no revision of the revenue agreement may be made between the borrower and the lender unless such revisions are approved by the Commissioner.

c. Language which would effectively render the revenue agreement nontransferable as to all or any part of its interest without the expressed approval of the Commissioner.

14 MCAR §1.4009. Interest Adjustment.

A. Eligibility requirements.

1. In order to be eligible for an interest adjustment an applicant must demonstrate inability to obtain a loan at an interest rate of 7% or less from other sources.

2. Only guaranteed loans that comply with 14 MCAR §1.4007 and 1.4008 shall be eligible for interest adjustment.

B. Repayment procedures.

1. The borrower shall reimburse the Commissioner for any amounts paid as an interest adjustment within one year after the final payment to a lending institution is due on the loan. The reimbursement to the Commissioner may be made in equal installments over the period of one year or in a single payment at the close of that year.

2. If the borrower has no proprietory right in the property to be rehabilitated, then a promissory note shall be negotiated between the borrower and the Commissioner prior to the granting of a loan guarantee to insure repayment of the interest adjustment.

RECEIVED
MAR 17 1980
OFFICE OF HEARING
EXAMINERS

STATE OF MINNESOTA

DEPARTMENT OF TRANSPORTATION

DIVISION OF PUBLIC TRANSPORTATION

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE DEPARTMENT OF TRANSPORTATION RELATING TO THE IMPLEMENTATION OF RAIL USER LOAN GUARANTEE PROGRAM

POST HEARING COMMENTS

INTRODUCTION

This memorandum is submitted by the Minnesota Department of Transportation (Mn/DOT) in support of the adoption of the Rules for the implementation of the Rail User Loan Guarantee Program. This memorandum is intended to be considered as substantive evidence in support of the need and reasonableness for these rules and should be considered as such along with all the other testimony, exhibits and other evidence which has been received in this proceeding.

COMMENTS

A. Use of the word "unencumbered."

Both members of the public who appeared at the public hearing commented on the ambiguity of the use of the word "unencumbered" in 14 MCAR § 1.4008 A 1(a) and B 1(a). Their concern was that an asset, a portion of whose value was pledged in support of another loan, would be considered totally "encumbered."

As explained at the public hearing in the testimony of Mr. Browne, it is the intention of Mn/DOT to accept that portion of the value of an asset which is not pledged for another loan. That is, if $100,000 of the value of a $500,000 asset is pledged in support of a loan to a bank for purposes of the Loan Guarantee Program, $400,000 worth of value would remain as unencumbered. Thus the intent of Mn/DOT is in agreement with the comments made at the public hearing by the members of the public.

In order to clear up any ambiguity in the use of the word "unencumbered," Mn/DOT would propose the following language changes. 14 MCAR § 1.4008 A 1(a) would be amended to read as follows:

> "An amount which can be shown to be fully secured by the equity determined by the current appraised value of the collateral to be pledged by or on behalf of the borrower."

14 MCAR § 1.4008 B 1(a) should be amended to read as follows:

> "An amount which can be shown to be fully secured by the equity determined by the current appraised value of the collateral to be pledged by or on behalf of the borrower."

This change in language replaces the word "encumbered" by a determination of equity in an asset. The change clarifies the meaning of the provision and should be acceptable to those members of the public who commented on the rule. The change has been discussed with the representatives of two banking institutions in Minnesota and it is acceptable to them.

B. Limitation on the amount of personal guarantee which can be used as security for a loan.

The other area of the rule which drew comment from the members of the public appearing at the public hearing was the provision relating to the amount of the loan that could be secured by a personal guarantee rather than collateral. This limitation occurs in 14 MCAR § 1.4008 A 1(b) and B 1(b). Both of these sections limit the amount of a loan which can be secured by personal guarantee to 40% of the original bona fide principal. The principal comment from the public on this section was that it created too little flexibility in the Commissioner to accept personal guarantees as opposed to hard collateral for the value of the loan. It was suggested that no percentage be placed in the provision and the decision be made on the case by case basis.

It is the position of Mn/DOT that the 40% figure should remain in these provisions. In the opinion of the Mn/DOT staff, the 40% figure for personal guarantees is already a very generous figure in terms of a personal guarantee to secure a loan. It must be kept

in mind that a personal guarantee is nothing other than the word of an individual or an institution that they will repay the loan unsecured by any collateral. While typically business loans are not secured by personal guarantees but rather by collateral, for purposes of this program, Mn/DOT feels it is appropriate to accept a personal guarantee but not for the full amount of the loan. The figure of 40% is a reasonable point which serves the State's interest in loan security and allows flexibility in the program.

In an effort to further investigate the responsibility of this requirement, Mr. Jim Browne of Mn/DOT contacted Mr. Philip L. Erickson of the Bank of Cooperatives, and Ernest Pierson of the Midland National Bank of Minneapolis, that bank's vice president in charge of industrial loans. Mr. Erickson sent Mr. Browne a letter, which is enclosed and incorporated in these comments. It should be noted that he suggests, in his second paragraph, that hard collateral of the shippers is preferred in the present situation, and personal guarantees on the part of the shippers should be kept to a minimum. The Bank of Cooperatives was the bank mentioned by the public commentator at the hearing.

Mr. Pierson of the Midland Bank did not send Mr. Browne a letter, but did state to him during a two-hour meeting on March 7, 1980 (two days after the hearing) that allowing up to 40% personal guarantees by shippers in lieu of collateral when the state is guaranteeing the loan is more than generous and that a bank would not go that high on such guarantees.

C. Approval of the commissioner for transfer of the loan.

At the public hearing the hearing examiner inquired as to what the standards would be for the commissioner's approval of changes in the loan agreements under 14 MCAR § 1.4008 A 3 d and e and 14 MCAR § 1.4008 B3bc. The hearing examiner's concern appeared to be that there be some standard against which the approval of the commissioner can be referenced. Mn/DOT proposes that a new section be added as 14 MCAR § 1.4008 A 3 f which would read as follows:

"The commissioner shall grant the approvals called for by this section if the loan agreement remains substantially the same, the loan agreement is in accord with these rules, and in the opinion of the commissioner, the risk to the state by the change in the agreement is not increased and the interests of the state are fully protected."

Mn/DOT would also suggest that the same language be added with respect to loans by municipalities as 14 MCAR § 1.4008 B 3 d. This added subsection indicates the standards which will govern the commissioner's approval of changes in the loan agreement and/or transfers of the loan agreement from one party to another.

D. Interest adjustment

At the public hearing the hearing examiner noted a difference between the period for interest adjustments stated in Minn. Stat.§ 222.58, subd. 5a which uses a period of ten years and two provisions of the Loan Guarantee Rules which use a period of fifteen years. While there is no necessity that a loan under the Loan Guarantee Program be eligible for interest adjustment, it is anticipated that all loans under the Loan Guarantee Program will seek interest adjustment. For this purpose Mn/DOT would propose to change the maturity requirements in the Loan Guarantee Program to ten years to coincide with the interest adjustment requirements. This would mean that 14 MCAR § 1.4008 A 3(a) and 14 MCAR § 1.4008 B 3(a) would use a figure of ten years as opposed to the fifteen-year figure which is presently in use in both of those sections.

E. Miscellaneous.

Various other provisions of the rule were questioned at the public hearing and this section is intended as a response to those comments. First, a question was asked regarding the use of the word "certification" in 14 MCAR § 1.4007 A 1 f (2). This usage was not intended to imply any notarization or proceeding with regard to the appraisal and consent referenced in that section. Mn/DOT would suggest that the word "documentation" be used in place of "certification" to avoid any misunderstanding.

Second, in the definition of rail line in 14 MCAR 1.4006 B14, the example of public use sidings is utilized to the exclusion of private use sidings. This was intended to exemplify the fact that rail lines refer to the public nature of the rail line. Private use sidings are eligible for funding as capital improvements under 14 MCAR 1.4006 B 4.

Third, the question arose with respect to the use of the language "including but is not limited to" in the definition of collateral in 14 MCAR 1.4006 B 6. This language is intended to indicate that the list of examples used there of types of collateral is not exclusive. This simply means that these things are to be considered collateral without prejudice to a determination that anything else is collateral. Mn/DOT feels the use of the phrase is not inappropriate in this circumstance.

Respectfully submitted,

James Browne

JAMES BROWNE

DOT-80-023-HC

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE DEPARTMENT OF TRANSPORTATION

In the Matter of the Proposed Adoption of Rules for the Implemention of the Rail User Loan Guarantee Program.

REPORT OF THE HEARING EXAMINER

The above-entitled matter came on for hearing before Harry Seymour Crump, Hearing Examiner from the State Office of Hearing Examiners, on March 5, 1980, at 10:00 a.m. in the State Capitol Building, Saint Paul, Minnesota.

William Donohue, Special Assistant Attorney General, appeared on behalf of the Department of Transportation (hereinafter "the Department"); James R. Browne, Rail Program Representative, and DonnaRae McKenzie, Coordinator, Rail Abandonment Program, represented the Department on its panel.

Two persons attended the hearing, signed the hearing register and spoke at the hearing. The hearing continued until all interested persons had an opportunity to participate and file written comments following the hearing. The record includes nine exhibits, with a post-hearing comment and response from the Department.

Pursuant to Minn. Stat. § 15.0412, subd. 4 (1978), this Report shall be available for review to all affected individuals upon request for at least five days. Thereafter, the Department of Transportation shall, if it proposes to adopt the rules as originally proposed or amended, submit a copy of the Order Adopting Rules, a copy of any additional agency findings, a copy of the rules as originally proposed, and a copy of the rules as adopted to the Chief Hearing Examiner for review pursuant to Minn. Stat. § 15.052, subd. 4 (1978). The submission to the Chief Hearing Examiner shall precede review by the Attorney General. The Chief Hearing Examiner shall complete his review and submit his report to the Department on the issues of substantial changes in the rule and compliance with Minn. Stat. § 15.0412 (1978) within ten calendar days. The Department will be responsible for filing the rules with the Attorney General and for notifying persons who have indicated that they wish to be notified of such filing.

Based upon all the records and proceedings herein, the Examiner makes the following:

FINDINGS OF FACT

Procedural Requirements

1. On January 17, 1980, the Department filed the following documents with the Chief Hearing Examiner:

(a) A copy of the proposed rules.
(b) The Order for Hearing proposed to be issued.
(c) The Notice of Hearing proposed to be issued.

2. On January 28, 1980, a Notice of Hearing and a copy of the proposed rules were published at 4 State Register 1200.

3. On January 29, 1980, the Department mailed the Notice of Hearing to all persons and associations who had registered their names with the Secretary of State for the purpose of receiving such notice.

4. On February 6, 1980, the Department filed the following documents:

(a) The Order for Hearing.
(b) The Notice of Hearing as mailed.
(c) The Affidavit of Receipt of the Secretary of State's list.
(d) The Affidavit of Mailing the Notice to all persons on the Secretary of State's list.
(e) The Statement of Need and Reasonableness.
(f) The Secretary of State's Certificate.
(g) All materials received following a Notice of Intent to Solicit Outside Opinion pursuant to Minn. Stat. § 15.0412, subd. 6. On November 19, 1979, the Department published said Notice at 4 State Register 832. The Department received one written comment pursuant to the request.

The documents were available for inspection at the Office of Hearing Examiners from the date of filing to the date of the hearing.

5. The record remained open through March 17, 1980, for the receipt of written comments and statements.

Statutory Authority

6. The Department's statutory authority to promulgate rules governing the rail users loan guarantee program is contained in Minn. Stat. § 222.58 (1978).

7. The purpose of the proposed rules is to aid rail users in obtaining credit for participation in contracts for rail line rehabilitation and for paying the cost of capital improvements.

Need and Reasonableness

8. At the outset of the hearing, the Department introduced the Statement of Need and Reasonableness as an exhibit into the record as though read. Copies of the Statement of Need and Reasonableness were available at the hearing and the public had an opportunity to review the statement. The Department relied upon its Statement of Need and Reasonableness in support of its affirmative presentation of fact, justifying both the need for and the reasonableness of the proposed rules. Except for the following comments, the proposed rules received no objections from the two members of the public appearing at the hearing. Except for the changes and recommendations by the Hearing Examiner indicated below, the proposed rules are needed and reasonable.

9. The proposed rules are found under 14 MCAR §§ 1.4006 to 1.4009. Section 1.4006 B. contains definitions very similar to the language found in the statute. Where the language in the proposed rule appears to duplicate language contained in the state statutes, it is crucial to the ability of persons affected by the rule to comprehend its meaning and effect.

The definition of "collateral" includes the terms "may" and "but is not limited to". These terms fail to make specific the laws enforced or administered by the Department; thus, giving the Commissioner unfettered discretion

to define collaterals. These kinds of defects in the rule are substantive in nature, and can easily be corrected without changing the meaning or intent of the provision and yet giving flexibility to the Commissioner. The term "may" should be changed to "shall". It seems to the Hearing Examiner that the Department intended to give examples of "other similar" kinds of securities to be pledged.

The definition of "interest adjustment" also includes the permissive language of "may". Unless the term "will" could be inserted without changing the intent of this provision, perhaps the Department could change this to "shall". At the hearing, the Department corrected a typographical error in the statutory citation in line 3 of "interest adjustment" by inserting after subdivision 5 "(a)" (1978).

The definition of "rail line" includes the term "but not limited to". It is suggested as above that this term should be made specific.

10. In order to clarify the meaning of the word "certification" in Section 1.4007 A.1.f.(2), the Department proposed to change the word to "documentation". The Hearing Examiner finds this change needed and reasonable.

11. Section 1.4008 A.1.a. received two comments from the public concerning the interpretation of the term "unencumbered current appraised value" of collateral. They ask if the Department considered as unencumbered the balance of a portion less than the full value in collateral which was previously pledged as collateral against another loan. The Department commented that it intended to accept that portion of the value as an asset which was not pledged against another loan. One comment indicated that the particular asset would be considered fully encumbered by the primary lender, although only a portion of its value was needed to cover the loan.

In its post-hearing brief, the Department amended Section 1.4008 A.1.a. to read as follows:

> An amount which can be shown to be fully secured by the (portion deleted) equity determined by the current appraised value of the collateral to be pledged by or on behalf of the borrower.

The Department also amended Section 1.4008 B.1.a. to read as follows:

> An amount which can be shown to be fully secured by the (portion deleted) equity determined by the current appraised value of the collateral to be pledged by or on behalf of the borrower.

The Department commented that the post-hearing changes clarified the meaning of the provisions and had been discussed with representatives of two banking institutions in Minnesota. The change is acceptable to them. The Hearing Examiner finds that the proposed rules, as amended, are reasonable and needed. The amendments appear not to constitute a substantial change.

12. Section 1.4008 A.1.b. and B.1.b. limit the amount of a loan which can be secured by a personal guarantee to 40 percent of the original bona fide principal. A public comment suggested that these provisions should allow for a personal guarantee of up to 100 percent. It was suggested that no percentage be placed in the proposed rule provision, and that a combination of personal and hard collateral up to 100 percent should be allowed.

In its post-hearing response, the Department rejected the above recommendation to eliminate the 40 percent provision. The Department commented that

the figure of 40 percent is a reasonable point which serves the state's interest in loan security and allow flexibility in the program. Furthermore, in a post-hearing investigation of this provision, the Department attached to its post-hearing comments a letter from the counsel and assistant secretary for the St. Paul Bank for Cooperatives. The bank suggested that hard collateral for the shippers is preferred in the present situation, and personal guarantees on the part of the shippers should be kept at a minimum. Another bank orally stated to the Department that the 40 percent personal limitation was more than generous, and that a bank would not go that high on such guarantees.

The Hearing Examiner finds the proposed rule, as published, to be reasonable and needed.

13. In response to a question by the Hearing Examiner on Sections 1.4008 A.3.a. and 1.4008 B.3.a., the Department amended the maturity requirements in the loan guarantee program to 10 years to coincide with the interest adjustment requirements. Under the above proposed provisions, the figure of "10 years" was inserted in place of "15 years" in each of the sections. The Department commented that there is necessity that a loan under the loan guarantee program be eligible for interest adjustment. However, it is anticipated that all loans under the loan guarantee program which seek interest adjustment.

changed p.7, 8

The Hearing Examiner finds that the proposed rule, as amended, is needed and reasonable. The modification or amendment appears not to constitute a substantial change.

14. In response to the Hearing Examiner's inquiry as to what standards would be for the Commissioner's approval of changes in the loan agreements under Section 1.4008 A.3.d. and e. and Section 1.4008 B.3.b. and c., the Department proposed the following amendment as a new provision to Section 1.4008 A.3.f. This provision reads as follows:

> The commissioner shall grant the approvals called for by this section if the loan agreement remains substantially the same, the loan agreement is in accordance with these rules, and in the opinion of the commissioner, the risks to the state by the change in the agreement is not increased and the interest of the state are fully protected.

inserted p.8, 9

The Hearing Examiner finds that this amendment appears to clarify these standards to be used by the Commissioner for approval of changes under the above proposed provisions.

The Department also amended Section 1.4008 B.3.d. to include the same language as above. This amendment to the proposed rule provisions is needed and reasonable. The amendments appear not to constitute a substantial change.

Based upon the foregoing Findings of Fact, the Hearing Examiner makes the following:

CONCLUSIONS

1. The Department of Transportation gave proper notice of the promulgation of the proposed rules provision.

2. The Department has statutory authority, as cited, to take the action proposed, to wit, the promulgation and amendment of the proposed rules.

3. The Department has fulfilled all relevant substantive and procedural requirements of law or rule.

4. The Department has demonstrated the need for and the reasonableness of the proposed rules and proposed amendments by an affirmative presentation of facts in the record.

Based upon the foregoing Conclusions, the Hearing Examiner makes the following:

RECOMMENDATION

It is recommended that the proposed rules and amendments be adopted by the Department of Transportation as recommended by the Hearing Examiner.

Dated: April 14, 1980.

HARRY SEYMOUR CRUMP
Hearing Examiner

Department of Transportation

Proposed Rules for Implementation of Rail User Loan Guarantee Program

Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held pursuant to Minn. Stat. § 15.0412, subd. 4, in Room 125, State Capitol Building, located on Aurora Avenue (Between Cedar and Park), Saint Paul, Minnesota on March 5th, 1980, commencing at 10:00 a.m. and continuing until all persons have had an opportunity to be heard.

The Commissioner of Transportation has been granted the statutory authority to promulgate rules governing the Rail User Loan Guarantee Program in Minn. Stat. § 222.58 (1978 & 1979 Supp.). The proposed rules would, if adopted, establish a Rail User Loan Guarantee program to aid rail users in obtaining credit for participation in contracts for rail line rehabilitation. Rules are proposed to enable the commissioner to guarantee these loans when made according to the provisions of Minn. Stat. §§ 222.55 to 222.62.

A copy of the proposed rules is attached. Limited additional copies are now available and may be obtained by writing to the Minnesota Department of Transportation (Attention: Sherri Y. Alston, Assistant Commissioner for Public Transportation), 413 Transportation Building, Saint Paul, Minnesota 55155. The proposed rules will be available at the door on the date of the hearing.

The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

Following the department's presentation at the hearing, all interested or affected persons will have an opportunity to ask questions and make comments. Statements may be made orally and written material may be submitted. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted to Harry S. Crump, Hearing Examiner, Room 300, 1745 University Avenue, Saint Paul, Minnesota 55104, telephone (612) 296-8111 either before the hearing or within five working days after the close of the hearing. The hearing examiner may, at the hearing, order that the record be kept open for a longer period not to exceed 20 calendar days. For those wishing to submit written statements or exhibits it is requested that at least three (3) copies be furnished. In addition, it is suggested to save time and avoid duplication that those persons, organizations or associations having a common viewpoint or interest in these proceedings join together where possible and present a single statement on behalf of such interests. All such statements will be entered into and become part of the record. The rule hearing procedure is governed by Minn. Stat. §§. 15.0411-15.0417 and 15.052, and by 9 MCAR §§ 2.101-2.112 (Minnesota Code of Agency Rules). If you have any questions about the procedure, call or write the hearing examiner.

Twenty-five days prior to the hearing, a Statement of Need and Reasonableness will be available for review at the agency and at the Office of Hearing Examiners. This Statement of Need and Reasonableness will include a summary of all of the evidence which will be presented by the agency at the hearing justifying both the need for and the reasonableness of the proposed rule. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Hearing Examiners at a minimum charge.

The department estimates that there will be no cost to local bodies in the state to implement the rule for the two years immediately following its adoption within the meaning of Minn. Stat. § 15.0412, subd. 7(1978).

Notice: any person may request notification of the date on which the hearing examiner's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted or resubmitted to the Attorney General by the agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the hearing examiner, in the case of the hearing examiner's report, or to the agency, in the case of the agency's submission or resubmission to the Attorney General.

Please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11 as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including *his own* travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than $250, not including *his own* traveling expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

"Lobbyist" does not include any:

(a) Public official or employee of the state or any of its political subdivisions or public bodies acting in his official capacity.

(b) Party or his representative appearing in a proceeding before a state board, commission or agency of the executive branch unless the board, commission or agency is taking administrative action;

(c) Individual wholly engaged in selling goods or services to be paid for by public funds;

(d) News media or their employees or agents while engaged in the publishing or broadcasting of news items, editorial comments or paid advertisements which directly or indirectly urge official action;

(e) Paid expert witness whose testimony is requested by the body before which he is appearing, but only to the extent of preparing or delivering testimony; or

(f) Stockholder of a family farm corporation is defined in § 500.24 subd. 1 who does not spend over $250 excluding *his own* travel expenses, in any year in communicating with public officials; or

(g) Party or his representative appearing to present a claim to the legislature and communicating to legislators only by the filing of claim form and supporting documents and by appearing at public hearings on the claim.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone (612) 296-5615.

January 14, 1980

Richard P. Braun
Commissioner of Transportation

Rules as Proposed (all new material)

14 MCAR § 1.4006 Authority and definitions.

A. Authority. These rules are adopted pursuant to the provisions of Minn. Stat. §§ 222.55 to 222.62 (1978 & 1979 Supp.).

B. Definitions. The following terms as they appear in these rules shall have these meanings:

1. "Account" means the Rail User Loan Guarantee Account established by Minn. Stat. § 222.57 as amended by Laws of 1979, Ex. Sess., ch. 1, § 40.

2. "Act" means the Rail User Loan Guarantee Act, Minn. Stat. §§ 222.55 to 222.62 (1978 & 1979 Supp.).

3. "Borrower" means any "rail user" as that term is defined in Minn. Stat. § 222.56, subd. 7 (1978).

4. "Capital improvements" means the purchase, rehabilitation or construction of physical facilities or equipment to improve rail service. Operating expenses are not considered capital improvements.

5. "Capital investment" means the cost of labor, materials and other incidental costs of rehabilitation of a rail line, including acquisition of right of way and structures.

6. "Collateral" means the security pledged for the loan which may include but is not limited to land, buildings, machinery, equipment, furniture, fixtures, accounts receivable, marketable securities, cash surrender value of life insurance and assignment of leases or leasehold interests.

7. "Commissioner" means the Commissioner of the Department of Transportation, State of Minnesota.

8. "Department" means the Minnesota Department of Transportation.

9. "Interest adjustment" means that portion of the interest on a guaranteed loan that may be paid by the Commissioner pursuant to Minn. Stat. § 222.58, subd. 5 (1978).

10. "Lender" shall have the meaning given it in Minn. Stat. § 222.56, subd. 4.

11. "Loan" means a loan or advance of credit to a rail user for the purpose of making a capital investment in rail line rehabilitation.

12. "Personal guarantee" means an individual or corporate obligation to repay the loan.

13. "Railroad" means a common carrier by rail as defined by 49 U.S.C. § 1(3), (1970).

14. "Rail line" means a railroad roadbed, right-of-way, track structure and other appurtenances of railroad right-of-way, including, but not limited to, public-use sidings.

15. "Rail user" means any person or entity described by Minn. Stat. § 222.48, subd. 6.

16. "Rehabilitation" means the rebuilding of a rail line or portions thereof and the implementation of other projects that will improve rail service.

14 MCAR § 1.4007 Application procedure.

A. Loans by state or federally chartered banks.

1. All information required to be submitted to the commissioner to support consideration for acceptance as an insured eligible loan shall be submitted in duplicate, and include:

a. A written statement under oath executed by the borrower that the proceeds of the loan will be used solely for participation in contracts for rail line rehabilitation or other capital improvements.

b. A copy of the contract for rail line rehabilitation which must contain:

(1) The identification of the participating parties.

(2) The total amount of the contract for rehabilitation.

(3) The respective share of the amount of the contract for rehabilitation to be provided by each participating party.

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike-outs~~ indicate deletions from proposed rule language. PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

(4) The conditions for repayment of the total amount of the contract to the participating parties.

(5) The nature of the capital improvements to be made.

(6) Identity of the escrow agent, if any.

c. The loan application taken by the lender, together with all supporting documents and data, pertinent to the lenders credit consideration, including the following:

(1) Principal amount of the loan and repayment terms.

(2) The collateral offered.

(3) Investigative credit data developed.

(4) Borrower's statement of present financial condition, including schedule of assets, liabilities, capital or net worth and income and expenses and statements for the immediately preceding three fiscal years.

(5) Application of person or persons, if any, making personal guarantee of such a loan together with their statement of financial condition as required in (4) above.

d. The form of the promissory note to be executed, complete except for signatures, and any personal guarantee forms to be executed by a person or persons providing guarantee of repayment of the loan.

e. The form of the security agreements or mortgages to be executed in connection with the loan, complete except for signatures; including the complete legal description of the property, personal or real, to be pledged, supplemented in addition by:

(1) A statement of the collateral's condition, marketability and appraised value, including the source of the appraisal.

(2) A statement of priority of such lien or security interest position based on official records search.

(3) Evidence of insurance coverage against customary perils and the availability of suitable loss payable assignments.

f. A lender's sworn statement to the commissioner which includes:

(1) The citation of Minnesota Statutes under which the interest rate and other expenses in connection with the loan are deemed lawful.

(2) Certification of lender's appraisal and consent to make the loan in the amount applied for which may be conditioned upon the granting of the commitment for insurance by the commissioner.

g. An executed agreement between the lender and borrower that upon granting of the commitment for insurance by the commissioner that:

(1) Funds will be disbursed only under the terms and for the purposes set forth in the application for insurance.

(2) Liens and security interests provided for in the application and documents offered in the application for insurance will be filed, recorded or, otherwise, perfected by the lender.

(3) Reasonable care shall be exercised by the lender or its agents to protect the interest of the State.

(4) A copy of the Notice of Default required by the act to be sent to the borrower within 90 days of default of the loan shall also be sent to any person or persons guaranteeing the loan.

(5) If default is continued for 180 days and borrower has not made arrangements to meet his obligation, the lender shall promptly notify the commissioner of the circumstances of default and file a claim for benefits under the act.

B. Loans by municipalities, county or rural development financing authorities.

1. All information required to be submitted to the commissioner for consideration for commitment to insure any eligible loan shall be submitted in duplicate and include:

a. The information required by Part A, paragraphs 1.a. through g.(3) of this rule.

b. A copy of the application for the revenue bond project together with any attachments required to be submitted to the Minnesota Department of Commerce, Securities Division.

c. Evidence of the approval of the application for the revenue bond project by the Commissioner of Securities.

d. A statement that upon granting of the commitment for insurance by the commissioner that a copy of the Notice of Default required by the act to be sent to the borrower by the trustee within 15 days of the default of the terms of the revenue agreement will also be sent to any person or persons guaranteeing the agreement.

e. A statement that after 90 days, if default continues, the trustee shall file a claim with the commissioner stating the nature of the default.

14 MCAR § 1.4008 Requirements for obtaining approval of commitments for insuring loans prior to their execution or disbursement.

A. Eligibility requirements for loans by state or federally chartered banks; terms.

1. Principal amount. The original bona fide principal amount of any loan shall not exceed:

a. An amount which can be shown to be fully secured by the unencumbered current appraised value of the collateral to be pledged by or on behalf of the borrower; or

b. An amount which can be reasonably documented and shown to be secured by the value found in the personal guarantee up to a maximum proportion of 40 percent of the original bona fide principal with the remaining proportion to be fully secured in the manner prescribed in a. above.

2. Interest rate. The interest rate agreed upon between the borrower and the lender shall be expressed clearly in the loan agreement in annual percentage rate terms and include the manner in which lapsed periods of time are to be calculated for purposes of application of that rate, if interest is to be calculated or collected in intervals of less than one calendar year.

3. Repayment terms. The loan agreement shall provide for repayment terms which:

a. Include a schedule of installment payments of principal and interest which will extinguish the original bona fide principal of the loan over a term not exceeding 15 years from the date of execution of the loan.

b. Include a schedule of periodic installment payments of principal and interest coming due at least each 3 months or such lesser intervals as are reasonably consistent with the revenue income flow determined to support the ability on the part of the borrower to repay the obligation.

c. Provide that the first such installment of principal and interest may be scheduled so as to coincide with the first anticipated revenue.

d. Include language which provides that no refinancing, extension or deferment of the originally contracted obligation as approved for insurance or its security, or otherwise as would operate to modify the original contract terms may be made between the borrower and the lender unless such considerations are in writing and expressly approved by the commissioner.

e. Include language which effectively renders the obligation as documented to be nontransferable as to all or any part of its interests without prior written approval of the commissioner.

4. No loan agreement may be the subject of any extension of time or deferment of originally scheduled installment payments which would result in the final contracted payment of principal or interest or combination thereof to fall due at a date more than 15 years from the date of origin without prior written approval of the commissioner.

B. Eligibility requirements for loans by municipalities, county or rural development financing authorities; terms.

1. Principal amount. The original bona fide principal amount as to the amount insured of any revenue agreement, exclusive of interest and expense shall not exceed:

a. An amount which can be shown to be fully secured by the unencumbered current appraised value of the collateral to be pledged by or on behalf of the borrower, or

b. An amount which can be reasonably documented and shown to be secured by the value found in the personal guarantee up to a maximum proportion of 40 percent of the original bona fide principal with the remaining proportion to be fully secured in the manner prescribed in a. above.

2. Repayment of revenue agreement. The repayment of the revenue agreement shall be such that it will produce income and revenue sufficient to provide for the repayment of principal and interest on all bonds issued thereunder when due.

3. Repayment of revenue agreement: terms. The revenue agreement shall provide for:

a. Repayment terms, including a schedule of installment payments of principal and interest, which will extinguish the original bona fide principal of the bonds over a period not to exceed 15 years from the date of origin.

b. Language which provides that no revision of the revenue agreement may be made between the borrower and the lender unless such revisions are approved by the commissioner.

c. Language which would effectively render the revenue agreement nontransferable as to all or any part of its interest without the expressed approval of the commissioner.

14 MCAR § 1.4009. Interest adjustment.

A. Eligibility requirements.

1. In order to be eligible for an interest adjustment an applicant must demonstrate inability to obtain a loan at an interest rate of 7% or less from other sources.

2. Only guaranteed loans that comply with 14 MCAR §§ 1.4007 and 1.4008 shall be eligible for interest adjustment.

B. Repayment procedures.

1. The borrower shall reimburse the commissioner for any amounts paid as an interest adjustment within one year after the final payment to a lending institution is due on the loan. The reimbursement to the commissioner may be made in equal installments over the period of one year or in a single payment at the close of that year.

2. If the borrower has no proprietary right in the property to be rehabilitated, then a promissory note shall be negotiated between the borrower and the commissioner prior to the granting of a loan guarantee to insure repayment of the interest adjustment.

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike-outs~~ indicate deletions from proposed rule language. **PROPOSED RULES SECTION** — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

STATE OF MINNESOTA

DEPARTMENT OF TRANSPORTATION

RECEIVED
FEB 6 1980
OFFICE OF HEARING EXAMINERS

In the Matter of the Proposed) Adoption of Rules for the) Implementation of the Rail) User Loan Guarantee Program.)

NOTICE OF HEARING

- -

NOTICE is hereby given that a public hearing in the above-entitled matter will be held pursuant to Minn. Stat., § 15.0412, subd. 4, in Room 125, State Capitol Building, located on Aurora Avenue (Between Cedar and Park), Saint Paul, Minnesota on March 5th, 1980, commencing at 10:00 A.M. and continuing until all persons have had an opportunity to be heard.

The Commissioner of Transportation has been granted the statutory authority to promulgate rules governing the Rail User Loan Guarantee Program in Minn. Stat., § 222.58, (1978 & 1979 Supp.). The proposed rules would, if adopted: Establish a Rail User Loan Guarantee program to aid rail users in obtaining credit for participation in contracts for rail line rehabilitation. Rules are proposed to enable the Commissioner to guarantee these loans when made according to the provisions of Minn. Stat., §§ 222.55 to 222.62.

A copy of the proposed rules is attached. Limited additional copies are now available and may be obtained by writing to the Minnesota Department of Transportation (Attention: Sherri Y. Alston, Assistant Commissioner for Public Transportation), 413 Transportation Building, Saint Paul, Minnesota 55155. The proposed rules will be available at the door on the date of the hearing.

The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

In the Matter of the Proposed)
Adoption of Rules for the)
Implementation of the Rail)
User Loan Guarantee Program.)

Following the department's presentation at the hearing, all interested or affected persons will have an opportunity to ask questions and make comments. Statements may be made orally and written material may be submitted. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted to Harry S. Crump, Hearing Examiner, Room 300, 1745 University Avenue, Saint Paul, Minnesota 55104, telephone (612)296-8111 either before the hearing or within five working days after the close of the hearing. The hearing examiner may, at the hearing, order that the record be kept open for a longer period not to exceed 20 calendar days. For those wishing to submit written statements or exhibits it is requested that at least three (3) copies be furnished. In addition, it is suggested to save time and avoid duplication that those persons, organizations or associations having a common viewpoint or interest in these proceedings join together where possible and present a single statement on behalf of such interests. All such statements will be entered into and become part of the record. The rule hearing procedure is governed by Minn. Stat. §§ 15.0411 - 15.0417 and 15.052, and by 9 MCAR §§ 2.101-2.112 (Minnesota Code of Agency Rules). If you have any questions about the procedure, call or write the hearing examiner.

Twenty-five days prior to the hearing, a Statement of Need and Reasonableness will be available for review at the agency and at the Office of Hearing Examiners. This Statement of Need and Reasonableness will include a summary of all of the evidence which will be presented by the agency at the hearing justifying both the need for and the reasonableness of the proposed rule. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Hearing Examiners at a minimum charge.

In the Matter of the Proposed)
Adoption of Rules for the)
Implementation of the Rail)
User Loan Guarantee Program.)

The department estimates that there will be no cost to local bodies in the State to implement the rule for the two years immediately following its adoption within the meaning of Minn. Stat. § 15.0412, subd. 7(1978).

NOTICE, any person may request notification of the date on which the hearing examiner's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted or resubmitted to the Attorney General by the agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the hearing examiner, in the case of the hearing examiner's report, or to the agency, in the case of the agency's submission or resubmission to the Attorney General.

PLEASE BE ADVISED that Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11 as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than $250, not including his own traveling expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

In the Matter of the Proposed)
Adoption of Rules for the)
Implementation of the Rail)
User Loan Guarantee Program.)

"LOBBYIST" does not include any:

(a) Public official or employee of the state or any of its political subdivisions or public bodies acting in his official capacity.

(b) Party or his representative appearing in a proceeding before a state board, commission or agency of the executive branch unless the board, commission or agency is taking administrative action;

(c) Individual wholly engaged in selling goods or services to be paid for by public funds:

(d) News media or their employees or agents while engaged in the publishing or broadcasting of news items, editorial comments or paid advertisements which directly or indirectly urge official action;

(e) Paid expert witness whose testimony is requested by the body before which he is appearing, but only to the extent of preparing or delivering testimony; or

(f) Stockholder of a family farm corporation is defined in § 500.24 subd. 1 who does not spend over $250 excluding his own travel expenses, in any year in communicating with public officials; or

(g) Party or his representative appearing to present a claim to the legislature and communicating to legislators only by the filing of claim form and supporting documents and by appearing at public hearings on the claim.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone (612)296-5615.

Richard P. Braun
Commissioner of Transportation

Dated this 14th day of January, 1980

Subscribed and Sworn to Before Me:

Colette E. Prokop
Notary Public

COLETTE E. PROKOP
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
My Comm. Expires Sep. 13, 1986

My Commission Expires: 9-13-86

41

STATE OF MINNESOTA

DEPARTMENT OF TRANSPORTATION

RECEIVED
JAN 17 1980
OFFICE OF HEARING EXAMINERS

In the Matter of the Proposed) Adoption of Rules for the) Implementation of the Rail) User Loan Guarantee Program.)

ORDER FOR HEARING

- -

IT IS HEREBY ORDERED that a public hearing on the above-captioned rules be held in Room 125, State Capitol Building, St. Paul, Minnesota on the 5th day of March, 1980, commencing at 10:00 A.M. and continuing until all persons have had an opportunity to be heard.

IT IS FURTHER ORDERED that a Notice of Hearing be mailed to all persons or representatives of associations or other interested groups who have registered their names with Secretary of State for that purpose.

IT IS FURTHER ORDERED that the Notice of Hearing be published in the State Register.

/s/ Richard P. Braun
Richard P. Braun
Commissioner of Transportation

Dated this 14th day of January, 1980.

Subscribed and sworn to before me this

14th day of January, 1980.

Colette E. Prokop
Notary Public,

Ramsey, County, Minnesota.

COLETTE E. PROKOP
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
My Comm. Expires Sep. 13, 1986

Ex 6

RECEIVED
FEB 6 1980
OFFICE OF HEARING EXAMINERS

STATE OF MINNESOTA

DEPARTMENT OF TRANSPORTATION

DIVISION OF PUBLIC TRANSPORTATION

In the Matter of the Proposed Adoption of Rules of the Department of Transportation Relating to the Implementation of the Rail User Loan Guarantee Program.	STATEMENT OF NEED AND REASONABLENESS

The above captioned rules are to be permanent rules of the Department of Transportation. These rules will replace temporary rules that were published, adopted, and were in effect until October 15, 1979.

Minn. Stat, § 222.55, (1978, & 1979 Supp.) states the purpose of the program:

"In order to aid rail users in obtaining credit for participation in contracts for rail line rehabilitation and for paying the costs of capital improvements necessary to improve rail service or reduce the impact of discontinuance of rail service, there is established a rail user loan guarantee program to provide state money in guarantee of loans made according to the provisions of §§ 222.55 to 222.62."

This Statement of Need in support of the Department of Transporation's rules will be presented section by section and by subsection therein.

MCAR § 1.4006 Authority and Definitions.

A. Authority. These rules are adopted pursuant to Minn. Stat., § 222.58, (1978, & 1979 Supp.).

B. Definitions. Many definitions listed are established by Statute, others are self explanatory and the remainder are used to clarify terms that may have different meanings when used in another context. The purpose of the definitions is to allow

the use of single words or phrases and therefore eliminate the redundant use of citations and explanations.

B. 1. "Account." This definition is established by Minn. Stat. § 222.57 (1978, & 1979 Supp.).

B. 2. "Act." This definition is self explanatory.

B. 3. "Borrower." To be able to have a loan guaranteed under this program the borrower must be a "rail user" as defined in Minn. Stat., § 222.48, subd. 6 (1978).

B. 4. "Capital Improvements." This definition limits capital improvements strictly to projects that will improve rail service.

B. 5. "Capital Investment" limits investments to rail improvement related projects.

B. 6. "Collateral" defines the security acceptable for insurance of a loan.

B. 7. "Commissioner" is self explanatory.

B. 8. "Department" is self explanatory.

B. 9. "Interest Adjustment." This definition is established by Minn. Stat., § 222.58 (1978, & 1979 Supp.).

B. 10. "Lender" defines the type of lending institution or bonding authority eligible for a loan guarantee.

B. 11. "Loan" is self explanatory.

B. 12. "Personal Guarantee" is self explanatory.

B. 13. "Railroad." This definition is established by Federal law, 49 U.S.C. § 1(3), (1970).

B. 14. "Rail Line" defines the railroad roadbed and associated publicly used track structures, as opposed to private loading facilities, unloading facilities, storage facilities and privately owned sidings.

B. 15. "Rail User." This definition is established by Minn. Stat., § 222.48, subd. 6 (1978).

B. 16. "Rehabilitation" defines actual reconstruction of rail lines or allied projects to improve rail service as opposed to normal maintainance or projects that only serve to maintain the status quo.

MCAR § 1.4007 Application Procedures.

A. Delineates the steps necessary in applying for a loan guarantee by State or Federally chartered banks. Certain documents and statements from the borrower and lender are needed to evaluate the merits of an application and to protect the interests of the State. It is necessary to know the type of project that the loan proceeds will be used for and who the parties are that are involved in the project. The required information on the financial condition of the borrower and the value and condition of the collateral is needed to protect the interests of the State prior to the granting of a loan guarantee. The information required of the borrower would be the same information that the lender would require before granting a loan. In addition to the information required of the borrower, there must be assurances that the lender will not grant a loan simply because his losses will be minimized by the State's guaranteee. Therefore, the lender must produce documents or statements to show that: the loan proceeds will only be disbursed for the purposes set forth in the agreement; that all documents will be filed or recorded when necessary; and, that the loan will be administered by the lender in such a way to protect the interests of the State. If default occurs, there must be a reasonable amount of time to allow for fulfillment of the borrowers' obligation prior to the lender filing a claim for payment of the insurance.

B. When the loans to be guaranteed are made by municipalities, county or rural development financing authorities through the issuance of municipal industrial bonds, the information required will be the same as in A., paragraphs (1)(a) through (g)(3), with the addition of all evidence showing that an application for the revenue bond project has been submitted to and approved by the Commissioner of Securities. Revenue bonds must be sold to investors after they are issued. Many of the potential buyers are individuals looking for a secure investment. To protect the small individual investor, and to make investment in

the bonds more attractive, it was necessary to shorten the amount of time between default and the payment of insurance. Claims for insurance may be filed 90 days after default in the case of revenue bonds, as compared to 180 days when the lender is a commercial institution.

MCAR § 1.4008. Requirements for Obtaining Approval of Commitments for Insuring Loans Prior to Their Execution or Disbursement.

A. In order to protect the State's interest under the Loan Gurantee Program, certain requirements are necessary prior to granting approval of a guarantee on loans made by State or Federally chartered banks. Before agreeing to insure up to 90% of a loan for rail service improvement projects, the risks involved with the insurance must be made as minimal as possible. In order to do this it must be shown that the original principal amount of the loan is secured by sufficient collateral, or collateral and personal guarantees with the largest part of the loan being secured with hard collateral. The interest rate charged by the lender should be legal and reasonable, and be spelled out in the loan agreement. The rail users repayment of the loan, in cases of rail rehabilitation, is based upon revenue received from the railroad for the number of cars shipped. For this reason it is necessary that the repayment schedule of the loan be structured to coincide with the payment of the users by the railroad. These payments are usually made on a 3 month or quarterly basis. When State funds are being used to insure a lender against loss on the loans granted for rail service improvement projects, the Commissioner must have some control over the administration of the loan. Changes in the loan agreement that would alter the original terms accepted for approval of the insurance must have the written approval of the Commissioner. Fifteen years should be adequate time to repay a loan. Past experiences have shown that railroads involved in rehabilitation projects have been extremely reluctant to sign a contract for a period of more than ten years. The duration of the contract may be extended with the Commissioner's approval.

B. Eligibility requirements for loans by municipalities, county or rural development financing authorities are basically the same as for State or Federally chartered banks. The need for these rules is the same as expressed in subsection A above.

MCAR § 1.4009 Interest Adjustments.

A. During periods of high interest rates rail users that are participating in rehabilitation projects, and must borrow the money to do so, are eligible for an interest adjustment if they are unable to obtain a low interest loan from another source. When a rail user offers financial assistance to rehabilitate a rail line, the user seldom has a proprietory interest in the property that is being rehabilitated. When this is the case it is necessary that the Commissioner negotiate a promissory note with the user to insure repayment to the State of the money advanced for interest adjustment.

Richard P. Braun
Commissioner

DEPARTMENT OF TRANSPORTATION

DIVISION OF PUBLIC TRANSPORTATION

Notice of Intent to Solicit Outside Opinion
Concerning Rules for the Implementation
of the Rail User Loan Guarantee Program

Notice is hereby given that the Minnesota Department of Transportation (hereinafter "Department") is seeking information or opinions from sources outside the Department in preparing to propose the adoption of rules relating to the implementation of the Rail User Loan Guarantee Program authorized by Minn. Laws of 1979, Ex. Sess., ch. 1, §§38-44.

The rules are authorized by Minn. Stat. 15.0412 subd. 3 (1978). The proposed rules would include the following areas:

1. Eligibility requirements for program participation.

2. The program application procedure.

3. Repayment conditions and interest rates.

4. Interest adjustments.

The department requests information and comments concerning the subject matter of the proposed rules. Interested or affected persons or groups may submit statements of information, comment and advice in writing or orally to:

Mr. L. F. McNamara, Director
Office of Railroad Administration
Minnesota Department of Transportation
419 State Transportation Building
John Ireland Boulevard
St. Paul, Minnesota 55155

All statements of information and comment must be received by December 14, 1979. Any written material received by the Department shall become part of the hearing record when rules governing the subject are promulgated.

Richard P. Braun
Commissioner

Ethical Practices Board

Notice of Regular Meeting

The next regular meeting of the Ethical Practices Board will be held Friday, November 30, 1979, at 9:30 a.m., Room 14, State Office Building, St. Paul, MN

Preliminary Agenda

1. Minutes (October 26, 1979)
2. Legal Counsel Report
3. Public Financing Discussion
4. Executive Director's Report
5. Other Business

Department of Health Emergency Medical Services Section

Notice of Filing of Application by Bio-Medical Research Associates, Inc., for Licensure to Operate Emergency Air Ambulance Service in St. Paul, MN

On May 23, 1979, Bio-Medical Research Associates, Inc., filed application with George R. Pettersen, M.D., Commissioner of Health, for a license to operate an emergency air ambulance service with a base of operation in St. Paul, Minnesota. This notice is made pursuant to Minn. Statutes Section 144.802 (Supp. 1977). Please be advised that Subdivision 2 of that statute states, in part: The Commissioner may grant or deny the license 30 days after notice of the filing has been fully published. If the Commissioner receives a written objection to the application from any person within 20 days of the notice having been fully published, the license shall be granted or denied only after a contested case hearing has been conducted on the application. The Commissioner may elect to hold a contested case hearing if no objections to the application are received. If a timely objection is not received, the Commissioner may grant or deny the requested license based upon the information contained in the license application. If licensure is denied without hearing, the applicant, within 30 days after receiving notice of denial, may request and shall be granted a contested case hearing upon the application, at which hearing all issues will be heard de novo.

Any objections to this service, pursuant to Minn. Statutes 144.802 (Supp. 1977) may be made in writing to George R. Pettersen, M.D., within the time period outlined by statute.

Department of Transportation Public Transportation Division

Notice of Intent to Solicit Outside Opinion Concerning Rules for the Implementation of the Rail User Loan Guarantee Program

Notice is hereby given that the Minnesota Department of Transportation (hereinafter "Department") is seeking information or opinions from sources outside the Department in preparing to propose the adoption of rules relating to the implementation of the Rail User Loan Guarantee Program authorized by Laws of 1979, Ex. Sess., ch. 1, §§ 38-44.

The rules are authorized by Minn. Stat. § 15.0412, subd. 3 (1978). The proposed rules would include the following areas:

1. Eligibility requirements for program participation.
2. The program application procedure.
3. Repayment conditions and interest rates.
4. Interest adjustments.

The department requests information and comments concerning the subject matter of the proposed rules. Interested or affected persons or groups may submit statements of information, comment and advice in writing or orally to:

Mr. L. F. McNamara, Director
Office of Railroad Administration
419 State Transportation Building
John Ireland Boulevard
St. Paul, Minnesota 55155

All statements of information and comment must be received by December 14, 1979. Any written material received by the Department shall become part of the hearing record when rules governing the subject are promulgated.

Richard P. Braun
Commissioner of Transportation

Notice of Intent to Solicit Outside Opinion Concerning Proposed Amendments to Rules of the Minnesota Rail Service Improvement Program

Notice is hereby given that the Minnesota Department of Transportation (hereinafter "Department") is seeking information or opinions from sources outside the Department in preparing to propose the adoption of amendments to rules

relating to the Minnesota Rail Service Improvement Program.

Amendments to the rules are authorized by Laws of 1979, Ex. Sess. ch. 1, § 31, subd. 3(d). Due to this new legislation, the proposed amendments to the rules would include changes to the following sections of the present rules governing the Minnesota Rail Service Improvement Program:

1. Program criteria including eligibility requirements, project funding and priority of projects.

2. Application and contracting requirements.

A section would also be added relating to the confidentiality of railroad data submitted to the Department for programming purposes.

The Department requests information and comments concerning the subject matter of the proposed rules. Interested or affected persons or groups may submit statements of information, comment and advice in writing or orally to:

Mr. L. F. McNamara, Director
Office of Railroad Administration
Minnesota Department of Transportation
419 State Transportation Building
John Ireland Boulevard
St. Paul, Minnesota 55155

All statements of information and comment must be received by December 14, 1979. Any written material received by the Department shall become part of the hearing record when rules governing this subject are promulgated.

Richard P. Braun
Commissioner of Transportation

ERRATA

The proposed rules of the Housing Finance Agency relating to the Accessibility Improvement Assistance Program which were published at *State Register*, Volume 4, Number 17, October 29, 1979, pp. 704-706, contained an error. The Table "PERCENTAGE AVAILABLE ACCESSIBILITY GRANT ASSISTANCE" appearing at 4 S.R. 706 should read as follows:

Table—PERCENTAGE AVAILABLE ACCESSIBILITY GRANT ASSISTANCE
(Income stated in thousands of dollars)

Income	$0-5	5-6	6-7	7-8	8-9	9-10	10-11	11-12	12-13	13-14	14-15	15-16
Percent Indebted												
35						69%	65%	64%	61%	60%	57%	57%
30						51%	30%	28%	22%	20%	14%	13%
25	100%			74%	70%	5%						
20	GRANT		76%	48%	40%							
15		80%	52%	22%	10%							
10		60%	28%						NO GRANT			
5		52%	4%									
0		20%										

STATE OF MINNESOTA

DEPARTMENT OF TRANSPORTATION

DIVISION OF PUBLIC TRANSPORTATION

In the Matter of the Proposed)
Adoption of Rules for the)
Implementation of the Rail)
User Loan Guarantee Program.)

AFFIDAVIT OF MAILING

Kenneth H. Bjork, being first duly sworn, deposes and says:

That on the 29th day of January, 1980, at the City of Saint Paul, County of Ramsey, State of Minnesota, he served the attached Notice of Hearing by depositing in the United States mail at said City of Saint Paul, a true and correct copy thereof, properly enveloped, with postage prepaid, to all persons and associations at the addresses listed on the attached Certificate of the Secretary of State.

/s/ Kenneth H. Bjork

Subscribed and sworn to before me

this 1st day of February, 1980.

Agnes I. Litfin
Notary Public,

Ramsey, County, Minnesota

My Commission expires November 21, 1980

AGNES I. LITFIN
Notary Public, Ramsey Co., Minn.
My Commission Expires
November 21, 1980

STATE OF MINNESOTA

DEPARTMENT OF TRANSPORTATION

IN THE MATTER OF THE PROPOSED)
ADOPTION OF RULES FOR THE)
IMPLEMENTATION OF THE RAIL)
USER LOAN GUARANTEE PROGRAM.)

AFFIDAVIT OF RECEIPT OF THE SECRETARY OF STATE'S LIST

Kenneth H. Bjork, being duly sworn on oath deposes and says:

1) That he is an employee of the Transportation Department, Administration Division of the State of Minnesota.

2) That on the 28th day of January, 1980, he went to the Secretary of State's office for the State of Minnesota and requested a current list of all representatives of associations or other interested groups or persons who had registered their names with the Secretary of State for the purpose of obtaining notices of public hearings relating to the promulgation of rules pursuant to Minn. Stat., § 15.0412 (1978, & 1979 Supp).

3) That on the 28th day of January, 1980, in response to the above request, the Secretary of State provided him with such a list, a copy of which is attached hereto and incorporated by reference.

Further affiant sayeth not. Kenneth H. Bjork

Subscribed and sworn to before me this
1st day of February, 1980.

Notary Public,

Agnes I. Litfin, Ramsey County, Minnesota
My Commission expires November 21, 1980.

AGNES I. LITFIN
Notary Public, Ramsey Co., Minn.
My Commission Expires
November 21, 1980

#4

RECEIVED
FEB 6 1980
OFFICE OF HEARING EXAMINERS

STATE OF MINNESOTA

DEPARTMENT OF TRANSPORTATION

DIVISION OF PUBLIC TRANSPORTATION

In the Matter of the Proposed)
Adoption of Rules for the)
Implementation of the Rail)
User Loan Guarantee Program.)

CERTIFICATE OF DELIVERY OF THE SECRETARY OF STATE'S LIST

I hereby certify that the attached 335 labels 3 sheets constitute the complete list of persons, associations, and other interested groups who as of 1:30 o'clock PM, this 28th day of January, 1980, have requested pursuant to Minn. Stat., §§ 15.0412, subd. _____, (1978 & 1979 Supp) that their names be placed on file with the Secretary of State for the purpose of receiving notice of public hearing on proposed rules on the subject captioned above.

SECRETARY OF STATE

Joan Anderson Growe

By Dennis Smith

STATE OF MINNESOTA

DEPARTMENT OF TRANSPORTATION

DIVISION OF PUBLIC TRANSPORTATION

IN THE MATTER OF THE PROPOSED)
ADOPTION OF RULES PERTAINING)
TO IMPLEMENTATION OF THE RAIL)
USER LOAN GUARANTEE PROGRAM)

STATEMENT OF COMPLIANCE WITH

MANUAL OF RULE MAKING PROCEDURES

I, Special Assistant Attorney General Gilbert S. Buffington, do hereby declare that I have examined the proposed rules and all related documents and that, based on them and my personal familiarity with the applicable procedures, the Manual of Rule Making Procedures has been followed.

Gilbert S. Buffington
Special Assistant Attorney General

Dated: June 25, 1980

ADMIN 1000 (Rev. 1/78)
SF-00006-01

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT Mn/DOT-Office of the Commissioner
Room 411

TO : Warren Spannus
Attorney General
Room 102 - Capitol Building
ATTN: Joanne Hinderaker

DATE: June 26, 1980

FROM : Richard P. Braun
Commissioner

RPB for RPB

PHONE: 296-3000

SUBJECT: Rules pertaining to the Implementation of the Rail User Loan Guarantee Program.

Pursuant to Minn. Stat. §15.0412, subd. 4., the above entitled rules and hearing record are being transmitted to you for your review and approval.

Attachments:

cc:
Steve Buffington
Ken Bjork
Sherri Alston
Cecil Selness
Joanne McCrossen

RPB:dk
D. McKenzie

RECEIVED
JUN 26 1980
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES