

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 828

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 7-1-82
DATE FOR REVIEW 7-9-82
DATE DUE 7-15-82

Adopted w/a hearing _____
Adopted w/o hearing ✓
Temporary rule _____

Approved 7-15-82 Disapproved _____ Returned to Agency 7-16-82

Resubmitted _____ Due _____
Approved _____ Disapproved _____ Returned to Agency _____

Date filed w/Secretary of State 7-15-82 Revisor approved 7/6/82 disapproved _____

___✓___ Rule as Adopted

___✓___ Rule as Proposed See SR.

___✓___ Order Adopting 7.1.82 Date

___N/A___ Notice of Intent to Solicit Outside Opinion

___✓___ Order for rulemaking
___N/A___ date of Hearing

___N/A___ Certificate of Board's Authorizing Resolution

___✓___ Notice of rulemaking
___✓___ Sufficiency

___✓___ Affidavit of Mailing Notice or rulemaking
5.18.82 At least 30 days prior to ~~hearing~~/adoption

___✓___ Mailing list Certificate

___✓___ Publication in State Register
5.31.82 At least 30/~~20~~ days prior to ~~hearing~~/adoption

___N/A___ Hearing Examiner's Report

___ Chief Hearing Examiner's Report(s)
___ Approving H.E.'s Report
___ Approving agency action

___ Agency's Findings of Fact

___ LCRAR Report or agency Affidavit

___✓___ Certificate of Board's Resolution Adopting Rules

___✓___ Order Approving Incorporation by Reference

___✓___ Statement of Need and Reasonableness

___N/A___ Petition for Adoption of a Rule

___✓___ Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

___✓___ Certificate of Compliance w/Rulemaking Procedures

___N/A___ Affidavit of Mailing Notice of Submission to Attorney General

___✓___ Notice of Submission to the Attorney General

SP-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO ROLF MIDDLETON
Commissioner of Economic Security

DATE: 7/15/82

ATTN : PETER C. ANDREWS, Assistant Attorney General

FROM : LARRY D. STARNS
Special Assistant
Attorney General

PHONE: 297-3493

SUBJECT: In the Matter of the Proposed Adoption of Rules of the State of Minnesota Governing the Weatherization Assistance for Low Income Persons 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. Please 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 stamps of the Attorney General and Secretary of State;

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

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

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

LDS:drw
Encs.

cc: Ms. Kathy Burek
Mr. Duane Harves

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT Economic Security/Weatherization

Office Memorandum

TO : Attorney General's Office
Dept of Administration

DATE: 7-1-82

FROM : Roger Williams
Dept. of Economic Security
Weatherization Program

PHONE: 6-5744

SUBJECT: Department Reply to Letter on Rules 8MCAR § 4.0012 from Mr. Richard Hauck of the Department of Administration, Building Codes Division.

On Monday, June 28, I met with Mr. Hauck to discuss the contents of his letter as it relates to the mobile home portion of the weatherization rules. I described potential problems and the training our weatherization grantees have received on mobile home weatherization. All of the crews and weatherization auditors have been trained in proper methods of diagnosing weatherization problems and performing the related work on mobile homes.

Mr. Hauck didn't feel that the work we were doing violated the rules cited in his letter. He stated that if an agency ran into a situation that they had not dealt with previously, they should contact a local building official or his office to check for compliance with the rules.

The Department of Economic Security is developing a memo to all its grantees and will be sending them a copy of the rules referenced in Mr. Hauck's letter.

The agencies have weatherized in excess of 1,000 mobile homes statewide. Some problems existed before the agencies had training. However, the Department of Economic Security has not had one complaint on mobile home weatherization since the training has been completed.

RW:cr

cc: Richard Hauck

SF-00006-02

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT Economic Security/Weatherization

TO : Judith Wehrwein
Attorney General's Office

DATE: 7-1-82

FROM : Roger Williams RW

PHONE: 6-5744

SUBJECT: Rules--Weatherization Assistance for Low-Income Persons

Enclosed please find the rules and accompanying documents for final adoption coded 8MCAR § 4.0012, Weatherization Assistance for Low-Income Persons Program.

The package includes all the required documents plus one letter of comment from the Building Codes Division and our reply to these comments. No other comments were received, nor were there any requests for a public hearing. No one requested to be notified of the submission of this record to the Attorney General's office.

These rules have been submitted previously and were not approved. We have corrected the deficiencies as noted in Larry Starn's memos of March 23 and 24, 1982, your file RR790.

A copy of the rules has been submitted to the Revisor's office at the same time this record was submitted to your office.

Documents enclosed include:

- 2 copies of rules as adopted.
- The order of intent to adopt rules.
- A copy of the rules as published in the State Register.
- Certificate of mailing list and copy of the mailing list.
- Afficavit of Mailing.
- Statement of Need and Reasonableness.
- Copy of notice of Intent to Adopt rules without hearing.
- Statement of Compliance with rule making procedures.

Also enclosed:

The letter from the Department of Administration Building & Codes Div.

The Department's comments on this letter.

RW:cr
Encs.

1.0012

AG copy

Department of Economic Security

Community Services and Training Division

Adopted Rules Governing Weatherization Assistance for Low-Income Persons Program

Rule as Adopted

8 MCAR S 4.0012 Weatherization assistance for low-income people.

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

B. Administration of grants. Grants awarded under this rule shall be administered in accordance with the following:

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

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

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

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

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

6. "Notification to States of Grant-in-Aid Information,"

issued as United States Treasury Circular 1082 and found in the 'Federal Register,' volume 41, page 2652 (1976).

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

C. Definitions. As used in 8 MCAR S 4.0012 the following terms have the meanings given them.

1. "Agency" means an organization that receives funds under this rule to operate a weatherization program.

2. "Assistant commissioner" means the Assistant Commissioner of the Division of Training and Community Services of the Department of Economic Security.

3. "Community action agency" means a private corporation or public agency as defined in 'Minnesota Statutes,' section 268.53, subdivision 1.

4. "Commissioner" means the Commissioner of the Department of Economic Security.

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

6. "Cosmetic items" means items that only enhance the esthetic appearance of the property. Some examples of "cosmetic items" are finishes, decorative fenestration, and elevation materials such as aluminum siding, board and batten, clapboard, brick, stone, shakes and asphalt siding.

7. "Cost of employment" means compensation for services as defined in Office of Management and Budget Circular A-87, Attachment B, A.10, A.13, and A.14, as cited in B.4.

8. "Department" means the Department of Economic Security.

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

10. "Elderly person" means a person who is 60 years of age or older.

11. "Eligible dwelling unit" means a dwelling unit that

is occupied by a low-income family unit.

12. "Family unit" means all persons living together in a dwelling unit.

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

14. "Grantor" means the Division of Training and Community Services, Department of Economic Security, State of Minnesota.

15. "Handicapped person" means a person who, in the opinion of a qualified medical person, is permanently physically or mentally disabled. "Qualified medical person" means a qualified physician or chiropractor authorized to practice his profession in the State of Minnesota.

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

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

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

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

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

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

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

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

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

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

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

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

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

25. "Repair material" means an item necessary for the effective performance or preservation of weatherization materials. "Repair material" includes lumber used to frame or repair windows and doors that could not otherwise be caulked or weather-stripped, and protective materials, such as paint, used

to seal materials installed under this program. "Repair material" also includes furnace efficiency modifications limited to:

a. replacement burners;

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

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

26. "Regional clearinghouse" means the local Regional Development Commission that has the authority under Title IV of the Intergovernmental Cooperation Act of 1968, 'United States Code,' volume 42, sections 4231-4233 (1977), to review and comment with respect to projects funded by the federal and state governments.

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

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

29. "Single family dwelling unit" means a structure containing no more than one dwelling unit.

30. "State" means the State of Minnesota.

31. "Weatherization crew" means a group of weatherization laborers with a weatherization supervisor.

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

33. "Weatherization project" means a project conducted in

a single geographical area which undertakes to weatherize dwelling units that are thermally inefficient.

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

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

D. Allocation of funds. The department shall allocate funds by county to eligible grantees with a demonstrated ability to administer and deliver weatherization services. The department shall determine whether or not a grantee has a demonstrated ability to administer and deliver weatherization services by taking into account the criteria in 3. Equal weight shall be given to each of the criterion. The department shall also allocate funds to eligible grantees who have been engaged in contracting for the construction and repair of real property.

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

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

3. In making a determination under 2., the department shall evaluate the performance of the grantee and shall consider:

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

b. whether the grantee has adhered to the plan submitted;

c. the quality of work performed through the grantee; and

d. the number, qualifications, and experience of staff members of the grantee.

E. Grant applications.

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

2. Each application must include:

a. the name and address of the grantee responsible for administering the program;

b. a financial schedule which indicates the monthly funding requirements based on projected production;

c. staffing patterns for all weatherization personnel to allow local program grantees to attain production goals;

d. a written review of the plan by the regional clearinghouse; and

e. a statement by grantee ensuring that:

(1) no dwelling unit may be weatherized without written documentation that the unit is eligible for weatherization as provided in 8 MCAR S 4.0012;

(2) there is an outreach process used to obtain applications together with a description of that process; and

(3) it will establish a priority system for client applications.

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

4. The grantee shall insure that no eligible dwelling unit receives more than $750 in material and that each dwelling unit is weatherized according to the priority list established by the department as found in Exhibit 8 MCAR S 4.0012 E.4.-1 or Exhibit 8 MCAR S 4.0012 E.4.-2. The department shall waive the $750 restriction for individual eligible dwelling units on written application documenting that the material costs on the applicant's dwelling exceed $750 and that all activities are eligible according to the agency's priority list. A waiver will

be granted if the eligible dwelling exceeds 1500 square feet, or is two story, or requires more than 16 storm windows. If a waiver is granted, the total material expenditures may not exceed $1,000. For purposes of Exhibit 8 MCAR S 4.0012 E.4.-1 and Exhibit 8 MCAR S 4.0012 E.4.-2, home types have the following meanings:

a. "Type I" means homes with accessible attics;

b. "Type II" means homes with inaccessible basements;

c. "Type III" means homes with solid walls;

d. "Type IV" means homes with knee wall construction;

e. "Type V" means mobile homes.

Exhibit 8 MCAR S 4.0012 E.4.-1

WEATHERIZATION PRIORITIES FOR HOME TYPES I-IV 8-28-81

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

Priorities

I. General Heat Waste

A. Caulk all exterior envelope infiltration points including:

1. Window and door frames.

2. Sill plates.

3. Foundation cracks.

4. Corners of buildings.

5. Under door sills.

6. Around all electrical & plumbing entrances.

7. All other infiltration areas.

B. Install hot water heater jackets except where a vent damper is present.

C. Insulate hot water pipes in accessible unheated space.

D. Weatherstrip movable windows and doors between conditioned and unconditioned space, including basement doors, attic scuttles and knee wall entrances.

E. Install gaskets on electrical boxes located on the

interior side of exterior walls.

F. Replace or reset broken or loose glass.

II. Insulate Attic area

A. To R-38

B. Vent in accordance with FHA/HUD Minimum Property Standards. (No vapor barrier 1 to 150 ratio; with vapor barrier 1 to 300 ratio.)

C. Insulate attic scuttle doors to R-30; dam access area allowing entry to attic.

III. Insulate exterior walls to minimum of R-11.

IV. Insulate rim joist area to a minimum of R-19 with vapor barrier on warm side.

V. Insulate above-grade foundation walls to R-11. When insulation is applied to interior side of the foundation wall, extend insulation 2 feet below grade.

On crawl space, either insulate perimeter foundation wall to R-11 or floor to minimum of R-19 where freezing of pipes is not a factor.

VI. Install storm windows on single-glazed windows where storm windows are missing or existing storm windows are deteriorated beyond repair.

VII. Install new primary doors and windows only where old ones are beyond repair and cannot be weatherstripped.

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

I. Clock set back thermostats.

II. Storm doors.

Exhibit 8 MCAR S 4.0012 E.4.-2

MOBILE HOME PRIORITIES 8-28-81

Priorities for Type V Home

I. General Heat Waste

A. Caulk all exterior envelope infiltration points including:

1. Window and door frames.

2. Corners of buildings.

3. Under door sills.

4. Around all electrical and plumbing entrances.

5. Along all siding seams.

6. Around all "through the wall" accessories.

B. Install hot water heater jackets on electrical water heaters, or

Insulate water heater closet on gas and oil fired water heaters.

C. Insulate hot water pipes where accessible.

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

E. Weatherstrip all exterior prime doors.

F. Replace or reset broken or loose glass.

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

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

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

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

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

I. Replace damaged or missing storm door.

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

F. Allowable expenditures. Expenditures shall be limited to:

1. the cost of purchase, delivery, and storage of weatherization materials;

2. transportation of weatherization materials, tools, equipment, and work crews to a storage site and to the dwelling work site;

3. maintenance, operation, and insurance of vehicles to transport items in 2.;

4. maintenance of tools and equipment;

5. purchases of tools, equipment, and vehicles;

6. payments to an independent contractor for furnishing materials or providing labor or both in the weatherization of

dwellings of low-income persons;

7. the cost of employment of weatherization supervisors;

8. the cost of employment of weatherization laborers;

9. the cost, not to exceed $150 per dwelling unit, for repair materials and repairs to the heating source necessary to make the installation of weatherization materials effective;

10. building permits where applicable;

11. the cost of liability insurance for weatherization projects for personal injury and property damage;

12. administrative expenses not to exceed 7.5 percent of each grantee's allocation;

13. weatherization of a building containing eligible rental dwelling units if at least 66 percent of the rental units in the building are eligible dwelling units and if the landlord or landlord's agent agrees in writing that the grantee may do the weatherization work and that rents will not be raised because of the weatherization work.

All purchases in 5. with an acquisition value of $300 or more must have written approval from the department. Purchasing must follow procedures outlined in Office of Management and Budget Circulars A-87, A-102, and A-110, as cited in B.

G. Unallowable expenditures. Grant funds may not be used for any of the following purposes:

1. to weatherize a dwelling unit that has been weatherized previously with grant funds from the United States Department of Energy or state assistance under 'Minnesota Statutes,' section 268.37 or 8 MCAR S 4.0012, unless the dwelling unit has been damaged by fire, flood, or an act of God, and repair of the damage to weatherization materials is not paid for by insurance;

2. to weatherize a dwelling unit that is vacant or designated for acquisition or clearance by a federal, state, or local government program within 12 months from the date weatherization of the dwelling unit would be scheduled to be completed; or

3. to purchase cosmetic items, remodeling items, or a

heating or cooling source.

H. Oversight responsibility. The department shall supervise the projects of the grantees in the following manner:

1. At least once every three months the department shall monitor and evaluate the operation of projects carried out by the grantees receiving financial assistance under 8 MCAR S 4.0012 through on-site inspections, reviews of reports submitted by grantees and inspection of their books and records.

2. The grantee shall give the department access, for the purpose of audit and examination, to any books, documents, papers, information, and records of any weatherization project receiving financial assistance under 8 MCAR S 4.0012.

3. The commissioner shall conduct an annual audit of the records of a grantee receiving financial assistance under this rule.

I. Record keeping. Record keeping shall be in accordance with Office of Management and Budget Circular A-87 as cited in B.4. Each grantee receiving state financial assistance under this rule shall keep records the department requires, including records which fully disclose the amount and disposition by each grantee of funds received under 8 MCAR S 4.0012, the total cost of the weatherization project for which the assistance was given or used, including all sources and amounts of funds for the project or program, and other records the department deems necessary for an effective audit and performance evaluation.

J. Monthly reports. Each grantee receiving financial assistance under this rule shall submit a monthly program performance report and a monthly financial report or invoice to the department.

K. Granting process. When the department approves an application for a grant, it shall notify the grantee, in writing, of the approval. The department and the grantee shall sign a grant contract. The grant contract must specify what report requirements and other grant requirements must be met prior to any obligation of funds. Payments on grant contracts shall be made on the basis of grantee activity in the program.

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

L. Variances.

1. The department shall grant a variance to the use of materials required by 8 MCAR S 4.0012 C.35. if it appears that:

a. product or test standards have changed; and

b. granting the variance would not adversely affect the public health or safety; and

c. granting the variance would not conflict with applicable building codes.

2. A grantee may submit to the department a written request for a variance documenting the need to include or exclude additional or existing materials required by 8 MCAR S 4.0012 C.35. If the agency initiates the variance as a result of a United States Department of Energy directive it will notify all grantees in accordance with 3. If the agency denies a request for a variance it shall notify the applicant, in writing, of the reasons for the denial.

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

APPROVED AS TO LEGALITY

July 15, 19 82

WARREN SPANNAUS, ATTORNEY GENERAL

BY _____

SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JUL 15 1982

Joan Anderson Growe
Secretary of State

11:00 AM

STATE OF MINNESOTA

DEPARTMENT OF ECONOMIC SECURITY

In the Matter of the Proposed Adoption of Rules of the State of Minnesota Governing the weatherization assistance for Low Income Persons Program.

ORDER ADOPTING RULES

Notice of the Commissioner's intent to adopt the above-entitled rules without a public hearing was published in the State Register on May 31, 1982 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes section 15.0412, subdivision 4 on May 18, 1982. After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, receiving fewer than seven written requests for a public hearing within the 30-day comment period, reviewing and considering the comments, and determining the need for and reasonableness of the above-captioned rules,

NOW, THEREFORE, IT IS ORDERED that these rules identified as 8 MCAR § 4.0012 Weatherization Assistance for Low Income Persons Program are adopted this 1 day of July, 1982 pursuant to authority vested in me by the Minnesota Statutes section 268.37 Subd. 3.

STATE OF MINNESOTA

Robert Middleton

COMMISSIONER OF DEPARTMENT OF ECONOMIC SECURITY

STATE OF MINNESOTA

DEPARTMENT OF ECONOMIC SECURITY

In the Matter of the Proposed Adoption of Rules of the State Department of Economic Security Governing the Weatherization Assistance of Low-Income Persons Program

ORDER FOR NOTICE OF INTENT TO ADOPT RULES WITHOUT PUBLIC HEARING

IT IS ORDERED this 17th day of May, 1982 that a Notice of Intent to Adopt Rules Without Public Hearing in the above-entitled matter be given to all persons who have registered their names with the State Department of Economic Security for that purpose and be published in the State Register.

STATE OF MINNESOTA

Commissioner of State Department of Economic Security

Department of Economic Security

Community Services and Training Division

In the Matter of the Proposed Adoption of Rules of the State Department of Economic Security governing Weatherization Assistance for Low-Income Persons Program.

Notice of Intent to Adopt Rules Without a Public Hearing

Notice is hereby given that the State Department of Economic Security proposes to adopt the above entitled rules without a public hearing. The Commissioner has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes section 15.0412, subdivision 4h (1980).

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes section 15.0412, subdivisions 4-4f.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or request to:

Alan Chapman, Supervisor
Weatherization Assistance Program
Department of Economic Security
690 American Center Bldg.
150 E. Kellogg Blvd.
St. Paul, MN 55101

Authority for the adoption of these rules is contained in Minnesota Statutes section 268.37. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from Roger Williams, Weatherization Assistance Program,

Department of Economic Security, 690 American Center Bldg., 150 E. Kellogg Blvd., St. Paul, Minnesota, 55101, Telephone No. 612/296-5744, upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this Notice, the Statement of Need and Reasonableness, all written comments received, and the final Rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Roger Williams, Weatherization Assistance Program, Department of Economic Security, 690 American Center Bldg., 150 E. Kellogg Blvd., St. Paul, Minnesota.

The rules proposed for adoption relate to the following matters:

Documents used in the administration of grants as listed in the rule.

Definitions as they apply to the rule and to grants are provided. The rule describes the process for the allocation of funds to grantees, the grant application process, weatherization priority work process, allowable expenditures and record keeping and reporting procedures. The rules also include a variance format to be used in relation to the allowable materials list.

Copies of this Notice and the proposed rules are available and may be obtained by contacting Roger Williams, Weatherization Assistance Program. Department of Economic Security, 690 American Center Bldg., 150 E. Kellogg Blvd., St. Paul, Minnesota, 55101.

State of Minnesota

_____

Commissioner of State Department of Economic Security

Exhibit F

In the Matter of the Proposed Adoption of Rules of the State Minnesota Governing Weatherization Assistance for Low-Income Persons

AFFIDAVIT OF MAILING

STATE OF MINNESOTA)
)ss.
COUNTY OF RAMSEY)

Catherine Pass, being first duly sworn deposes and says:

That on the 18th day of May, 1982, at the City of St. Paul, County of Ramsey, State of Minnesota, he served the attached Notice of [Hearing/Intent to Adopt Rules Without Public Hearing] by depositing in the [State of Minnesota Central Mail System for United States mailing (or) United States mail] at said City of St. Paul, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who have requested that their names be placed on file with the State of Minnesota for the purpose of receiving notice of the proposed adoption of rules by this Department.

Catherine Pass

Subscribed and sworn to before me
this 18th day of May, 1982.

Mary L. LeVasseur
Notary Public, Ramsey Co., Mn
My comm. expires Aug 25, 1985

Exhibit E

STATE OF MINNESOTA

COUNTY OF RAMSEY

CERTIFICATE

In the Matter of the Proposed Adoption of Rules of the State Minnesota Governing Weatherization Assistance for Low-Income Persons Program

---

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minn. Stat. § 15.0412, subd. 4, that their names be placed on file with and maintained by the State Department of Economic Security for the purpose of receiving notice of the proposed adoption of rules by this Department is accurate and complete as of 9:00 A.M., this 18th day of May, 1982.

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St. Paul, MN 55102

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Albert Lea, MN 56007

Lila Gross
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Minneapolis, MN 55405

Charles Thomas
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MN Association of Rehabilitation Facilities
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St. Paul, MN 55104

Advocate for the Blind
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Alternatives for Autistic People
3725 47th Avenue South
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Kenneth McCormick
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Minneapolis, MN 55487

PROPOSED RULES

Pursuant to Minn. Laws of 1980, § 15.0412, subd. 4h, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless seven or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules; and
4. that the rule may be modified if modifications are supported by the data and views submitted.

If, during the 30-day comment period, seven or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of § 15.0412, subds. 4 through 4g, which state that if an agency decides to hold a public hearing, it must publish in the *State Register* a notice of its intent to do so. This notice must appear at least 30 days prior to the date set for the hearing, along with the full text of the proposed rules. (If the agency has followed the provisions of subd. 4h and has already published the proposed rules, a citation to the prior publication may be substituted for republication.)

Pursuant to Minn. Stat. § 15.0412, subd. 5, when a statute, federal law or court order to adopt, suspend or repeal a rule does not allow time for the usual rulemaking process, temporary rules may be proposed. Proposed temporary rules are published in the *State Register*, and for at least 20 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Economic Security Community Services and Training Division

Proposed Rules Governing Weatherization Assistance for Low-Income Persons Program

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the State Department of Economic Security proposes to adopt the above entitled rules without a public hearing. The commissioner has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes § 15.0412, subdivision 4h (1980).

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes § 15.0412, subdivisions 4-4f.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or request to:

Alan Chapman, Supervisor
Weatherization Assistance Program
Department of Economic Security
690 American Center Bldg.
150 E. Kellogg Blvd.
St. Paul, MN 55101

Authority for the adoption of these rules is contained in Minnesota Statutes § 268.37. Additionally, a statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from Roger Williams, Weatherization Assistance Program, Department of Economic Security, 690 American Center Bldg., 150 E. Kellogg Blvd., St. Paul, Minnesota, 55101, Telephone No. 612/296-5744, upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the statement of need and reasonableness, all written comments received, and the final rules as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Roger Williams, Weatherization Assistance Program, Department of Economic Security, 690 American Center Bldg., 150 E. Kellogg Blvd., St. Paul, Minnesota.

The rules proposed for adoption relate to the following matters:

Documents used in the administration of grants as listed in the rule.

Definitions as they apply to the rule and to grants are provided. The rule describes the process for the allocation of funds to grantees, the grant application process, weatherization priority work process, allowable expenditures and record keeping and reporting procedures. The rules also include a variance format to be used in relation to the allowable materials list.

Copies of this notice and the proposed rules are available and may be obtained by contacting Roger Williams, Weatherization Assistance Program, Department of Economic Security, 690 American Center Bldg., 150 E. Kellogg Blvd., St. Paul, Minnesota, 55101.

Rolf Middleton
Commissioner of State Department of Economic Security

Rule as Proposed (all new material)

8 MCAR § 4.0012 Weatherization assistance for low-income people.

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

B. Administration of grants. Grants awarded under this rule shall be administered in accordance with the following:

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

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

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

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

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

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

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

C. Definitions. As used in 8 MCAR § 4.0012 the following terms have the meanings given them.

1. "Agency" means an organization that receives funds under this rule to operate a weatherization program.

2. "Assistant commissioner" means the Assistant Commissioner of the Division of Training and Community Services of the Department of Economic Security.

3. "Community action agency" means a private corporation or public agency as defined in 'Minnesota Statutes,' section 268.53, subdivision 1.

4. "Commissioner" means the Commissioner of the Department of Economic Security.

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

6. "Cosmetic items" means items that only enhance the esthetic appearance of the property. Some examples of "cosmetic items" are finishes, decorative fenestration, and elevation materials such as aluminum siding, board and batten, clapboard, brick, stone, shakes and asphalt siding.

7. "Cost of employment" means compensation for services as defined in Office of Management and Budget Circular A-87, Attachment B, A.10, A.13, and A.14, as cited in B.4.

8. "Department" means the Department of Economic Security.

KEY: 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." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

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

10. "Elderly person" means a person who is 60 years of age or older.

11. "Eligible dwelling unit" means a dwelling unit that is occupied by a low-income family unit.

12. "Family unit" means all persons living together in a dwelling unit.

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

14. "Grantor" means the Division of Training and Community Services, Department of Economic Security, State of Minnesota.

15. "Handicapped person" means a person who, in the opinion of a qualified medical person, is permanently physically or mentally disabled. "Qualified medical person" means a qualified physician or chiropractor authorized to practice his profession in the State of Minnesota.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

a. replacement burners;

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

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

26. "Regional clearinghouse" means the local Regional Development Commission that has the authority under Title IV of the Intergovernmental Cooperation Act of 1968, 'United States Code,' volume 42, sections 4231-4233 (1977), to review and comment with respect to projects funded by the federal and state governments.

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

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

29. "Single family dwelling unit" means a structure containing no more than one dwelling unit.

30. "State" means the State of Minnesota.

31. "Weatherization crew" means a group of weatherization laborers with a weatherization supervisor.

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

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

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

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

D. Allocation of funds. The department shall allocate funds by county to eligible grantees with a demonstrated ability to administer and deliver weatherization services. The department shall determine whether or not a grantee has a demonstrated ability to administer and deliver weatherization services by taking into account the criteria in 3. Equal weight shall be given to each of the criterion. The department shall also allocate funds to eligible grantees who have been engaged in contracting for the construction and repair of real property.

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

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

3. In making a determination under 2., the department shall evaluate the performance of the grantee and shall consider:

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

b. whether the grantee has adhered to the plan submitted;

c. the quality of work performed through the grantee; and

d. the number, qualifications, and experience of staff members of the grantee.

E. Grant applications.

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

2. Each application must include:

a. the name and address of the grantee responsible for administering the program;

b. a financial schedule which indicates the monthly funding requirements based on projected production;

c. staffing patterns for all weatherization personnel to allow local program grantees to attain production goals;

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d. a written review of the plan by the regional clearinghouse: and

e. a statement by grantee ensuring that:

(1) no dwelling unit may be weatherized without written documentation that the unit is eligible for weatherization as provided in 8 MCAR § 4.0012;

(2) there is an outreach process used to obtain applications together with a description of that process: and

(3) it will establish a priority system for client applications.

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

4. The grantee shall insure that no eligible dwelling unit receives more than $750 in material and that each dwelling unit is weatherized according to the priority list established by the department as found in Exhibit 8 MCAR § 4.0012 E.4.-1 or Exhibit 8 MCAR § 4.0012 E.4.-2. The department shall waive the $750 restriction for individual eligible dwelling units on written application documenting that the material costs on the applicant's dwelling exceed $750 and that all activities are eligible according to the agency's priority list. A waiver will be granted if the eligible dwelling exceeds 1500 square feet, or is two story, or requires more than 16 storm windows. If a waiver is granted, the total material expenditures may not exceed $1,000. For purposes of Exhibit 8 MCAR § 4.0012 E.4.-1 and Exhibit 8 MCAR § 4.0012 E.4.-2, home types have the following meanings:

a. "Type I" means homes with accessible attics;

b. "Type II" means homes with inaccessible basements;

c. "Type III" means homes with solid walls;

d. "Type IV" means homes with knee wall construction;

e. "Type V" means mobile homes.

Exhibit 8 MCAR § 4.0012 E.4.-1
WEATHERIZATION PRIORITIES FOR HOME TYPES I-IV 8-28-81

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

Priorities

I. General Heat Waste

A. Caulk all exterior envelope infiltration points including:

1. Window and door frames.

2. Sill plates.

3. Foundation cracks.

4. Corners of buildings.

5. Under door sills.

6. Around all electrical & plumbing entrances.

7. All other infiltration areas.

B. Install hot water heater jackets except where a vent damper is present.

C. Insulate hot water pipes in accessible unheated space.

D. Weatherstrip movable windows and doors between conditioned and unconditioned space, including basement doors, attic scuttles and knee wall entrances.

E. Install gaskets on electrical boxes located on the interior side of exterior walls.

F. Replace or reset broken or loose glass.

I. Insulate Attic area

A. To R-38

B. Vents in accordance with FHA/HUD Minimum Property Standards. (No vapor barrier 1 to 150 ratio; with vapor barrier 1 to 300 ratio.)

C. Insulate attic scuttle doors to R-30; dam access area allowing entry to attic.

III. Insulate exterior walls to minimum of R-11.

IV. Insulate rim joist area to a minimum of R-19 with vapor barrier on warm side.

V. Insulate above-grade foundation walls to R-11. When insulation is applied to interior side of the foundation wall, extend insulation 2 feet below grade.

On crawl space, either insulate perimeter foundation wall to R-11 or floor to minimum of R-19 where freezing of pipes is not a factor.

VI. Install storm windows on single-glazed windows where storm windows are missing or existing storm windows are deteriorated beyond repair.

VII. Install new primary doors and windows only where old ones are beyond repair and cannot be weatherstripped.

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

I. Clock set back thermostats.

II. Storm doors.

Exhibit 8 MCAR § 4.0012 E.4.-2
MOBILE HOME PRIORITIES 8-28-81

Priorities for Type V Home

I. General Heat Waste

A. Caulk all exterior envelope infiltration points including:

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

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

C. Insulate hot water pipes where accessible.

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

E. Weatherstrip all exterior prime doors.

F. Replace or reset broken or loose glass.

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

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

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

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

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

I. Replace damaged or missing storm door.

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

F. Allowable expenditures. Expenditures shall be limited to:

1. the cost of purchase, delivery, and storage of weatherization materials;

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2. transportation of weatherization materials, tools, equipment, and work crews to a storage site and to the dwelling work site;

3. maintenance, operation, and insurance of vehicles to transport items in 2.;

4. maintenance of tools and equipment;

5. purchases of tools, equipment, and vehicles;

6. payments to an independent contractor for furnishing materials or providing labor or both in the weatherization of dwellings of low-income persons;

7. the cost of employment of weatherization supervisors;

8. the cost of employment of weatherization laborers;

9. the cost, not to exceed $150 per dwelling unit, for repair materials and repairs to the heating source necessary to make the installation of weatherization materials effective;

10. building permits where applicable;

11. the cost of liability insurance for weatherization projects for personal injury and property damage;

12. administrative expenses not to exceed 7.5 percent of each grantee's allocation;

13. weatherization of a building containing eligible rental dwelling units if at least 66 percent of the rental units in the building are eligible dwelling units and if the landlord or landlord's agent agrees in writing that the grantee may do the weatherization work and that rents will not be raised because of the weatherization work.

All purchases in 5. with an acquisition value of $300 or more must have written approval from the department. Purchasing must follow procedures outlined in Office of Management and Budget Circulars A-87, A-102, and A-110, as cited in B.

G. Unallowable expenditures. Grant funds may not be used for any of the following purposes:

1. to weatherize a dwelling unit that has been weatherized previously with grant funds from the United States Department of Energy or state assistance under 'Minnesota Statutes,' section 268.37 or 8 MCAR § 4.0012, unless the dwelling unit has been damaged by fire, flood, or an act of God, and repair of the damage to weatherization materials is not paid for by insurance;

2. to weatherize a dwelling unit that is vacant or designated for acquisition or clearance by a federal, state, or local government program within 12 months from the date weatherization of the dwelling unit would be scheduled to be completed; or

3. to purchase cosmetic items, remodeling items, or a heating or cooling source.

H. Oversight responsibility. The department shall supervise the projects of the grantees in the following manner:

1. At least once every three months the department shall monitor and evaluate the operation of projects carried out by the grantees receiving financial assistance under 8 MCAR § 4.0012 through on-site inspections, reviews of reports submitted by grantees and inspection of their books and records.

2. The grantee shall give the department access, for the purpose of audit and examination, to any books, documents, papers, information, and records of any weatherization project receiving financial assistance under 8 MCAR § 4.0012.

3. The commissioner shall conduct an annual audit of the records of a grantee receiving financial assistance under this rule.

I. Record keeping. Record keeping shall be in accordance with Office of Management and Budget Circular A-87 as cited in B.4. Each grantee receiving state financial assistance under this rule shall keep records the department requires, including records which fully disclose the amount and disposition by each grantee of funds received under 8 MCAR § 4.0012, the total cost of the weatherization project for which the assistance was given or used, including all sources and amounts of funds for the project or program, and other records the department deems necessary for an effective audit and performance evaluation.

J. Monthly reports. Each grantee receiving financial assistance under this rule shall submit a monthly program performance report and a monthly financial report or invoice to the department.

K. Granting process. When the department approves an application for a grant, it shall notify the grantee, in writing, of the approval. The department and the grantee shall sign a grant contract. The grant contract must specify what report requirements and other grant requirements must be met prior to any obligation of funds. Payments on grant contracts shall be made on the basis of grantee activity in the program. Cash on hand in excess of 30-day program requirements shall not be delivered. Payments to grantees shall be reviewed in comparison to expenditures to determine cash needs. Grantees shall report expenditures monthly on forms to be supplied by the department. The department shall require the grantees to project the next

month's cash needs on the previous month's expenditure report. If the grantee determines that it cannot fulfill its obligations under the plan in whole or part, the grantee may request an amendment or revision of the existing approved plan and resubmit a new plan or amendments within 30 days after the written notice of request for consideration. The request from the grantee must be in writing detailing its specific views with supporting data and arguments.

L. Variances.

1. The department shall grant a variance to the use of materials required by 8 MCAR § 4.0012 C.35. if it appears that:

a. product or test standards have changed; and

b. granting the variance would not adversely affect the public health or safety; and

c. granting the variance would not conflict with applicable building codes.

2. A grantee may submit to the department a written request for a variance documenting the need to include or exclude additional or existing materials required by 8 MCAR § 4.0012 C.35. If the agency initiates the variance as a result of a United States Department of Energy directive it will notify all grantees in accordance with 3. If the agency denies a request for a variance it shall notify the applicant, in writing, of the reasons for the denial.

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

Department of Energy, Planning and Development Energy Division

Proposed Rules Governing the Petroleum Products State Set-Aside Program

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Department of Energy, Planning and Development, hereinafter "department," intends to adopt the above-entitled rules without a public hearing. The commissioner has determined that the adoption of the rules will not be controversial and has elected to follow the procedures set out in Minn. Stat. § 15.0412, subd. 4h.

In its 1981 session, the Minnesota Legislature enacted the State Set-Aside Program, Laws of 1981, Chapter 356, Section 136, for the purpose of granting the department authority to exercise specific power to deal with shortages of refined petroleum products. The state set-aside program provides emergency petroleum supplies to relieve the hardship caused by shortages, thus minimizing the adverse impacts on the state's citizens and economy.

Temporary rules for the set-aside program were promulgated last year. Those rules were published in the *State Register* on November 23, 1981 (6 S.R. 1021-22). The department is now proposing rules which are very similar to those published on November 23, 1981. Copies of the rules as now proposed may be obtained by writing or calling Mr. Chris Gilchrist at the address or telephone number given below.

Please be advised that you have an opportunity for the 30-day period following publication of this notice and the proposed rules to submit comments in writing on the proposed rules and to object to the lack of public hearing on the proposed rules. Your written comments or request for hearings should be submitted to the Department of Energy, Planning and Development, Energy Division, c/o Chris Gilchrist, 980 American Center Building, 150 East Kellogg Boulevard, Saint Paul, Minnesota 55101. Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, no public hearing will be held. If seven or more persons request hearings on the proposed rules, the department will order public hearings in accordance with Minn. Stat. § 15.0412, subds. 4-4f. The department may modify the proposed rules if modification is supported by the data and views submitted in written comments and if no substantial change results from the modification.

If no hearing is required, and the department decides to adopt the rules as proposed, or as modified if written comments justify modification, the department will submit to the Attorney General for review of form, legality and substantial change the following documents: this notice with the rules as proposed, the rules as adopted, the order adopting the rules, any written comments received by the department, the department's statement of need and reasonableness supporting adoption of the

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STATE OF MINNESOTA

Statement of Need and Reasonableness

In the Matter of Proposed Rules Relating to the Operation of the State of Minnesota's Weatherization Program for Low-Income People. 8MCAR § 4.0012.

Minn. Stat. § 268.37 authorizes the State of Minnesota to operate a weatherization program for low-income persons. It also directs the Commissioner of the Department of Economic Security to promulgate rules to facilitate the delivery of said program.

The rules as authorized by Minn. Stat. § 268.37 are necessary to provide and set limits for grantees in the delivery of the weatherization program.

The following is a sectional breakdown of need and reasonableness of rules under 8MCAR § 4.0012.

8MCAR § 4.0012. A
Purpose - to establish the objectives of the program under the enabling legislation.

8MCAR § 4.0012 B
Administration of Costs - this section indicates which Federal management circulars are to be followed for the management of the local grants by grantees. Federal management circulars are utilized because the State of Minnesota has not developed any comparable documents.

8MCAR § 4.0012 C
Definitions - the definitions contained in this rule pertain only to this program. The weatherization materials reference indicates what materials are allowable for grantees to install in dwellings to be weatherized. This definition also includes the specific test standard that the material must meet along with the approval date and the reference to the Residential Conservation Services (RCS) Act CFR 456.101 et. al. Section References.

8MCAR § 4.0012 D
Allocation of funds - provides for allocating the funds appropriated under this law to geographic areas for the delivery of the weatherization program.

8MCAR § 4.0012
Grant Applications - this section provides the basis for the Department to select grantees to deliver the weatherization program.

This section indicates what information a grantee must submit to the state before a grant is awarded. The Department feels it is better to have the grantees establish their priorities and goals within the framework of the given criteria thereby allowing for variances in local conditions. Also contained, is the priority list an agency must follow in weatherizing homes under this rule.

8MCAR § 4.0012 F
Allowable Expenditures - the Department feels that all of the items in this section are necessary for the effective delivery of the weatherization program. This section allows for the separation of funds into three main areas: administration, program support and materials. 8MCAR § 4.0012 F. 13 provides for more state control over equipment and vehicle purchases. This is necessary since all purchases under this rule are property of the state. 8MCAR § 4.0012 F. 13 sets criteria for weatherizing rental dwellings. The Department feels that this is necessary to protect the client and to provide proper weatherization for the entire dwelling.

8MCAR § 4.0012 G - agency staff feels that the items covered in this section are not allowable expenditures. This helps ensure that grantees will spend funds only on dwellings not previously weatherized by funds under this act or other programs funded by the State of Minnesota or the Department of Energy and administered by this department.

8MCAR § 4.0012 H
Oversight Responsibility - sets criteria that the Department feels is necessary to monitor and maintain effective control over the program.

8MCAR § 4.0012 I
Record Keeping - the Department feels it is necessary to require the grantees to maintain such records so that all costs can be tracked to weatherized dwellings.

8MCAR § 4.0012 J
Monthly Reports - the Department feels it is necessary to require monthly reports from grantees in order to maintain a semblance of fiscal control and to provide accountability in production performance.

8MCAR § 4.0012 K
Granting Process - the Department reserves the right to attach special conditions to grantee agreements. This would be done if the grantee's plan fails to meet the specifications required by the Department.

8MCAR § 4.0012 L
Variances - this section is necessary to set out procedures for granting variances in the rule. This is done primarily because of anticipated technical changes that would be reflected in the allowable material section of this rule.

In the Matter of the Proposed Adoption of Rules of the State of Minnesota, Department of Economic Security, Governing Weatherization Assistance for Low-Income Persons Program

STATEMENT OF COMPLIANCE WITH RULEMAKING PROCEDURES

I, Assistant Attorney General, Peter C. Andrews, do hereby declare that I have examined the rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedure Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed. Any exceptions are noted below.

Assistant Attorney General

Dated: July 1, 1982