

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 944 TEMP

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 8-26-83
DATE FOR REVIEW _____
DATE DUE 9-2

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

Approved 9-2 Disapproved _____ Returned to Agency _____

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

Date filed w/Secretary of State 9-8 Revisor approved 8.29.83 disapproved _____

_____ ✓ Rule as Adopted

_____ ✓ Rule as Proposed

_____ ✓ Order Adopting 8.25.83 Date

_____ N/A Notice of Intent to Solicit Outside Opinion

_____ ✓ Order for rulemaking
_____ N/A date of Hearing

_____ ✓ Certificate of Board's Authorizing Resolution

_____ ✓ Notice of rulemaking
_____ ✓ Sufficiency

_____ ✓ Affidavit of Mailing Notice or rulemaking
_____ At least ~~30~~ 20 days prior to ~~hearing~~/adoption

_____ ✓ Mailing list Certificate

_____ ✓ Publication in State Register
7.25.83 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

_____ N/A Order Approving Incorporation by Reference

_____ Statement of Need and Reasonableness

_____ 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

MINNESOTA HOUSING FINANCE AGENCY

August 26, 1983

Mr. Larry Starns
Special Assistant Attorney General
G-25 Administration Building
50 Sherburne Avenue
St. Paul, Minnesota 55155

RE: In the Matter of the Proposed Adoption of Temporary Rules Governing Solar Energy and Energy Conservation Bank Programs

Dear Mr. Starns:

Enclosed please find for your review pursuant to Minnesota Statutes, Sections 14.29 through 14.36, the adopted temporary rules of the Minnesota Housing Finance Agency.

The following materials are submitted to you for your review pursuant to 1 MCAR Section 1.204:

Temporary rule as adopted;

Order Adopting;

Certificate of Board's Resolution Adopting the Rule;

Order for Publication;

Certificate of Agency's Authorizing Resolution;

Rule as Proposed;

Notice of Rulemaking (copy of cover sheet with attached proposed rules);

Mailing List Certificate;

Affidavit of Mailing; and

Certificate of Compliance with rulemaking procedures.

The adopted temporary rules are identical to the proposed rules. The Agency did not receive any comments during the 20 day period.

Sincerely,

James J. Solem
Executive Director

JJS/jak

333 Sibley Street, St. Paul, Minnesota 55101 (612) 296-7608
Equal Opportunity Housing and Equal Opportunity Employment

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO James J. Solem, Executive Director DATE: 9/2/83

Attn: Karl J. Herman, Special Assistant Attorney General

FROM : TED A. MARTINEZ TAM PHONE: 296-4692
Special Assistant
Attorney General

SUBJECT: In the Matter of the Proposed Adoption of Temporary Rules Governing Solar Energy and Energy Conservation Bank Programs

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.

Encs.
TAM/ls
cc: Ms. Kathy Burek
Mr. Duane Harves

AG copy

Minnesota Housing Finance Agency

Adopted Temporary Rules Governing Solar Energy and Energy Conservation Bank Programs

Temporary Rules as Adopted

Chapter Fourteen
Solar Energy and Energy Conservation Bank Programs

12 MCAR S 3.160 [Temporary] Scope.

Chapter 14 governs the residential energy conservation programs authorized by assistance awards from the federal Solar Energy and Energy Conservation Bank under subtitle A of title V of the Energy Security Act, United States Code, title 12, sections 3601-3620, and the disposition of the funds received under assistance awards and of funds received from other sources in conjunction with assistance awards.

12 MCAR S 3.161 [Temporary] Incorporation of federal regulations.

Except as further defined and limited by chapter 14, the residential energy conservation programs are governed by the Solar Energy and Energy Conservation Bank Interim Rule, Code of Federal Regulations, title 24, part 1800 as published in the Federal Register, volume 48, number 105, May 31, 1983, as amended, and any waivers to the interim rule obtained by the agency and published in the State Register.

12 MCAR S 3.162 [Temporary] Definitions.

A. Scope. The following definitions apply to chapter 14.

B. Agency. "Agency" means the Minnesota Housing Finance Agency or its designee.

C. Bank. "Bank" means the Solar Energy and Energy Conservation Bank as established under subtitle A of title V of the Energy Security Act, United States Code, title 12, sections 3601-3620.

D. Bank assistance. "Bank assistance" means financial assistance from the bank provided to eligible recipients according to Code of Federal Regulations, title 24, part 1800.

E. Deferred loan. "Deferred loan" means a loan without interest or periodic payments made to an eligible deferred loan recipient from a source other than the bank. The loan's purpose must be to finance the cost of eligible energy conservation measures in a one-to-four family residential building.

F. Deferred loan recipient. "Deferred loan recipient" means one or more individuals who apply for and receive both a deferred loan and bank assistance.

G. Participating entity. "Participating entity" means an entity, including, but not limited to, a private corporation, a public utility, a foundation, a nonprofit organization, and a local government, that contributes funds to be used in conjunction with funds received from the bank.

H. Passive solar subsidy. "Passive solar subsidy" means bank assistance provided to an eligible passive solar subsidy recipient to finance a portion of the purchase of a newly constructed single-family residential building that contains a passive solar space heating system.

I. Passive solar subsidy recipient. "Passive solar subsidy recipient" means one or more individuals who apply for and receive a passive solar subsidy.

J. Rental subsidy. "Rental subsidy" means bank assistance provided to an eligible rental subsidy recipient to finance a portion of the cost of eligible energy conservation measures in a rental property.

K. Rental subsidy recipient. "Rental subsidy recipient" means one or more persons, as defined in Code of Federal Regulations, title 24, section 1800.3, who apply for and receive a rental subsidy.

L. Rental property. "Rental property" means an existing building that is used primarily for residential purposes, is owned by the rental subsidy recipient, and in which all dwelling units are rented or available for rental to others; provided, however, that the owner may occupy not more than one of the dwelling units in the building as his or her residence.

12 MCAR S 3.163 [Temporary] Energy conservation deferred loan

program.

A. Additional recipient eligibility criteria. In addition to meeting the applicable eligibility criteria in Code of Federal Regulations, title 24, section 1800.63, a deferred loan recipient:

1. shall own and occupy the "one-to-four family residential building," as defined in Code of Federal Regulations, title 24, section 1800.3, to be improved with the proceeds of a deferred loan and bank assistance; and

2. shall not be eligible to receive sufficient funds to complete the eligible energy conservation improvements under 12 MCAR S 3.163 E. from any of the following programs: federal Weatherization Program under United States Code, title 42, section 6863; agency Home Improvement Loan Program under chapter six; agency Home Improvement Grant and Rehabilitation Loan programs under chapter seven; and energy conservation assistance programs available from local entities.

B. Restrictions on eligibility. If the agency determines that sufficient funds are not available to adequately make available deferred loans and bank assistance to persons who meet the qualifications in A., the agency may limit the availability of deferred loans and bank assistance to "families," as defined in Code of Federal Regulations, title 24, section 1800.3, whose annual incomes are not in excess of 80 percent of the "median area income," as defined in Code of Federal Regulations, title 24, section 1800.3, and may limit the maximum assistance as provided in C. Notice of this limitation must be published in the State Register.

C. Maximum assistance. The combined maximum amount of financial assistance provided to a deferred loan recipient from a deferred loan and bank assistance may not exceed $5,000.

D. Type of financial assistance. Bank assistance provided to a deferred loan recipient must be in the form of a reduction of principal, as defined in Code of Federal Regulations, title 24, section 1800.15.

E. Items eligible for financing. In addition to the

eligible energy conservation measures in Code of Federal Regulations, title 24, section 1800.65, the proceeds of a deferred loan may be used to finance the cost of a loan processing fee established or approved by the agency.

F. Repayment. A deferred loan recipient shall enter into an agreement with the agency, or may be required to enter into an agreement with a participating entity, for repayment of the deferred loan and bank assistance. If the agreement is with the agency, the agreement must provide that in the event the property improved with the proceeds of the deferred loan and bank assistance is sold, transferred, or otherwise conveyed, or ceases to be the deferred loan recipient's principal place of residence within ten years from the date upon which the deferred loan application was approved by the agency, the deferred loan recipient shall repay the loans. The agency or participating entity may place a lien or other security device on the improved property as security for repayment of the loans.

G. Notice of fund availability. From time to time, the agency shall publish a notice of fund availability in the State Register prior to the date upon which it first accepts applications for deferred loans and bank assistance. The notice must include: the names and addresses of agents authorized by the agency to process and submit applications; the date upon which applications will first be accepted; and the specific items that constitute a valid application.

H. Submission of applications. The agency shall accept applications for deferred loans and for bank assistance only if submitted through one of its authorized agents identified in its notice of fund availability.

The agency shall review applications for both deferred loans and bank assistance to determine their compliance with Code of Federal Regulations, title 24, part 1800. The agency may accept or reject applications for bank assistance and for deferred loans funded by the agency based on the requirements in this rule. Applications for deferred loans funded by a participating entity other than the agency must be accepted or

rejected based on criteria established by the participating entity.

I. Selection of applications. The agency shall fund qualifying applications for bank assistance on a first-come, first-served basis, based upon the date on which a valid application is received by the agency, and until the available funds are exhausted.

If, on the day that the funds are exhausted, sufficient funds are not available to fund all applications received on that day, the applications to be funded must be selected by lot from among the applications received on that day.

12 MCAR S 3.164 [Temporary] Rental properties energy conservation program.

A. Eligible rental subsidy recipient. A rental subsidy recipient shall meet the applicable eligibility criteria in Code of Federal Regulations, title 24, section 1800.63.

B. Type of financial assistance. Bank assistance provided to rental subsidy recipients must be in the form of a reduction of principal, as defined in Code of Federal Regulations, title 24, section 1800.15.

C. Energy conservation standards. To the extent necessary, the proceeds of a rental subsidy must be used to finance, in whole or in part, improvements that will bring the rental property into compliance with the state energy conservation standards for rental housing.

D. Notice of fund availability. From time to time, the agency shall publish a notice of fund availability in the State Register prior to the date upon which it will first accept applications for rental subsidies. The notice must include: (1) the names and addresses of lending institutions authorized by the agency to process and submit requests for rental subsidy funding; (2) the date upon which the authorized lending institutions will first accept applications; and (3) the specific items which constitute a valid application.

E. Submission of applications. Applications for rental subsidies may not be submitted directly to the agency but must

be submitted to one of the authorized lending institutions identified in its notice of fund availability.

F. Selection of applications. Qualifying applications for rental subsidies will be funded on a first-come, first-served basis, based on the date on which the agency receives a request for rental subsidy funding from a lending institution, and until the available funds are exhausted.

If, on the day that the funds are exhausted, sufficient funds are not available to fund all applications received on that day, the applications to be funded must be selected by lot from among the applications received on that day.

12 MCAR S 3.165 [Temporary] Passive solar new construction program.

A. Eligibility. In addition to meeting the applicable eligibility criteria in Code of Federal Regulations, title 24, section 1800.43, a passive solar subsidy recipient shall intend to own and occupy the residential building, the construction of which is partially financed by a passive solar subsidy.

B. Eligible properties. The passive solar subsidy may be used only in conjunction with permanent financing for a newly constructed single-family residential property that includes a passive solar space heating system.

C. Type of financial assistance. Bank assistance provided to passive solar subsidy recipients must be in the form of a reduction of principal, as defined in Code of Federal Regulations, title 24, section 1800.15.

D. Access to property. A passive solar subsidy recipient shall enter into an agreement with the agency to allow the agency to install monitoring equipment in a residential building whose construction is partially financed by a passive solar subsidy. The recipient shall also agree to allow the agency access to the building to monitor its energy performance for five years from the date on which permanent financing on the property is closed.

E. Notice of fund availability. From time to time, the agency shall publish a notice of fund availability in the State

Register prior to the date upon which it will first accept applications for passive solar subsidies. The notice must include: the last date upon which the agency will accept applications; the specific materials that constitute a valid application; the specific design standards upon which applications will be evaluated; the amount of the nonrefundable review fee to be charged by the agency; and if applicable, the maximum annual income of eligible applicants as set forth in F.

F. Selection of applications. Applications that are received prior to the deadline announced by the agency, that fulfill the basic standards in the notice of fund availability, and that meet the other eligibility requirements in this rule are eligible applications.

If the agency receives more eligible applications than can be financed with the available funds, the agency shall use the following method to select those applicants who will receive a passive solar subsidy:

1. The agency shall first award funds to all eligible applicants with certified annual adjusted incomes of $38,000 or less.

2. If there are more applications from eligible applicants with annual adjusted incomes of $38,000 or less than can be financed with the funds available, the applications to be funded will be selected by lot.

3. After funds are awarded to all eligible applicants with adjusted incomes of $38,000 or less, if funds remain available, the agency may publish a second notice of fund availability and accept applications from applicants with adjusted incomes of greater than $38,000. The applications to be funded will be selected by lot, if necessary, from among the eligible applications received in response to the second notice of fund availability.

APPROVED AS TO LEGALITY

September 2 1983

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY Ed H. Martineau
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
SEP 8 1983
Joan Anderson Growe
Secretary of State

10:25
B.M.

STATE OF MINNESOTA

MINNESOTA HOUSING FINANCE AGENCY

In the Matter of the Proposed Adoption
of Temporary Rules Governing Solar Energy
and Energy Conservation Bank Programs

ORDER ADOPTING
TEMPORARY RULES

The above-entitled matter was published in the State Register on July 25, 1983, as a proposed temporary rule pursuant to Minnesota Statutes Sections 14.29 through 14.36. After affording interested and affected persons an opportunity to submit written data and views within 20 days of the publication date, reviewing and considering the data and views, and determining that the above-captioned rules are needed and reasonable.

NOW, THEREFORE, IT IS ORDERED that these rules identified as Rules of the Minnesota Housing Finance Agency Governing Solar Energy and Energy Conservation Bank Programs are adopted this 25th day of August, 1983, pursuant to authority vested in the Agency by Minnesota Statutes Chapter 462A.03, Subdivision 10, and Chapter 462A.06, Subdivision 11.

James J. Solem, Executive Director

STATE OF MINNESOTA

MINNESOTA HOUSING FINANCE AGENCY

In the Matter of the Proposed Adoption
of Temporary Rules Governing Solar Energy
and Energy Conservation Bank Programs

ORDER FOR PUBLICATION
OF TEMPORARY RULES

It is ordered this 23rd day of June, 1983 that the proposed temporary rules in the above entitled matter be published in the State Register.

James J. Solem, Executive Director

CERTIFICATE OF AGENCY'S

AUTHORIZING RESOLUTION

I, James J. Solem, do hereby certify that I am the Executive Director of the Minnesota Housing Finance Agency, an Agency duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Agency and properly called and held on the 23rd day of June, 1983, that a quorum was present at said meeting, that a majority of those present voted for the resolution and that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

> "RESOLVED, that James J. Solem, Executive Director of the Minnesota Housing Finance Agency, be and he hereby is authorized and directed to give public notice for the purpose of promulgating Temporary Rules of the Minnesota Housing Finance Agency, said rules relating to Governing Solar Energy and Energy Conservation Bank Programs as well as perform any and all acts incidental thereto."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 23rd day of June, 1983.

James J. Solem, Executive Director

In the Matter of the Proposed Adoption
of Temporary Rules Governing Solar Energy
and Energy Conservation Bank Programs

AFFIDAVIT OF
MAILING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Judith A. Keiser, being first duly sworn, deposes and says:

That on the 22nd day of July, 1983, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Rulemaking by depositing in the United States mail at said City of St. Paul, a copy thereof, properly enveloped, with postage prepaid to all persons and associations who have requested that their names be placed on file with the Minnesota Housing Finance Agency for the purpose of receiving notice of the proposed adoption of rules by this Agency.

Judith A. Keiser

Subscribed and sworn to before
me this 22nd day of July,
1983.

Kathleen J. Johnson
Notary Public

KATHLEEN J. JOHNSON
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
My Comm. Expires Dec. 9, 1986

STATE OF MINNESOTA

MINNESOTA HOUSING FINANCE AGENCY

STATE OF MINNESOTA

COUNTY OF RAMSEY

MAILING LIST CERTIFICATE

In the Matter of the Proposed Adoption
of Temporary Rules Governing Solar Energy
and Energy Conservation Bank Programs

I hereby certify that the list of persons, associations and other interested groups who have requested, pursuant to Minnesota Statutes Section 14.14 Subdivision 1, that their names be placed on file with and maintained by the Minnesota Housing Finance Agency for the purpose of receiving notice of the proposed adoption of rules by this Agency is accurate and complete this 22nd day of July, 1983.

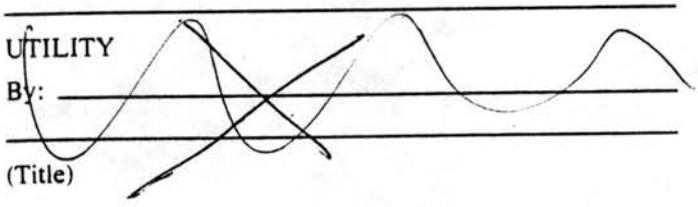
Judith A. Keiser

12 MCAR § 3.061 [Temporary] Other requirements.

A. Unavailability of financing. At the time of application for an accessory apartment loan, conventional financing for this purpose must not be available from private lenders upon equivalent terms and conditions.

B. Other codes and standards. Following the completion of construction or improvement, all rental dwelling units must comply with all applicable health, fire prevention, building, and housing codes and standards. However, an accessory apartment loan shall not be denied solely because the construction or improvements to be financed by it will not bring the entire structure into full compliance with these codes and standards.

C. Warranty of workmanship and materials. Contracts for construction or improvement of a dwelling unit that are financed in whole or in part by the proceeds from an accessory apartment loan must contain a warranty of workmanship and materials that is approved by the agency.



Minnesota Housing Finance Agency

Proposed Temporary Rules Governing Solar Energy and Energy Conservation Bank Programs

Request for Public Comment

Notice is hereby given that the Minnesota Housing Finance Agency has proposed the following temporary rules for the purpose of establishing procedures for application for participation in and setting income limits for Solar Energy and Energy Conservation Bank Program Loans, pursuant to subdivision 10 of chapter 462A.03 and subdivision 11 of chapter 462A.06 of Minnesota Statutes.

All interested persons are hereby afforded the opportunity to submit their comments on the proposed rules for 20 days immediately following publication of this material in the *State Register* by writing to Mary Tingerthal, Director of Home Improvement Loan Programs, Minnesota Housing Finance Agency, Suite 200, 333 Sibley Street, St. Paul, Minnesota 55101. The temporary rules may be revised ~~on the basis of comments~~ received. Any written material received shall become part of the record in the final adoption of the temporary rule. As required by the Administrative Procedures Act, this temporary rule will be effective for not more than 180 days and may be continued in effect for up to an additional 180 days.

July 22, 1983

James J. Solem
Executive Director

Temporary Rules as Proposed (all new material)

Chapter Fourteen
Solar Energy and Energy Conservation Bank Programs

12 MCAR § 3.160 [Temporary] Scope.

Chapter 14 governs the residential energy conservation programs authorized by assistance awards from the federal Solar Energy and Energy Conservation Bank under subtitle A of title V of the Energy Security Act, United States Code, title 12, sections 3601-3620, and the disposition of the funds received under assistance awards and of funds received from other sources in conjunction with assistance awards.

12 MCAR § 3.161 [Temporary] Incorporation of federal regulations.

Except as further defined and limited by chapter 14, the residential energy conservation programs are governed by the Solar Energy and Energy Conservation Bank Interim Rule, Code of Federal Regulations, title 24, part 1800 as published in the Federal

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.

Register, volume 48, number 105, May 31, 1983, as amended, and any waivers to the interim rule obtained by the agency and published in the *State Register*.

12 MCAR § 3.162 [Temporary] Definitions.

A. Scope. The following definitions apply to chapter 14.

B. Agency. "Agency" means the Minnesota Housing Finance Agency or its designee.

C. Bank. "Bank" means the Solar Energy and Energy Conservation Bank as established under subtitle A of title V of the Energy Security Act, United States Code, title 12, sections 3601-3620.

D. Bank assistance. "Bank assistance" means financial assistance from the bank provided to eligible recipients according to Code of Federal Regulations, title 24, part 1800.

E. Deferred loan. "Deferred loan" means a loan without interest or periodic payments made to an eligible deferred loan recipient from a source other than the bank. The loan's purpose must be to finance the cost of eligible energy conservation measures in a one-to-four family residential building.

F. Deferred loan recipient. "Deferred loan recipient" means one or more individuals who apply for and receive both a deferred loan and bank assistance.

G. Participating entity. "Participating entity" means an entity, including, but not limited to, a private corporation, a public utility, a foundation, a nonprofit organization, and a local government, that contributes funds to be used in conjunction with funds received from the bank.

H. Passive solar subsidy. "Passive solar subsidy" means bank assistance provided to an eligible passive solar subsidy recipient to finance a portion of the purchase of a newly constructed single-family residential building that contains a passive solar space heat system.

I. Passive solar subsidy recipient. "Passive solar subsidy recipient" means one or more individuals who apply for and receive a passive solar subsidy.

J. Rental subsidy. "Rental subsidy" means bank assistance provided to an eligible rental subsidy recipient to finance a portion of the cost of eligible energy conservation measures in a rental property.

K. Rental subsidy recipient. "Rental subsidy recipient" means one or more persons, as defined in Code of Federal Regulations, title 24, section 1800.3, who apply for and receive a rental subsidy.

L. Rental property. "Rental property" means an existing building that is used primarily for residential purposes, is owned by the rental subsidy recipient, and in which all dwelling units are rented or available for rental to others; provided, however, that the owner may occupy not more than one of the dwelling units in the building as his or her residence.

12 MCAR § 3.163 [Temporary] Energy conservation deferred loan program.

A. Additional recipient eligibility criteria. In addition to meeting the applicable eligibility criteria in Code of Federal Regulations, title 24, section 1800.63, a deferred loan recipient:

1. shall own and occupy the "one-to-four family residential building," as defined in Code of Federal Regulations, title 24, section 1800.3, to be improved with the proceeds of a deferred loan and bank assistance; and

2. shall not be eligible to receive sufficient funds to complete the eligible energy conservation improvements under 12 MCAR § 3.163 E. from any of the following programs: federal Weatherization Program under United States Code, title 42, section 6863; agency Home Improvement Loan Program under chapter six; agency Home Improvement Grant and Rehabilitation Loan programs under chapter seven; and energy conservation assistance programs available from local entities.

B. Restrictions on eligibility. If the agency determines that sufficient funds are not available to adequately make available deferred loans and bank assistance to persons who meet the qualifications in A., the agency may limit the availability of deferred loans and bank assistance to "families," as defined in Code of Federal Regulations, title 24, section 1800.3, whose annual income are not in excess of 80 percent of the "median area income," as defined in Code of Federal Regulations, title 24, section 1800.3, and may limit the maximum assistance as provided in C. Notice of this limitation must be published in the *State Register*.

C. Maximum assistance. The combined maximum amount of financial assistance provided to a deferred loan recipient from a deferred loan and bank assistance may not exceed $5,000.

D. Type of financial assistance. Bank assistance provided to a deferred loan recipient must be in the form of a reduction of principal, as defined in Code of Federal Regulations, title 24, section 1800.15.

E. Items eligible for financing. In addition to the eligible energy conservation measures in Code of Federal Regulations,

title 24, section 1800.65, the proceeds of a deferred loan may be used to finance the cost of a loan processing fee established or approved by the agency.

F. Repayment. A deferred loan recipient shall enter into an agreement with the agency, or may be required to enter into an agreement with a participating entity, for repayment of the deferred loan and bank assistance. If the agreement is with the agency, the agreement must provide that in the event the property improved with the proceeds of the deferred loan and bank assistance is sold, transferred, or otherwise conveyed, or ceases to be the deferred loan recipient's principal place of residence within ten years from the date upon which the deferred loan application was approved by the agency, the deferred loan recipient shall repay the loans. The agency or participating entity may place a lien or other security device on the improved property as security for repayment of the loans.

G. Notice of fund availability. From time to time, the agency shall publish a notice of fund availability in the *State Register* prior to the date upon which it first accepts applications for deferred loans and bank assistance. The notice must include: the names and addresses of agents authorized by the agency to process and submit applications; the date upon which applications will first be accepted; and the specific items that constitute a valid application.

H. Submission of applications. The agency shall accept applications for deferred loans and for bank assistance only if submitted through one of its authorized agents identified in its notice of fund availability.

The agency shall review applications for both deferred loans and bank assistance to determine their compliance with Code of Federal Regulations, title 24, part 1800. The agency may accept or reject applications for bank assistance and for deferred loans funded by the agency based on the requirements in this rule. Applications for deferred loans funded by a participating entity other than the agency must be accepted or rejected based on criteria established by the participating entity.

I. Selection of applications. The agency shall fund qualifying applications for bank assistance on a first-come, first-served basis, based upon the date on which a valid application is received by the agency, and until the available funds are exhausted.

If, on the day that the funds are exhausted, sufficient funds are not available to fund all applications received on that day, the applications to be funded must be selected by lot from among the applications received on that day.

12 MCAR § 3.164 [Temporary] Rental properties energy conservation program.

A. Eligible rental subsidy recipient. A rental subsidy recipient shall meet the applicable eligibility criteria in Code of Federal Regulations, title 24, section 1800.63.

B. Type of financial assistance. Bank assistance provided to rental subsidy recipients must be in the form of a reduction of principal, as defined in Code of Federal Regulations, title 24, section 1800.15.

C. Energy conservation standards. To the extent necessary, the proceeds of a rental subsidy must be used to finance, in whole or in part, improvements that will bring the rental property into compliance with the state energy conservation standards for rental housing.

D. Notice of fund availability. From time to time, the agency shall publish a notice of fund availability in the *State Register* prior to the date upon which it will first accept applications for rental subsidies. The notice must include: (1) the names and addresses of lending institutions authorized by the agency to process and submit requests for rental subsidy funding; (2) the date upon which the authorized lending institutions will first accept applications; and (3) the specific items which constitute a valid application.

E. Submission of applications. Applications for rental subsidies may not be submitted directly to the agency but must be submitted to one of the authorized lending institutions identified in its notice of fund availability.

F. Selection of applications. Qualifying applications for rental subsidies will be funded on a first-come, first-served basis, based on the date on which the agency receives a request for rental subsidy funding from a lending institution, and until the available funds are exhausted.

If, on the day that the funds are exhausted, sufficient funds are not available to fund all applications received on that day, the applications to be funded must be selected by lot from among the applications received on that day.

12 MCAR § 3.165 [Temporary] Passive solar new construction program.

A. Eligibility. In addition to meeting the applicable eligibility criteria in Code of Federal Regulations, title 24, section

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.

1800.43, a passive solar subsidy recipient shall intend to own and occupy the residential building, the construction of which is partially financed by a passive solar subsidy.

B. Eligible properties. The passive solar subsidy may be used only in conjunction with permanent financing for a newly constructed single-family residential property that includes a passive solar space heating system.

C. Type of financial assistance. Bank assistance provided to passive solar subsidy recipients must be in the form of a reduction of principal, as defined in Code of Federal Regulations, title 24, section 1800.15.

D. Access to property. A passive solar subsidy recipient shall enter into an agreement with the agency to allow the agency to install monitoring equipment in a residential building whose construction is partially financed by a passive solar subsidy. The recipient shall also agree to allow the agency access to the building to monitor its energy performance for five years from the date on which permanent financing on the property is closed.

E. Notice of fund availability. From time to time, the agency shall publish a notice of fund availability in the *State Register* prior to the date upon which it will first accept applications for passive solar subsidies. The notice must include: the last date upon which the agency will accept applications; the specific materials that constitute a valid application; the specific design standards upon which applications will be evaluated; the amount of the nonrefundable review fee to be charged by the agency; and if applicable, the maximum annual income of eligible applicants as set forth in F.

F. Selection of applications. Applications that are received prior to the deadline announced by the agency, that fulfill the basic standards in the notice of fund availability, and that meet the other eligibility requirements in this rule are eligible applications.

If the agency receives more eligible applications than can be financed with the available funds, the agency shall use the following method to select those applicants who will receive a passive solar subsidy:

1. The agency shall first award funds to all eligible applicants with certified annual adjusted incomes of $38,000 or less.

2. If there are more applications from eligible applicants with annual adjusted incomes of $38,000 or less than can be financed with the funds available, the applications to be funded will be selected by lot.

3. After funds are awarded to all eligible applicants with adjusted incomes of $38,000 or less, if funds remain available, the agency may publish a second notice of fund availability and accept applications from applicants with adjusted incomes of greater than $38,000. The applications to be funded will be selected by lot, if necessary, from among the eligible applications received in response to the second notice of fund availability.

ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 14.13-14.28 have been met and five working days after the rule is published in the *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strike outs and new language will be underlined, and the rule's previous *State Register* publication will be cited.

A temporary rule becomes effective upon the approval of the Attorney General as specified in Minn. Stat. § 14.33 and upon the approval of the Revisor of Statutes as specified in § 14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted temporary rule will be published in the manner provided for adopted rules under § 14.18.

Department of Revenue
Income Tax Division

Adoption of New and Amended Rules and the Repeal of a Rule of the Department of Revenue Relating to the Taxation of a Unitary Business and Formula Apportionment

The rules proposed and published at *State Register*, Volume 7, Number 35, pages 1226-1234, February 28, 1983, (7 S.R. 1226) are adopted with the following modifications:

STATE OF MINNESOTA

MINNESOTA HOUSING FINANCE AGENCY

In the Matter of the Proposed Adoption
of Temporary Rules Governing Solar Energy
and Energy Conservation Bank Programs

CERTIFICATE OF BOARD'S
RESOLUTION ADOPTING RULES

I, Robert A. Worthington, do hereby certify that I am the Chairman of the Minnesota Housing Finance Agency duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Agency, duly and properly called and held on the 25th day of August, 1983, that a quorum was present at said meeting and that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

> "RESOLVED, that the rules relating to Solar Energy and Energy Conservation Bank Programs attached hereto as Exhibit A be and they hereby are approved and adopted, pursuant to authority vested in us by Minnesota Statutes Chapter 462A.03, Subdivision 10, and Chapter 462A.06, Subdivision 11 and that James J. Solem, Executive Director of the Agency, be and hereby is authorized to sign an order adopting these rules and further is authorized to perform the necessary acts to provide that these rules shall have the force and effect of law."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 25th day of August, 1983.

Robert A. Worthington
Chairman

STATE OF MINNESOTA

MINNESOTA HOUSING FINANCE AGENCY

In the Matter of the Proposed Adoption
of Temporary Rules Governing Solar Energy
and Energy Conservation Bank Programs

STATEMENT OF COMPLIANCE
WITH RULEMAKING PROCEDURES

I, Special Assistant Attorney General, Karl J. Herman 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.

Karl J. Herman
Special Assistant Attorney General

Dated: 8/26/83