

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 1010

See our File 982 for previous submission of these rules.

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 2-14-84
DATE FOR REVIEW
DATE DUE 2-24-84

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

Approved 2.24.84 Disapproved Returned to Agency

Resubmitted Due
Approved Disapproved Returned to Agency

Date filed w/Secretary of State Revisor approved / disapproved

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✓ Rule as Adopted

✓ Rule as Proposed see SR

✓ Order Adopting 2.15.84 Date combined w/ FofF

✓ Notice of Intent to Solicit Outside Opinion not submitted but see FF SR 8.8.83

✓ Order for rulemaking
N/A date of Hearing

✓ Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency

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

? Mailing list Certificate — 2 wks before mailing

✓ Publication in State Register
12.26.83 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 combined w/ Order Adopting

N/A 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

SF-00006-03

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL - Bremer Tower **Office Memorandum**

TO: J. MICHAEL MILES
Assistant Attorney General

DATE: 2-16-84

FROM: THOMAS J. BARRETT
Special Assistant Attorney General

PHONE: 6-1265

SUBJECT: Adopted Temporary Rules for the Administration of the Public School Energy Conservation Investment Loan Program.

Enclosed please find temporary rules submitted for your approval pursuant to Chapter 14 of the Minnesota Statutes.

TJB:bl

Enclosure

SF-00006-03

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT Energy and Economic Development
Energy Finance Division
980 American Center Building

TO: Marsha Battles, Director
Municipal Energy Finance

DATE: January 4, 1984

FROM: Deb Dyson

PHONE: 297-2103

SUBJECT: Rules for the Public School Loan Program

I wish to suggest changes in wording to the proposed temporary rules for the Public School Energy Conservation Investment Loan Program.

The changes are minor wording changes to better meet the goals of the program.

6 MCAR S 2.2507 A. Annual Project Status report.

Change the sanction language in the last sentence to:
"If at any time the School fails to substantially comply with the start and end dates given in the loan application as approved, as shown on the financial and progress reports, and cannot reasonably justify its lack of progress, the entire loan amount may become due and payable at the discretion of the authority.

The other change I would suggest is to clarify the "three equal allocations" described in 6 MCAR S 2.2506 A. Maximum loan amount.

It currently says "the authority shall establish three equal allocations of the available funds..." To make it clear that the "available funds" refers not to what has been bonded for, but the entire $30million appropriation, change it to "three equal allocations of the $30 million appropriated to this program ..."

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : MARK B. DAYTON, CHAIRMAN
Energy and Economic Development Authority

DATE: 2/24/84

ATTN: THOMAS J. BARRETT, Special Assistant Attorney General

FROM : MARTHA J. CASSERLY
Special Assistant
Attorney General

PHONE: 296-4692

SUBJECT: Adopted Temporary Rules for the Administration of the Public School Energy Conservation Investment Loan 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.

Encs.

cc: Ms. Kathy Burek
Mr. Duane Harves

MJC:sa

AG copy

Energy and Economic Development Authority

Adopted Temporary Rules for the Administration of the Public School Energy Conservation Investment Loan Program

Temporary Rules as Adopted

6 MCAR S 2.2500 [Temporary] Purpose.

The purpose of 6 MCAR SS 2.2500-2.2509 [Temporary] is to establish procedures for application by school districts for energy conservation investment loans, criteria for state agency review of loan applications, and procedures and guidelines for program monitoring, evaluation, and closure of loan account.

6 MCAR S 2.2501 [Temporary] Definitions.

A. Scope. For the purposes of 6 MCAR SS 2.2500-2.2509 [Temporary], the following terms have the meaning given them.

B. Authority. "Authority" means the Energy and Economic Development Authority.

C. Building. "Building" means an existing building owned and operated by a public school district for district purposes.

D. Maxi-audit. "Maxi-audit" means a detailed engineering analysis of energy-saving building improvements, including modifications to building structure; heating, ventilating, and air conditioning systems; operation practices; lighting; and other factors that relate to energy use. The purpose of a maxi-audit is to quantify the economic and engineering feasibility of energy-saving improvements or major operational modifications. A maxi-audit must be performed by or under the direction of a professional mechanical or electrical engineer or an architect registered in Minnesota. The minimum requirements for an approvable maxi-audit are given at Code of Federal Regulations, title 10, section 455.42 (May 21, 1981).

non-rule OK

E. Payback. "Payback" means the average simple payback that is equal to the design, acquisition, and installation costs of an energy saving building improvement divided by the estimated first year energy cost savings attributable to that measure.

F. Project. "Project" means all proposed work in an application for a loan to a school district.

6 MCAR S 2.2502 [Temporary] Loan funds.

A. Use of loan. A loan based on an approved loan application may be awarded by the authority to a school district to cover the costs of making energy conservation investments that are capital expenditures associated with conservation measures to improve the energy efficiency of an existing school building, to reduce the energy costs of existing school buildings, or both, and that have paybacks of ten years or less as specified in the approved maxi-audits.

Loans are available to school districts that have not previously received or been offered loan funds in this program, for new projects in school districts that previously received or were offered loan funds through this program, and as amendments for projects in progress that are experiencing cost overruns or for previously unidentified but related work necessary to successful implementation of a previously approved and funded project. Any additional work must be substantiated by engineering analysis and must meet loan program review criteria. With the exception of amendments as described above, a school district shall not be approved for or awarded more than one loan for the same energy conservation measure in the same building.

B. Issuing of loan funds. Funds will be issued as loans on a first-come-first-served basis based on the date of loan application approval by the authority.

C. Prior approval required. Except for a loan amendment to cover cost overruns or costs associated with previously unidentified but related work necessary to the successful implementation of a previously approved and funded project, loans may not be awarded retroactively. Loan projects may not be contracted for or begun prior to a school district's notification of the loan application's approval. This prior approval requirement applies to the design, acquisition, and installation costs as identified in the maxi-audit.

D. Existing buildings; new construction. Loans shall be approved only for existing school district buildings and not for new construction, except if new construction is a necessary part of successful implementation of an energy conservation measure and is included in the approved application.

E. Loan repayment schedule. A loan repayment schedule based on the approved loan application must be attached to the loan contract that is sent to the school districts for signature.

6 MCAR S 2.2503 [Temporary] Application procedures.

A. Forms. All required forms must be provided by the authority.

B. Submission. The authority shall begin to accept applications on the date these temporary rules become effective and shall continue to accept applications until these temporary rules expire or until permanent rules that replace these temporary rules expire.

C. Approval. The requirements of 6 MCAR SS 2.2504-2.2506 must be met by an applicant in order for the authority to approve an application. An applicant whose application is approved will be sent a loan contract with the loan repayment schedule to sign and return to the authority for signatures by state officials and for issuing of the loan.

D. Rejection and resubmission. An applicant whose application is rejected will be given written notice of problems encountered in the review process and options available to correct them for resubmission of the application. If only certain of the measures included in the project are rejected or modified, the applicant may decide to accept a loan for the approved portions or resubmit the entire project proposal at a later date after making the necessary changes.

6 MCAR S 2.2504 [Temporary] Administrative criteria.

A. Required application contents. An application must be submitted to the authority on a form provided by the authority.

The application must contain at a minimum: the school district or vocational center number; complete mailing address

of school district including the county; contact person's name, title, and telephone number; federal employer identification number; project start and estimated completion dates; list of buildings included in the request and the dollar amount requested per building; name and address of each building, including the county; the total floor area in square feet for each building; original construction date for each building and building additions; the state legislative district; and a summary description of each energy conservation measure, its maxi-audit item number, its estimated cost, the loan amount requested, its estimated annual energy cost savings, its estimated annual fuel and electric savings, its estimated payback, and the estimated dates the energy conservation measure will be started and completed. The application must have an original, ink signature by an authorized official of the school district, must include the authorized official's title, and must be dated.

The following must be submitted with an application: an irrevocable resolution of the school board to annually levy or otherwise collect sufficient funds to guarantee loan repayment and a maxi-audit for each building involved in the project. One copy of the application is required.

B. Review by authority. The authority shall examine the loan application to verify that the applicant is eligible, that the required forms and report are included and are correctly completed, that an irrevocable resolution of the school board on school district or school board letterhead is included, and that the estimated start and end dates of the energy conservation measures included in the project are reasonable.

6 MCAR S 2.2505 [Temporary] Technical criteria.

A. Contents of technical support materials. A technical review must be based on the maxi-audit submitted for each building included in a loan application. The maxi-audit must be submitted with the loan application on forms provided by the authority.

B. Project eligibility limitations. Only energy

conservation investments with ten year or less paybacks identified and described in maxi-audits are eligible. Loans may not be awarded to buildings with a remaining useful life less than the payback of the energy conservation investments proposed. Loans may not be awarded for energy conservation measures if the payback of the energy conservation investments proposed is greater than the life of the measure.

C. Review by authority. The authority shall examine a maxi-audit that accompanies a loan application to verify that energy conservation investments requested are analyzed with adequate details of the existing conditions and proposed changes using appropriate calculation procedures, and that the proposed measures are eligible. The authority may accept, reject, or modify a loan application request as necessary based on this review.

6 MCAR S 2.2506 [Temporary] Financial criteria.

A. Maximum loan amount. To assure equitable statewide distribution of loan funds, given that loans will be issued on a first-come-first-served basis, the authority shall establish three equal allocations of the ~~available funds~~ $30 million appropriated to this program to be divided between small, medium, and large school districts. Small districts are defined as having less than 900 students and four classroom buildings or less. Small districts are eligible for up to $250,000 per district. Large districts are defined as having greater than 5,000 students or greater than ten classroom buildings. Large districts are eligible for up to $1,000,000 per district. All other districts are defined as medium size school districts and are eligible for up to $500,000 per district. Cooperative vocational centers and any other eligible educational facilities not included in school districts are limited to $250,000. If less than 33 percent of any of the three allocations is used within a year from the effective date of these rules, the authority may redistribute funds between the three allocations.

B. Guaranteed repayment. An irrevocable resolution of the school board must guarantee loan repayment.

6 MCAR S 2.2507 [Temporary] Reports and monitoring.

A. Annual project status report. The school district shall submit to the authority on forms provided by the authority an annual project status report covering the period July 1 through June 30. These reports are due each July 31 until the project is completed. The project status report must indicate the progress of the implementation of the measures funded, problems encountered, the effect of the problems on the project, and the corrective action taken. If at any time the school district ~~has not demonstrated substantial progress towards completion of the project after 18 months, or anytime thereafter~~ fails to substantially comply with the start and end dates given in the loan application as approved and as shown on the financial and progress reports, and if the school district cannot reasonably justify its lack of progress, the entire loan amount may become due and payable at the discretion of the authority.

B. Quarterly financial reports. Quarterly financial status reports that indicate expenditures of loan funds through the last date of each quarter are due within 30 days of the end of each calendar quarter until the project is completed. These reports must be submitted to the authority.

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

D. Annual energy report. The school district shall submit to the authority on forms provided by the authority an annual energy use and energy expenditure report by fuel type due each October 31 for the duration of the loan contract period, or for a minimum of three years after project completion if the loan is prepaid in less than three years, unless the authority cancels this requirement statewide prior to the end of the loan contract period.

6 MCAR S 2.2508 [Temporary] Program evaluation.

The authority shall design and implement by rule an evaluation of the loan program. Loan recipients shall agree to provide to the authority in a timely manner the information that is reasonably needed to evaluate the loan program.

6 MCAR S 2.2509 [Temporary] Closure of loan account.

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

APPROVED AS TO FORM AND LEGALITY
February 24 1984
HUBERT H. HUMPHREY III
ATTORNEY GENERAL
BY Martha J Casserly
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
FEB 24 1984
Joan Anderson Growe
Secretary of State

STATE OF MINNESOTA

ENERGY AND ECONOMIC DEVELOPMENT AUTHORITY

In the Matter of the Proposed Rules of the Energy and Economic Development Authority Relating to the Adoption of Temporary Rules for Energy Conservation Investment Loans, pursuant to Minn. Stat. 116J.37.

ORDER FOR NOTICE OF INTENT TO ADOPT TEMPORARY RULES AND FOR PUBLICATION OF TEMPORARY RULES

It is ordered this 28th day of September, 1983 that Notice of Intent to Adopt Temporary Rules and that the proposed temporary rules in the above-entitled matter be given to all persons who have registered their names with the State Department of Energy and Economic Development for the Energy and Economic Development Authority for that purpose and that Notice of Intent to Adopt Temporary Rules and the proposed temporary rules in the above-entitled matter be published in the State Register.

Mark B. Dayton, Chairman
Energy and Economic Development
Authority

AUTHORITY #83- 35

STATE OF MINNESOTA

ENERGY AND ECONOMIC DEVELOPMENT AUTHORITY

In the Matter of the Proposed Rules of the Energy and Economic Development Authority Relating to the Adoption of Temporary Rules for Energy Conservation Investment Loans, pursuant to Minn. Stat. 116J.37.

CERTIFICATE OF AUTHORITY'S AUTHORIZING RESOLUTION

I, Mark B. Dayton, do hereby certify that I am Chairman of the Minnesota Energy and Economic Development Authority, an authority 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 Authority duly and properly called and held on the 7th day of September, 1983, that a quorum was present at said meeting, that a majority of those present voted for the resolution, that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

> "Resolved that Mark B. Dayton, Chairman of the Minnesota Energy and Economic Development Authority, be and he hereby is authorized and directed to sign an order for notice of intent to adopt temporary rules and to give public notice for the purpose of promulgating temporary rules of the Minnesota Energy and Economic Development Authority, said rules relating to energy conservation investment loans to school districts pursuant to Minn. Stat. 116J.37, as well as to perform any and all acts incidental thereto, including directing the publication of the proposed temporary rules in the State Register."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 7th day of September, 1983.

Mark B. Dayton, Chairman
Energy and Economic Development Authority

ATTEST:

In the Matter of the Proposed Adoption of Temporary Rules of the Energy and Economic Development Authority Governing the Administration of the Public School Energy Conservation Investment Loan Program

AFFIDAVIT OF MAILING

STATE OF MINNESOTA)
)
COUNTY OF RAMSEY)

Norma Riley, being first duly sworn, deposes and says:

That on the 19th day of December, 1983 at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Request for Public Comment and Proposed Temporary Rules by depositing in the State of Minnesota Central Mail System for United States mailing at said City of Saint 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 Department of Energy and Economic Development for the Department and the Energy and Economic Development Authority for the purpose of receiving notice of the proposed adoption of rules by the Minnesota Department of Energy and Economic Development and the Energy and Economic Development Authority.

Norma Riley

Subscribed and sworn to before me this 27th day of December, 1983.

Dennis M. Devereaux
Notary Public

DENNIS M. DEVEREAUX
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
My Comm. Expires April 1, 1988

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

CERTIFICATE

In the Matter of the Proposed Adoption of Temporary Rules of the Energy and Economic Development Authority Governing the Administration of the Public School Energy Conservation Investment Loan Program (Temporary)

I hereby certify that the list of persons, associations and other interested groups who have requested, pursuant to Minnesota Statute 14.14 subd.1, that their nanes be placed on file with and maintained by the State Department of Energy and Economic Development for both the Department and the Energy and Economic Development Authority for the purpose of receiving notice of the proposed adoption of rules by both the Energy and Economic Development Authority and the Department of Energy and Economic Development is accurate and complete as of 4:00 p.m., this 6th day of December, 1983.

Mary E Anderson

Pursuant to Minn. Stat. of 1980, §§ 14.21, 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 §§ 14.13-14.20 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. § 14.29, 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.

Energy and Economic Development Authority

Proposed Temporary Rules for the Administration of the Public School Energy Conservation Investment Loan Program

Request for Public Comment

Notice is hereby given that pursuant to Minn. Stat. § 14.30 (1982), the Energy and Economic Development Authority is proposing the following temporary rules for the purpose of administering the public school energy conservation investment loan program. Authority for the adoption of these rules is contained in Minn. Stat. § 116J.37 Section 1, subdivision 7. A copy of the proposed rules is attached to this notice.

Persons interested in these rules have 20 days from this publication to submit data and views on the proposed temporary rules in writing. Comments should be submitted to:

Marsha K. Battles
Energy Finance Division
980 American Center Building
150 East Kellogg Boulevard
St. Paul, Minnesota 55101
(612) 297-3789

Proposed temporary rules for this program were originally published in the October 17, 1983 *State Register*. Changes to the proposed temporary rules included here are based on comments submitted. The proposed temporary rules as published here may be modified if the modifications are supported by the data and views submitted to the Authority and do not result in a substantial change in the proposed language.

These proposed temporary rules, with modifications, if any, shall be submitted to the Attorney General for final approval as to form and legality. The temporary rules shall take effect immediately upon the Attorney General's approval.

These temporary rules shall then be effective for 180 days or until they are replaced by permanent rules, whichever occurs first.

Mark B. Dayton, Chairman
Energy and Economic Development Authority

Temporary Rules as Proposed (all new material)

6 MCAR § 2.2500 [Temporary] Purpose.

The purpose of 6 MCAR §§ 2.2500-2.2509 [Temporary] is to establish procedures for application by school districts for energy conservation investment loans, criteria for state agency review of loan applications, and procedures and guidelines for program monitoring, evaluation, and closure of loan account.

6 MCAR § 2.2501 [Temporary] Definitions.

A. Scope. For the purposes of 6 MCAR §§ 2.2500-2.2509 [Temporary], the following terms have the meaning given them.

B. Authority. "Authority" means the Energy and Economic Development Authority.

C. Building. "Building" means an existing building owned and operated by a public school district for district purposes.

D. Maxi-audit. "Maxi-audit" means a detailed engineering analysis of energy-saving building improvements, including modifications to building structure; heating, ventilating, and air conditioning systems; operation practices; lighting; and other factors that relate to energy use. The purpose of a maxi-audit is to quantify the economic and engineering feasibility of energy-saving improvements or major operational modifications. A maxi-audit must be performed by or under the direction of a professional mechanical or electrical engineer or an architect registered in Minnesota. The minimum requirements for an approvable maxi-audit are given at Code of Federal Regulations, title 10, section 455.42 (May 21, 1981).

E. Payback. "Payback" means the average simple payback that is equal to the design, acquisition, and installation costs of an energy saving building improvement divided by the estimated first year energy cost savings attributable to that measure.

F. Project. "Project" means all proposed work in an application for a loan to a school district.

6 MCAR § 2.2502 [Temporary] Loan funds.

A. Use of loan. A loan based on an approved loan application may be awarded by the authority to a school district to cover the costs of making energy conservation investments that are capital expenditures associated with conservation measures to improve the energy efficiency of an existing school building, to reduce the energy costs of existing school buildings, or both, and that have paybacks of ten years or less as specified in the approved maxi-audits.

Loans are available to school districts that have not previously received or been offered loan funds in this program, for new projects in school districts that previously received or were offered loan funds through this program, and as amendments for projects in progress that are experiencing cost overrruns or for previously unidentified but related work necessary to successful implementation of a previously approved and funded project. Any additional work must be substantiated by engineering analysis and must meet loan program review criteria. With the exception of amendments as described above, a school district shall not be approved for or awarded more than one loan for the same energy conservation measure in the same building.

B. Issuing of loan funds. Funds will be issued as loans on a first-come-first-served basis based on the date of loan application approval by the authority.

C. Prior approval required. Except for a loan amendment to cover cost overruns or costs associated with previously unidentified but related work necessary to the successful implementation of a previously approved and funded project, loans may not be awarded retroactively. Loan projects may not be contracted for or begun prior to a school district's notification of the loan application's approval. This prior approval requirement applies to the design, acquisition, and installation costs as identified in the maxi-audit.

D. Existing buildings; new construction. Loans shall be approved only for existing school district buildings and not for new construction, except if new construction is a necessary part of successful implementation of an energy conservation measure and is included in the approved application.

E. Loan repayment schedule. A loan repayment schedule based on the approved loan application must be attached to the loan contract that is sent to the school districts for signature.

6 MCAR § 2.2503 [Temporary] Application procedures.

A. Forms. All required forms must be provided by the authority.

B. Submission. The authority shall begin to accept applications on the date these temporary rules become effective and shall continue to accept applications until these temporary rules expire or until permanent rules that replace these temporary rules expire.

C. Approval. The requirements of 6 MCAR §§ 2.2504-2.2506 must be met by an applicant in order for the authority to approve an application. An applicant whose application is approved will be sent a loan contract with the loan repayment schedule to sign and return to the authority for signatures by state officials and for issuing of the loan.

D. Rejection and resubmission. An applicant whose application is rejected will be given written notice of problems encountered in the review process and options available to correct them for resubmission of the application. If only certain of the measures included in the project are rejected or modified, the applicant may decide to accept a loan for the approved portions or resubmit the entire project proposal at a later date after making the necessary changes.

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.

6 MCAR § 2.2504 [Temporary] Administrative criteria.

A. Required application contents. An application must be submitted to the authority on a form provided by the authority.

The application must contain at a minimum: the school district or vocational center number; complete mailing address of school district including the county; contact person's name, title, and telephone number; federal employer identification number; project start and estimated completion dates; list of buildings included in the request and the dollar amount requested per building; name and address of each building, including the county; the total floor area in square feet for each building; original construction date for each building and building additions; the state legislative district; and a summary description of each energy conservation measure, its maxi-audit item number, its estimated cost, the loan amount requested, its estimated annual energy cost savings, its estimated annual fuel and electric savings, its estimated payback, and the estimated dates the energy conservation measure will be started and completed. The application must have an original, ink signature by an authorized official of the school district, must include the authorized official's title, and must be dated.

The following must be submitted with an application: an irrevocable resolution of the school board to annually levy or otherwise collect sufficient funds to guarantee loan repayment and a maxi-audit for each building involved in the project. One copy of the application is required.

B. Review by authority. The authority shall examine the loan application to verify that the applicant is eligible, that the required forms and reports are included and are correctly completed, that an irrevocable resolution of the school board on school district or school board letterhead is included, and that the estimated start and end dates of the energy conservation measures included in the project are reasonable.

6 MCAR § 2.2505 [Temporary] Technical criteria.

A. Contents of technical support materials. A technical review must be based on the maxi-audit submitted for each building included in a loan application. The maxi-audit must be submitted with the loan application on forms provided by the authority.

B. Project eligibility limitations. Only energy conservation investments with ten year or less paybacks identified and described in maxi-audits are eligible. Loans may not be awarded to buildings with a remaining useful life less than the payback of the energy conservation investments proposed. Loans may not be awarded for energy conservation measures if the payback of the energy conservation investments proposed is greater than the life of the measure.

C. Review by authority. The authority shall examine a maxi-audit that accompanies a loan application to verify that energy conservation investments requested are analyzed with adequate details of the existing conditions and proposed changes using appropriate calculation procedures, and that the proposed measures are eligible. The authority may accept, reject, or modify a loan application request as necessary based on this review.

6 MCAR § 2.2506 [Temporary] Financial criteria.

A. Maximum loan amount. To assure equitable statewide distribution of loan funds, given that loans will be issued on a first-come-first-served basis, the authority shall establish three equal allocations of the available funds to be divided between small, medium, and large school districts. Small districts are defined as having less than 900 students and four classroom buildings or less. Small districts are eligible for up to $250,000 per district. Large districts are defined as having greater than 5,000 students or greater than ten classroom buildings. Large districts are eligible for up to $1,000,000 per district. All other districts are defined as medium size school districts and are eligible for up to $500,000 per district. Cooperative vocational centers and any other eligible educational facilities not included in school districts are limited to $250,000. If less than 33 percent of any of the three allocations is used within a year from the effective date of these rules, the authority may redistribute funds between the three allocations.

B. Guaranteed repayment. An irrevocable resolution of the school board must guarantee loan repayment.

6 MCAR § 2.2507 [Temporary] Reports and monitoring.

A. Annual project status report. The school district shall submit to the authority on forms provided by the authority an annual project status report covering the period July 1 through June 30. These reports are due each July 31 until the project is completed. The project status report must indicate the progress of the implementation of the measures funded, problems encountered, the effect of the problems on the project, and the corrective action taken. If the school district has not demonstrated substantial progress towards completion of the project after 18 months, or anytime thereafter, the entire loan amount may become due and payable at the discretion of the authority.

B. Quarterly financial reports. Quarterly financial status reports that indicate expenditures of loan funds through the last date of each quarter are due within 30 days of the end of each calendar quarter until the project is completed. These reports must be submitted to the authority.

C. Final report. Within 60 days of the completion of the project, the school district shall submit to the authority on forms

provided by the authority a final project status report and a financial status report that gives actual expenditures of the measures implemented.

D. Annual energy report. The school district shall submit to the authority on forms provided by the authority an annual energy use and energy expenditure report by fuel type due each October 31 for the duration of the loan contract period, or for a minimum of three years after project completion if the loan is prepaid in less than three years, unless the authority cancels this requirement statewide prior to the end of the loan contract period.

6 MCAR § 2.2508 [Temporary] Program evaluation.

The authority shall design and implement by rule an evaluation of the loan program. Loan recipients shall agree to provide to the authority in a timely manner the information that is reasonably needed to evaluate the loan program.

6 MCAR § 2.2509 [Temporary] Closure of loan account.

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

State Board of Medical Examiners

Proposed Rule Regarding Changes in the Continuing Medical Education Requirement Necessary for Physicians and Osteopaths to Retain Their Licenses to Practice Medicine

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Minnesota Board of Medical Examiners proposes to adopt the above entitled rules without a public hearing. The Board 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 sections 14.21-14.28 (1982).

Minnesota Statutes section 214.12 establishes the authority for health manpower regulatory authorities to implement Continuing Education requirements as a means of improving the professional skills of the licensees or registrants on an ongoing basis. The Board has promulgated continuing medical education rules which fulfill the intent of section 214.12. However, through the administration of the existing continuing medical education rules the Board, with the assistance of a continuing medical education sub-committee, developed these revisions to the rules based upon the Board's experience with the rules. Additionally, a statement of need and reasonableness that describes the need and reasonableness of the proposed rules has been prepared and is available for inspection by the public during regular business hours or may be provided upon request, at the address below.

Persons interested shall have 30 days, specifically until January 25, 1984, 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.

Upon adoption of the final rule without a public hearing, the proposed rule, this notice, the statement of need and reasonableness, all written comments received, and the final rule 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 Geneal, or who wish to receive a copy of the final rule as proposed for adoption, should submit a written request to the below address.

Unless seven (7) 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 14.13-14.20 (1982). The agency asks that persons requesting a public hearing identify the particular provisions objected to, the suggested modifications to the proposed rules, and the reasons or data relied on to support the suggested modifications.

Please be advised that Minn. Stat. chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. Minn. Stat. § 10A.01. subdivision 11 defines a lobbyist as an individual:

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.

STATE OF MINNESOTA

ENERGY AND ECONOMIC DEVELOPMENT AUTHORITY

In the Matter of Proposed Adoption of the Temporary Rules of the Energy and Economic Development Authority Governing Energy Conservation Investment Loans to Public Schools pursuant to Minnesota Statutes 116J. 37.

FINDINGS OF FACT, CONCLUSIONS

AND ORDER ADOPTING

TEMPORARY RULES

Laws of Minnesota, 1983, Chapter 323 requires the Minnesota Energy and Economic Development Authority to adopt temporary rules pursuant to Minnesota Statutes S 14.29 - 14.36 of the Minnesota Administrative Procedures Act to establish procedures for application by school districts for energy conservation investment loans, criteria for state agency review of loan applications, and procedures and guidelines for program monitoring, evaluation and closure of loan accounts.

A Notice of Intent to Solicit Outside Opinion was published in the State Register August 8, 1983. The Request for Public Comment and the Proposed Temporary Rules, 6 MCAR S 2.2500-2.2509, were published in the State Register December 26, 1983. Copies of the Request for Public Comment and the Proposed Temporary Rules 6 MCAR 2.2500-2.2509 were also mailed by United States Mail to all persons on the list maintained by the Minnesota Department of Energy and Economic Development for Department and the Energy and Economic Development Authority pursuant to Minnesota Statute 14.22.

After affording interested persons an opportunity to submit comments on the proposed temporary rules for 20 days after notice, receiving comments as attached, having considered all comments and views submitted during the comment period, I have the following:

FINDINGS

1. The two comments submitted to the Authority during the comment period suggested certain changes to the proposed temporary rules. The Authority believes that the proposed temporary rules, as modified by these findings, are needed and reasonable and furthermore, the Authority contends that the changes contained in these findings are not major substantive changes to the proposed temporary rules as published.
2. Recommended changes to proposed temporary rules are as follows:
   a. 6 MCAR S 2.2506 A.
      A written comment was received requesting clarification of what "available funds" includes. To insure that the interpretation of "available funds" is the entire $30 million appropriated to this program, and not the funds available from an individual bond sale, the wording adopted is: "...three equal allocations of the $30 million appropriated to this program..."
   b. 6 MCAR S 2.2507 A.
      A written comment was received suggesting that the Annual Project Status Report section's language be changed to allow the Authority to monitor progress and invoke sanctions, if necessary, on delinquent loan projects before 18 months have passed. The change allows the Authority to monitor loan project implementation based on the timeline developed by the loan recipient and given in the loan application, which becomes part of the loan contract. The wording therefore is: "If at any time the school fails to substantially comply with the start and end dates given in the loan application as approved, as shown on the financial and progress reports, and if the school district cannot reasonably justify its lack of progress, the entire loan amount may become due and payable at the discretion of the Authority."

Based on the foregoing findings, I make the following

CONCLUSIONS

1. The Authority gave proper notice of intent to adopt the proposed temporary rules.
2. The Authority has fulfilled the procedural requirements of Minn. Stat. 14.29 - 14.36 and all other procedural requirements of law or rule.
3. The Authority has statutory authority to adopt the proposed temporary rules and fulfilled all other substantive requirements of law or rule within the meaning of the Minnesota Administrative Procedures Act.

ORDER

NOW THEREFORE, IT IS ORDERED that these rules identified as temporary rules governing the administration of Energy Conservation Investment Loans to Public School Districts are adopted this 15th day of February, 1984, pursuant to authority vested in the Minnesota Energy and Economic Development Authority by the Laws of Minnesota, 1983, Chapters 323 and 289.

STATE OF MINNESOTA

MARK B. DAYTON, CHAIRMAN OF THE ENERGY AND ECONOMIC DEVELOPMENT AUTHORITY

AUTHORITY #84-70

STATE OF MINNESOTA

ENERGY AND ECONOMIC DEVELOPMENT AUTHORITY

In the Matter of the Proposed Temporary Rules of the Energy and Economic Development Authority Relating to the Adoption of Temporary Rules for Energy Conservation Investment Loans, pursuant to Minnesota Statutes 116J.37.

CERTIFICATE OF AUTHORITY'S

RESOLUTION ADOPTING RULES

I, Mark B. Dayton, do hereby certify that I am a member and the chairman of the Energy and Economic Development Authority, an authority 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 Authority, duly and properly called and held on the 15th day of February, 1984, 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 the Temporary Rules relating to energy conservation investment loans to public school districts be and they hereby are approved and adopted, pursuant to authority vested in us by Laws of Minnesota, 1983, Chapters 323 and 289 and that Mark B. Dayton, the Chairman of the Energy and Economic Development Authority, 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 15th day of February, 1984.

Mark B. Dayton, Chairman, Energy and Economic Development Authority

Lyn Burton

Attest

STATE OF MINNESOTA

In the Matter of the Proposed Adoption of the Temporary Rules of the Energy and Economic Development Authority Governing the Administration of the Public School Energy Conservation Investment Loan Program pursuant to Minn. Stat. 116J.37.

STATEMENT OF COMPLIANCE

WITH RULEMAKING PROCEDURES

I, Thomas J. Barrett, Special Assistant Attorney General, 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 Procedures Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed. Any exceptions are noted below.

Thomas J. Barrett, Special Assistant Attorney General

Dated: February 15, 1984