

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 1044a

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 7-2-84
DATE FOR REVIEW 7-11-84
DATE DUE 7-16-84

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

Approved 7/16/84 (CDS) Disapproved _____ Returned to Agency _____

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

Date filed w/Secretary of State 7-17-84 Revisor approved _____ disapproved _____

___✓___ Rule as Adopted

___✓___ Rule as Proposed

___✓___ Order Adopting 6.28.84 Date

___✓___ 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 no small biz statement OK ✓

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

___✓___ Mailing list Certificate

___✓___ Publication in State Register
5.14.84 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 contains sm. biz statement

___ 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-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : ALAN L. HANS, Deputy Director
Minnesota Housing Finance Agency
Attn : KARL J. HERMAN/Special Assist. Attorney General

DATE: 7/16/84

FROM : LARRY D. STARNS LDS
Special Assistant
Attorney General

PHONE: 297-3493

SUBJECT: In The Matter of the Proposed Adoption of Rules Governing Solar Energy and Energy Conservation Bank Programs Without a Public Hearing.

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

LDS:sa

MINNESOTA HOUSING FINANCE AGENCY

July 2, 1984

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

RE: Enclosed Solar Energy, Cooperative Innovative Loans, and Accessory Apartment Loans

Dear Larry:

I have enclosed three (3) permanent rules which were the subject of our telephone conversation this morning.

As I mentioned, all three rules were delivered to the State Register for printing of the Notice of Intent to Adopt Rules without a Public Hearing on April 27. On or about May 8 (the last day for proofreading by the State Register of the materials to be published by the printer on May 14), the Agency received a call from the State Register's Office asking consent to change the number of persons who could demand a public hearing from seven to twenty-five, based upon the caller's belief that Chapter 14 had been amended, effective May 3, to require the change. Authorization to make the change had to be given in a matter of hours, to meet the May 14 printing deadline. The Agency's research staff was able to locate a copy of the Bill somewhere in the State system, which was delivered by messenger, and which I reviewed and concluded (a) that the Governor had in fact signed the bill, and that it had, accordingly, become effective on May 3, and (b) that the notice, as sent to the State Register, with the change mentioned above relating to the number of persons who could effectively demand a public hearing, would substantially comply with the new law. The time restraints were such that additional changes could not have been made to the form of the notice and still meet the May 14 publication date.

The enclosed permanent rules are existing temporary rules, which expire August 19, 26 and 27 of this year.

I would appreciate your review of the notices as published for the three rules and early advice that they are in substantial compliance with the new law. Republishing the notices, based upon my projections of the delays involved with the State Register and in the balance of the rulemaking process, would most likely result in the expiration of the existing temporary rules without a duly enacted replacement rule.

I believe that a liberal compliance interpretation is warranted in these interim situations, and that the Agency's public objectives would be best served by not requiring republication.

Your early attention to this matter will be much appreciated. I can be reached directly at telephone number 6-9796.

Sincerely,

Karl J. Herman
Special Assistant Attorney General

KJH/fls

Enclosures

MINNESOTA HOUSING FINANCE AGENCY

June 29, 1984

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 Rules Governing Solar Energy and Energy Conservation Bank Programs Without a Public Hearing

Dear Mr. Starns:

Enclosed please find for your review pursuant to Minnesota Statutes Sections 14.21 through 14.28, the adopted rules of the Minnesota Housing Finance Agency.

The following materials are submitted to you for your review pursuant to Minnesota Rules, Part 2000.0400:

Rule as Adopted;

Order Adopting;

Certificate of Board's Resolution Adopting the Rule;

Order of Notice to Adopt Rule Without a Public Hearing

Certificate of Agency's Authorizing Resolution;

Notice of Intent to Adopt Rule Without a Public Hearing;

Affidavit of Mailing Notice of Intent to Adopt a Rule Without a Public Hearing;

Mailing List Certificate;

Rule as Proposed;

Statement of Need and Reasonableness; and

Certificate of Compliance with Rulemaking Procedures.

The Agency did not publish a Notice of Intent to Solicit Outside Opinion in connection with this rule. No requests for a hearing were received during the 30 day comment period. The Agency did not receive any comments during the 30 day comment

period, nor did it receive any requests from persons desiring notice of the date of submission of the proposed rule to the Attorney General. The Adopted rules are the same as the Proposed rules.

Sincerely,

Alan L. Hans
Deputy Director

ALH/kjj

Encl.

AG copy

Housing Finance Agency

Adopted Rules Governing Solar Energy and Energy Conservation Bank Programs

Rules as Adopted

4900.1600 SCOPE.

Parts 4900.1600 to 4900.1650 govern 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 to 3620, and the disposition of the funds received under assistance awards and of funds received from other sources in conjunction with assistance awards.

4900.1610 INCORPORATION OF FEDERAL REGULATIONS.

Except as further defined and limited by parts 4900.1600 to 4900.1650, the residential energy conservation programs are governed by the Solar Energy and Energy Conservation Bank Final Rule, Code of Federal Regulations, title 24, part 1800 as published in the Federal Register, volume 49, number 53, March 16, 1984, as amended, and any waivers to the final rule obtained by the agency and published in the State Register.

4900.1620 DEFINITIONS.

Subpart 1. **Scope.** The following definitions apply to parts 4900.1600 to 4900.1650.

Subp. 2. **Agency.** "Agency" means the Minnesota Housing Finance Agency or its designee.

Subp. 3. **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.

Subp. 4. **Bank assistance.** "Bank assistance" means financial assistance from the bank provided to eligible recipients according to Code of Federal Regulations, title 24, part 1800.

Subp. 5. **Deferred loan.** "Deferred loan" means a loan without 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.

Subp. 6. **Deferred loan recipient.** "Deferred loan recipient" means one or more individuals who apply for and receive both a deferred loan and bank assistance.

Subp. 7. **Grant.** "Grant" means the extension of financial assistance without interest or periodic payments made to an eligible grant recipient. The grant's purpose must be to finance the cost of eligible energy conservation measures in a one-to-four family residential building.

Subp. 8. **Grant recipient.** "Grant recipient" means one or more individuals who apply for and receive both a grant and bank assistance.

Subp. 9. **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.

Subp. 10. **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.

Subp. 11. **Passive solar subsidy recipient.** "Passive solar subsidy recipient" means one or more individuals who apply for and receive a passive solar subsidy.

Subp. 12. **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.

Subp. 13. **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.

Subp. 14. **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.

4900.1630 ENERGY CONSERVATION DEFERRED LOAN AND GRANT PROGRAM.

Subpart 1. **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 or grant recipient:

A. 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 or a grant and bank assistance; and

B. shall not be seeking, have a current commitment for, or be able to obtain within a reasonable period of time, assistance for the same eligible energy conservation improvements under subpart 5 from any of the following programs: federal Weatherization Program under United States Code, title 42, section 6863; agency home improvement loan program under parts 4900.0510 and 4900.0520; agency home improvement grant and rehabilitation loan programs under parts 4900.0610 to 4900.0700; and energy conservation assistance programs available from local entities.

Subp. 2. **Restrictions on eligibility.** The following are restrictions on eligibility:

A. Grants may be made available only 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.

B. Deferred loans may be made available to families, as defined in Code of Federal Regulations, title 24, section

1800.3, whose annual incomes are not in excess of 150 percent of the median area income, as defined in Code of Federal Regulations, title 24, section 1800.3.

C. If the agency determines that sufficient funds are not available to adequately make available bank assistance to persons who meet the qualifications in subpart 1, and subpart 2, items A and B, the agency may limit the availability of bank assistance to families who meet the qualifications of subpart 1, and subpart 2, item A, and may limit the maximum assistance as provided in subpart 3 and items eligible for financing as provided in subpart 5. Notice of these limitations must be published in the State Register.

Subp. 3. **Maximum assistance.** The combined maximum amount of financial assistance provided to a deferred loan recipient from a deferred loan and bank assistance, or to a grant recipient from a grant and bank assistance, may not exceed $5,000.

Subp. 4. **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. Bank assistance provided to a grant recipient must be in the form of a grant as defined in Code of Federal Regulations, title 24, section 1800.19.

Subp. 5. **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 or a grant may be used to finance the cost of a loan or grant processing fee established or approved by the agency.

Subp. 6. **Repayment.** A deferred loan or grant 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 or grant 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 or grant and bank assistance is sold, transferred, or otherwise conveyed, or ceases to be the deferred loan or grant recipient's principal place of residence within five years from the date upon which the deferred loan or grant application was approved by the agency, the deferred loan or grant recipient shall repay all or a portion of the loans or grants. The agency or participating entity may place a lien or other security device on the improved property as security for repayment of the loans.

Subp. 7. **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 or grants 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.

Subp. 8. **Submission of applications.** The agency shall accept applications for deferred loans or grants 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 or grants 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 or grants funded by the agency based on the requirements in this part. Applications for deferred loans or grants funded by a participating entity other than the agency must be accepted or rejected based on criteria established by the participating entity.

Subp. 9. **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.

4900.1640 RENTAL PROPERTIES ENERGY CONSERVATION PROGRAM.

Subpart 1. **Eligible rental subsidy recipient.** A rental subsidy recipient shall meet the applicable eligibility criteria in Code of Federal Regulations, title 24, section 1800.63.

Subp. 2. **Type of financial assistance.** Bank assistance provided to rental subsidy recipients may be either in the form of a reduction of principal, as defined in Code of Federal Regulations, title 24, section 1800.15 or a grant as defined in Code of Federal Regulations, title 24, section 1800.19, based on the eligibility standards in Code of Federal Regulations, part 1800.

Subp. 3. **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.

Subp. 4. **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 the names and addresses of lending institutions authorized by the agency to process and submit requests for rental subsidy funding, the address of the agency, the date upon which the authorized lending institutions and the agency, if applicable, will first accept applications, and the specific items that constitute a valid application.

Subp. 5. **Submission of applications.** Applications for rental subsidies may be submitted directly to the agency only if so specified in the notice as described in subpart 4. If not so specified, applications must be submitted to one of the authorized lending institutions identified in its notice of fund availability.

Subp. 6. **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 directly or 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.

4900.1650 PASSIVE SOLAR NEW CONSTRUCTION PROGRAM.

Subpart 1. **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.

Subp. 2. **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.

Subp. 3. **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.

Subp. 4. **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.

Subp. 5. **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 review fee to be charged by the agency, and if applicable, the maximum annual income of applicants to be given selection priority as set forth in subpart 6.

Subp. 6. **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 part 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:

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

B. 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.

C. After funds are awarded to all eligible applicants with adjusted incomes of $38,000 or less, if funds remain available, the agency may award funds to applicants with adjusted incomes of greater than $38,000, with the applications to be funded to be selected by lot, if necessary.

APPROVED AS TO LEGALITY

July 16, 1984

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY _____
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JUL 17 1984
Joan Anderson Growe
Secretary of State

10:35 A.M.

Approval
SF-00006-03

STATE OF MINNESOTA

DEPARTMENT REVISOR OF STATUTES

Office Memorandum

TO: Kathy Johnson
Minnesota Housing Finance Age

DATE: July 3, 1984

FROM: Maryanne V. Hruby MVH
Assistant Revisor

PHONE: 297-2948

SUBJECT: AR0509 Housing; Solar Energy and Conservation Bank Programs

The revisor's office has approved your adopted rules.

After the rule is filed with the secretary of state, notify our office, and we will prepare a notice of adoption for submission to the State Register.

If you have any questions, please call.

CRS/bw
Enclosure
AR0509

STATE OF MINNESOTA

MINNESOTA HOUSING FINANCE AGENCY

In the Matter of the Proposed Adoption
of Rules Governing Solar Energy and Energy
Conservation Bank Programs Without a
Public Hearing

ORDER ADOPTING RULES

Notice of the Agency's intent to adopt the above-entitled rules without a public hearing was published in the State Register on May 14, 1984 and was sent by United States mail to all persons on the list maintained by the Agency pursuant to Minnesota Statutes Section 14.14 Subdivision 1 on May 11, 1984. After affording interested and affected persons an opportunity to submit comments for 30 days, receiving fewer than twenty-five 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 Rules of the Minnesota Housing Finance Agency Governing Solar Energy and Energy Conservation Bank Programs are adopted this 28th day of June, 1984 pursuant to authority vested in the Agency by Minnesota Statutes Section 462A.06, Subdivisions 4 and 11.

Alan L. Hans, Deputy Director

STATE OF MINNESOTA

MINNESOTA HOUSING FINANCE AGENCY

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

ORDER FOR NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

It is ordered this 26th day of April, 1984 that a Notice of Intent to Adopt Rules without a Public Hearing in the above-entitled matter be given to all persons who have registered their names with the Minnesota Housing Finance Agency for that purpose and be published in the State Register.

MINNESOTA HOUSING FINANCE AGENCY

James J. Solem, Executive Director

MINNESOTA HOUSING FINANCE AGENCY

In the Matter of the Proposed Adoption of Rules Relating to Solar Energy and Energy Conservation Bank Programs

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

Notice is hereby given that the Minnesota Housing Finance Agency ("agency") proposes to adopt the above-entitled rules without a public hearing. The agency has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. § 14.21 to 14.28.

Persons interested in these rules shall have 30 days to submit comments on the proposed rules within the 30-day comment period. The rule may be modified as the result of comments received 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 rule 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 Minn. Stat § 14.13 et. seq. If a public hearing is requested, identification of the particular objection, the suggested modifications to the proposed language, and the reasons or data relied on to support the suggested modifications is desired.

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

Kathleen J. Johnson
Legal Division
Minnesota Housing Finance Agency
Suite 200
333 Sibley Street
St. Paul, Minnesota 55101
Telephone: 612/296-9793

Authority for the adoption of these rules is contained in Minn. Stat. § 462A.06, Subd. 4 and 11. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules, and that identifies the data and information relied upon to support the proposed rules has been prepared and is available from Kathleen J. Johnson 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 a designee of 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 these rules for approval, or who wish to receive a copy of the final rules as adopted, should submit a written statement of such request to Kathleen J. Johnson.

A copy of the proposed rule is attached to this notice. Additional copies may be obtained by contacting Kathleen J. Johnson.

Please be advised that Minn. Stat. Ch. 10A.03 requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he or she commences

lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, Subd. 11 as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250.00, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than $250.00, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

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

Dated: May 11, 1984

James J. Solem
Exeuctive Director

Rules as Proposed (all new material)

4900.1600 SCOPE.

Parts 4900.1600 to 4900.1650 govern 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 to 3620, and the disposition of the funds received under assistance awards and of funds received from other sources in conjunction with assistance awards.

4900.1610 INCORPORATION OF FEDERAL REGULATIONS.

Except as further defined and limited by parts 4900.1600 to 4900.1650, the residential energy conservation programs are governed by the Solar Energy and Energy Conservation Bank Final Rule, Code of Federal Regulations, title 24, part 1800 as published in the Federal Register, volume 49, number 53, March 16, 1984, as amended, and any waivers to the final rule obtained by the agency and published in the State Register.

4900.1620 DEFINITIONS.

Subpart 1. **Scope.** The following definitions apply to parts 4900.1600 to 4900.1650.

Subp. 2. **Agency.** "Agency" means the Minnesota Housing Finance Agency or its designee.

Subp. 3. **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.

Subp. 4. **Bank assistance.** "Bank assistance" means financial assistance from the bank provided to eligible recipients according to Code of Federal Regulations, title 24, part 1800.

Subp. 5. **Deferred loan.** "Deferred loan" means a loan without 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.

APPROVED BY THE REVISOR OF STATUTES OFFICE BY:

Subp. 6. **Deferred loan recipient.** "Deferred loan recipient" means one or more individuals who apply for and receive both a deferred loan and bank assistance.

Subp. 7. **Grant.** "Grant" means the extension of financial assistance without interest or periodic payments made to an eligible grant recipient. The grant's purpose must be to finance the cost of eligible energy conservation measures in a one-to-four family residential building.

Subp. 8. **Grant recipient.** "Grant recipient" means one or more individuals who apply for and receive both a grant and bank assistance.

Subp. 9. **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.

Subp. 10. **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.

Subp. 11. **Passive solar subsidy recipient.** "Passive solar subsidy recipient" means one or more individuals who apply for and receive a passive solar subsidy.

Subp. 12. **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.

Subp. 13. **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.

Subp. 14. **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;

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

provided, however, that the owner may occupy not more than one of the dwelling units in the building as his or her residence.

4900.1630 ENERGY CONSERVATION DEFERRED LOAN AND GRANT PROGRAM.

Subpart 1. **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 or grant recipient:

A. 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 or a grant and bank assistance; and

B. shall not be seeking, have a current commitment for, or be able to obtain within a reasonable period of time, assistance for the same eligible energy conservation improvements under subpart 5 from any of the following programs: federal Weatherization Program under United States Code, title 42, section 6863; agency home improvement loan program under parts 4900.0510 and 4900.0520; agency home improvement grant and rehabilitation loan programs under parts 4900.0610 to 4900.0700; and energy conservation assistance programs available from local entities.

Subp. 2. **Restrictions on eligibility.** The following are restrictions on eligibility:

A. Grants may be made available only 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.

B. Deferred loans may be made available to families, as defined in Code of Federal Regulations, title 24, section 1800.3, whose annual incomes are not in excess of 150 percent of the median area income, as defined in Code of Federal Regulations, title 24, section 1800.3.

C. If the agency determines that sufficient funds are not available to adequately make available bank assistance to

APPROVED IN THE
REVISOR OF STATUTES
OFFICE BY:

persons who meet the qualifications in subpart 1, and subpart 2, items A and B, the agency may limit the availability of bank assistance to families who meet the qualifications of subpart 1, and subpart 2, item A, and may limit the maximum assistance as provided in subpart 3 and items eligible for financing as provided in subpart 5. Notice of these limitations must be published in the State Register.

Subp. 3. **Maximum assistance.** The combined maximum amount of financial assistance provided to a deferred loan recipient from a deferred loan and bank assistance, or to a grant recipient from a grant and bank assistance, may not exceed $5,000.

Subp. 4. **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. Bank assistance provided to a grant recipient must be in the form of a grant as defined in Code of Federal Regulations, title 24, section 1800.19.

Subp. 5. **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 or a grant may be used to finance the cost of a loan or grant processing fee established or approved by the agency.

Subp. 6. **Repayment.** A deferred loan or grant 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 or grant 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 or grant and bank assistance is sold, transferred, or otherwise conveyed, or ceases to be the deferred loan or grant recipient's principal place of residence within five years from the date upon which the deferred loan or grant application was approved by the

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agency, the deferred loan or grant recipient shall repay all or a portion of the loans or grants. The agency or participating entity may place a lien or other security device on the improved property as security for repayment of the loans.

Subp. 7. **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 or grants 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.

Subp. 8. **Submission of applications.** The agency shall accept applications for deferred loans or grants 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 or grants 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 or grants funded by the agency based on the requirements in this part. Applications for deferred loans or grants funded by a participating entity other than the agency must be accepted or rejected based on criteria established by the participating entity.

Subp. 9. **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.

4900.1640 RENTAL PROPERTIES ENERGY CONSERVATION PROGRAM.

Subpart 1. **Eligible rental subsidy recipient.** A rental

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

Subp. 2. **Type of financial assistance.** Bank assistance provided to rental subsidy recipients may be either in the form of a reduction of principal, as defined in Code of Federal Regulations, title 24, section 1800.15 or a grant as defined in Code of Federal Regulations, title 24, section 1800.19, based on the eligibility standards in Code of Federal Regulations, part 1800.

Subp. 3. **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.

Subp. 4. **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 the names and addresses of lending institutions authorized by the agency to process and submit requests for rental subsidy funding, the address of the agency, the date upon which the authorized lending institutions and the agency, if applicable, will first accept applications, and the specific items that constitute a valid application.

Subp. 5. **Submission of applications.** Applications for rental subsidies may be submitted directly to the agency only if so specified in the notice as described in subpart 4. If not so specified, applications must be submitted to one of the authorized lending institutions identified in its notice of fund availability.

Subp. 6. **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 directly or from a lending institution, and until the available funds are exhausted.

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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.

4900.1650 PASSIVE SOLAR NEW CONSTRUCTION PROGRAM.

Subpart 1. **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.

Subp. 2. **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.

Subp. 3. **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.

Subp. 4. **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.

Subp. 5. **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 review fee to be charged by the agency, and if applicable, the maximum annual

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income of applicants to be given selection priority as set forth in subpart 6.

Subp. 6. **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 part 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:

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

B. 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.

C. After funds are awarded to all eligible applicants with adjusted incomes of $38,000 or less, if funds remain available, the agency may award funds to applicants with adjusted incomes of greater than $38,000, with the applications to be funded to be selected by lot, if necessary.

APPROVED IN THE
REVISOR OF STATUTES
OFFICE BY:

OFFICE OF THE REVISOR OF STATUTES

Proposed Rule

RD509

Agency: Minnesota Housing Finance Agency

Division:

Agency Contact: Kathy Johnson 6-9793

Minnesota Rules: Parts 4900.1600 to 4900.1650

Title: Proposed Rules Governing Solar Energy and Energy Conservation Bank Programs

Type of Rules: Permanent

Incorporations by Reference: None

Duplication of Statutory Language: None

Steven C. Cross
Revisor of Statutes

Maryanne V. Hruby
Assistant Revisor
Phone: 297-2948
Date: April 25, 1984

CERTIFICATE OF AGENCY'S

AUTHORIZING RESOLUTION

I, Robert A. Worthington, do hereby certify that I am Chairman 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 26th day of April, 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 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 rules of the Minnesota Housing Finance Agency without a public hearing, said rules relating to Governing Solar Energy and Energy Conservation Bank Programs, as well as to perform any and all acts incidental thereto, including the signing of a notice of intent to adopt rules without a public hearing."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 26th day of April, 1984.

Robert A. Worthington

Chairman

STATE OF MINNESOTA

COUNTY OF RAMSEY

In the Matter of the Proposed Adoption of Rules Governing Solar Energy and Energy Conservation Bank Programs Without a Public Hearing

AFFIDAVIT OF MAILING

Kathleen J. Johnson, being first duly sworn, deposes and says:

That on the 11th day of May, 1984, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Intent to Adopt Rules Without a Public Hearing 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.

Kathleen J. Johnson

Subscribed and sworn to before me this 11th day of May, 1984.

Faye Louise Smiles
Notary Public

FAYE LOUISE SMILES
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My Commission Expires June 30, 1984

STATE OF MINNESOTA

MINNESOTA HOUSING FINANCE AGENCY

MAILING LIST CERTIFICATE

In the Matter of the Proposed Adoption
of Rules Governing Solar Energy and Energy
Conservation Bank Programs Without a
Public Hearing

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 11th day of May, 1984.

Kathleen J. Johnson

Housing Finance Agency

Proposed Rules Governing Solar Energy and Energy Conservation Bank Programs

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Minnesota Housing Finance Agency ("agency") proposes to adopt the above-entitled rules without a public hearing. The agency has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. §§ 14.21 to 14.28.

Persons interested in these rules shall have 30 days to submit comments on the proposed rules within the 30-day comment period. The rule may be modified as the result of comments received 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 25 or more persons submit written requests for a public hearing on the proposed rule 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 Minn. Stat. § 14.13 *et. seq.* If a public hearing is requested, identification of the particular objection, the suggested modifications to the proposed language, and the reasons or data relied on to support the suggested modifications is desired.

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

Kathleen J. Johnson
Legal Division
Minnesota Housing Finance Agency
Suite 200
333 Sibley Street
St. Paul, Minnesota 55101
Telephone: 612/296-9793

Authority for the adoption of these rules is contained in Minn. Stat. § 462A.06, Subd. 4 and 11. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules, and that identifies the data and information relied upon to support the proposed rules has been prepared and is available from Kathleen J. Johnson 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 a designee of the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised on the submission of these rules for approval, or who wish to receive a copy of the final rules as adopted, should submit a written statement of such request to Kathleen J. Johnson.

A copy of the proposed rule is attached to this notice. Additional copies may be obtained by contacting Kathleen J. Johnson.

Please be advised that Minn. Stat. Ch. 10A.03 requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, Subd. 11 as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250.00, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than $250.00, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

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

May 11, 1984

James J. Solem
Executive Director

Rules as Proposed (all new material)

4900.1600 SCOPE.

Parts 4900.1600 to 4900.1650 govern 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 to 3620, and the disposition of the funds received under assistance awards and of funds received from other sources in conjunction with assistance awards.

4900.1610 INCORPORATION OF FEDERAL REGULATIONS.

Except as further defined and limited by parts 4900.1600 to 4900.1650, the residential energy conservation programs are governed by the Solar Energy and Energy Conservation Bank Final Rule, Code of Federal Regulations, title 24, part 1800 as published in the Federal Register, volume 49, number 53, March 16, 1984, as amended, and any waivers to the final rule obtained by the agency and published in the *State Register*.

4900.1620 DEFINITIONS.

Subpart 1. Scope. The following definitions apply to parts 4900.1600 to 4900.1650.

Subp. 2. Agency. "Agency" means the Minnesota Housing Finance Agency or its designee.

Subp. 3. 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.

Subp. 4. Bank assistance. "Bank assistance" means financial assistance from the bank provided to eligible recipients according to Code of Federal Regulations, title 24, part 1800.

Subp. 5. Deferred loan. "Deferred loan" means a loan without 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 eligible energy conservation measures in a one-to-four family residential building.

Subp. 6. Deferred loan recipient. "Deferred loan recipient" means one or more individuals who apply for and receive both a deferred loan and bank assistance.

Subp. 7. Grant. "Grant" means the extension of financial assistance without interest or periodic payments made to an eligible grant recipient. The grant's purpose must be to finance the cost of eligible energy conservation measures in a one-to-four family residential building.

Subp. 8. Grant recipient. "Grant recipient" means one or more individuals who apply for and receive both a grant and bank assistance.

Subp. 9. Participating entity. "Participating entity" means an entity, including, but not limtied 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.

Subp. 10. 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.

Subp. 11. Passive solar subsidy recipient. "Passive solar subsidy recipient" means one or more individuals who apply for and receive a passive solar subsidy.

Subp. 12. 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.

Subp. 13. 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.

Subp. 14. 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.

4900.1630 ENERGY CONSERVATION DEFERRED LOAN AND GRANT PROGRAM.

Subpart 1. 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 or grant recipient:

A. 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 or a grant and bank assistance; and

B. shall not be seeking, have a current commitment for, or be able to obtain within a reasonable period of time, assistance for the same eligible energy conservation improvements under subpart 5 from any of the following programs: 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.

Weatherization Program under United States Code, title 42, section 6863; agency home improvement loan program under parts 4900.0510 and 4900.0520; agency home improvement grant and rehabilitation loan programs under parts 4900.0610 to 4900.0700; and energy conservation assistance programs available from local entities.

Subp. 2. Restrictions on eligibility. The following are restrictions on eligibility:

A. Grants may be made available only 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.

B. Deferred loans may be made available to families, as defined in Code of Federal Regulations, title 24, section 1800.3, whose annual incomes are not in excess of 150 percent of the median area income, as defined in Code of Federal Regulations, title 24, section 1800.3.

C. If the agency determines that sufficient funds are not available to adequately make available bank assistance to persons who meet the qualifications in subpart 1, and subpart 2, items A and B, the agency may limit the availability of bank assistance to families who meet the qualifications of subpart 1, and subpart 2, item A, and may limit the maximum assistance as provided in subpart 3 and items eligible for financing as provided in subpart 5. Notice of these limitations must be published in the *State Register*.

Subp. 3. Maximum assistance. The combined maximum amount of financial assistance provided to a deferred loan recipient from a deferred loan and bank assistance, or to a grant recipient from a grant and bank assistance, may not exceed $5,000.

Subp. 4. 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. Bank assistance provided to a grant recipient must be in the form of a grant as defined in Code of Federal Regulations, title 24, section 1800.19.

Subp. 5. 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 or a grant may be used to finance the cost of a loan or grant processing fee established or approved by the agency.

Subp. 6. Repayment. A deferred loan or grant 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 or grant 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 or grant and bank assistance is sold, transferred, or otherwise conveyed, or ceases to be the deferred loan or grant recipient's principal place of residence within five years from the date upon which the deferred loan or grant application was approved by the agency, the deferred loan or grant recipient shall repay all or a portion of the loans or grants. The agency or participating entity may place a lien or other security device on the improved property as security for repayment of the loans.

Subp. 7. 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 or grants 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.

Subp. 8. Submission of applications. The agency shall accept applications for deferred loans or grants 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 or grants 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 or grants funded by the agency based on the requirements in this part. Applications for deferred loans or grants funded by a participating entity other than the agency must be accepted or rejected based on criteria established by the participating entity.

Subp. 9. 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.

4900.1640 RENTAL PROPERTIES ENERGY CONSERVATION PROGRAM.

Subpart 1. Eligible rental subsidy recipient. A rental subsidy recipient shall meet the applicable eligibility criteria in Code of Federal Regulations, title 24, section 1800.63.

Subp. 2. Type of financial assistance. Bank assistance provided to rental subsidy recipients may be either in the form of a

reduction of principal, as defined in Code of Federal Regulations, title 24, section 1800.15 or a grant as defined in Code of Federal Regulations, title 24, section 1800.19, based on the eligibility standards in Code of Federal Regulations, part 1800.

Subp. 3. 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.

Subp. 4. 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 the names and addresses of lending institutions authorized by the agency to process and submit requests for rental subsidy funding, the address of the agency, the date upon which the authorized lending institutions and the agency, if applicable, will first accept applications, and the specific items that constitute a valid application.

Subp. 5. Submission of applications. Applications for rental subsidies may be submitted directly to the agency only if so specified in the notice as described in subpart 4. If not so specified, applications must be submitted to one of the authorized lending institutions identified in its notice of fund availability.

Subp. 6. 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 directly or 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.

4900.1650 PASSIVE SOLAR NEW CONSTRUCTION PROGRAM.

Subpart 1. 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.

Subp. 2. 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.

Subp. 3. 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.

Subp. 4. 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.

Subp. 5. 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 review fee to be charged by the agency, and if applicable, the maximum annual income of applicants to be given selection priority as set forth in subpart 6.

Subp. 6. 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 part 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:

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

B. 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.

C. After funds are awarded to all eligible applicants with adjusted incomes of $38,000 or less, if funds remain available, the agency may award funds to applicants with adjusted incomes of greater than $38,000, with the applications to be funded to be selected by lot, if necessary.

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

MINNESOTA HOUSING FINANCE AGENCY

In the Matter of the Proposed Adoption of Rules Governing Solar Energy and Energy Conservation Bank Programs Without a Public Hearing

CERTIFICATE OF BOARD'S RESOLUTION ADOPTING RULES

I, Robert A. Worthington, do hereby certify that I am Chairman 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, duly and properly called and held on the 28th day of June, 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 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 Section 462A.06, Subdivisions 4 and 11 and that Alan L. Hans, Deputy 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 28th day of June, 1984.

Robert A. Worthington

Chairman

STATE OF MINNESOTA

MINNESOTA HOUSING FINANCE AGENCY

In the Matter of the Proposed Adoption
of Rule of the Minnesota Housing Finance
Agency Governing the Solar Energy and
Energy Conservation Bank Programs

Statement of Need and Reasonableness

4900.1600

This part describes the scope of parts 4900.1600 to 4900.1650. The federal program from which the Agency will fund the programs set forth in these parts allows considerable flexibility in program design. These rules establish the guidelines for disposition of these funds by the agency.

4900.1610

This part incorporates certain federal regulations by reference as part of the rules set forth in parts 4900.1600 to 4900.1650. As the programs described in these parts are funded with federal funds it is necessary that the program be operated in compliance with these regulations.

4900.1620

This part sets forth definitions as they apply to terms used in parts 4900.1600 to 4900.1650. These definitions supplement, and in some cases limit, the definitions which are a part of the federal regulations incorporated by part 4900.1610.

Subp. 2 The definition of Agency is a shortened form of Minnesota Housing Finance Agency.

Subp. 3 The definition of Bank is a shortened form of Solar Energy and Energy Conservation Bank.

Subp. 4 The definition of Bank Assistance refers to funds provided to an eligible applicant from funds the agency receives from the Solar Energy and Energy Conservation Bank.

Subp. 5 The definition of Deferred Loan refers to a loan which does not have periodic payments. The definition also limits the use of deferred loans to the financing of energy conservation measures in one-to-four family residences. It is necessary to set forth these limitations because the federal regulations permit financing to be used for additional types of improvements and buildings. It is reasonable to establish these limitations because the participating entities contributing funds used to match the funds from the bank have specified, by agreement with the Agency, that they require the funds to be used in this manner.

Subp. 6 Deferred Loan Recipient is defined as one or more individuals who receive a deferred loan. The definition limits the availability of deferred loans to natural persons. This limitation is necessary because the federal regulations define eligible persons to include partnerships and corporations. The limitation is reasonable because the participating entities which provided matching funds have required that the recipients of these funds must be individual owner-occupants of one-to-four family structures.

Subp. 7 The definition of Grant refers to the extension of financial assistance without interest or periodic payments. The definition limits the use of grants in a manner identical to that set forth in the discussion of 4900.1620 Subp. 5 above.

Subp. 8 Grant Recipient is defined as one or more individuals who receive a grant. The necessity and reasonableness of the limitation to individuals is as set forth in the discussion of 4900.1620 Subp. 6 above.

Subp. 9 Participating Entity is defined as an entity which contributes funds to the Agency to be used in conjunction with funds received by the bank. Since the bank requires that there be a source of matching funds for the funds it provides, it is necessary for the Agency to seek such funds and to provide for their usage.

Subp. 10 The definition of Passive Solar Subsidy refers to financial assistance provided to finance a portion of the purchase of a house with a passive solar space heating system. The definition limits eligibility for a passive solar subsidy to newly-constructed single family homes containing passive solar space heating systems. It is necessary to establish these limitations because the federal regulations allow such subsidies to apply to additional types of buildings and to other solar technologies. It is reasonable to limit the availability of subsidies to newly-constructed houses because it is more difficult and costly to obtain an accurate energy design analysis for solar modifications to existing buildings than for newly-constructed buildings. The federal regulations require that an energy design analysis be done for each building to which a subsidy is awarded.

The limitation as to single family homes is reasonable because a primary purpose of the agency in administering this program is to obtain performance data on homes with passive solar space heating systems. This data will be added to an existing data base which is composed entirely of data from single-family homes. Therefore, if this new data is to be compatible with the existing data, it must also be collected from single-family homes.

The limitation as to passive solar space heating systems is reasonable because, at the time the program was established, the federal regulations did not allow active solar space heating systems. As the agency does not anticipate allocating any funds in addition to the original allocation to this activity, it is reasonable to retain the limitation.

Subp. 11 Passive Solar Subsidy Recipient is defined as one or more individuals who receive a passive solar subsidy. The definition limits the availability of subsidies to individuals. This limitation is necessary because the federal regulations define eligible persons to include partnerships and corporations. The limitation is reasonable because the agency intends to monitor the energy performance of the buildings which receive subsidies. The agency has found in previous programs involving monitoring that they are most effective when the owners are personally committed to the project.

Subp. 12 The definition of Rental Subsidy refers to that bank assistance which is provided to an owner of a residential property.

Subp. 13 Rental Subsidy Recipient is defined as one or more persons who receive a rental subsidy. This definition incorporates the federal regulation definition of person, which includes partnerships and corporations.

Subp. 14 Rental Property is defined as an existing building that is used primarily for residential purposes. This definition is necessary to clearly identify the type of building which is eligible. The requirement that the building be primarily residential is necessary because it is required by the federal regulations.

4900.1630

This part sets forth the standards which govern the program, to be financed with funds received from the bank, which is referred to as the Energy Conservation Deferred Loan and Grant Program.

Subp. 1 This subpart establishes criteria, in addition to those set forth in the cited federal regulation, which an applicant must meet in order to qualify for a grant or a deferred loan under this part.

Paragraph A of subpart 1 limits assistance to families who own and occupy one-to-four unit residential buildings. This limitation is necessary because the federal regulations allow financial assistance in the form of grants to be provided to tenants in residential buildings. The participating entities which have provided the matching funds to be used in conjunction with the bank assistance have specificed that the availability of the funds be limited to owner-occupants. It is therefore reasonable to establish this limitation because without the matching funds, the agency would be unable to make use of the federal funds.

Paragraph B of subpart 1 limits assistance to families which have not received and are not seeking assistance for the same improvements from other specified programs which finance energy conservation improvements. This limitation is reasonable because the total dollars available to the state to address the energy conservation needs of low income homeowners are insufficient to meet all of the demand. This provision ensures that there will not be a duplication of effort in this area by limiting the availability of this assistance to those who cannot obtain similar assistance through another program.

Subp. 2 This subpart sets forth certain provisions which differentiate eligibility for grants and for deferred loans; and establish conditions under which the agency may further limit the use of funds under this part.

Paragraph A of Subp. 2 establishes that grants will be available only to families with annual incomes of 80% of the median area income or less. This provision is necessary because the federal regulations limit the availability of assistance in the form of a grant to families in this income category.

Paragraph B of Subp. 2 establishes that deferred loans will be available only to families with annual incomes of 150% of the median area income or less. This limitation is necessary because the federal regulations limit the availability of assistance to owner-occupants within this income range.

Paragraph C of Subp. 3 establishes that the agency may place certain additional restrictions on the eligibility for funds if the agency determines that insufficient funds are unavailable to meet all of the demand for the program. The limitations, if implemented, would give preference to families of lower incomes, limit the maximum amount of assistance and limit the eligible improvements. The ability to implement these limitations is necessary to allow the agency to target scarce funds to those families with the greatest need and to those improvements which are likely to have the greatest positive benefit in conserving energy.

Subp. 3 This subpart establishes the maximum amount of financial assistance at $5,000. It is necessary to establish a maximum assistance level to inform potential applicants of the amount of assistance they may expect to receive. It is reasonable to establish the maximum at $5,000 because, based on statistics provided by the Minnesota Department of Energy and Economic Development, this amount is sufficient to finance the installation of all cost-effective energy conservation improvements in the average house.

Subp. 4 This subpart establishes the types of financial assistance, as defined in the federal regulations, for which deferred loan recipients and grant recipients, respectively, are eligible. This statement is necessary to ensure compliance with federal regulations which limit the availability of assistance in the form of grants to families with incomes of 80% or less than the area median.

Subp. 5 This subpart provides for financing the cost of a processing fee as part of a deferred loan or grant. This provision is necessary because such a fee is not an eligible improvement under the federal regulations. It is reasonable because the agency receives insufficient administrative funds to reimburse processing agents for costs they incur in processing grants and deferred loans for submission to the agency.

Subp. 6 This subpart sets forth the provisions by which the agency may require repayment of all or part of a deferred loan or grant. This provision is reasonable because it minimizes abuses within the program by requiring that the deferred loan or grant recipient must continue to reside in the improved property for at least 5 years after receiving assistance to avoid repayment of the assistance.

Subp. 7 This support specifies that the agency must publish a notice of fund availability in the State Register prior to the time when funds are made available for grants and deferred loans. It is necessary to include this provision because the agency may receive additional funds from time to time, and changes may occur in the agents which the agency authorizes to process applications.

Subp. 8 This subpart establishes that the agency will not accept applications directly from applicants but that applications must be submitted through one of its authorized agents. This provision is necessary because the agency does not have sufficient staff to process applications if they were submitted directly to the agency.

Subp. 9 This subpart sets forth that the basis on which applications will be selected for funding will be a first-come, first-served basis. This method is reasonable because there are few objective criteria on which applications could be evaluated.

4900.1640

This part sets forth the standards which govern the program, to be financed with funds received from the bank, which is referred to as the Rental Properties Energy Conservation Program.

Subp. 1 This subpart specifies that, to be eligible, a rental subsidy recipient must meet the applicable criteria of the federal regulations. This provision is necessary to ensure compliance with the federal regulations.

Subp. 2 This subpart establishes that bank assistance may be provided to rental subsidy recipients either in the form of a grant or a reduction of principal. This statement is necessary because the federal regulations also allow financial assistance in the form of a reduction of interest. It is reasonable to establish this limitation because the lending institutions which will process these subsidies are unwilling to process subsidies in the form of interest reductions, because the federal regulations for recordkeeping on interest reduction subsidies would be prohibitively expensive.

Subp. 3 This subpart states that the proceeds of a rental subsidy must be used to the extent necessary to bring the building into compliance with the state energy conservation standards for rental housing. This requirement is reasonable because these standards are mandatory standards with which all residential rental buildings in Minnesota must comply.

Subp. 4 This subpart specifies that the agency must publish a notice of fund availability in the State Register prior to the time when funds are made available for rental subsidies. It is necessary to include this provision because the agency may receive additional funds from time to time, and changes may occur in the lending institutions which are processing applications for the program. The agency intends to notify potential applicants of such changes by this method.

Subp. 5 This subpart specifies that applications for rental subsidies must be through a lending institution unless the agency specifies, by notice in the State Register, that it will accept direct applications. This requirement is necessary in order to allow the agency to assess whether, from time to time, it has sufficient staff to process direct applications for rental subsidies.

Subp. 6 This subpart establishes that applications for rental subsidies will be selected on a first-come, first-served basis. This method is reasonable because there are few objective criteria on which applications could be evaluated.

4900.1650

This part sets forth the standards which govern the program, to be financed with funds received from the bank, which is referred to as the Passive Solar New Construction Program.

Subp. 1 This subpart specifies that, to be eligible, a passive solar subsidy recipient must meet the applicable criteria of the federal regulations. This provision is necessary to ensure compliance with the federal regulations. In addition, an eligible recipient must intend to own and occupy the property for which a passive solar subsidy is received. This requirement is reasonable because it provides greater assurance to the agency that the subsidy recipient will actively participate in the monitoring program which the agency intends to implement. If a person other than the subsidy recipient occupies the property, their cooperation in the monitoring effort is less certain.

Subp. 2 This subpart establishes limitations on buildings eligible for passive solar subsidies. The necessity and reasonableness of these limitations are discussed in 4900.1620, subpart 10 above.

Subp. 3 This subpart specifies that all passive solar subsidies will be in the form of a reduction of principal. This provision is necessary because the federal regulations also allow subsidies in the form of interest reductions. The limitation is reasonable because the lending institutions which will process the subsidies have indicated that they are unwilling to process subsidies in the form of interest reductions, because the federal regulations for recordkeeping on interest reduction subsidies would be prohibitively expensive.

Subp. 4 This subpart establishes the provisions of the monitoring program which the agency intends to implement. These provisions are necessary to ensure that the agency has access to the properties which it will monitor for the period of time during which the monitoring will occur.

Subp. 5 This subpart specifies that the agency must publish a notice of fund availability in the State Register prior to the time when funds are made available for passive solar subsidies. It is necessary to include this provision because the agency may receive additional funds from time to time. The agency intends to notify potential applicants of such changes by this method.

Subp. 6 This subpart establishes the method by which the agency will select those applications which will be funded. A priority will be given to those applicants with

annual incomes of $38,000 or less. The basis for this priority is reasonable because the agency has, as its primary purpose, the provision of housing for low and moderate income households. The $38,000 priority limit is the definition of low and moderate income household for the agency's Home Mortgage Program as set forth in 4900.0010, Subp. 23 of these rules.

In addition to this priority, applications to be funded will be selected by lot. This method is reasonable because the agency will accept applications from all applicants on an equal basis until a deadline announced in the notice of fund availability. After the deadline, all applications will be evaluated, making a first-come, first-served selection method impracticable.

The Agency is cognizant of the provisions of Section 14.115 of the Minnesota Statutes, entitled Small Business Considerations in Rulemaking, however, since the recipients of the funds under the Solar Energy and Energy Conservation Programs must be individuals who will use the funds to finance energy conservation measures the proposed rules do not affect small businesses directly, and the said law, by its terms, is inapplicable to this proposed rules. In addition, the proposed rules do not establish any compliance or reporting requirements, design or operational standards, or directly affect the way any business must operate. Further, to the extent the proposed rules may have an indirect effect on small businesses, the effect is to make such funds more readily available and, as a result, the proposed rule has no negative effect on small businesses. Therefore, the provisions contained in Minn. Stat. § 14.115 (1983) Supp.) do not apply to the proposed rules discussed herein.

STATE OF MINNESOTA

MINNESOTA HOUSING FINANCE AGENCY

In the Matter of the Proposed Adoption of Rules Governing Solar Energy and Energy Conservation Bank Programs Without a Public Hearing

STATEMENT OF COMPLIANCE WITH THE RULEMAKING PROCEDURES

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

Dated: 6/29/84

Karl J. Herman
Special Assistant Attorney General