

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 1068

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 9-7-84
DATE FOR REVIEW
DATE DUE 9-21-84

Adopted w/a hearing
Adopted w/o hearing
~~Temporary~~ Emergency rule X

Approved September 21, 1984 (COR) Disapproved Returned to Agency

Resubmitted Due
Approved 9-21-84 Disapproved Returned to Agency

Date filed w/Secretary of State 9-24-84 Revisor approved 9/10/84 disapproved

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✓ Rule as Adopted

✓ Rule as Proposed See SR.

? Order Adopting 9.7.84 Date incomplete statutory cite

N/A Notice of Intent to Solicit Outside Opinion

✓ Order for rulemaking
N/A date of Hearing

N/A Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency see memo from Eller re statutory authority

✓ Affidavit of Mailing Notice or rulemaking
7.31.85 At least ~~30~~ 25 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

✓ Publication in State Register
8.13.84 At least ~~30~~/20 25 days prior to ~~hearing~~/adoption

N/A Hearing Examiner's Report

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

Agency's Findings of Fact

LCRAR Report or agency Affidavit

Certificate of Board's Resolution Adopting Rules

Order Approving Incorporation by Reference

Statement of Need and Reasonableness

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

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 : Mark B. Dayton
Commissioner of Energy & Economic Development

DATE: September 24, 1984

ATTN: Christie B. Eller
Special Assistant Attorney General

FROM : Larry D. Starns LDS
Special Assistant Attorney General

PHONE: 297-3493

SUBJECT: In the Matter of the Proposed Adoption of Emergency Rules of the State of Minnesota Governing the Allocation of Industrial Development Bond Issuance Authority

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

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

1. Affixation of stamps of the Attorney General and Secretary of State;

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

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

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

LDS:slz

Encs.

cc: Ms. Kathy Burek
Mr. Duane Harves

Department of Energy and Economic Development

Adopted Emergency Rules Governing Allocation of Industrial Development Bond Issuance Authority

Emergency Rule as Adopted

8300.2400 [Emergency] ALLOCATION OF INDUSTRIAL DEVELOPMENT BOND ISSUANCE AUTHORITY.

Subpart 1. **Definitions.** The definitions in Laws of Minnesota 1984, chapter 582, section 13 and in this subpart apply to subparts 2 and 3:

A. "Allocation" means the aggregate limit of industrial development bond issuance authority granted to the Department of Energy and Economic Development by Laws of Minnesota 1984, chapter 582, section 14, subdivision 3.

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

C. "Commissioner" means the commissioner of the Department of Energy and Economic Development ~~Authority~~ or a designee.

D. "Department" means the Department of Energy and Economic Development.

E. "Supplemental allocation" means any additional amount of industrial development bond issuance authority that may be available for allocation or reallocation under Laws of Minnesota 1984, chapter 582, section 16.

Subp. 2. **Allocation.** Under the authority granted in Laws of Minnesota 1984, chapter 582, sections 1; and 14, subdivision 3, the department shall allocate its total allocation to the authority by order of the commissioner if the authority meets the following requirements:

A. the authority operates programs of statewide application, including but not limited to business loans, small business loans, energy loans, farm loans, or pollution control loans located within a statewide jurisdiction;

B. the authority is a state entity or an agency with

APPROVED IN THE REVISOR OF STATUTES OFFICE BY: MVH

a statewide jurisdiction that has bond issuance authority and that is subject to the federal limitations act, but is not allocated bond issuance authority under Laws of Minnesota 1984, chapter 582, section 14; and

C. the authority submits a resolution requesting the allocation from the department on or after the effective date of the federal limitations act in 1984 and on or before January 1 of subsequent years.

Subp. 3. **Supplemental allocation.** If the authority received all of the allocation under subpart 2 and if the authority submits a resolution to the department requesting additional bond issuance allocation, the department shall apply for a supplemental allocation from the pool amount on behalf of the authority according to Laws of Minnesota 1984, chapter 582, section 16, subdivision 1.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
SEP 24 1984
Joan Anderson Growe
Secretary of State
9:10 AM

APPROVED AS TO LEGALITY
September 21, 19 84
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY
SPECIAL ASSISTANT ATTORNEY GENERAL

To: Larry.
Date: 9/17/84
Re: DEED – Allocation of Industrial Development Bond Issuance Authority.

Order Adopting

Citation to statutory authority is incomplete – does not contain chapter number 9/17 Christy Ellen will send new order (recd)

Rules as Adopted

· 2400 ~~Subp 2~~, A.

Contains the phrase "including but not limited to" without any criteria "of statewide application"

ok – provide flexibility to authorities, delimiting types of qualifying programs, which, in actuality, provide a standard by which the discretion of the agency will be judged as reasonable or not. -LDS.

9/17 Note: Subp. 1 C., line 19. – "Authority" is to be deleted. Revisor to send new page 1.

(done)

SF-00006-03

DEPARTMENT ATTORNEY GENERAL

STATE OF MINNESOTA

Office Memorandum

TO: JUDITH WEHRWEIN
Legal Assistant

DATE: September 10, 1984

FROM: CHRISTIE B. ELLER CBE
Special Assistant Attorney General

PHONE: 296-9200

SUBJECT: Proposed Adoption of Emergency Rules Governing the Allocation of Industrial Development Bond Issuance Authority.

The Department of Energy and Economic Development has submitted the above rules for review. As discussed below, the statute authorizing the adoption of such rules contains an inconsistent cross reference.

Minn. Laws 1984, ch. 582, § 1, clause (2), provides that the Commissioner of the Department of Energy and Economic Development (DEED) shall adopt rules including temporary rules "for the allocation of the amount of issuance authority allocated pursuant to section 11, subdivision 3." Unfortunately, there is no section 11, subdivision 3 of ch. 582. It appears that the intended reference was to the DEED allocation in section 14, subdivision 3. This interpretation is supported by the cross reference in section 14, subdivision 3 to entities receiving allocations from DEED pursuant to section 1, clause (2). It appears that the drafting error occurred when additional sections were added to the bill in conference but other sections cross referenced were not renumbered. The Revisor's Office will be submitting the cross reference correction as part of the Revisor's Bill next session.

CBE/smo

RECEIVED
SEP 10 1984
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

MINNESOTA
Department of Energy
and Economic Development

Financial Management Division
Energy Finance 297-1332
Business Finance 297-3547

900 American Center
150 East Kellogg Boulevard
St. Paul, Minnesota 55101

September 7, 1984

Ms. Judith Wehrwein
Office of the Attorney General
Administration Building
50 Sherburne Avenue
St. Paul, Minnesota 55155

Re: Proposed Emergency Rules Governing the Allocation of Industrial Development Bond Issuance Authority

Dear Ms. Wehrwein:

Enclosed please find a complete set of documents for the above-entitled proposed emergency rules of the Department of Energy and Economic Development including the following:

1.) Rules as adopted
2.) Order for publication
3.) Copy of the emergency rules as proposed
4.) Mailing list certificate
5.) Affadavit of mailing
6.) Notice of intent to adopt emergency rules and request for public comment
7.) Written comments on the rules received by the agency
8.) Order adopting emergency rules
9.) Certificate of Compliance with rulemaking procedures.

We have not had any requests for a hearing made during the twenty-five day period and we received one comment on the rules, a copy of which as well as the letter sent in response to the comment are enclosed. The agency made no changes to the proposed emergency rules. These rules are not adopted in response to a petition and no requests have been made to be notified of submission of the rules to the Attorney General.

Your earliest response to these documents is appreciated. Should you have any questions, please call Christie B. Eller at 296-9200.

Sincerely,

Edward J. Meyer, Jr.
Deputy Commissioner of
Energy and Economic Development

EM:lk
Attachments

AN EQUAL OPPORTUNITY EMPLOYER

PROPOSED RULES

Pursuant to Minn. Stat. of 1982, §§ 14.22, 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 25 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 the modifications are supported by the data and views submitted.

If, during the 30-day comment period, 25 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 §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Energy and Economic Development

Proposed Emergency Rules Governing Allocation of Industrial Development Bond Issuance Authority

Notice of Intent to Adopt Emergency Rules and Request for Public Comment

Notice is hereby given that the Minnesota Department of Energy and Economic Development is proposing to adopt emergency rules for the allocation of its total industrial development bond issuance allocation. The agency is authorized by Minnesota Statutes, section 116J.58, subdivision 4 and 474.17, subdivision 3, to adopt emergency rules for the allocation of the amount of industrial bond issuance authority to other state agencies, political subdivisions, or other authorization.

All interested parties have 25 days from the day of publication of this notice in the *State Register* to submit written comments to the agency on the proposed emergency rules. With publication of this notice in the August 13, 1984, *State Register*, written comments must be received by the agency no later than 4:30 p.m. on September 7, 1984. Written comments should be sent to:

Mary A. Callahan
Financial Management Division
Department of Energy and Economic Development
900 American Center Building
150 E. Kellogg Boulevard
St. Paul, Minnesota 55101
Telephone: 612/297-1543

Please be advised that the proposed emergency rules may be modified as a result of the comments received. Any written material received by the agency will become part of the record in this matter.

The proposed emergency rules with any modifications adopted by the agency, will be submitted to the Attorney General for review as to form and legality after close of the comment period. Persons wishing to be informed of the date of submission of the proposed emergency rules to the Attorney General should notify the agency of such desire at the address given above. The Attorney General has ten working days to approve or disapprove the rules.

The emergency rules will be effective five working days following approval of the rules by the Attorney General. It is the agency's intent to keep the rules in effect for a period of 180 days upon publication of a separate notice to such effect.

A full copy of the proposed emergency rules is available by contacting Ms. Callahan at the above address.

July 25, 1984

Mark B. Dayton, Commissioner
Department of Energy and Economic Development

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.

Emergency Rules as Proposed (all new material)

8300.2400 [Emergency] ALLOCATION OF INDUSTRIAL DEVELOPMENT BOND ISSUANCE AUTHORITY.

Subpart 1. Definitions. The definitions in Laws of Minnesota 1984, chapter 582, section 13 and in this subpart apply to subparts 2 and 3:

A. "Allocation" means the aggregate limit of industrial development bond issuance authority granted to the Department of Energy and Economic Development by Laws of Minnesota 1984, chapter 582, section 14, subdivision 3.

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

C. "Commissioner" means the commissioner of the Department of Energy and Economic Development Authority or a designee.

D. "Department" means the Department of Energy and Economic Development.

E. "Supplemental allocation" means any additional amount of industrial development bond issuance authority that may be available for allocation or reallocation under Laws of Minnesota 1984, chapter 582, section 16.

Subp. 2. Allocation. Under the authority granted in Laws of Minnesota 1984, chapter 582, sections 1; and 14, subdivision 3, the department shall allocate its total allocation to the authority by order of the commissioner if the authority meets the following requirements:

A. the authority operates programs of statewide application, including but not limited to business loans, small business loans, energy loans, farm loans, or pollution control loans located within a statewide jurisdiction;

B. the authority is a state entity or an agency with a statewide jurisdiction that has bond issuance authority and that is subject to the federal limitations act, but is not allocated bond issuance authority under Laws of Minnesota 1984, chapter 582, section 14; and

C. the authority submits a resolution requesting the allocation from the department on or after the effective date of the federal limitations act in 1984 and on or before January 1 of subsequent years.

Subp. 3. Supplemental allocation. If the authority received all of the allocation under subpart 2 and if the authority submits a resolution to the department requesting additional bond issuance allocation, the department shall apply for a supplemental allocation from the pool amount on behalf of the authority according to Laws of Minnesota 1984, chapter 582, section 16, subdivision 1.

Department of Health
Division of Environmental Health

Proposed Rules Governing Healing Arts

Notice of Intent to Adopt Rule without a Public Hearing

Notice is hereby given that the Commissioner of Health proposes to amend the above-entitled rules without a public hearing. The Environmental Health Division has determined that the proposed amendment to Minn. Rules pt. 4730.1700 (MHD 182 (a)(1)(aa)(vii)) will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Stat. §§ 14.21-14.28 (1982).

Persons interested in these rules shall have thirty days to submit comments in support of or in opposition to the proposed rules and comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Department and do not result in a substantial change in the proposed language.

If 25 or more persons submit written requests for a public hearing on the proposed rules within the thirty-day comment period, a public hearing will be held. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. In the event a public hearing is required, the agency will proceed according to the provisions of Minn. Stat. §§ 14.14-14.15 (1982). If a hearing is not required, notice of the date of submission of the proposed rule to the attorney general for review will be mailed to any person requesting to receive the notice.

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

DEPARTMENT OF ENERGY AND ECONOMIC DEVELOPMENT

Emergency Rules as Proposed (all new material) governing the Allocation of Industrial Development Issuance Authority

Notice of intent to adopt emergency rules and request for public comment

Notice is hereby given that the Minnesota Department of Energy and Economic Development is proposing to adopt emergency rules for the allocation of its total industrial development bond issuance allocation. The agency is authorized by Minnesota Statutes, section 116J.58, subdivision 4 and 474.17, subdivision 3, to adopt emergency rules for the allocation of the amount of industrial bond issuance authority to other state agencies, political sub divisions, or other authorization.

All interested parties have 25 days from the day of publication of this notice in the State Register to submit written comments to the agency on the proposed emergency rules. With publication of this notice in the August 13,1984, State Register, written comments must be received by the agency no later than 4:30 p.m. on September 7, 1984. Written comments should be sent to:

Mary A. Callahan
Financial Management Division
Department of Energy and Economic Development
900 American Center Building
150 E. Kellogg Boulevard
St. Paul, Minnesota 55101
Telephone: 612/297-1543

Please be advised that the proposed emergency rules may be modified as a result of the comments received. Any written material received by the agency will become part of the record in this matter.

The proposed emergency rules with any modifications adopted by the agency, will be submitted to the Attorney General for review as to form and legality after close of the comment period. Persons wishing to be informed of the date of submission of the proposed emergency rules to the Attorney General should notify the agency of such desire at the address given above. The Attorney General has ten working days to approve or disapprove the rules.

The emergency rules will be effective five working days following approval of the rules by the Attorney General. It is the agency's intent to keep the rules in effect for a period of 180 days upon publication of a separate notice to such effect.

A full copy of the proposed emergency rules is available by contacting Ms. Callahan at the above address.

Dated: July 25, 1984

Mark B. Dayton, Commissioner
Department of Energy and Economic Development

STATE OF MINNESOTA

DEPARTMENT OF ENERGY AND ECONOMIC DEVELOPMENT

In the Matter of the Proposed Adoption of Emergency Rules of the State of Minnesota Governing the Allocation of Industrial Development Bond Issuance Authority

ORDER ADOPTING EMERGENCY RULES

The above-entitled matter was published on Monday, August 13, 1984, as proposed emergency rules pursuant to Minnesota Statutes, § 14.29 to § 14.36. After affording interested and affected persons an opportunity to submit written data and views within 25 days of the Publication date, reviewing and considering the data and views, and determining that the above-captioned rules are needed and reasonable,

NOW THEREFORE, IT IS ORDERED that these rules identified as Emergency Rules governing Allocation of Industrial Development Bond Issuance Authority, part 8300.2400 (Emergency) are adopted this 7th day of September, 1984, pursuant to the authority vested in me by the Laws of Minnesota 1984, sections 1; and 14, subdivision 3.

STATE OF MINNESOTA

Mark B. Dayton
Commissioner of Energy
and Economic Development

STATE OF MINNESOTA

DEPARTMENT OF ENERGY AND ECONOMIC DEVELOPMENT

In the Matter of the Proposed
Adoption of Emergency Rules of
the State of Minnesota Department
of Energy and Economic Development
Governing the Allocation of Industrial
Development Issuance Authority

ORDER FOR PUBLICATION
OF EMERGENCY RULES

IT IS ORDERED this 25th day of July, 1984 that the proposed emergency rules in the above-entitled matter be published in the State Register.

STATE OF MINNESOTA

MARK B. DAYTON, COMMISSIONER
DEPARTMENT OF ENERGY AND ECONOMIC
DEVELOPMENT

In the Matter of the Proposed Adoption of Rules of the State of Minnesota, Department of Energy and Economic Development, Governing the Allocation of Industrial Development Bond Issuance Authority.

AFFIDAVIT OF MAILING

STATE OF MINNESOTA)
)ss.
COUNTY OF RAMSEY)

Mary A. Callahan, being first duly sworn deposes and says:

That on the 31 day of July, 1984, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Intent to Adopt Emergency Rules Without Public Hearing by depositing in the State of Minnesota Central Mail System for United States mailing at said City of St. Paul, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who have requested that their names be placed on file with the State Department of Energy and Economic Development for the purpose of receiving notice of proposed adoption of rules by this Department.

Mary A. Callahan

Subscribed and sworn to before me this 31 day of July, 1984.

Madeline Harris



STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

CERTIFICATE

In the Matter of the Proposed Adoption
of the Temporary Rules of the Department of
Energy and Economic Development Governing the
Allocation of Industrial Development Bond
Issuance Authority

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 names be placed on file with and maintained by the State Department of Energy and Economic Development for both the Department and the Energy 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 Monday, this 30 day of July, 1984.

Mary Anderson

In the Matter of the Proposed Emergency Rules of the Minnesota Department of Energy and Economic Development Governing the Allocation of Industrial Development Bond Issuance Authority

STATEMENT OF COMPLIANCE WITH RULEMAKING PROCEDURES

I, Christie Eller, 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 rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed. Any exceptions are noted below.

Christie B Eller

Christie B. Eller
Special Assistant Attorney General