

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 1150

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 4-15-85
DATE FOR REVIEW
DATE DUE 4-29-85

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

Approved 4.29.85 mjc Disapproved Returned to Agency

Resubmitted Due
Approved Disapproved Returned to Agency

Date filed w/Secretary of State 4-29-85 Revisor approved 4/15/85 disapproved

---

✓ Rule as Adopted

✓ Rule as Proposed

___ Order Adopting 4.10.85 Date

N/A Notice of Intent to Solicit Outside Opinion

✓ Order for rulemaking
N/A date of Hearing

✓ Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency

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

✓ Mailing list Certificate

✓ Publication in State Register
3.11.85 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

N/A Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness

✓ Petition for Adoption of a Rule

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

✓ Certificate of Compliance w/Rulemaking Procedures

N/A Affidavit of Mailing Notice of Submission to Attorney General

✓ Notice of Submission to the Attorney General

SF-00006-03

STATE OF MINNESOTA

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

TO: JUDITH WEHRWEIN
Office of Attorney General
2nd Floor Administration Building
50 Sherburne Avenue

DATE: 4-12-85

FROM: CHRISTIE B. ELLER CBE
Special Assistant Attorney General

PHONE: 6-9200

SUBJECT: In the Matter of the Adoption of Emergency Rules of the Minnesota Energy and Economic Development Authority Governing the Tourism Loan Program.

Enclosed please find the following documents relating to the above-entitled proposed emergency rules:

1. Certificate of the Authority's Authorizing Resolution to Adopt Emergency Rules.

2. Certificate of the Authority's Resolution Ordering Publication.

3. Written comments together with responses thereto.

4. Certificate of Compliance with Rulemaking Procedures.

5. Order For Notice of Intent to Adopt Emergency Rules without Public Hearing.

6. Findings of Fact and Conclusions

7. Emergency Rules as Proposed.

8. Emergency Rules as Adopted (original and 3 copies).

9. Order Adopting Rules (original and 1 copy).

10. Mailing List Certificate.

11. Affidavit of Mailing.

12. Copy of State Register.

The Minnesota Energy and Economic Development Authority (the Authority), the successor to the Small Business Finance Agency, is authorized to adopt emergency rules by Minn. Stat. § 116M.08, subd. 4 (1984). The Authority is an agency which is authorized to issue bonds to obtain funds to implement its programs. See Minn. Stat. § 116M.08, subd. 11 (1984). Thus, under Minn. Stat. § 14.29, subd. 3 (1984), the Authority may continue to adopt emergency rules governing its programs without regard to the 180-day limit of Minn. Stat. § 14.29, subd. 2 (1984).

The Authority received no requests for notice of submission of the proposed rules to the Attorney General.

CBE:bl

Enclosures

RECEIVED
APR 15 1985
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

SF-00006-03

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO: MARK B. DAYTON, Chairman
MN Energy & Economic Development Authority

DATE: 4-29-85

ATTN: CHRISTIE B. ELLER
Special Assistant Attorney General

FROM: MARTHA J. CASSERLY MJC
Special Assistant Attorney General

PHONE: 296-4692

SUBJECT: In the Matter of the Proposed Emergency Rules of the Minnesota Energy & Economic Development Authority Relating to the Tourism Loan Program.

The above-referenced rule has been approved as to its legality by the Attorney General on April 29, 1985.

Enclosed is the agency's copy of the approved rule. This office has already filed two copies of the approved rule with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth copy is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submission or comments received by the agency and any extra copies of documents which the agency submitted to the Attorney General.

In order for a permanent rule without a hearing to become effective, your agency must publish a notice of adoption in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

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

MJC:sz

Enclosures

cc: Executive Director
Legislative Commission to Review
Administrative Rules

Chief Administrative Law Judge
Office of Administrative Hearings

AG copy.

Department of Energy and Economic Development
Small Business Finance Agency

Adopted Rules Relating to Tourism Loan Program

Emergency Rules as Adopted

CHAPTER 8300
DEPARTMENT OF ENERGY AND ECONOMIC DEVELOPMENT
SMALL BUSINESS FINANCE AGENCY
TOURISM LOAN PROGRAM

8300.3060 [Emergency] PURPOSE OF TOURISM LOAN PROGRAM.

The purpose of the tourism loan program of the authority is to provide loans to upgrade and improve Minnesota's small tourism businesses. This program would match loans by local financial institutions, share credit risks, and provide for lower interest rates than are otherwise now available.

8300.3061 [Emergency] DEFINITIONS.

Subpart 1. **Statutory terms.** The definitions in Minnesota Statutes, section 116M.03 and this part apply to parts 8300.3060 to 8300.3070 [Emergency].

Subp. 2. **Act.** "Act" means the Minnesota Energy and Economic Development Authority Act.

Subp. 3. **Commissioner.** "Commissioner" means the commissioner of energy and economic development.

Subp. 4. **Eligible borrower.** "Eligible borrower" means a person, partnership, firm, or corporation engaged in, and determined by the authority to constitute, a tourism business as defined in Code of Federal Regulations, title 13, part 121, and a targeted small business. Any person to whom a loan has been made under parts 8300.3060 to 8300.3070 [Emergency] must maintain his or her status as an eligible borrower throughout the term of the loan.

Subp. 5. **Eligible project.** "Eligible project" means a project proposed by an eligible borrower that meets the public purpose standards of part 8300.3068 [Emergency], subpart 5.

Subp. 6. **Participation.** "Participation" means a contract by which the authority purchases a share of the financial institution's loan to an eligible borrower.

8300.3062 [Emergency] ELIGIBILITY OF PROJECT FOR TOURISM LOANS.

In order to receive loan participation by the authority, a financial institution's loan must be to an eligible borrower for an eligible cost in an eligible project. The maximum state participation is 50 percent of the cost of the project, with a maximum for any one project of $50,000. The financial institution shall make application for participation on behalf of an eligible borrower.

8300.3063 [Emergency] ELIGIBLE COSTS FOR TOURISM LOANS.

Subpart 1. **Eligible costs.** Eligible costs for financing by the authority include any costs not prohibited by subpart 2 for:

A. building construction and improvement;

B. site preparation;

C. equipment;

D. construction;

E. engineering;

F. authority fees including application fees of the authority; and

G. interest due on the loan during the period of construction.

Subp. 2. **Ineligible cost.** Capital expenditures for project costs made fewer than 30 days prior to submission of an application cannot be financed with a tourism loan.

8300.3064 [Emergency] INTEREST RATE FOR TOURISM LOANS.

The interest rate on the authority's participation under the tourism loan program is three percentage points below a full faith and credit obligation of the United States government of comparable maturity, as of five working days before the day of closing of the loan, as determined by the commissioner. The authority may, in the alternative, set interest rates at a negotiated rate after reviewing market rates and comparable

sources of financing available to the borrowers at the time the financial assistance is extended.

8300.3065 [Emergency] TERM OF LOAN FOR TOURISM LOANS.

The maximum term of any loan will not exceed the average useful life of the real property, or 80 percent of the useful life of the equipment or machinery, or the following limits, whichever is less:

A. for real property (land or buildings), ten years;

B. for equipment or machinery, five years; and/or

C. for a combination of items A and B, a weighted average of those years will be used.

The financial institution is permitted to amortize the loan over a period of years up to 15 years. The authority need not participate in the refinancing of any remaining portion of the principal not fully amortized and paid at the maturity of the loan.

8300.3066 [Emergency] SECURITY REQUIREMENTS FOR TOURISM LOANS.

All loans for real property or equipment must be secured by collateral. The financial institution must take a security interest in any collateral acceptable by the financial institution. The authority has a security interest in the collateral in a proportion equal to its participation in the loan. The personal guarantee of principal owners, officers, sole proprietors, partners, major shareholders or corporate officers of the borrower, or other related entities such as subsidiaries or parent corporations of the borrower, must also be given to the authority before loan participation will be approved. For the purposes of this part, principal owners are those having 20 percent or more ownership of any tourism project.

8300.3067 [Emergency] CONTENTS OF APPLICATION FOR TOURISM LOANS.

An application for participation must be made by the financial institution on behalf of the eligible borrower on a form provided by the commissioner and must contain or be accompanied by:

A. a copy of the financial institution's file

regarding the borrower's loan application;

B. a statement by the borrower, in the form provided in Minnesota Statutes, section 13.05, subdivision 4, paragraph (d), or a form similar to it if the borrower is a corporation, consenting to the dissemination of any private or nonpublic data applicable to the loan;

C. a letter containing the financial institution's assessment of the risks associated with the loan, and the credit worthiness of the borrower; and

D. a letter from the borrower demonstrating how the project meets the public purpose requirements of part 8300.3068.

8300.3068 [Emergency] PROCEDURES FOR TOURISM LOAN APPROVAL.

Subpart 1. **Preliminary eligibility review.** An application is considered to have been made upon the commissioner's receipt of a completed application with all required documentation and exhibits. The commissioner shall make a preliminary determination whether the application is complete and whether the borrower, project, and costs are eligible for consideration under the statutes and rules of the tourism loan program.

Subp. 2. **Notification of deficiencies.** If the commissioner determines the application to be incomplete, the commissioner or his or her designee shall notify the borrower, specifying the deficiencies. The financial institution has 60 days from the date of the commissioner's notification to complete the application in accordance with parts 8300.3060 to 8300.3070 [Emergency]. If an application is not made complete within 60 days of the date of the commissioner's notification of deficiencies, the application shall be rejected for processing and the financial institution must resubmit the application at a later date in order for it to be considered by the authority. An application which is completed by the last day of the month must be reviewed at the next month's authority meeting.

Subp. 3. **Approval for processing.** When an application is determined to be complete, the commissioner shall review it to assess the ability of the borrower to reasonably repay the loan and approve or disapprove the application for processing under

subpart 4.

Subp. 4. **Evaluation procedures.** An application which, in the judgment of the commissioner, meets the standards and requirements in the act and parts 8300.3060 to 8300.3070 [Emergency] shall be submitted to the authority with a recommendation for its approval at the earliest possible time. Applications which do not meet the criteria, standards, and requirements of the act and parts 8300.3060 to 8300.3070 [Emergency] shall not be submitted to the authority for its consideration until the application documents have been modified to conform to the standards of the program. If a completed application has not been modified to meet the program financial requirements within 60 days after submission, it is considered rejected and the financial institution must submit a new application for further consideration.

Subp. 5. **Requirements of public purpose.** Loan applications by eligible borrowers for eligible costs shall be recommended for approval by the authority only after the commissioner has determined that the project meets one or more of the following standards of public purpose:

A. that the project would contribute to upgrading, expanding, and improving Minnesota's tourism industry;

B. that the project, in order to be competitive and bring in new travelers to the area, offer additional amenities and improve the quality of the tourism facilities in the state;

C. that the project will protect and enhance the tax base;

D. that the borrower can demonstrate a positive economic impact to the surrounding community; and

E. that the project will retain lakeshore for public use.

Subp. 6. **Approval.** The authority may reject or disapprove any application for participation that does not provide sufficient documentation or otherwise comply with the provisions of the act and parts 8300.3060 to 8300.3070 [Emergency]. If the authority approves an application for participation, it shall

pass a resolution stating the name of the borrower, a brief description of the project, the amount of participation, and the amount of and interest charged on participation.

Subp. 7. **Participation agreement.** After participation in a loan is approved by the authority, the financial institution shall provide the authority with copies of its documents for the loan. The financial institution must also submit a certificate to the authority stating that the interest approved by the authority will be passed on to the borrower.

8300.3069 [Emergency] LOAN SERVICING.

The financial institution shall collect payments according to the payment schedule outlined in the note. The financial institution shall notify the authority in case of default, as determined by the financial institution. The financial institution may retain a maximum of one percent of the interest payment on the amount of the authority's participation.

8300.3070 [Emergency] AMORTIZATION SCHEDULES.

The financial institution shall allow loan payments to be made on other than a monthly basis in order to meet the amortization schedule established by the financial institution. A nonmonthly payment schedule shall allow for seasonal payments, where income is generated, or primarily generated, because of seasonal business.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
APR 29 1985
Joan Anderson Growe
Secretary of State
9:09AM

APPROVED AS TO FORM AND LEGALITY
April 29 1985
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY MJ Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

Emergency Rules as Proposed (all new material)

CHAPTER 8300

DEPARTMENT OF ENERGY AND ECONOMIC DEVELOPMENT

SMALL BUSINESS FINANCE AGENCY

TOURISM LOAN PROGRAM

8300.3060 [Emergency] PURPOSE OF TOURISM LOAN PROGRAM.

The purpose of the tourism loan program of the authority is to provide loans to upgrade and improve Minnesota's small tourism businesses. This program would match loans by local financial institutions, share credit risks, and provide for lower interest rates than are otherwise now available.

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8300.3062 [Emergency] ELIGIBILITY OF PROJECT FOR TOURISM LOANS.

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APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

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A. building construction and improvement;

B. site preparation;

C. equipment;

D. construction;

E. engineering;

F. authority fees including application fees of the authority; and

G. interest due on the loan during the period of construction.

Subp. 2. **Ineligible cost.** Capital expenditures for project costs made fewer than 30 days prior to submission of an application cannot be financed with a tourism loan.

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The interest rate on the authority's participation under the tourism loan program is three percentage points below a full faith and credit obligation of the United States government of comparable maturity, as of five working days before the day of closing of the loan, as determined by the commissioner. The authority may, in the alternative, set interest rates at a negotiated rate after reviewing market rates and comparable sources of financing available to the borrowers at the time the financial assistance is extended.

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The maximum term of any loan will not exceed the average useful life of the real property, or 80 percent of the useful

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

life of the equipment or machinery, or the following limits, whichever is less:

A. for real property (land or buildings), ten years;

B. for equipment or machinery, five years; and/or

C. for a combination of items A and B, a weighted average of those years will be used.

The financial institution is permitted to amortize the loan over a period of years up to 15 years. The authority need not participate in the refinancing of any remaining portion of the principal not fully amortized and paid at the maturity of the loan.

8300.3066 [Emergency] SECURITY REQUIREMENTS FOR TOURISM LOANS.

All loans for real property or equipment must be secured by collateral. The financial institution must take a security interest in any collateral acceptable by the financial institution. The authority has a security interest in the collateral in a proportion equal to its participation in the loan. The personal guarantee of principal owners, officers, sole proprietors, partners, major shareholders or corporate officers of the borrower, or other related entities such as subsidiaries or parent corporations of the borrower, must also be given to the authority before loan participation will be approved. For the purposes of this part, principal owners are those having 20 percent or more ownership of any tourism project.

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A. a copy of the financial institution's file regarding the borrower's loan application;

B. a statement by the borrower, in the form provided in Minnesota Statutes, section 13.05, subdivision 4, paragraph (d), or a form similar to it if the borrower is a corporation, consenting to the dissemination of any private or nonpublic data

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applicable to the loan;

C. a letter containing the financial institution's assessment of the risks associated with the loan, and the credit worthiness of the borrower; and

D. a letter from the borrower demonstrating how the project meets the public purpose requirements of part 8300.3068.

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APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

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A. that the project would contribute to upgrading, expanding, and improving Minnesota's tourism industry;

B. that the project, in order to be competitive and bring in new travelers to the area, offer additional amenities and improve the quality of the tourism facilities in the state;

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APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

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APPROVED IN THE
REVISOR OF STATUTES
OFFICE BY:

OFFICE OF THE REVISOR OF STATUTES

Proposed Rule

RD719

Agency: Department of Energy and Economic Development

Division: Small Business Finance Agency

Agency Contact: Terry Brown

Minnesota Rules: Parts 8300.3060 to 8300.3070

Title: Proposed Rules Relating to Tourism Loan Program

Type of Rules: Emergency

Steven C. Cross
Revisor of Statutes

David S. Niss
Assistant Revisor
Phone: 297-2948
Date: February 25, 1985

STATE OF MINNESOTA

MINNESOTA ENERGY AND ECONOMIC DEVELOPMENT AUTHORITY

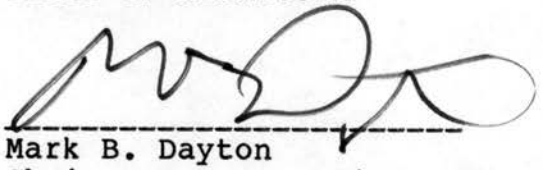
In the Matter of the Proposed Emergency Rules of the Minnesota Energy and Economic Development Authority Relating to The Tourism Loan Program.

ORDER ADOPTING RULES

Notice of Intent to adopt the above-entitled emergency rules was published in the State Register on March 11, 1985 and was sent by United States Mail to all persons on the list maintained by an agency pursuant to M.S. 14.14, subd. 1 on March 8, 1985. After affording interested and affected persons an opportunity to submit comments for 25 days after Notice, receiving 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 the Proposed Emergency Rules of the Minnesota Energy and Economic Development Authority Relating to The Tourism Loan Program are adopted this 10th day of April, 1985, pursuant to authority vested in me by M.S. 116M.08 subd. 4 and Minn. Laws of 1983, ch. 289, sect. 1, subd. 3.

STATE OF MINNESOTA



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

STATE OF MINNESOTA

MINNESOTA ENERGY AND ECONOMIC DEVELOPMENT AUTHORITY

In the Matter of the Proposed Adoption of Emergency Rules of the State of Minnesota Energy and Economic Development Authority Governing The Tourism Loan Program.	ORDER FOR NOTICE OF INTENT TO ADOPT EMERGENCY RULES WITHOUT PUBLIC HEARING

IT IS ORDERED this 8th day of March, 1985 that a Notice of Intent to Adopt Emergency Rules Without Public Hearing in the above-entitled matter be given to all persons who have registered their names with the State Department of Energy and Economic Development for that purpose and be published in the State Register.

STATE OF MINNESOTA

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

MEEDA RESOLUTION NO. 84-266
MINNESOTA ENERGY AND ECONOMIC DEVELOPMENT AUTHORITY
STATE OF MINNESOTA
ST. PAUL, MINNESOTA

In the Matter of the Proposed Emergency Rules of the Energy and Economic Development Authority Relating to Rules for the Tourism Loan Program

Certificate of Authority's Authorizing Resolution

I, Mark B. Dayton, do hereby certify that I am a member and the Chairman of the Energy and Economic Development Authority, a board 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 Energy and Economic Development Authority duly and properly called and held on the 26th day of December, 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 Mark B. Dayton, Chairman or Lyn Burton, Vice Chairman of the Energy and Economic Development Authority, be and they hereby are granted the authority and directed to sign an Order of the Energy and Economic Development Authority directing the publication in the State Register of proposed emergency rules governing the Tourism Loan Program as well as perform any and all acts incidental thereto.

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

By: _____
Chair

Attest: _____
Member

In the Matter of the Proposed
Adoption of Emergency Rules of
the Minnesota Energy and Economic
Development Authority Governing
The Tourism Loan Program.

AFFIDAVIT OF MAILING

STATE OF MINNESOTA)
) SS.
COUNTY OF RAMSEY)

Darlene Christenson, being first duly sworn deposes and says:

That on the 8th day of March, 1985, at the City of St. Paul, County of Ramsey, State of Minnesota, she served that attached Notice of Intent to Adopt Rules without a 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 of Minnesota for the purpose of receiving notice of the proposed adoption of rules by this Department.

Darlene A. Christenson

Subscribed and sworn to before me this
8th day of March, 1985.

Madeline Harris

MADELINE HARRIS
NOTARY PUBLIC - MINNESOTA
CHISAGO COUNTY
My Commission Expires Sep. 17, 1985

MINNESOTA ENERGY & ECONOMIC DEVELOPMENT AUTHORITY

Emergency Rules as Proposed (all new material) Governing Tourism Loans.

Notice is hereby given that the Minnesota Energy and Economic Development Authority is proposing to adopt emergency rules for Tourism Loans. The agency is authorized by Minnesota Statutes, section 116M.08, subdivision 4, to adopt emergency rules for its financial assistance programs.

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 in support of or in opposition to the proposed emergency rules, and comments are encouraged. With publication of this notice in the March 11, 1985 State Register, written comments must be received by the agency no later than 4:30 p.m. on April 5, 1985. Written comments should be sent to:

Terry Brown
Financial Management Division
Department of Energy & Economic Development
900 American Center Building
150 East Kellogg Boulevard
St. Paul, Minnesota 55101
Telephone: 612/297-1981

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, although the proposed emergency rules may be continued in effect for an additional period of up to 180 days if the agency publishes a separate notice to such effect in the State Register and mails the same notice to all persons on the agency's list to receive notice of rulemaking proceedings.

free

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

Dated: February 25, 1985

Mark B. Dayton, Commissioner of the Department of Energy and Economic Development and Chairman of the Minnesota Energy and Economic Development Authority.

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

CERTIFICATE

In the Matter of the Proposed Adoption
of the Temporary Rules for the Energy and Economic Authority
governing the Tourism Loan Program.

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 Friday, this 8th day of March, 1985.

Mary Anderson

The Board estimates that the proposed rule will not require an expenditure of public monies by all local public bodies of an amount which exceeds $100,000 in either of the two years immediately following adoption of the proposed rule. This proposed rule will not directly affect small businesses.

A copy of the proposed rule is attached to this notice.

A free copy of this notice and the proposed rule is available and may be obtained by contacting Tom Ryerson.

February 12, 1985

Ruth E. Randall
Secretary
State Board of Education

Rules as Proposed (all new material)

3515.4621 AUTO AND TRUCK DISMANTLING.

An applicant for an entrance license to teach the vocational program of auto and truck dismantling at a secondary school must complete either items A or B and C.

A. The applicant must have a bachelor's degree in industrial education or industrial arts, and the following work experience:

(1) 600 hours of auto and truck dismantling yardwork experience;

(2) 600 hours of auto and truck salvage inventory and warehouse experience;

(3) 600 hours of auto and truck salvage sales counter management experience; and

(4) 1,200 hours of auto and truck trade experience pertinent to auto and truck dismantling such as auto and truck mechanic, auto and truck rebuilder, auto and truck sales and service, and auto and truck sales or new/rebuilt parts sales management.

B. The applicant must have 6,000 hours of work experience as follows:

(1) 1,200 hours of auto and truck dismantling yardwork experience;

(2) 1,200 hours of auto and truck salvage inventory and warehouse experience;

(3) 1,200 hours of auto and truck salvage sales counter management experience; and

(4) 2,400 hours of auto and truck trade experience pertinent to auto and truck dismantling such as auto and truck mechanic, and auto and truck rebuilder, auto and truck sales and service, and auto and truck sales or new/rebuilt parts sales management.

C. An applicant must meet the requirements on the industrial education portion of the secondary licensure chart in part 3515.9911. Option B on the industrial education portion of the chart is not an option for this license.

Department of Energy and Economic Development Small Business Finance Agency

Proposed Rules Relating to Tourism Loan Program

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Minnesota Energy and Economic Development Authority is proposing to adopt emergency rules for Tourism Loans. The agency is authorized by Minnesota Statutes, section 116M.08, subdivision 4, to adopt emergency rules for its financial assistance programs.

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 in support of or in opposition to the proposed emergency rules, and comments are encouraged. With publication of this

notice in the March 11, 1985 *State Register*, written comments must be received by the agency no later than 4:30 p.m. on April 5, 1985. Written comments should be sent to:

Terry Brown
Financial Management Division
Department of Energy & Economic Development
900 American Center Building
150 East Kellogg Boulevard
St. Paul, Minnesota 55101
Telephone: 612/297-1981

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, although the proposed emergency rules may be continued in effect for an additional period of up to 180 days if the agency publishes a separate notice to such effect in the *State Register* and mails the same notice to all persons on the agency's list to receive notice of rulemaking proceedings.

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

February 25, 1985

Mark B. Dayton, Commissioner
Department of Energy and Economic Development
and Chairman of the Minnesota Energy and
Economic Development Authority

Emergency Rules as Proposed (all new material)

CHAPTER 8300
DEPARTMENT OF ENERGY AND ECONOMIC DEVELOPMENT
SMALL BUSINESS FINANCE AGENCY
TOURISM LOAN PROGRAM

8300.3060 [Emergency] PURPOSE OF TOURISM LOAN PROGRAM.

The purpose of the tourism loan program of the authority is to provide loans to upgrade and improve Minnesota's small tourism business. This program would match loans by local financial institutions, share credit risks, and provide for lower interest rates than are otherwise now available.

8300.3061 [Emergency] DEFINITIONS.

Subpart 1. Statutory terms. The definitions in Minnesota Statutes, section 116M.03 and this part apply to parts 8300.3060 to 8300.3070 [Emergency].

Subp. 2. Act. "Act" means the Minnesota Energy and Economic Development Authority Act.

Subp. 3. Commissioner. "Commissioner" means the commissioner of energy and economic development.

Subp. 4. Eligible borrower. "Eligible borrower" means a person, partnership, firm, or corporation engaged in, and determined by the authority to constitute, a tourism business as defined in Code of Federal Regulations, title 13, part 121, and a targeted small business. Any person to whom a loan has been made under parts 8300.3060 to 8300.3070 [Emergency] must maintain his or her status as an eligible borrower throughout the term of the loan.

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.

Subp. 5. Eligible project. "Eligible project" means a project proposed by an eligible borrower that meets the public purpose standards of part 8300.3068 [Emergency], subpart 5.

Subp. 6. Participation. "Participation" means a contract by which the authority purchases a share of the financial institution's loan to an eligible borrower.

8300.3062 [Emergency] ELIGIBILITY OF PROJECT FOR TOURISM LOANS.

In order to receive loan participation by the authority, a financial institution's loan must be to an eligible borrower for an eligible cost in an eligible project. The maximum state participation is 50 percent of the cost of the project, with a maximum for any one project of $50,000. The financial institution shall make application for participation on behalf of an eligible borrower.

8300.3063 [Emergency] ELIGIBLE COSTS FOR TOURISM LOANS.

Subpart 1. Eligible costs. Eligible costs for financing by the authority include any costs not prohibited by subpart 2 for:

A. building construction and improvement;

B. site preparation;

C. equipment;

D. construction;

E. engineering;

F. authority fees including application fees of the authority; and

G. interest due on the loan during the period of construction.

Subp. 2. Ineligible cost. Capital expenditures for project costs made fewer than 30 days prior to submission of an application cannot be financed with a tourism loan.

8300.3064 [Emergency] INTEREST RATE FOR TOURISM LOANS.

The interest rate on the authority's participation under the tourism loan program is three percentage points below a full faith and credit obligation of the United States government of comparable maturity, as of five working days before the day of closing of the loan, as determined by the commissioner. The authority may, in the alternative, set interest rates at a negotiated rate after reveiwing market rates and comparable sources of financing available to the borrowers at the time the financial assistance is extended.

8300.3065 [Emergency] TERM OF LOAN FOR TOURISM LOANS.

The maximum term of any loan will not exceed the average useful life of the real property, or 80 percent of the useful life of the equipment or machinery, or the following limits, whichever is less:

A. for real property (land or buildings), ten years;

B. for equipment or machinery, five years; and/or

C. for a combination of items A and B, a weighted average of those years will be used.

The financial institution is permitted to amortize the loan over a period of years up to 15 years. The authority need not participate in the refinancing of any remaining portion of the principal not fully amortized and paid at the maturity of the loan.

8300.3066 [Emergency] SECURITY REQUIREMENTS FOR TOURISM LOANS.

All loans for real property or equipment must be secured by collateral. The financial institution must take a security interest in any collateral acceptable by the financial institution. The authority has a security interest in the collateral in a proportion equal to its participation in the loan. The personal guarantee of principal owners, officers, sole proprietors, partners, major shareholders or corporate officers of the borrower, or other related entities such as subsidiaries or parent corporations of the borrower, must also be given to the authority before loan participation will be approved. For the purposes of this part, principal owners are those having 20 percent or more ownership of any tourism project.

8300.3067 [Emergency] CONTENTS OF APPLICATION FOR TOURISM LOANS.

An application for participation must be made by the financial institution on behalf of the eligible borrower on a form provided by the commissioner and must contain or be accompanied by:

A. a copy of the financial institution's file regarding the borrower's loan application;

B. a statement by the borrower, in the form provided in Minnesota Statutes, section 13.05, subdivision 4, paragraph (d), or a form similar to it if the borrower is a corporation, consenting to the dissemination of any private or nonpublic data applicable to the loan;

C. a letter containing the financial institution's assessment of the risks associated with the loan, and the credit worthiness of the borrower; and

D. a letter from the borrower demonstrating how the project meets the public purpose requirements of part 8300.3068.

8300.3068 [Emergency] PROCEDURES FOR TOURISM LOAN APPROVAL.

Subpart 1. Preliminary eligibility review. An application is considered to have been made upon the commissioner's receipt of a completed application with all required documentation and exhibits. The commissioner shall make a preliminary determination whether the application is complete and whether the borrower, project, and costs are eligible for consideration under the statutes and rules of the tourism loan program.

Subp. 2. Notification of deficiencies. If the commissioner determines the application to be incomplete, the commissioner or his or her designee shall notify the borrower, specifying the deficiencies. The financial institution has 60 days from the date of the commissioner's notification to complete the application in accordance with parts 8300.3060 to 8300.3070 [Emergency]. If an application is not made complete within 60 days of the date of the commissioner's notification of deficiencies, the application shall be rejected for processing and the financial institution must resubmit the application at a later date in order for it to be considered by the authority. An application which is completed by the last day of the month must be reviewed at the next month's authority meeting.

Subp. 3. Approval for processing. When an application is determined to be complete, the commissioner shall review it to assess the ability of the borrower to reasonably repay the loan and approve or disapprove the application for processing under subpart 4.

Subp. 4. Evaluation procedures. An application which, in the judgment of the commissioner, meets the standards and requirements in the act and parts 8300.3060 to 8300.3070 [Emergency] shall be submitted to the authority with a recommendation for its approval at the earliest possible time. Applications which do not meet the criteria, standards, and requirements of the act and parts 8300.3060 to 8300.3070 [Emergency] shall not be submitted to the authority for its consideration until the application documents have been modified to conform to the standards of the program. If a completed application has not been modified to meet the program financial requirements within 60 days after submission, it is considered rejected and the financial institution must submit a new application for further consideration.

Subp. 5. Requirements of public purpose. Loan applications by eligible borrowers for eligible costs shall be recommended for approval by the authority only after the commissioner has determined that the project meets one or more of the following standards of public purpose:

A. that the project would contribute to upgrading, expanding, and improving Minnesota's tourism industry;

B. that the project, in order to be competitive and bring in new travelers to the area, offer additional amenities and improve the quality of the tourism facilities in the state;

C. that the project will protect and enhance the tax base;

D. that the borrower can demonstrate a positive economic impact to the surrounding community; and

E. that the project will retain lakeshore for public use.

Subp. 6. Approval. The authority may reject or disapprove any application for participation that does not provide sufficient documentation or otherwise comply with the provisions of the act and parts 8300.3060 to 8300.3070 [Emergency]. If the authority approves an application for participation, it shall pass a resolution stating the name of the borrower, a brief description of the project, the amount of participation, and the amount of and interest charged on participation.

Subp. 7. Participation agreement. After participation in a loan is approved by the authority, the financial institution shall provide the authority with copies of its documents for the loan. The financial institution must also submit a certificate to the authority stating that the interest approved by the authority will be passed on to the borrower.

8300.3069 [Emergency] LOAN SERVICING.

The financial institution shall collect payments according to the payment schedule outlined in the note. The financial institution shall notify the authority in case of default, as determined by the financial institution. The financial institution may retain a maximum of one percent of the interest payment on the amount of the authority's participation.

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.

8300.3070 [Emergency] AMORTIZATION SCHEDULES.

The financial institution shall allow loan payments to be made on other than a monthly basis in order to meet the amortization schedule established by the financial institution. A nonmonthly payment schedule shall allow for seasonal payments, where income is generated, or primarily generated, because of seasonal business.

Department of Labor and Industry Code Enforcement Division

Withdrawal of Proposed Rules Governing Steam Boilers & Operators

Notice of Hearing Cancellation and Withdrawal of Proposed Rules

Notice is hereby given that the hearing scheduled for March 7, 1985, in the above-captioned matter is hereby cancelled, and that the proposed amendments to rules in the above-captioned matter, as published in 9 S.R. 1739-1753, are hereby withdrawn.

February 20, 1985

Steve Keefe
Commissioner

Pollution Control Agency

Proposed Rules Governing the Use, Reuse, Recycling, or Reclamation of Waste

Notice of Intent to Amend Rules without a Public Hearing

Notice is hereby given that the Minnesota Pollution Control Agency (Agency) intends, without a public hearing, to adopt amendments to the rules governing the management by reuse, recycling or reclamation of hazardous waste. The Agency will follow the procedures set forth in Minn. Stat. §§ 14.22-14.28 (1984).

The proposed amendments add a new subpart to Minn. Rule Part 7045.0125 which establishes the management requirements applicable to a hazardous waste which is not a sludge as defined in 40 CFR § 260.10 (1984), is hazardous only because it has a pH greater than 12.5, contains no listed hazardous wastes, has been demonstrated not to be an irritative substance and is being beneficially used, reused, recycled or reclaimed. The proposed amendments also add a new provision, Minn. Rule Part 7045.0142, which sets forth the method of testing which must be used to determine if a high pH waste is an irritative substance. The proposed amendments are set forth below.

Persons interested in these amendments have until 4:30 p.m. on April 10, 1985, to submit comments on the proposed amendments. The proposed amendments may be modified if the modifications are supported by the data and views submitted to the Agency and the modifications do not result in a substantial change in the proposed amendments.

Unless twenty-five or more persons submit written requests for a public hearing on the proposed amendments within the comment period, a public hearing will not be held. In the event that a public hearing is required, the Agency will proceed according to the provisions of Minn. Stat. § 14.14-14.20 (1984). If a person desires to request a public hearing, the Agency requests that the person identify the particular provisions objected to, the suggested modifications to the proposed language, and the reasons and data relied on to support the suggested modifications.

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

Melba Hensel
Division of Solid and Hazardous Waste
Minnesota Pollution Control Agency
1935 West County Road B-2
Roseville, Minnesota 55113
Telephone: (612) 296-7776

Authority for adoption of these rules is contained in Minn. Stat. § 116.07, subd. 4 (1984). Additionally, the Agency has prepared a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed

MEEDA RESOLUTION NO. 85-299
MINNESOTA ENERGY AND ECONOMIC DEVELOPMENT AUTHORITY
STATE OF MINNESOTA

In the Matter of the Proposal Adoption of Emergency Rules of the Minnesota Energy and Economic Development Authority Governing Tourism Loan Program.

FINDINGS OF FACT AND CONCLUSIONS

Notice of Intent to Adopt Rules without a Public Hearing regarding the above entitled matter was published in the State Register on March 11, 1985 and was mailed to all persons who had registered their names with the Authority or the Department of Energy and Economic Development. The Notice offered interested parties 25 days in which to submit comments to the Authority to request a public hearing on the proposed rules or to request notification of the submission of final rules to the Attorney General.

The Authority received three comments during that period. The Authority received 15 requests for a public hearing and no requests for notification of the submission of the final rules of the Attorney General.

After affording interested parties an opportunity to submit comments and having received the sets of comments, the Authority makes the following:

1. The Authority received a letter with comments from Mr. John Walters, Stony Point Resort, of Walker, Minnesota.

   The response to his comments is that we would require collateral for a tourism loan because of the statutory requirement. In addition, we allow the bank to determine what is sufficient collateral.

2. The Authority received a letter with comments from Mr. Leonard Zimmer, Merit Lodge, of Walker, Minnesota.

   The response to his comments about the size of eligible borrowers is that the Authority looked to the definitions provided in the statute for direction in establishing the size limitation. The choices available to the Authority included "targeted small business" that had a sales limitation of $1,000,000 in annual sales and "eligible small business" that had a sales limitation of $3,500,000 in annual sales. The Authority chose the more restricted definition. Regarding applications, our rules for the program have not been adopted and no applications have been received. The newspaper article, which was mentioned, was in error. In addition, we have reviewed the program with the Minnesota Bankers Association, and they indicated that the program was workable.

3. The Authority received a letter with comments from Mr. Harold Bruns, Northernaire Realty, Inc., of Walker, Minnesota.

   The response to his comments about the size of eligible borrowers is that the Authority looked to the definitions provided in the statute for direction in establishing the size limitation. The choices available to the Authority included "targeted small business" that had a sales limitation of $1,000,000 in annual sales and "eligible small business" that had a sales limitation of $3,500,000 in annual sales. The Authority chose the more restricted definition.

Conclusions

1. The Authority gave proper notice of its intent to adopt the proposed rules.

2. The Authority has fulfilled the procedural requirements of Chapter 14, and all other procedural requirements of law or rule.

3. The Authority has statutory authority to adopt the proposed rules and has fulfilled all other substantive requirements of the law or rule within the meaning of the Administrative Procedures Act.

4. The Authority has determined that the above capitoned emergency rules are needed and reasonable.

Mark B. Dayton
Commissioner of Energy and Economic Development, and Chairman, Minnesota Energy and Economic Development Authority.

MEEDA RESOLUTION NO. 85-300
MINNESOTA ENERGY AND ECONOMIC DEVELOPMENT AUTHORITY
STATE OF MINNESOTA

In the matter of the adoption of Emergency Rules of the Minnesota Energy and Economic Development Authority Governing The Tourism Loan Program.

Certificate of the Authority's Authorizing Resolution to Adopt Emergency Rules

I, Mark B. Dayton, do hereby certify that I am a member and the Chairman of the Minnesota Energy and Economic Development Authority, an authority duly authorized under the laws of the State of Minnesota, and that the following is a true, complete and correct copy of a resolution adopted at a meeting of the Authority duly and properly called and held on the 8th day of April, 1985, that a quorum was present at said meeting, that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

> "Resolved, that the emergency rules relating to the Tourism Loan Program, pursuant to authority vested in us by Minnesota Statutes section 116M.08, subdivision 4 (1983 Supp as amended Minnesota Laws 1984, chapter 583, section 17), and that Mark B. Dayton, Chairman of the Minnesota Energy and Economic Development Authority, Lyn Burton, Vice Chair and David L. Printy, Secretary, be and they hereby are authorized to sign an order adopting these rules and further they are 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 8th day of April, 1985.

Mark B. Dayton

Mark B. Dayton, Chairman of the Minnesota Energy & Economic Development Authority

Lyn Burton

Member

In the Matter of the Proposed Rules of the Minnesota Energy and Economic Development Authority Relating to The Tourism Loan Program.

STATEMENT OF COMPLIANCE WITH RULEMAKING PROCEDURES

I, Christie Eller, 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.

Christie Eller

Christie Eller
Special Assistant
Attorney General