

**CHAPTER 8300**  
**ENERGY AND ECONOMIC DEVELOPMENT**  
**AUTHORITY**  
**FINANCIAL ASSISTANCE**

- |           |  |  |  |
|-----------|--|--|--|
| 8300.0050 | SCOPE.   |  |  |
| 8300.0100 | DEFINITIONS.   |  |  |
| 8300.0300 | REGULAR MEETINGS.  |  |  |
| 8300.0400 | SPECIAL MEETINGS.  |  |  |
| 8300.0500 | PUBLIC APPEARANCES AT MEETINGS OF MEMBERS.                                 |  |  |
| 8300.0600 | MISREPRESENTATION OF APPLICATION INFORMATION.                              |  |  |
|           | <b>SCHOOL ENERGY CONSERVATION INVESTMENT LOANS</b>                         |  |  |
| 8300.2500 | PURPOSE.   |  |  |
| 8300.2501 | DEFINITIONS.   |  |  |
| 8300.2502 | SCHOOL ENERGY LOAN ELIGIBILITY CRITERIA.                                   |  |  |
| 8300.2503 | MAXIMUM LOAN AMOUNT.   |  |  |
| 8300.2504 | SCHOOL ENERGY LOAN APPLICATION CONTENTS AND PROCEDURES.                    |  |  |
| 8300.2505 | SCHOOL ENERGY LOAN APPLICATION REVIEW.                                     |  |  |
| 8300.2506 | LOAN APPROVAL.   |  |  |
| 8300.2507 | REPORTS AND MONITORING FOR SCHOOL ENERGY LOAN PROGRAM.                     |  |  |
| 8300.2508 | SCHOOL ENERGY LOAN PROGRAM EVALUATION.                                     |  |  |
| 8300.2509 | CLOSURE OF SCHOOL ENERGY LOAN ACCOUNT.                                     |  |  |
|           | <b>FINANCIAL ASSISTANCE APPLICATIONS</b>                                   |  |  |
| 8300.3011 | PROCEDURES FOR FINANCIAL ASSISTANCE APPLICATIONS.                          |  |  |
| 8300.3012 | COLLATERAL REQUIREMENTS AND ADDITIONAL INFORMATION OR CERTIFICATIONS.      |  |  |
| 8300.3013 | PROCEDURES FOR APPLICATION PROCESSING.                                     |  |  |
|           | <b>SMALL BUSINESS DEVELOPMENT LOAN PROGRAM</b>                             |  |  |
| 8300.3020 | PURPOSE OF SMALL BUSINESS DEVELOPMENT LOAN PROGRAM.                        |  |  |
| 8300.3021 | ELIGIBLE APPLICANTS FOR SMALL BUSINESS DEVELOPMENT LOAN PROGRAM.           |  |  |
| 8300.3022 | ELIGIBLE LOANS FOR SMALL BUSINESS DEVELOPMENT LOAN PROGRAM.                |  |  |
| 8300.3023 | DEBT SERVICE RESERVE FUND FOR SMALL BUSINESS DEVELOPMENT LOAN PROGRAM.     |  |  |
| 8300.3024 | FINAL RESOLUTION FOR SMALL BUSINESS DEVELOPMENT LOAN PROGRAM.              |  |  |
|           | <b>POLLUTION CONTROL FINANCIAL ASSISTANCE</b>                              |  |  |
| 8300.3025 | POLLUTION CONTROL FINANCIAL ASSISTANCE.                                    |  |  |
| 8300.3026 | ACCEPTANCE OF POLLUTION CONTROL FINANCIAL ASSISTANCE APPLICATIONS.         |  |  |
|           | <b>MINNESOTA FUND LOANS</b>  |  |  |
| 8300.3030 | PURPOSE FOR MINNESOTA FUND LOANS.  |  |  |
| 8300.3031 | ELIGIBILITY OF PROJECT FOR MINNESOTA FUND LOANS.                           |  |  |
| 8300.3032 | ELIGIBLE PROJECT COSTS FOR MINNESOTA FUND LOANS.                           |  |  |
| 8300.3033 | INTEREST RATE FOR MINNESOTA FUND LOANS.                                    |  |  |
| 8300.3034 | TERM OF FINANCIAL ASSISTANCE FOR MINNESOTA FUND LOANS.                     |  |  |
|           | <b>SPECIAL ASSISTANCE PROGRAM</b>  |  |  |
| 8300.3039 | PURPOSE OF SPECIAL ASSISTANCE.   |  |  |
| 8300.3040 | PUBLIC PURPOSE.  |  |  |
| 8300.3041 | FORM OF SPECIAL ASSISTANCE.  |  |  |
| 8300.3042 | EXPENDITURES ELIGIBLE FOR SPECIAL ASSISTANCE.                              |  |  |
|           | <b>TOURISM LOAN PROGRAM</b>  |  |  |
| 8300.3060 | PURPOSE OF TOURISM LOAN PROGRAM.   |  |  |
| 8300.3061 | DEFINITIONS.   |  |  |
| 8300.3062 | ELIGIBILITY OF PROJECT FOR TOURISM LOANS.                                  |  |  |
| 8300.3063 | ELIGIBLE COSTS FOR TOURISM LOANS.  |  |  |
| 8300.3064 | INTEREST RATE FOR TOURISM LOANS.   |  |  |
| 8300.3065 | TERM OF LOAN FOR TOURISM LOANS.  |  |  |
| 8300.3066 | SECURITY REQUIREMENTS FOR TOURISM LOANS.                                   |  |  |
| 8300.3067 | CONTENTS OF APPLICATION FOR TOURISM LOANS.                                 |  |  |
| 8300.3068 | PROCEDURES FOR TOURISM LOAN APPROVAL.                                      |  |  |
| 8300.3069 | LOAN SERVICING.  |  |  |
| 8300.3070 | AMORTIZATION SCHEDULES.  |  |  |
|           | <b>HEALTH CARE EQUIPMENT LOAN PROGRAM</b>                                  |  |  |
| 8300.3200 | SCOPE AND AUTHORITY.   |  |  |
| 8300.3201 | DEFINITIONS.   |  |  |
| 8300.3202 | ELIGIBLE PROJECT FOR PROGRAM FUNDS.  |  |  |
| 8300.3203 | PROCEDURES FOR HEALTH CARE EQUIPMENT LOAN APPLICATIONS.                    |  |  |
| 8300.3204 | PROCEDURES FOR APPLICATION PROCESSING.                                     |  |  |
|           | <b>ENERGY FINANCIAL ASSISTANCE</b>   |  |  |
| 8300.4010 | SCOPE.   |  |  |
| 8300.4011 | DEFINITIONS.   |  |  |
| 8300.4012 | PROCEDURES FOR ENERGY FINANCIAL ASSISTANCE APPLICATIONS.                   |  |  |
| 8300.4013 | COLLATERAL REQUIREMENTS AND ADDITIONAL INFORMATION OR CERTIFICATIONS.      |  |  |
| 8300.4014 | PROCEDURES FOR APPLICATION PROCESSING.                                     |  |  |
|           | <b>ENERGY DEVELOPMENT LOAN PROGRAM</b>                                     |  |  |
| 8300.4015 | PURPOSE.   |  |  |
| 8300.4016 | ELIGIBLE APPLICANTS FOR ENERGY DEVELOPMENT LOAN PROGRAM.                   |  |  |
| 8300.4017 | ELIGIBLE LOANS FOR ENERGY DEVELOPMENT LOAN PROGRAM.                        |  |  |
| 8300.4018 | ENERGY LOANS FUNDED BY BONDS.  |  |  |
| 8300.4019 | ENERGY LOANS FUNDED DIRECTLY FROM MONEY IN THE ENERGY DEVELOPMENT ACCOUNT. |  |  |
|           | <b>ENERGY LOAN INSURANCE PROGRAM</b>                                       |  |  |
| 8300.4020 | SCOPE.   |  |  |
| 8300.4021 | DEFINITIONS.   |  |  |
| 8300.4022 | APPLICATIONS FOR ENERGY LOANS SUBMITTED TO FINANCIAL INSTITUTIONS.         |  |  |
| 8300.4023 | SUBMISSION OF APPLICATIONS FOR ENERGY LOAN INSURANCE.                      |  |  |
| 8300.4024 | PARTICIPATING LENDER.  |  |  |
| 8300.4025 | PROCEDURES UPON DEFAULT.   |  |  |

# MINNESOTA RULES 1987

7787

## FINANCIAL ASSISTANCE 8300.0300

8300.4026	APPLICATION AND CLAIM FORMS.	8300.5100	REPORTS AND MONITORING. HAZARDOUS WASTE PROCESSING FACILITY LOANS
8300.4027	PRIOR COMMITMENT.	8300.5200	SCOPE AND AUTHORITY.
8300.4028	REPORTS.	8300.5201	DEFINITIONS.
	<b>TECHNOLOGY PRODUCT INVESTMENT PROGRAM</b>	8300.5202	ELIGIBLE APPLICANTS FOR THE HAZARDOUS WASTE PROCESSING FACILITY LOAN PROGRAM.
8300.4101	DEFINITIONS.	8300.5203	ELIGIBLE PROJECT FOR HAZARDOUS WASTE PROCESSING FACILITY LOAN.
8300.4102	TECHNOLOGY PRODUCT LOAN PROGRAM.	8300.5204	PROCEDURES FOR HAZARDOUS WASTE PROCESSING FACILITY LOAN APPLICATIONS.
8300.4103	ELIGIBLE LOAN APPLICANTS.	8300.5205	PROCEDURES FOR APPLICATION PROCESSING.
8300.4104	FINANCING ELIGIBLE SMALL BUSINESSES AND TARGETED SMALL BUSINESSES.	8300.5206	REVIEW AND APPROVAL. PILOT COMMUNITY DEVELOPMENT CORPORATIONS
8300.4105	LOAN DEFAULT.	8300.5300	DEFINITIONS.
8300.4106	DISPOSITION OF ACQUIRED PRODUCTS.	8300.5310	PURPOSE.
8300.4107	CERTIFICATIONS.	8300.5320	AVAILABILITY OF PROGRAM FUNDS.
8300.4108	DATA, PUBLIC AND PRIVATE.	8300.5330	ORGANIZATIONAL CRITERIA FOR COMMUNITY DEVELOPMENT CORPORATIONS.
8300.4109	CONTENT OF APPLICATION.	8300.5340	PROJECT GRANTS.
8300.4110	SUBMISSION AND EVALUATION CRITERIA.	8300.5350	NO DISCRIMINATION. RULES GOVERNING UNIFORM BUSINESS LICENSING
8300.4111	INTELLECTUAL PROPERTY RIGHTS.	8300.5400	DEFINITIONS.
8300.4112	DERIVATIVE PRODUCTS AND SUCCESSOR BUSINESSES. DISTRICT HEATING LOANS	8300.5410	PREAPPLICATION CONFERENCE.
8300.4500	DEFINITIONS.	8300.5420	WRITTEN REVIEW AND OPINION.
8300.4600	PURPOSE.		
8300.4700	CONTENTS OF APPLICATION FOR NEW SYSTEM.		
8300.4800	CONTENTS OF APPLICATION FOR EXISTING SYSTEM.		
8300.4900	APPLICATION PROCEDURE.		
8300.5000	AUTHORITY EVALUATION PROCEDURE.		

### 8300.0050 SCOPE.

Parts 8300.0100 to 8300.3013 are general rules that apply to all applications for financial assistance made available by the authority under the act and under Minnesota Statutes, chapter 472.

**Statutory Authority:** *MS s 116M.08 subd 4*

**History:** *10 SR 475*

### 8300.0100 DEFINITIONS.

Subpart 1. **Statutory definitions.** The terms defined in Minnesota Statutes, sections 116M.03 and 472.03 and this part apply to this chapter.

Subp. 2. **Act.** "Act" means Laws of Minnesota 1980, chapter 547.

Subp. 2a. **Applicant.** "Applicant" means a person, partnership, firm, corporation, or association that applies to the authority for financial assistance.

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

Subp. 3. **Commissioner.** "Commissioner" means the commissioner of energy and economic development or his or her designee.

Subp. 4. **Financial assistance.** "Financial assistance" means loans, loan guarantees or insurance, and any other use of funds permitted by the act.

Subp. 5. **Members.** "Members" means the commissioner and those persons appointed to the authority under Minnesota Statutes, section 116M.09.

Subp. 6. **Project.** "Project" means that which is funded or secured, or is proposed to be funded or secured, by financial assistance.

**Statutory Authority:** *MS s 116M.08 subd 4*

**History:** *9 SR 111; 10 SR 475*

### 8300.0200 [Repealed, 9 SR 111]

### 8300.0300 REGULAR MEETINGS.

Regular meetings of the authority shall be held on the fourth Wednesday of each month at 3:00 p.m. at the offices of the authority in St. Paul, Minnesota,

**8300.0300 FINANCIAL ASSISTANCE**

7788

unless another place of meeting is designated by resolution. If this date falls on a legal holiday, the regular meeting shall be held on the next succeeding business day.

**Statutory Authority:** *MS s 116M.08 subd 4*

**History:** *9 SR 111*

**8300.0400 SPECIAL MEETINGS.**

Special meetings of the authority may be called upon reasonable notice to all members by the chairperson or by a majority of the existing members of the authority, for the purpose of transacting any business designated in the notice, and shall be held at the business offices of the authority in Saint Paul, Minnesota, unless another place of meeting is designated by resolution. At a special meeting, no business may be considered other than as designated in the notice unless all of the members of the authority are present at the special meeting.

**Statutory Authority:** *MS s 116M.08 subd 4*

**History:** *9 SR 111*

**8300.0500 PUBLIC APPEARANCES AT MEETINGS OF MEMBERS.**

The following procedures shall govern public appearances at meetings of the members:

A. With respect to regular meetings, the commissioner shall complete the agenda for meetings of the members not less than five nor more than seven days prior to the date of the meeting.

B. With respect to regular meetings, any person who desires to appear and address the members shall make a written request to the commissioner, at least ten days prior to the date of the meeting, setting forth the nature of the matter about which the person wishes to appear.

C. With respect to regular or special meetings, any person who desires to appear and address the members with respect to any matter enumerated on the agenda shall make a written request to the commissioner, at least 24 hours before the meeting.

D. Any member may at any time request that a person be permitted to appear and address the members at any regular or special meeting. All requests must be placed on the agenda for review by the members at the meeting. A majority vote of the members present is required to grant a request to address the members.

**Statutory Authority:** *MS s 116M.08 subd 4*

**History:** *9 SR 111*

**8300.0600 MISREPRESENTATION OF APPLICATION INFORMATION.**

Subpart 1. **Affirmative duty.** An applicant or financial institution has an affirmative duty and obligation to update and correct all information provided to the authority.

Subp. 2. **Authority's action.** If information provided to the authority by either the applicant or the financial institution contains a material misrepresentation or omission, the authority may:

A. reject an application whether or not previously approved;

B. refuse to provide financial assistance;

C. make financial assistance provided by it immediately due and payable; or

D. revoke any preliminary or final resolution prior to the provision of financial assistance or prior to the sale of the bonds approved by it.

**Statutory Authority:** *MS s 116M.08 subd 4*

**History:** *9 SR 111*

**8300.0700** [Repealed, 9 SR 111]

**8300.1000** [Repealed, 10 SR 475]

**8300.1100** [Repealed, 10 SR 475]

**8300.1200** [Repealed, 10 SR 475]

**8300.1500** [Repealed, 10 SR 475]

**8300.1600** [Repealed, 10 SR 475]

**8300.1700** [Repealed, 10 SR 475]

**8300.1800** [Repealed, 10 SR 475]

**8300.1900** [Repealed, 10 SR 475]

**8300.2000** [Repealed, 10 SR 475]

**8300.2100** [Repealed, 10 SR 475]

**8300.2200** [Repealed, 10 SR 475]

### SCHOOL ENERGY CONSERVATION INVESTMENT LOANS

#### **8300.2500 PURPOSE.**

The purpose of parts 8300.2501 to 8300.2509 is to establish procedures for application by public school districts for energy conservation investment loans, criteria for state agency review of loan applications, and procedures and guidelines for monitoring, evaluation, and closure of loan accounts under the school energy loan program.

**Statutory Authority:** *MS s 116J.37 subd 7*

**History:** *9 SR 1614*

#### **8300.2501 DEFINITIONS.**

Subpart 1. **Scope.** For the purposes of parts 8300.2500 to 8300.2509, the following terms have the meaning given them.

Subp. 2. **Applicant.** "Applicant" means a public school district in Minnesota.

Subp. 3. **Authority.** "Authority" means the Minnesota Energy and Economic Development Authority.

Subp. 4. **Building.** "Building" means an existing building owned and operated by a public school district.

Subp. 5. **Conservation measure.** "Conservation measure" means an energy conservation measure that is an installation or modification of an installation to a building and that is primarily intended to reduce energy consumption or allow the use of an alternative energy source including solar, wind, peat, wood, and agricultural residue.

Subp. 6. **Maxi-audit.** "Maxi-audit" means a detailed engineering analysis of energy-saving building improvements, including modifications to building structure; heating, ventilating, and air conditioning systems; operation practices; lighting; and other factors that relate to energy use. The purpose of a maxi-audit is to quantify the economic and engineering feasibility of energy-saving improvements or major operational modifications.

Subp. 7. **Payback.** "Payback" means the simple payback that is equal to the design, acquisition, and installation costs of a conservation measure divided by the estimated first year energy cost savings attributable to that measure.

Subp. 8. **Project.** "Project" means all proposed work in an application for a loan to a school district.

**Statutory Authority:** *MS s 116J.37 subd 7*

**History:** *9 SR 1614*

# MINNESOTA RULES 1987

## 8300.2502 FINANCIAL ASSISTANCE

7790

### 8300.2502 SCHOOL ENERGY LOAN ELIGIBILITY CRITERIA.

Subpart 1. **In general.** The authority shall approve school energy loans to applicants to cover the costs of capital expenditures that are conservation measures that have paybacks of ten years or less as specified in a maxi-audit in compliance with Minnesota Statutes, section 116J.37 and parts 8300.2502 to 8300.2505.

Loans are available to applicants that have not previously received or been offered loan funds under this program, for new projects in school districts that previously received or were offered loan funds under this program, and as amendments to loans for projects in progress that are experiencing cost overruns or for previously unidentified but related work necessary to successful implementation of a previously approved project if the payback remains at ten years or less. With the exception of amendments as described above, the authority shall not approve more than one loan for the same conservation measure in the same building.

Subp. 2. **Prior approval required.** Except for a loan amendment to cover cost overruns or costs associated with previously unidentified but related work necessary to the successful implementation of a previously approved and funded project, projects that have been contracted for or begun before the authority notifies the school district that the loan application is approved are not eligible. This prior approval requirement applies to the design, acquisition, and installation costs as identified in the maxi-audit.

Subp. 3. **Existing buildings; new construction.** Only projects for existing buildings are eligible. New construction is not eligible except if it is a necessary part of successful implementation of a conservation measure for an existing building.

**Statutory Authority:** *MS s 116J.37 subd 7*

**History:** *9 SR 1614*

### 8300.2503 MAXIMUM LOAN AMOUNT.

To assure equitable statewide distribution of loan funds, given that loans will be issued on a first-come-first-served basis, the authority shall establish three equal allocations of the \$30 million appropriated to this program to be divided among small, medium, and large school districts. Small districts are defined as having less than 900 students and four classroom buildings or less. Small districts are eligible for up to \$250,000 per district. Large districts are defined as having greater than 5,000 students or more than ten classroom buildings. Large districts are eligible for up to \$1,000,000 per district. All other districts are defined as medium school districts and are eligible for up to \$500,000 per district. Cooperative vocational centers and any other eligible educational facilities that are not included in school districts are limited to \$250,000. If less than 33 percent of any of the three allocations is used within six months from the effective date of parts 8300.2500 to 8300.2509, the authority may redistribute that fund equally among the three allocations.

**Statutory Authority:** *MS s 116J.37 subd 7*

**History:** *9 SR 1614*

### 8300.2504 SCHOOL ENERGY LOAN APPLICATION CONTENTS AND PROCEDURES.

Subpart 1. **In general.** An applicant shall submit an application to the authority on a form provided by the authority. An application must be completed, dated, and signed in ink by a duly authorized official of the applicant and must include the authorized official's title.

Subp. 2. **Contents.** The application must contain: the school district or vocational center number; complete mailing address of the school district includ-

ing the county; contact person's name, title, and telephone number; federal employer identification number; list of buildings included in the request and the dollar amount requested per building; name and address of each building, including the county; the total floor area in square feet for each building; original construction date for each building and building additions; the state legislative district; and a summary description of each conservation measure, its maxi-audit item number, its estimated cost, the loan amount requested, its estimated annual energy cost savings, its estimated annual fuel and electric savings, its estimated payback, and the estimated dates the conservation measure will be started and completed; and a certification to assure proper and efficient operation of the building once the project is completed. An application for an amendment for cost overruns must also contain a copy of the bid selected.

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

**Statutory Authority:** *MS s 116J.37 subd 7*

**History:** *9 SR 1614*

### **8300.2505 SCHOOL ENERGY LOAN APPLICATION REVIEW.**

**Subpart 1. Administrative review.** The authority shall examine the loan application to verify that the applicant is eligible, that the required forms and reports are included and are correctly completed, that an irrevocable resolution of the school board on school district or school board letterhead is included, and that the estimated start and end dates of the conservation measures included in the project are reasonable.

**Subp. 2. Technical review.** A technical review must be based on the maxi-audit submitted for each building included in a loan application. The applicant shall submit the maxi-audit with the loan application on forms provided by the authority. The minimum requirements for a maxi-audit are given at Code of Federal Regulations, title 10, section 455.42 (May 21, 1981). A maxi-audit must be performed by or under the direction of and signed by a professional mechanical or electrical engineer or by an architect registered in Minnesota.

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

The authority shall examine a maxi-audit that accompanies a loan application to verify that conservation measures requested are analyzed with adequate details of the existing conditions and proposed changes using appropriate calculation procedures, and that the proposed measures are eligible.

**Subp. 3. Review results.** The authority shall accept, reject, or modify a loan application request as necessary based on this review. The authority shall give to an applicant whose application is rejected a written notice of problems encountered in the review process and options available to correct them for resubmission of the application. If only certain of the conservation measures included in the project are rejected or modified, the applicant may decide to accept a loan for the approved portions or resubmit the project proposal at a later date after making the necessary changes.

**Statutory Authority:** *MS s 116J.37 subd 7*

**History:** *9 SR 1614*

# MINNESOTA RULES 1987

## 8300.2506 FINANCIAL ASSISTANCE

7792

### 8300.2506 LOAN APPROVAL.

Subpart 1. **Authority approval.** The authority shall approve loans that comply with parts 8300.2502 to 8300.2505, on a first-come-first-served basis based on the order in which eligible and complete loan applications are received by the authority. If eligible and complete loan applications received at the same time cannot all be funded due to lack of available funds, the authority shall approve loans so that each affected application receives an equal percentage of the eligible loan amount request.

Subp. 2. **Execution of loan contract and disbursement of funds.** Upon approval of a school energy loan, the authority shall send a loan contract to the applicant. The authority shall attach to a loan contract a loan repayment schedule based on the approved loan application according to Minnesota Statutes, section 116J.37, subdivision 4, paragraph (b). The applicant shall have a duly authorized official execute and return the loan contract to the authority for execution of the loan contract by state officials and for disbursement of the loan funds. Loan funds must be issued upon execution of and according to the terms of the loan contract.

**Statutory Authority:** *MS s 116J.37 subd 7*

**History:** *9 SR 1614*

### 8300.2507 REPORTS AND MONITORING FOR SCHOOL ENERGY LOAN PROGRAM.

Subpart 1. **In general.** A school district that receives a loan from the authority shall submit the reports listed in subparts 2 to 5.

Subp. 2. **Annual project status report.** The school district shall submit to the authority on forms provided by the authority an annual project status report covering the period July 1 through June 30. This report is due each July 31 until the project is completed. The project status report must indicate the progress of the implementation of the measures funded, problems encountered, the effect of the problems on the project, and the corrective action taken. If at any time the school district fails to substantially comply with the start and end dates given in the loan application as approved, and if the school district cannot reasonably justify to the authority its lack of progress, the entire loan amount may become due and payable at the discretion of the authority.

Subp. 3. **Quarterly financial report.** The school district shall submit to the authority, on forms provided by the authority, a quarterly financial status report that indicates expenditures of loan funds through the last date of each quarter. This report is due within 30 days of the end of each calendar quarter until the project is completed.

Subp. 4. **Final report.** Within 60 days of the completion of the project, the school district shall submit to the authority, on forms provided by the authority, a final project status report and a financial status report that gives actual expenditures of the measures implemented.

Subp. 5. **Annual energy report.** The school district shall submit to the authority, on forms provided by the authority, an annual energy use and energy expenditure report by fuel type due each October 31 for the duration of the loan contract period, or for a minimum of three years after project completion if the loan is paid in less than three years, unless the authority cancels this requirement prior to the end of the loan contract period.

**Statutory Authority:** *MS s 116J.37 subd 7*

**History:** *9 SR 1614*

### 8300.2508 SCHOOL ENERGY LOAN PROGRAM EVALUATION.

The authority shall evaluate the program's effectiveness in reducing the energy costs of participating school districts 18 months after the effective date of these permanent rules and annually thereafter until all loan funds are issued. The

school district shall provide the authority with information that is reasonably needed to conduct an evaluation of the loan program, which shall include but not be limited to the reports required in part 8300.2507.

**Statutory Authority:** *MS s 116J.37 subd 7*

**History:** *9 SR 1614*

**8300.2509 CLOSURE OF SCHOOL ENERGY LOAN ACCOUNT.**

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

**Statutory Authority:** *MS s 116J.37 subd 7*

**History:** *9 SR 1614*

**FINANCIAL ASSISTANCE APPLICATIONS**

**8300.3011 PROCEDURES FOR FINANCIAL ASSISTANCE APPLICATIONS.**

Subpart 1. **In general.** To apply for assistance from the authority, an applicant shall submit an application form to the commissioner on a form provided by the commissioner. An application must be completed, dated, and signed by an owner, general partner, or an authorized officer of the applicant. The commissioner shall follow the procedures under part 8300.3014.

Subp. 2. **Contents.** An application must contain at a minimum the following information:

A. A written history of the business.

B. The source and use of funds to finance the project.

C. Financial statements that include a balance sheet, an operating statement, a statement of the sources and uses of funds, and footnotes to the statements if available for the following time periods:

(1) Financial statements from the previous three years, if applicable. If unaudited, the statements must be signed by an authorized financial officer of the business making application.

(2) A current quarterly financial statement that was compiled within 90 days of the date the application was submitted, if quarterly financial statements are regularly prepared.

(3) Federal tax returns filed by the business for the previous three years if applicable, if the applicant is an individual or partnership.

(4) A proforma balance sheet and income statement for the 24 months following the financial assistance closing that shows the financial position of the applicant and that includes the proposed financing.

D. A marketing plan that describes:

(1) the industry the applicant is in;

(2) the economic outlook of that industry for the next three to five years;

(3) the major characteristics of the industry, names, locations, products, or services provided;

(4) the duration and conditions of the applicant's contracts currently in place; and

(5) the percentage of annual sales volume for each major customer over the previous three years.

E. Current resumes of key personnel and signed personal financial statements dated as of the date of the application for any person who owns 20 percent or more interest in the business.

F. A resolution of support or other comparable preliminary approval



# MINNESOTA RULES 1987

## 8300.3011 FINANCIAL ASSISTANCE

7794

from the local government unit with respect to the project to be financed or secured with financial assistance.

G. A statement of informed consent by the applicant regarding the use and dissemination of the private data as provided in Minnesota Statutes, section 13.05, subdivision 4, paragraph (d). If the applicant is a corporation, then an authorized representative of the applicant shall provide a statement of informed consent in a form similar to that provided in Minnesota Statutes, section 13.05, subdivision 4, paragraph (d).

H. Certification that the employer does not discriminate in employment in a manner contrary to applicable federal or state laws and rules.

I. Certification of business compliance with all federal, state, or local laws or rules that affect the conduct of business in the state.

**Subp. 3. Business plan.** As part of the application, the applicant shall submit to the commissioner a comprehensive business plan. The business plan must include, but is not limited to, the following:

A. a management summary of the plan including:

- (1) name of the business;
- (2) business location and plan description;
- (3) discussion of the product, market, and competition;
- (4) expertise of the management team;
- (5) summary of financial projections;
- (6) amount of financial assistance requested;
- (7) form of and purpose for the financial assistance;
- (8) purpose for undertaking the project; and
- (9) business goals;

B. a description of the company including the following:

- (1) date and state of incorporation, date and state of formation of partnership, or date and state of formation of sole proprietorship;
- (2) history of the company; and
- (3) principals and the roles they played in the evolution of the company;

C. a market analysis including:

- (1) description of the current industry status and industry trends;
- (2) effects of major social, economic, technological, or regulatory trends on the industry;
- (3) description of the total market, principal market participants, and their performance; and
- (4) discussion of the target market and competition;

D. a description of the product or product line including:

- (1) list of patents, copyrights, licenses, or statement of the proprietary interest in the product or product line;
- (2) discussion of technical and legal considerations;
- (3) comparisons to competitors' products or product lines; and
- (4) description of research and development and future plans for research and development;

E. a description of the marketing strategy including:

- (1) overall strategy;
- (2) pricing policy;
- (3) sales channels and terms;
- (4) method of selling, distributing, and servicing product;
- (5) estimated sales and market share; and

(6) advertising, public relations, and promotion;

F. the management plan including:

- (1) form of business organization;
- (2) board of directors composition, if applicable;
- (3) officers organization chart and responsibilities; and
- (4) resumes of key personnel;

G. an operating plan including:

- (1) schedule of upcoming work for the next one to two years;
- (2) facilities plan or planned capital improvements for the next three years;
- (3) manufacturing processes; and
- (4) staffing plan (number of employees);

H. a schedule indicating the completion dates for realizing the significant aspects of the business plan;

I. a discussion of the risks and problems inherent to the business plan, including both the negative factors and plans to minimize the impact of those factors; and

J. financial data including:

- (1) a funding request indicating the desired financing, capitalization, use of funds, and future financing;
- (2) financial statements for the past three years, if applicable;
- (3) current financial statements;
- (4) monthly cash flow financial projections including the proposed financing for two years; and
- (5) projected balance sheets, income statement, and statement of changes in financial position for two years including the proposed financing.

**Statutory Authority:** *MS s 116M.08 subd 4*

**History:** *10 SR 475*

### **8300.3012 COLLATERAL REQUIREMENTS AND ADDITIONAL INFORMATION OR CERTIFICATIONS.**

**Subpart 1. Collateral requirements.** The authority shall require collateral as it considers necessary in accordance with generally accepted commercial lending practices to protect the interests of the authority in the financial assistance. At a minimum, the collateral will take one or more of the following forms:

- A. mortgage on real property;
- B. security position on personal property;
- C. security of its financial assistance with assets being financed by the financial assistance and other assets of the company to protect the interests of the state's financial participation;
- D. letter of credit or equivalent instrument;
- E. guarantees or other assurances of repayment of affiliates of the applicant or other interested parties with respect thereto;
- F. guarantees or other assurances of repayment of shareholders or partners who have 20 percent or more ownership in the applicant;
- G. bond insurance or other credit enhancements; and
- H. assignments of leases or rents on property or equipment.

**Subp. 2. Additional information or certifications.** The following additional information, as applicable, is required by the authority prior to disbursing financial assistance, as well as any other information that the authority in its sole discretion considers advisable for prudent financial management of authority financial assistance:

- A. a lease agreement on property or equipment;
- B. a listing of property, including serial numbers for machinery and equipment, that will serve as collateral to the financial assistance;
- C. certification of insurance for workers' compensation and employer's liability;
- D. a statement provided by the Internal Revenue Service of tax clearance;
- E. an appraisal of collateral offered to the authority for the financial assistance; and
- F. a certificate of the insurers of all collateral that insurance is in force and effect. Prior to expiration of any insurance policy, the applicant shall furnish the commissioner with evidence that the policy has been renewed, replaced, or is no longer required.

**Statutory Authority:** *MS s 116M.08 subd 4*

**History:** *10 SR 475*

### 8300.3013 PROCEDURES FOR APPLICATION PROCESSING.

**Subpart 1. Deadline for submission.** The applicant shall submit a complete application to the commissioner by the first business day of any month in order for the authority to consider it in that month. If an application is received after the first of the month and can be reviewed by the commissioner for eligibility and financial feasibility prior to the authority agenda deadline, the authority may consider the application at the meeting in that month.

**Subp. 2. Completed applications.** An application is complete when the commissioner receives all required documentation and exhibits.

**Subp. 3. Incomplete applications.** If an incomplete application is received, the commissioner shall notify the applicant of specific deficiencies in the application. The applicant has 60 days from the date of mailing of the commissioner's notification to complete the application. If the application is not completed and received by the commissioner within 60 days, the application is deemed to be rejected and the applicant shall reapply to be further considered.

**Subp. 4. Review of eligibility of project and applicant.** The commissioner shall review all completed applications to determine if the project and the applicant are eligible and meet the requirements of the act and any of parts 8300.3011 to 8300.3014 and any parts relating to the financial assistance for which the applicant has applied.

If the project and applicant are eligible, the commissioner shall review the application for economic feasibility as provided in subpart 6.

**Subp. 5. Ineligible project or applicant.** The commissioner shall notify the applicant in writing if the applicant or the project is ineligible. The applicant has 30 days from the date of the commissioner's notification to amend the application.

Upon receipt of an amended application, the commissioner shall review the amended application under subpart 4. The commissioner shall reject the amended application if the project or applicant are ineligible. If the project and applicant are eligible, the commissioner shall review the amended application for economic feasibility under subpart 6.

If the application is not amended within 30 days, the application must be rejected and will not receive any further consideration.

**Subp. 6. Economic feasibility review.** The commissioner shall review the application in accordance with generally accepted commercial lending practices, including the use of the standards as printed in the most current annually updated version of the Annual Statement Studies, issued by Robert Morris Associates, Philadelphia, PA.

The commissioner shall obtain any other credit information when available from private credit rating agencies including, but not limited to, Standard & Poors and Dun & Bradstreet. In accordance with generally accepted commercial lending practices, the commissioner may check personal references.

The commissioner shall determine if the applicant can generate sufficient cash flow and maintain a sound financial condition.

The commissioner shall determine if there is sufficient collateral for the financial assistance. The submission of the application by the commissioner to the authority at a board meeting shall be deemed conclusive evidence that the commissioner has made the determinations required pursuant to this subpart.

**Subp. 7. Rejection of application based on economic feasibility.** The commissioner shall notify the applicant in writing if the application is not economically feasible and the application is rejected.

If the application is rejected due to economic feasibility, the applicant may, within 30 days after written notification by the commissioner, request that the commissioner submit the rejected application to the authority for review at the next regularly scheduled meeting of the authority for which the agenda has not been established.

If so submitted, the authority must evaluate the application at its board meeting, in accordance with subpart 9.

**Subp. 8. Certification of public purpose for small business and business loans.** In addition to the economic feasibility review in subpart 6, the applicant must certify that the project assists in fulfilling the purposes of the act as expressed in Minnesota Statutes, section 116M.09, or assists in fulfilling one or more of the following criteria:

A. The applicant is located in an area of the state that is experiencing one of the most severe unemployment rates in the state.

B. The applicant is located in a border community that experiences a competitive disadvantage due to location and with this financial assistance the applicant would be induced to stay in Minnesota rather than to move to another state.

C. The applicant is likely to expand within the state and to create additional taxable property to local units of government.

D. The financial assistance applied for will help induce the applicant to locate in an area of economic distress or will help to provide jobs that would not otherwise be available to that area without the inducement of this financial assistance.

E. The financial assistance applied for will create or maintain sufficient numbers and types of jobs to justify participation in the financial assistance programs.

F. Energy sources and public facilities will be sufficient to support the successful operation of the project.

G. If the financial assistance will have the effect of a transfer of employment from one area of the state to another, that the project is economically advantageous to the state or that the project is necessary to the continued operation of the business enterprise within the state.

**Subp. 9. Authority evaluation procedure.** Applications approved for processing by the commissioner must be presented to the authority for approval or disapproval. The authority shall review and consider approval of an application on the basis of effectuating the purposes of the act as expressed in Minnesota Statutes, section 116M.09 or assist in fulfilling one or more of the criteria listed in subpart 8. If the authority disapproves the application, the commissioner shall so notify the applicant. If the authority approves the financial assistance, it shall pass a preliminary or a final resolution giving approval to the project to be

financed and stating in either the preliminary or final resolution or combination of both the name of the project owner; a brief description of the project; the maximum amount of bonds to be issued, or the maximum amount of the loan to be made, or the maximum amount of the loan to be guaranteed or insured, whichever is applicable; and other provisions as the authority in its sole discretion deems advisable for prudent financial management of authority financial assistance. The commissioner shall notify the applicant of the authority's approval and provide the applicant with a copy of the resolution passed. If the financial assistance is funded by bonds, then passage of a preliminary and a final resolution as provided in subpart 10 are required before financial assistance is approved. Throughout this process if the authority does not extend financial assistance, the authority has no liability to the applicant.

**Subp. 10. Funding of financial assistance by bonds.** If the authority intends to fund the financial assistance by issuing bonds, the authority shall first pass a preliminary resolution. The preliminary resolution must not obligate the authority to issue bonds or to fund financial assistance, but must only constitute an expression of current intention of the authority to issue bonds or to fund the financial assistance. If the authority subsequently determines that there are no adverse changes in the financial conditions or key personnel of the applicant, market conditions, availability of bond issuance authority, and other conditions that the authority deems necessary and the authority decides in accordance with generally accepted commercial lending practices to make financial assistance available, the authority shall pass a final resolution that authorizes the issuance and sale of bonds to extend financial assistance. The final resolution must specify the terms and conditions under which bonds will be issued. The preliminary resolution may contain a time limit with respect to the issuance of the bonds, may be revoked or amended by the authority at any time prior to the final resolution of the authority without liability to the authority, and may impose any conditions or requirements that the authority deems desirable. The commissioner shall notify the applicant of the authority's approval and provide the applicant with a copy of the resolution passed. Throughout this process, if the authority does not extend financial assistance, the authority has no liability to the applicant.

**Subp. 11. Preparation of documents.** The commissioner has the authority and responsibility to prepare or cause to be prepared all necessary documents and to execute them on behalf of the authority.

**Statutory Authority:** *MS s 116M.08 subd 4*

**History:** *10 SR 475*

#### SMALL BUSINESS DEVELOPMENT LOAN PROGRAM

#### 8300.3020 PURPOSE OF SMALL BUSINESS DEVELOPMENT LOAN PROGRAM.

The small business development loan program issues financial assistance in a form involving a guarantee or insurance from the economic development fund or any account thereof and revenue bonds to finance small business loans.

**Statutory Authority:** *MS s 116M.08 subd 4*

**History:** *10 SR 475*

#### 8300.3021 ELIGIBLE APPLICANTS FOR SMALL BUSINESS DEVELOPMENT LOAN PROGRAM.

Persons, partnerships, firms, or corporations engaged in and determined by the authority to constitute a small business as defined in the regulations of the United States Small Business Administration, Code of Federal Regulations, title 13, part 121, are considered eligible small businesses or eligible applicants.

**Statutory Authority:** *MS s 116M.08 subd 4*

**History:** *10 SR 475*

**8300.3022 ELIGIBLE LOANS FOR SMALL BUSINESS DEVELOPMENT LOAN PROGRAM.**

Subpart 1. **In general.** The authority shall make small business loans to applicants in compliance with the act and parts 8300.3011 to 8300.3024 in order to help create or retain jobs for the state.

Subp. 2. **Purpose of loan.** A small business loan must be used to provide interim or long-term financing for certain capital expenditures as provided in the act, and for expenditures that meet the requirements of federal industrial development bond laws, including:

- A. acquisition costs of land, buildings, or both;
- B. site preparation;
- C. construction costs;
- D. engineering costs;
- E. costs of equipment, machinery, or both;
- F. bond issuance costs;
- G. underwriting or placement fees;
- H. trustee's fees;
- I. fee of guarantor, insurer, or financial institution, other than the authority, who provides letters of credit, surety bonds, or equivalent security;
- J. authority fees, including application and guaranty fees of the authority and administrative costs and expenses;
- K. certain contingency costs;
- L. interest costs during construction;
- M. legal fees, including those of the authority's bond counsel; and
- N. debt service reserve fund.

Working capital loans are not eligible for financial assistance under this loan program.

Subp. 3. **Size of eligible loans.** The principal amount of any financial assistance in the form of bonds to be financed by the authority may not be less than \$250,000, unless the applicant agrees to pay all bond issuance costs, and may not exceed the maximum amount permitted to be loaned to an eligible small business as defined in the act for the total value of eligible items listed in subpart 2.

Subp. 4. **Equity requirements.** The maximum amount of a loan for project equipment is 75 percent of the cost of the equipment, and for all other authorized project expenses is 80 percent of the cost. The applicant must contribute at least 25 percent of the cost of project equipment and at least 20 percent of all other costs. Instead of a cash equity contribution the authority shall accept collateral which, if contributed to the financial assistance, would make the maximum loan percentage of the project costs for equipment equal to 75 percent and for all other authorized expenses equal 80 percent. The authority may require a lower loan to project percentage based upon the economic feasibility of the application. The authority may accept letters of credit or other credit enhancements as part of the equity contribution by the applicant.

Subp. 5. **Maximum term.** The maximum term of a small business development loan may 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, 21 years;
- B. for equipment or machinery, 11 years;
- C. for a combination of items A and B, a weighted average of those years will be used.

Subp. 6. **Interest rate.** The authority shall set interest rates at a negotiated

rate that approximates the market rate of interest for securities of equivalent value at the time the bonds are initially sold.

Subp. 7. **Security requirements.** Financial assistance, either for real property or equipment, may be secured only with the best available security including one or more of the following:

A. A mortgage or other adequate security as determined by the authority on the real property to be financed.

B. A lien or other adequate security as determined by the authority on equipment to be financed by the authority.

C. Other security as determined by the commissioner to have a value at least equal to the principal amount to be financed by the authority less the value, as determined by the authority, of the security provided in items A and B, if any. Other security shall be in a form and kind satisfactory to the authority and may consist of some or all of the following:

(1) a senior, junior, or parity lien on other assets of the applicant;

(2) a senior, junior, or parity lien on assets of certain owners, officers, and affiliated persons of the applicant (including sole proprietors and their spouses, partners and their spouses, and major shareholders or corporate officers and their spouses);

(3) a guarantee of owners, officers, and affiliated persons of the applicant (including sole proprietors and their spouses, partners and their spouses, and major shareholders or corporate officers and their spouses), or other related entities such as subsidiaries or parent corporations of the applicant; or

(4) additional forms of security, if necessary to strengthen the authority's collateral position on the financial assistance.

D. In addition to or in substitution for any of the items A to C, any guarantee or other collateral or security, as required by insurers or other providers of collateral or security with respect to the bonds, other than the authority, or as required by the authority in accordance with generally accepted commercial lending practices.

**Statutory Authority:** *MS s 116M.08 subd 4*

**History:** *10 SR 475*

### **8300.3023 DEBT SERVICE RESERVE FUND FOR SMALL BUSINESS DEVELOPMENT LOAN PROGRAM.**

In conjunction with each amount of financial assistance it extends, the authority shall establish and fund a debt service reserve fund sufficient to cover approximately 12 months' debt service or a lesser amount to ensure the tax exempt status of interest on the bonds if the bonds are intended to be tax exempt. The reserve must be funded through the proceeds of the bonds to be issued and sold in conjunction with each particular amount of financial assistance extended. The interest earned on the debt service reserve fund must accrue to the benefit of the applicant except to the extent necessary to ensure the tax exempt status of the interest on the bonds if the bonds are intended to be tax exempt. This amount must be applied to offset the principal and interest payments on an annual basis or to redeem bonds prior to maturity provided the financial assistance is current.

**Statutory Authority:** *MS s 116M.08 subd 4*

**History:** *10 SR 475*

### **8300.3024 FINAL RESOLUTION FOR SMALL BUSINESS DEVELOPMENT LOAN PROGRAM.**

Subpart 1. **Final resolution.** After the authority passes a preliminary resolution, the authority may pass a final resolution that authorizes the issuance and sale of bonds to fund the financial assistance to the applicant, both as discussed

in part 8300.3013, subpart 10. Whether the authority may pass the final resolution for an application under the program depends, in part, upon the following:

A. a determination that there are no adverse changes in the financial condition or key personnel of the applicant since the date of completion of the application;

B. market conditions;

C. availability of bond issuance authority; and

D. other conditions that the authority considers necessary in accordance with generally accepted commercial lending practices.

**Subp. 2. Bond issuance.** Upon passage of the final resolution, the authority shall commence to issue bonds in accordance with market conditions and the other legal conditions that govern the issuance of its bonds and notes. This issuance must be in accordance with the contents of any insurance contracts, agreements with lenders providing letters of credit, or other forms of financial assistance and other terms and conditions necessary to effectuate bond sale. Funds will not be disbursed at the loan closing until it has been determined by the commissioner that there are no adverse changes in the condition or key personnel of the business entity applying for the financial assistance in accordance with generally accepted commercial lending practices. After the bonds are issued and sold, there will be a loan closing at which the funds are transferred and documents are signed in accordance with the terms of the final resolution and the respective bond resolution.

**Statutory Authority:** *MS s 116M.08 subd 4*

**History:** *10 SR 475*

#### **POLLUTION CONTROL FINANCIAL ASSISTANCE**

##### **8300.3025 POLLUTION CONTROL FINANCIAL ASSISTANCE.**

An applicant for pollution control financial assistance shall submit to the commissioner an application form approved by the commissioner and shall comply with parts 8300.3011 to 8300.3013. The application processing and evaluation shall be in accordance with the act and parts 8300.3011 to 8300.3013, 8300.3025, and 8300.3026.

**Statutory Authority:** *MS s 116M.08 subd 4*

**History:** *10 SR 475*

##### **8300.3026 ACCEPTANCE OF POLLUTION CONTROL FINANCIAL ASSISTANCE APPLICATIONS.**

In determining whether to accept applications for pollution control financial assistance, the authority shall examine the following facts:

A. the probable eligibility of the pollution control financial assistance for a federal guarantee;

B. the nature of the pollution control facilities to be financed with the financial assistance;

C. the location of the proposed facilities;

D. the availability of bonding authority under the act; and

E. the extent to which the financial assistance will assist and encourage the establishment, maintenance, and growth of business in Minnesota and reduce to a manageable level the cost of the control of pollution and disposal of waste resulting from the operations of business.

**Statutory Authority:** *MS s 116M.08 subd 4*

**History:** *10 SR 475*



MINNESOTA FUND LOANS

**8300.3030 PURPOSE FOR MINNESOTA FUND LOANS.**

The Minnesota fund loan program issues business loans for fixed-asset financing for new and existing businesses. The authority shall make business loans for fixed asset financing for new and existing businesses from the Minnesota fund in compliance with the act, Minnesota Statutes, chapter 472, and parts 8300.3011 to 8300.3013 and 8300.3030 to 8300.3034. Under the act, Minnesota Statutes, section 472.11, subdivision 8, the local unit of government must pass and file a resolution in support for the project that stipulates the project's economic benefits to the local community.

**Statutory Authority:** *MS s 116M.08 subd 4*

**History:** *10 SR 475*

**8300.3031 ELIGIBILITY OF PROJECT FOR MINNESOTA FUND LOANS.**

An applicant for financial assistance from the Minnesota fund established under Laws of Minnesota 1984, chapter 583, section 36, shall submit to the commissioner an application form approved by the authority. The amount applied for cannot exceed 20 percent of the eligible project costs, as defined in part 8300.3032. The applicant shall provide the commissioner with written verification that an amount at least equal to ten percent of the eligible project costs has been or will be committed by the applicant or local development agency to the project. The applicant shall provide the commissioner with a written commitment from the lender who provides the 70 percent financing. The project must meet the requirements of the act, Minnesota Statutes, chapter 472, and parts 8300.3011 to 8300.3013 and 8300.3030 to 8300.3034. If the money to be loaned is from a source other than the Minnesota fund, then the eligibility criteria required by the source will be imposed.

**Statutory Authority:** *MS s 116M.08 subd 4*

**History:** *10 SR 475*

**8300.3032 ELIGIBLE PROJECT COSTS FOR MINNESOTA FUND LOANS.**

Eligible project costs for financing by the authority include the acquisition of land, buildings, or both land and buildings, site preparation, building construction or improvement, and architectural engineering, equipment, and machinery.

**Statutory Authority:** *MS s 116M.08 subd 4*

**History:** *10 SR 475*

**8300.3033 INTEREST RATE FOR MINNESOTA FUND LOANS.**

The interest rate of financial assistance from the Minnesota fund is three percentage points below a full faith and credit obligation of the United States government of comparable maturity, at the time the financial assistance resolution is approved, or the authority shall set interest rates at a negotiated rate after reviewing market rates and comparable sources of financing available to the applicant at the time the financial assistance resolution is approved.

**Statutory Authority:** *MS s 116M.08 subd 4*

**History:** *10 SR 475*

**8300.3034 TERM OF FINANCIAL ASSISTANCE FOR MINNESOTA FUND LOANS.**

The maximum term of financial assistance from the Minnesota fund is 20 years. The term of financial assistance will not exceed the maximum useful life of the project financed.

The commissioner may restructure the financial assistance at the request of the applicant or upon his or her own initiative if the commissioner determines

# MINNESOTA RULES 1987

7803

FINANCIAL ASSISTANCE 8300.3042

that restructuring the financial assistance will increase the probability that the financial assistance will be repaid to the state.

If the applicant requests the commissioner to restructure the financial assistance and the financial assistance is restructured, the commissioner shall charge the applicant a fee in the amount of one-half percent on the outstanding principal amount of the financial assistance.

**Statutory Authority:** *MS s 116M.08 subd 4*

**History:** *10 SR 475*

## SPECIAL ASSISTANCE PROGRAM

### 8300.3039 PURPOSE OF SPECIAL ASSISTANCE.

The special assistance program provides financial assistance to businesses that are designated as being in need of special assistance.

**Statutory Authority:** *MS s 116M.08 subd 4*

**History:** *10 SR 475*

### 8300.3040 PUBLIC PURPOSE.

To qualify for special assistance, an applicant shall submit an application on a form to be prepared by the commissioner. In addition, an applicant shall certify in writing that the special assistance will be used for the public purposes provided in Minnesota Statutes, section 116M.07, subdivision 11, paragraph (b).

**Statutory Authority:** *MS s 116M.08 subd 4*

**History:** *10 SR 475*

### 8300.3041 FORM OF SPECIAL ASSISTANCE.

If an applicant requests special assistance in a form similar to that of the Small Business Development Loan Program, the applicant shall comply with parts 8300.3011 to 8300.3024 and 8300.3039 to 8300.3042, except the applicant need not comply with the requirement in part 8300.3022, subpart 3, and the application will be processed under parts 8300.3013 and 8300.3024.

If an applicant requests special assistance in a form other than that of the Small Business Development Loan Program, the applicant shall comply with parts 8300.3011 to 8300.3013 and 8300.3039 to 8300.3042, and the application evaluation will be performed in accordance with parts 8300.3013 and 8300.3039 to 8300.3042.

**Statutory Authority:** *MS s 116M.08 subd 4*

**History:** *10 SR 475*

### 8300.3042 EXPENDITURES ELIGIBLE FOR SPECIAL ASSISTANCE.

Subpart 1. **Eligible costs.** Costs eligible for funding under the special assistance program are the expenditures set forth in the act, including but not limited to the following:

- A. land and/or building acquisition costs;
- B. site preparation;
- C. construction costs;
- D. engineering costs;
- E. equipment and/or machinery;
- F. bond issuance costs;
- G. underwriting or placement fees;
- H. trustee's fee;
- I. fees of guarantor, fees or insurance contracts, letters of credit, municipal bond insurance, and surety bonds;

J. Small Business Administration processing and administration fee, if applicable;

K. authority fee and administrative costs and expenses;

L. certain contingency costs;

M. interest costs during construction;

N. legal fees, including those of authority's bond counsel; and

O. short-term costs of conducting an eligible business.

Subp. 2. **Maximum term.** The maximum term of a loan made under the special assistance program may not exceed the average useful life of the collateral.

Subp. 3. **Interest rate.** The authority shall set interest rates at a negotiated rate after reviewing market rates and comparable sources of financing available to the applicant at the time the loan is made.

Subp. 4. **Loan servicing.** The commissioner shall monitor the payment of the principal and interest as set out in the amortization schedule. The commissioner shall also monitor the applicant's compliance with the terms and conditions of the loan contract.

The commissioner may restructure the loan at the request of the borrower or upon his or her own initiative if he or she determines that restructuring the loan will increase the probability that the loan will be repaid to the state.

If the applicant requests the commissioner to restructure the loan and the loan is restructured, the commissioner shall charge the applicant a fee in the amount of one-half percent on the outstanding principal amount of the loan.

**Statutory Authority:** *MS s 116M.08 subd 4*

**History:** *10 SR 475*

## TOURISM LOAN PROGRAM

### 8300.3060 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.

**Statutory Authority:** *MS s 116M.07; 116M.08 subd 4*

**History:** *10 SR 2417*

### 8300.3061 DEFINITIONS.

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

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 by the standard industrial classification (SIC) codes of 7011 and 7033, as set out in Code of Federal Regulations, title 13, section 121.2, and a targeted small business. Any person to whom a loan has been made under parts 8300.3060 to 8300.3070 must maintain the SIC code classification 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, 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.

**Statutory Authority:** *MS s 116M.07; 116M.08 subd 4*

**History:** *10 SR 2417*

### **8300.3062 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.

**Statutory Authority:** *MS s 116M.07; 116M.08 subd 4*

**History:** *10 SR 2417*

### **8300.3063 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 more than 30 days prior to submission of an application cannot be financed with a tourism loan.

**Statutory Authority:** *MS s 116M.07; 116M.08 subd 4*

**History:** *10 SR 2417*

### **8300.3064 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, calculated at the time of submission of a completed application to the authority. The authority may, in the alternative, set interest rates at a different rate after reviewing market rates and comparable sources of financing available to the borrowers at the time the financial assistance is extended.

**Statutory Authority:** *MS s 116M.07; 116M.08 subd 4*

**History:** *10 SR 2417*

### **8300.3065 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. If the note between the financial institution and the borrower matures before the expiration of the contract between the financial institution and the authority and the note is renewed, the contract shall remain in effect until the expiration of the contract. 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 contract between the financial institution and the authority.

**Statutory Authority:** *MS s 116M.07; 116M.08 subd 4*

**History:** *10 SR 2417*

### 8300.3066 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 to the financial institution. 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 financial institution 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.

**Statutory Authority:** *MS s 116M.07; 116M.08 subd 4*

**History:** *10 SR 2417*

### 8300.3067 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.

**Statutory Authority:** *MS s 116M.07; 116M.08 subd 4*

**History:** *10 SR 2417*

### 8300.3068 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. 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 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 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. 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.

**Statutory Authority:** *MS s 116M.07; 116M.08 subd 4*

**History:** *10 SR 2417*

### **8300.3069 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 interest collected as payment for duties performed by it pursuant to the contract in the amount of one percent per annum of the authority's proportional share of the loan.

**Statutory Authority:** *MS s 116M.07; 116M.08 subd 4*

**History:** *10 SR 2417*

### **8300.3070 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.

**Statutory Authority:** *MS s 116M.07; 116M.08 subd 4*

**History:** *10 SR 2417*

**HEALTH CARE EQUIPMENT LOAN PROGRAM****8300.3200 SCOPE AND AUTHORITY.**

Parts 8300.3200 to 8300.3204 apply to applications for loans for health care equipment made to the authority under Minnesota Statutes, section 116M.07, subdivision 7a.

**Statutory Authority:** *MS s 116M.07 subd 7c; 116M.08 subd 4*

**History:** *10 SR 1813*

**8300.3201 DEFINITIONS.**

Subpart 1. **Scope.** For the purposes of parts 8300.3200 to 8300.3204, the following terms have the meanings given to them.

Subp. 2. **Application fees.** "Application fees" means the fee charged by the authority, in connection with an application for program funds, based on the actual direct cost of processing the application and servicing loans by the commissioner and the commissioner of health. The application fee is two-fifths of one percent of the program funds requested in applications received during any calendar quarter established by part 8300.3204, subpart 1, and shall be paid in accordance with part 8300.3204, subpart 6. The fees shall not exceed the applicable federal limitations imposed by section 103(c) of the Internal Revenue Code of 1954, as amended, or other applicable federal laws governing the issuance of bonds or notes by the authority.

Subp. 3. **Authority.** "Authority" means the Minnesota Energy and Economic Development Authority created in Minnesota Statutes, section 116M.06.

Subp. 4. **Commissioner.** "Commissioner" means the commissioner of the Department of Energy and Economic Development or a designee.

Subp. 5. **Program funds.** "Program funds" means the money for loans made available from the sale of bonds or notes as set forth in the indenture adopted by the Minnesota Energy and Economic Development Authority pursuant to Minnesota Statutes, section 116M.07, subdivision 7b.

Subp. 6. **Project.** "Project" means all functionally related equipment and all associated costs including application fees; bond issuance costs; underwriting or placement fees; trustee fees; bond insurance; fees of guarantor, insurer, or financial institution other than the authority who provides letter of credit, surety bonds, or equivalent security; legal fees, including those of the authority's bond counsel; and debt service reserve fund.

**Statutory Authority:** *MS s 116M.07 subd 7c; 116M.08 subd 4*

**History:** *10 SR 1813*

**8300.3202 ELIGIBLE PROJECT FOR PROGRAM FUNDS.**

To be eligible for program funds, an application must meet the criteria outlined in Minnesota Statutes, section 116M.07, subdivision 7c, and part 4647.0200, subpart 3.

**Statutory Authority:** *MS s 116M.07 subd 7c; 116M.08 subd 4*

**History:** *10 SR 1813*

**8300.3203 PROCEDURES FOR HEALTH CARE EQUIPMENT LOAN APPLICATIONS.**

Subpart 1. **In general.** To apply for assistance from the authority, an applicant shall submit two completed application forms to the commissioner on a form provided by the commissioner. An application must be completed, dated, and signed by an authorized officer of an applicant and include certification of bond insurance issued by a private insurer as required by Minnesota Statutes, section 116M.07, subdivision 7b.

Subp. 2. **Contents.** Applications must include the amount of the requested

# MINNESOTA RULES 1987

7809

FINANCIAL ASSISTANCE 8300.3204

loan and information necessary for approval by the commissioner of health pursuant to Minnesota Statutes, section 116M.07, subdivision 7c, and parts 4647.0100 to 4647.0400.

**Statutory Authority:** *MS s 116M.07 subd 7c; 116M.08 subd 4*

**History:** *10 SR 1813*

## **8300.3204 PROCEDURES FOR APPLICATION PROCESSING.**

**Subpart 1. Deadline for submission.** Applications for program funds will be processed on a quarterly basis. Applicants shall submit completed application forms by February 1, May 1, August 1, or November 1 to receive consideration or priority under part 4647.0300 in the respective quarter. If an application is received after the quarterly application deadline, it shall be forwarded to the commissioner of health.

**Subp. 2. Review by Department of Health.** When an application is received by the commissioner, a copy of the application will be sent to the commissioner of health for review. Upon receipt of the notification from the commissioner of health that the application or a project within an application has been approved, the commissioner will follow the procedure under subpart 3 or 4.

**Subp. 3. Review and approval.** The authority may not approve an application, or a project within an application, nor make a loan to an applicant unless the application or project within an application has been approved by the commissioner of health. If the commissioner of health has approved an application or project within an application, the authority shall pass a resolution approving the application or project and make the loan if sufficient program funds are available and if the loan to the applicant has been approved by the private insurer which has issued a letter of credit or bond insurance policy with respect to the indenture adopted by the authority pursuant to Minnesota Statutes, section 116M.07, subdivision 7b.

**Subp. 4. Authority review and rejection.** If the commissioner of health has approved an application or project within an application, the authority shall pass a resolution rejecting the application or project, and notify the applicant of the rejection, only if the authority finds that there are insufficient program funds available or that the applicant had been denied by the private insurer which has issued a letter of credit or bond insurance policy with respect to the indenture adopted by the authority pursuant to Minnesota Statutes, section 116M.07, subdivision 7b.

**Subp. 5. Loan agreement and disbursement.** Upon approval of an application or project within an application by the authority, the commissioner shall send a loan agreement to the applicant. The applicant shall have a duly authorized officer execute and return the executed loan agreement to the commissioner. The program funds approved by the authority for an applicant will be disbursed upon execution of and according to the terms of the loan agreement and the health care equipment program indenture.

**Subp. 6. Payment of application fee.** The application fee established pursuant to part 8300.3201, subpart 2, shall be paid by the trustee specified in the health care equipment loan indenture on a quarterly basis no later than at the time of disbursement.

**Subp. 7. Preparation of documents.** The commissioner has the authority and responsibility to prepare or cause to be prepared all necessary documents and to execute them on behalf of the authority.

**Statutory Authority:** *MS s 116M.07 subd 7c; 116M.08 subd 4*

**History:** *10 SR 1813*



## ENERGY FINANCIAL ASSISTANCE

**8300.4010 SCOPE.**

Parts 8300.4010 to 8300.4013 are general rules that apply to all applications for energy financial assistance made available by the authority under the act, the energy development loan program, and the energy loan insurance program.

Parts 8300.4013 to 8300.4027 specify procedures and criteria for energy financial assistance from particular programs of the authority.

**Statutory Authority:** *MS s 116M.08 subd 4*

**History:** *10 SR 1714*

**8300.4011 DEFINITIONS.**

Subpart 1. **Statutory terms.** The definitions in Minnesota Statutes, section 116M.03; part 8300.0100; and this part, apply to parts 8300.4010 to 8300.4027.

Subp. 2. **Energy financial assistance.** "Energy financial assistance" means loans, loan guarantees or insurance, to enter into or pay fees on insurance contracts, letters of credit, municipal bond insurance, surety bonds, or similar obligations and other agreements or contracts with financial institutions or providers of similar services and any other use of money from the energy development account and the energy loan insurance account as permitted by the act.

Subp. 3. **Investment cost.** "Investment cost" means:  $I =$  the total amount of the loan obtained by the applicant required by the qualified energy project to generate annual net cost savings or net revenues equal to  $B_t$  in subpart 4. "I" is the present value of annual repayments of the interest plus principal discounted at the rate  $r$  in subpart 4, over the term of the loan for  $I$ .

Subp. 4. **Present value.** "Present value" of the annual net cost savings or net revenues generated by the qualified energy project means:

$$L = \sum_{t=1}^L \frac{B_t}{(1+r)^t}$$

where  $B_t$  = annual net cost savings or net revenues realized by the applicant for each year  $t$  of the expected useful life of the qualified energy project. This represents annual cost savings or annual revenues net of annual operating costs excluding annual interest plus principal payments for the investment cost of the qualified energy project.

$L$  = expected useful life of the qualified energy project.

$r$  = annual rate of interest charged to the applicant on the investment cost of the qualified energy project.

Subp. 5. **Project.** "Project" means that which is funded or secured or is proposed to be funded or secured by energy financial assistance.

**Statutory Authority:** *MS s 116M.08 subd 4*

**History:** *10 SR 1714*

**8300.4012 PROCEDURES FOR ENERGY FINANCIAL ASSISTANCE APPLICATIONS.**

Subpart 1. **In general.** To apply for energy financial assistance from the authority, an applicant shall submit an application form to the commissioner on a form provided by the commissioner. An application must be completed, dated, and signed by the owner, general partners, or an authorized officer of the applicant. The commissioner shall follow the procedures under part 8300.3013.

Subp. 2. **Contents.** An application must comply with part 8300.3011, subparts 2 and 3.

**Statutory Authority:** *MS s 116M.08 subd 4*

**History:** *10 SR 1714*

**8300.4013 COLLATERAL REQUIREMENTS AND ADDITIONAL INFORMATION OR CERTIFICATIONS.**

The authority shall require collateral and additional information or certifications in compliance with part 8300.3012.

**Statutory Authority:** *MS s 116M.08 subd 4*

**History:** *10 SR 1714*

**8300.4014 PROCEDURES FOR APPLICATION PROCESSING.**

Processing of applications must comply with part 8300.3013, subparts 1 to 7 and 9 to 11. The commissioner shall also review the application to determine if the project is technically feasible and cost-effective.

**Statutory Authority:** *MS s 116M.08 subd 4*

**History:** *10 SR 1714*

**ENERGY DEVELOPMENT LOAN PROGRAM****8300.4015 PURPOSE.**

The energy development loan program issues energy financial assistance in the form of energy loans funded by proceeds of the authority's revenue bonds that may be secured by a guarantee or insurance from the energy development account or energy loans made directly with money in the energy development account. Energy loans funded by proceeds of the authority's revenue bonds must be made in accordance with parts 8300.4010 to 8300.4018. Energy loans funded directly with money in the energy development account must be made in accordance with parts 8300.4010 to 8300.4016 and 8300.4019.

**Statutory Authority:** *MS s 116M.08 subd 4*

**History:** *10 SR 1714*

**8300.4016 ELIGIBLE APPLICANTS FOR ENERGY DEVELOPMENT LOAN PROGRAM.**

Any business as defined in the act is eligible to apply for an energy loan.

**Statutory Authority:** *MS s 116M.08 subd 4*

**History:** *10 SR 1714*

**8300.4017 ELIGIBLE LOANS FOR ENERGY DEVELOPMENT LOAN PROGRAM.**

**Subpart 1. In general.** The authority shall make energy loans to applicants in compliance with the act and parts 8300.0100 and 8300.3011 to 8300.3013 and 8300.4010 to 8300.4019.

**Subp. 2. Purpose of loan.** An energy loan must be used to provide interim or long-term financing for certain capital expenditures as provided in the act, and for expenditures that meet the requirements of federal industrial development bond laws where applicable, including:

- A. acquisition costs of land, buildings, or both;
- B. site preparation;
- C. construction costs;
- D. engineering costs;
- E. costs of equipment, machinery, or both;
- F. bond issuance costs;
- G. underwriting or placement fees;
- H. trustee's fees;

I. fee of guarantor, insurer, or financial institution, other than the authority, who provides letters of credit, surety bonds, or equivalent security;

J. authority fees, including application and guaranty fees of the authority and administrative costs and expenses;

K. certain contingency costs;

L. interest costs during construction;

M. legal fees, including those of the authority's bond counsel; and

N. debt service reserve account.

Working capital loans are not eligible for energy financial assistance under the energy development loan program. However, energy loans for certain finished equipment inventory that constitute qualified energy projects that are funded out of the energy development account or the proceeds of revenue bonds issued by the authority to the extent permitted under federal tax law are permitted.

**Subp. 3. Equity requirements.** The maximum loan percentage of authorized project cost is 80 percent for equipment and 90 percent for other authorized costs. Instead of an equity contribution, the authority may accept adequate security, collateral, or guarantees sufficient to insure the repayment of the financial assistance. The authority may accept letters of credit or other credit enhancements as part of the equity contribution by the applicant.

**Subp. 4. Maximum term.** The maximum term of an energy loan may not exceed the average useful life of the real property or 80 percent of the useful life of equipment or machinery or 31 years, whichever is less.

**Subp. 5. Security requirements.** Energy financial assistance for real property, equipment, or other authorized expenditures, must be secured with the best available security or guaranty as required by either insurers or other providers of collateral or security of the bonds other than the authority, or as required by the authority in accordance with generally accepted commercial lending practices.

**Subp. 6. Findings of public purpose.** The authority shall review and consider approval of an application for an energy loan on the basis of effectuating the purposes of the act, including determinations regarding the following:

A. that the qualified energy project and its development is economically advantageous to the state, that the provision to meet increased demand upon public facilities as a result of the qualified energy project is reasonably assured and any feedstock availability, resource base, or energy sources necessary to support the successful operation of the qualified energy project is adequate;

B. that the qualified energy project will tend to facilitate a reliable supply of energy to Minnesota's households, business establishments, or municipalities, diminish Minnesota's dependence on imported energy sources, or serve some other energy related public purpose;

C. that the qualified energy project satisfies the priorities and criteria of the act;

D. that other things being equal in the event that there are more otherwise eligible applications submitted to the authority than there is funding available to assist, the energy loan allows greater leverage of the energy development account than other competing applications;

E. that the borrower is a business under the act;

F. that the project will be economically feasible in that the borrower reasonably can be expected to maintain a sound financial condition and to retire the principal and pay the interest on the loan anticipated to be made, in accordance with the terms of the agreement;

G. with respect to a resource recovery project, the project will be cost-effective in accordance with part 8300.4011.

**Statutory Authority:** *MS s 116M.08 subd 4*

**History:** *10 SR 1714*

**8300.4018 ENERGY LOANS FUNDED BY BONDS.**

Subpart 1. **In general.** If the authority intends to fund an energy loan by issuing revenue bonds, it must do so in conformance with part 8300.4014 and this part. The income from bonds issued by the authority for energy loans will be either subject to or exempt from taxation by the federal government. If the income from the bonds is to be subject to taxation by the federal government, the preliminary resolution must acknowledge that the bonds will be subject to applicable federal taxes.

Subp. 2. **Interest rate.** The authority shall set interest rates at a negotiated rate that approximates the market rate of interest for securities of equivalent value at the time the bonds are initially sold.

Subp. 3. **Debt service reserve account.** In conjunction with each amount of financial assistance it extends, the authority shall establish and fund a debt service reserve account sufficient to cover approximately 12 month's debt service or such lesser amount to ensure tax exempt status of interest on the bonds if the bonds are intended to be tax exempt. The reserve must be funded through the proceeds of the bonds to be issued and sold in conjunction with each particular amount of financial assistance extended. The interest earned on the debt service reserve account must accrue to the benefit of the applicant except to the extent necessary to insure tax exempt status of interest on the bonds if the bonds are intended to be tax exempt. This amount must be applied to offset the principal and interest payments on an annual basis or to redeem bonds prior to maturity provided that the financial assistance is current. Instead of a debt service reserve account the authority shall accept other adequate security or guarantees to ensure repayment of the bonds in accordance with generally accepted commercial lending practices.

Subp. 4. **Final resolution.** After the authority passes a preliminary resolution, it may pass a final resolution that authorizes the issuance and sale of bonds to fund the financial assistance to the applicant, as discussed in part 8300.3013, subpart 9. The final resolution for an application under the program depends, in part, upon a determination that there are no adverse changes in the condition of the applicant in accordance with generally accepted commercial lending practices that the authority deems necessary.

Subp. 5. **Issuance of bonds.** Upon passage of the final resolution, the authority shall commence to issue bonds in accordance with market conditions and the other legal conditions that govern the issuance of its bonds. This issuance must be in accordance with the contents of any insurance contracts, agreements with lenders providing letters of credit, or other forms of financial assistance and other terms and conditions necessary to effectuate a bond sale. Money will not be disbursed at the loan closing until it has been determined that there are no adverse changes in the condition of the applicant in accordance with generally accepted commercial lending practices. After the bonds are issued and sold, there will be a loan closing where the money is transferred and documents are signed in accordance with the terms of the final resolution and the respective documents.

**Statutory Authority:** *MS s 116M.08 subd 4*

**History:** *10 SR 1714*

**8300.4019 ENERGY LOANS FUNDED DIRECTLY FROM MONEY IN THE ENERGY DEVELOPMENT ACCOUNT.**

Subpart 1. **In general.** The authority may make energy loans funded directly from money in the energy development account only after it has made the following determinations:

A. that the qualified energy project achieves the public purposes listed in part 8300.4017, subpart 6;

B. that no other sources of financing including bonds issued by the

authority are available to the project in sufficient quantities or at interest rates which will not render the project economically infeasible.

Subp. 2. **Maximum loan amount.** The principal amount of energy loans made directly with money in the energy development account must not exceed \$500,000.

Subp. 3. **Equity requirements.** The maximum loan percentage of authorized project costs is 70 percent for equipment and 80 percent for other authorized costs as listed in part 8300.4017, subpart 2. The authority may accept letters of credit or other credit enhancements as part of the equity contribution by the applicant.

Subp. 4. **Interest rate.** The interest rate must not exceed the interest rate for a full-faith-and-credit obligation of the United States government of comparable maturity, nor be lower than five percent per annum, nor be lower than the percentage rate necessary to establish a debt service coverage ratio of 1.3 to 1, whichever of the latter two conditions is greater.

Subp. 5. **Servicing of direct energy loans.** The commissioner shall establish an amortization schedule and shall monitor the scheduled payments. The commissioner shall also monitor the terms and conditions of the loan contract.

Subp. 6. **Restructure of debt.** The commissioner may restructure the energy loan at the request of the applicant or upon his or her own initiative if it is determined that the restructuring will increase the probability that the energy loan will be repaid to the state. If the applicant requests the loan restructure, the commissioner shall charge the applicant a fee in the amount of one-half percent of the outstanding principal balance of the energy loan.

**Statutory Authority:** *MS s 116M.08 subd 4*

**History:** *10 SR 1714*

### ENERGY LOAN INSURANCE PROGRAM

#### 8300.4020 SCOPE.

Parts 8300.0100 to 8300.0600 and 8300.4020 to 8300.4028 apply to applications for energy financial assistance from the energy loan insurance account made available by the authority under Minnesota Statutes, section 116M.11. Unless otherwise specified, parts 8300.4010 to 8300.4014 do not apply to energy financial assistance provided by the authority under parts 8300.4020 to 8300.4028.

**Statutory Authority:** *MS s 116M.08 subd 4*

**History:** *10 SR 1714*

#### 8300.4021 DEFINITIONS.

Subpart 1. **Statutory terms.** The definitions in Minnesota Statutes, section 116M.03; parts 8300.0100 and 8300.4011; and this part, apply to parts 8300.4020 to 8300.4028.

Subp. 2. **Borrower.** "Borrower" means a business that submits or has submitted an application for an energy loan to a lender for a qualified energy project.

Subp. 3. **Claim.** "Claim" means a claim for reimbursement to the authority by a participating lender.

Subp. 4. **Default.** "Default" means the failure of the borrower to make a scheduled payment of principal and interest within 60 days of the date the payment is due or the breach by the borrower for more than 60 days after mailing of written notice of breach to the borrower by the lender of any material covenant in the note, loan agreement, or in any instrument securing the loan, or the determination that an adverse change has occurred in the borrower's ability to repay the insured loan.

Subp. 5. **Energy loan insurance.** "Energy loan insurance" means the direct insuring by the authority of an energy loan made by a lender under Minnesota Statutes, section 116M.11.

# MINNESOTA RULES 1987

7815

## FINANCIAL ASSISTANCE 8300.4023

**Subp. 6. Lender.** "Lender" means either a participating lender or a financial institution that intends to submit an application to the authority to be a participating lender. For purposes of part 8300.4031, lender is not restricted to financial institutions participating in a loans-to-lender program.

**Subp. 7. Participating lender.** "Participating lender" means a financial institution that has been designated by the authority to participate in the energy loan insurance program.

**Subp. 8. Participating lender's agreement.** "Participating lender's agreement" means the agreement in the form prescribed by the commissioner under which a financial institution is designated as a participating lender.

**Statutory Authority:** *MS s 116M.08 subd 4*

**History:** *10 SR 1714*

### 8300.4022 APPLICATIONS FOR ENERGY LOANS SUBMITTED TO FINANCIAL INSTITUTIONS.

**Subpart 1. Contents of energy loan applications.** To apply for an energy loan under the energy loan insurance program, a borrower shall submit an application for an energy loan to a lender. The application must be completed, dated, and signed by an owner, general partner, or an authorized corporate officer and include the fee as required under part 8300.4012, subpart 1. The application must contain the information required under part 8300.3013.

**Subp. 2. Fees.** Lenders may require borrowers to pay application fees, origination fees, or commitment fees, only if these fees are normally required of the lender's other customers, and only if these fees do not exceed the usual and customary charges for similar loans to the lender's other customers. Any and all fees must be reported to the commissioner.

**Statutory Authority:** *MS s 116M.08 subd 4*

**History:** *10 SR 1714*

### 8300.4023 SUBMISSION OF APPLICATIONS FOR ENERGY LOAN INSURANCE.

**Subpart 1. Contents of applications by lenders.** Applications for energy loan insurance must be submitted by a lender to the commissioner on forms prescribed by the commissioner that must include the name of the lender, the name of the borrower, the total project cost, the amount and percentage of the insurance requested, the term of the loan, the interest rate, and amortization schedule, and other terms and conditions of the lender. The application must be completed, dated, and signed by a duly authorized officer of the lender. In addition, the following information must be submitted:

A. a copy of the entire energy loan application submitted by the borrower to the lender;

B. a certification and supporting documentation that the lender has determined the project to be economically feasible in accordance with generally accepted commercial lending practices;

C. a signed letter of conditional commitment from the lender to make the energy loan subject to obtaining an energy loan insurance commitment from the authority;

D. a statement of need from the lender that specifies reasons why the loan will not be made without energy loan insurance;

E. an appraisal of collateral showing total retail value;

F. a statement of informed consent signed by an authorized officer of the lender regarding the use and dissemination of the private data as provided in Minnesota Statutes, section 13.05, subdivision 4, paragraph (d); and

G. a participating lender's agreement on a form provided by the com-

missioner in accordance with part 8300.4024 and signed by an authorized officer of the lender if the lender has not been previously designated a participating lender by the authority.

**Subp. 2. Review by commissioner.** Upon receipt of the application for insurance, the commissioner shall review the application in accordance with the procedures set forth in parts 8300.3013, except subpart 8, and 8300.4013.

**Subp. 3. Rejection of application.** If the application is found to be incomplete or the project is ineligible, technically or economically unfeasible, or is not cost-effective, upon review by the commissioner, the commissioner shall notify both the borrower and lender following the applicable procedures as prescribed in part 8300.3013, subpart 5. If the application is rejected for reasons other than ineligibility or completeness, the procedures as set forth in 8300.3013, subpart 3, shall be followed. Upon submission of a rejected application by the lender or borrower, the authority shall evaluate the application at its board meeting in accordance with part 8300.4014.

**Subp. 4. Authority evaluation procedure.** The authority shall review and consider approval of all submitted applications on the basis of effectuating the purposes of the act, as set forth in part 8300.4017, subpart 6.

If the authority approves or disapproves of the submitted application, it shall follow the procedures as set forth in part 8300.3013.

**Subp. 5. Preparation of documents.** The commissioner has the authority and responsibility to prepare or cause to be prepared all necessary documents and to execute them on behalf of the authority.

**Statutory Authority:** *MS s 116M.08 subd 4*

**History:** *10 SR 1714*

### 8300.4024 PARTICIPATING LENDER.

**Subpart 1. Eligibility.** In order to be eligible to receive energy loan insurance, a participating lender's agreement provided by the commissioner must be signed by an authorized officer of the lender. The agreement shall set forth the terms and conditions under which an energy loan is to be made and specifies procedures to be followed in the event of default by the borrower. In the event that the lender fails to comply in good faith with the provisions of the agreement and the lender's failure causes substantial harm to the authority, the authority may withdraw its insurance on the affected loans, remove the lender from the program without refunding any fees paid by the lender, or do both. The agreement must require the lender and the authority to conform to the following conditions:

A. The insured portion of any approved loan shall not exceed \$2,500,000 and the maximum term of any loan shall not exceed the average useful life of the improvement or 21 years, whichever is less.

B. The authority shall insure no more than 90 percent of an approved loan.

C. The lender shall make no provision to accelerate loan payments due to default or any other reason, without prior written approval from the commissioner.

D. The lender shall make no provision to subordinate any loan collateral to other liens against such property without prior written approval from the commissioner.

E. The lender shall not acquire any preferential collateral, surety, or insurance to protect its uninsured interest in a loan.

F. Collateral must be obtained for the full amount of the loan and must be prorated between the lender and the authority.

G. The lender shall require the borrower to adequately insure, maintain, and repair all collateral.

H. The authority shall not be liable for delinquency charges or late fees assessed against the borrower by the lender.

I. The lender shall review and approve qualified energy projects in accordance with generally accepted commercial lending practices.

J. The lender shall be responsible for servicing all loans it makes for qualified energy projects either directly or by contracting with a servicing agent.

K. The lender shall not sell or transfer any loan insured by the authority without prior approval from the commissioner.

L. The lender, for the term of the insured loan shall promptly notify the commissioner of any loan payments that are two weeks overdue. In addition, the lender must submit an annual loan performance report to the commissioner on a form provided by the commissioner.

M. The aggregate principal amount of loans insured by the authority may not at any time exceed ten times the amount of current reserves in the insurance account.

N. The authority shall not insure any loan that either carries an interest rate in excess of three points above the lender's prime rate or base rate for variable rate loans or more than three points above the interest rate of a full-faith-and-credit obligation of the United States government with a comparable maturity for a fixed rate loan.

O. The lender agrees not to make any amendments to the loan agreement after loan closing without the prior written approval of the authority.

P. The lender agrees to make no waivers of default without prior written approval from the authority.

Q. The authority shall not insure energy loans made by the lender prior to the execution of the participating lender's agreement, and the lender shall not disburse funds for an insured loan under this program without prior approval from the authority.

**Subp. 2. Designation of participating lender.** To designate a lender as a participating lender, the authority must pass a resolution designating the lender as a participating lender and authorizing the commissioner on behalf of the authority to execute the agreement which has been signed by an authorized officer of the lender.

**Statutory Authority:** *MS s 116M.08 subd 4*

**History:** *10 SR 1714*

### **8300.4025 PROCEDURES UPON DEFAULT.**

The authority and lender shall follow the following procedures in the event of a loan default by the borrower:

A. The lender shall file with the commissioner, on forms provided by the commissioner, all claims for occurred losses within one year of the date of default.

B. The authority is liable for not more than the agreed percentage of the sum of the unpaid principal and the accrued interest to the date the claim is filed.

C. In the event of default and claims by the lender arising from such default, the lender shall pursue in good faith all legal rights it may have against the borrower.

D. The authority may cure a default by making payment due to the lender within 30 days of the date of the default. Any payments made by the authority must be repaid by the borrower or deducted from any claims submitted by the lender in connection with a default by the borrower for whom the payment was made by the authority.

E. If the borrower or the authority does not cure the default within 60 days, then the loan must be accelerated.



F. Upon nonpayment of the accelerated loan, the lender may file a claim with the authority. The collateral must then be liquidated by the lender.

G. The authority shall receive a prorated share of all liquidation proceeds. Upon receipt the authority shall pay the claim of the lender.

**Statutory Authority:** *MS s 116M.08 subd 4*

**History:** *10 SR 1714*

#### **8300.4026 APPLICATION AND CLAIM FORMS.**

The commissioner must prepare application and claim forms for use by the lender and for the administration of the energy loan insurance program.

**Statutory Authority:** *MS s 116M.08 subd 4*

**History:** *10 SR 1714*

#### **8300.4027 PRIOR COMMITMENT.**

The authority may resolve to insure a loan prior to its execution or disbursement if there is a firm commitment by the lender to make the loan upon the authority's resolution to insure the loan. If the lender fails to enter into a loan agreement with the borrower within 90 days of the authority's resolution, the authority may reaffirm the resolution for an additional 90-day period if there has not been an adverse change in the application or lender.

**Statutory Authority:** *MS s 116M.08 subd 4*

**History:** *10 SR 1714*

#### **8300.4028 REPORTS.**

During the term of the insured loan, the borrower shall make written reports to the commissioner on forms approved by the commissioner regarding the acquisition, construction, installation, and operation of the qualified energy project on a schedule determined by the commissioner, but not less than annually.

The lender shall report to the commissioner any fees charged to the borrower for the energy loans within 30 days of the date on which the energy loan was closed.

**Statutory Authority:** *MS s 116M.08 subd 4*

**History:** *10 SR 1714*

### **TECHNOLOGY PRODUCT INVESTMENT PROGRAM**

#### **8300.4101 DEFINITIONS.**

Subpart 1. **Scope.** For the purpose of parts 8300.4102 to 8300.4112, the following terms have the meanings given them.

Subp. 2. **Product rights.** "Product rights" means a product to which the rights have been acquired by the authority through purchase, lease, license, or loan default.

Subp. 3. **Conceptual product.** "Conceptual product" means an idea based upon a mental impression or general notion that can be documented in a technology-related product design or plan.

Subp. 4. **Courseware.** "Courseware" means specialized software for the delivery of education and training.

Subp. 5. **Default.** "Default" means the failure of the loan recipient to repay the principal and interest, to make royalty payments in accordance with the security agreement, or the breach by the loan recipient for more than ten days after mailing written notice of breach by the commissioner of any material covenant in the note, loan agreement, or in any instrument securing the loan which the commissioner determines constitutes an adverse change in the loan

recipient's ability to repay the product loan. For purposes of these parts, a loan is considered in default if the principal and interest repayments and royalty payments are not received by the authority within ten days after the day specified in the security agreement.

**Subp. 6. Derivative product.** "Derivative product" means a product that contains or uses part of a previous product.

**Subp. 7. Education.** "Education" means the deliberate process of developing knowledge, mind, and character of an individual.

**Subp. 8. Product.** "Product" means something produced by a business and that exists in a usable form. Product includes, but is not limited to, a technology-related product, a conceptual product, or a prototype product, and all technical and user documentation, drawings, prototypes, models, test results, and source codes associated with the product.

**Subp. 9. Product loan.** "Product loan" means a loan made to a business for the development and for marketing of a product.

**Subp. 10. Prototype product.** "Prototype product" means a working model that approximates the function of a final technology-related product.

**Subp. 11. Royalty.** "Royalty" means the proceeds paid to the authority in connection with the loan agreement or in connection with product rights. Payments can be based on but not limited to a percent of sales of the product or a specific dollar amount for each unit of the product sold.

**Subp. 12. Software.** "Software" means a set of statements or instructions to be used directly or indirectly in a computer in order to bring about a certain result, in any form of material object in which such statements or instructions may be fixed, by any method now known or hereafter developed, regardless of whether the statements or instructions are capable of being perceived by or communicated to humans. Software includes courseware.

**Subp. 13. Technology-related product.** "Technology-related product" means a product that results from a method or process for handling a specific technical problem. Technology-related product includes computer software and computer hardware products.

**Subp. 14. Training.** "Training" means the process which instructs so as to make a person proficient or qualified.

**Statutory Authority:** *MS s 116M.08 subd 4*

**History:** *11 SR 669*

### **8300.4102 TECHNOLOGY PRODUCT LOAN PROGRAM.**

**Subpart 1. Purpose.** The authority shall make technology product loans to eligible applicants in compliance with Minnesota Statutes, chapter 116M in order to help create or retain jobs for the state. The authority shall also consider the value of the product to promote the public good of the state, especially in education and training. Loans may be made to eligible applicants for the development and marketing of technology-related products that exist as completed products, prototypes, or as conceptual products.

**Subp. 2. Use of loan proceeds.** The loan must be made to provide financial assistance for the development and marketing of a technology-related product. Proceeds of the loan may be used to pay the costs of computer and other technology-related equipment, and for working capital.

**Subp. 3. Size of loan.** The principal amount of any product loan issued by the authority may not exceed \$250,000 for technology-related equipment and for working capital for any one product, provided, however, the authority may make an additional loan not to exceed \$100,000 for the same product if the applicant can demonstrate that the additional loan is necessary to develop and market the product as described in the loan agreement or to modify the development and

marketing plans if the authority determines that such modifications are necessary. Proceeds of the loan must be issued to the eligible applicant in accordance with an approved plan and timetable. The plan must establish significant events in the development and marketing activities of the product which, when determined by the authority to be complete, shall serve as an indicator to release subsequent loan proceeds in accordance with the plan and timetable.

**Subp. 4. Maximum term.** The maximum term of the loan may not exceed four years.

**Subp. 5. Interest rate.** The interest rate of a loan is five hundred basis points below a full faith and credit obligation of the United States government of comparable maturity, as of five working days before closing, or as determined by the authority at the time of approval based upon its assessment of current interest rate conditions, provided that in no event shall the interest rate be lower than three percent.

**Subp. 6. Security requirements.** In addition to security interests in collateral as specified in part 8300.3012, the authority shall require a security interest in the product in the form of a royalty on the product and, in case of default, full rights to the product, including all patents, copyrights, mask work, trade secrets, trademarks, service marks, and any other intellectual property rights. The royalty payment must be based upon net receipts of the product not to exceed 25 percent and must be set forth in a security agreement that shall be entered into at the same time the loan is made. Royalty payments must be made to the authority in accordance with the schedule appearing in the security agreement.

The security agreement must set forth the terms and conditions applicable to all derivatives of the product, and must bind all future assignees of the product. The amount of royalty paid to the authority shall be set forth in the security agreement. Royalty terms provided in the security agreement may not extend more than seven years from the date of the loan agreement unless the authority and the eligible applicant agree to an extension. The maximum amount of royalty paid to the authority shall not exceed three times the amount of the loan principal. The security agreement must contain a provision for assignment of all product rights, including copyrights and patents to the authority upon default of the loan.

**Subp. 7. Loan servicing.** The commissioner shall be the authority's authorized agent for purposes of administration of the loan including approval of required documentation prior to disbursement; the determination of a default, and the exercise of remedies upon default. The commissioner shall monitor the repayment of the principal and interest as provided in the amortization schedule. The commissioner may restructure the loan at the request of the borrower or upon his or her own initiative if the commissioner determines that restructuring the loan will increase the probability that the loan will be repaid to the state.

If the borrower requests the commissioner to restructure the loan, the commissioner shall charge the borrower a fee in the amount of one-half percent on the outstanding principal amount of the loan.

**Subp. 8. Loan payments; royalties.** Loan payments must be made as provided in the amortization schedule. The first principal payment is due 12 months after issuance of the final proceeds of the loan.

The authority, in its sole discretion, may accept royalty payments in lieu of loan payments if it appears that this arrangement will increase the probability that the loan will be repaid. The amount of royalty paid in lieu of loan payments may not reduce the total amount of royalty due.

**Statutory Authority:** *MS s 116M.08 subd 4*

**History:** *11 SR 669*

**8300.4103 ELIGIBLE LOAN APPLICANTS.**

A person, partnership, firm, or corporation engaged in and determined by the authority to constitute a small business as defined in the regulations of the United States Small Business Administration, Code of Federal Regulations, title 13, part 121, standard industrial code (SIC) 7372, is considered an eligible small business or an eligible applicant for a technology product loan.

**Statutory Authority:** *MS s 116M.08 subd 4*

**History:** *11 SR 669*

**8300.4104 FINANCING ELIGIBLE SMALL BUSINESSES AND TARGETED SMALL BUSINESSES.**

The authority may use funds available for product loans to help finance eligible small businesses. Two-thirds of these available funds must be allocated to help finance targeted small businesses.

The authority shall make a determination as to the use of funds four months prior to the close of its fiscal year. At that time the authority may reallocate its remaining funds between the categories of eligible small businesses and targeted small businesses if it determines that by doing so participation in the program may increase.

**Statutory Authority:** *MS s 116M.08 subd 4*

**History:** *11 SR 669*

**8300.4105 LOAN DEFAULT.**

If the commissioner determines the loan to be in default, the commissioner may take such actions provided in law or in equity to protect its interests. Upon default, the commissioner shall notify the loan recipient in writing of the default and give the loan recipient 60 days to re-establish the good standing of the loan. During this time period the commissioner may permit the borrower to sell or reassign the product rights or licenses, prepare derivative products, or undertake other measures that will increase the probability that remaining loan payments will be made. If the loan remains in default at the end of the initial 60-day time period, the commissioner may extend the time period for an additional 60 days if the loan recipient can demonstrate that the additional period of time is necessary to re-establish the good standing of the loan. If the loan remains in default at the end of the initial 60-day time period and any granted extension, all product rights as provided in the security agreement transfer automatically to the authority. The loan recipient shall also provide to the commissioner, if requested, all relevant materials including technical and user documentation, drawings, prototypes, models, test results, and source codes associated with the product.

**Statutory Authority:** *MS s 116M.08 subd 4*

**History:** *11 SR 669*

**8300.4106 DISPOSITION OF ACQUIRED PRODUCTS.**

**Subpart 1. Sales.** For product rights acquired under loan default, the authority may sell the acquired product and all intellectual property rights incident to in a commercially reasonable manner to any person or business.

**Subp. 2. No product warranty.** No warranty may be expressed or implied by the authority for products distributed under subpart 1. Product recipients shall assume all risk of use. The state, the authority, and its employees may not be held liable for any damages, including any lost profits, lost savings, or other incidental or consequential damages arising out of the use or inability to use the product.

**Statutory Authority:** *MS s 116M.08 subd 4*

**History:** *11 SR 669*

**8300.4107 CERTIFICATIONS.**

For products financed by the authority, the eligible loan recipient shall agree to and execute a certification statement acceptable in form and content to the commissioner. This statement must certify at least the following:

- A. that the product is original;
- B. that the product does not infringe upon copyrights, patents, mask work, trade secrets, trademarks, service marks, and any other intellectual product rights;
- C. that the product will substantially perform the tasks it has represented in its documentation that it will perform;
- D. that the loan recipient will hold the authority harmless.

**Statutory Authority:** *MS s 116M.08 subd 4*

**History:** *11 SR 669*

**8300.4108 DATA, PUBLIC AND PRIVATE.**

An applicant shall execute an acknowledgment that data provided as part of the application or loan servicing process may be considered public data. If the eligible applicant considers any part of the data to be provided to the authority to be a trade secret, and if the authority agrees that the data is a trade secret as defined in the Minnesota Government Data Practices Act, Minnesota Statutes, chapter 13, then the authority shall enter into an agreement with the eligible applicant regarding the data.

**Statutory Authority:** *MS s 116M.08 subd 4*

**History:** *11 SR 669*

**8300.4109 CONTENT OF APPLICATION.**

In addition to the data required by part 8300.3011, an applicant for the technology product investment program shall provide the following information:

- A. specific product descriptions and comparison data to similar or related products, projected life cycle of the product, need for the product, pricing considerations, profit margins, and future product trends;
- B. market research data including a description of the targeted audience that will use and purchase the product; how the product will be packaged, promoted, and sold, including pricing considerations;
- C. a market plan describing primary strategies, distribution agreements, if any, and opportunities for leverage with other products;
- D. a product packaging, documentation, and manufacturing plan including projected cost of product and inventory levels;
- E. product descriptions, sales, and profit data on other technology products under the control of the business;
- F. projected financial performance of the proposed product including sales and profit projections and cash flow and return on investment analysis;
- G. jobs maintained or created as a result of the loan; and
- H. a description of how the product will serve the public good of the state, especially in education and training.

**Statutory Authority:** *MS s 116M.08 subd 4*

**History:** *11 SR 669*

**8300.4110 SUBMISSION AND EVALUATION CRITERIA.**

Subpart 1. **Evaluation criteria.** The authority shall evaluate an application according to the standards and requirements in parts 8300.4101 to 8300.4112, the laws governing the program, and the following criteria:

- A. the number of jobs created and maintained;

- B. the ability of the product to attract private investment capital;
- C. the projected financial success of the product;
- D. the probability that royalty projections will be realized;
- E. the projected return on investment to the state;
- F. the degree to which the product serves the public good and reduces other state expenses; and
- G. the degree to which the product can be expected to meet the needs of the marketplace.

Subp. 2. **Use of consultants.** The authority shall evaluate applications using the evaluation criteria. The commissioner may employ consultants as needed to extend the expertise of staff. The commissioner shall take steps that are reasonable to ensure that consultants are free from any conflicts of interests and that they use reasonable means to protect confidentiality of data.

Subp. 3. **Priority funding.** The commissioner may make priority funding recommendations to the authority based on the evaluation of the applications.

**Statutory Authority:** *MS s 116M.08 subd 4*

**History:** *11 SR 669*

### 8300.4111 INTELLECTUAL PROPERTY RIGHTS.

Copyrights, patents, mask work, trade secrets, trademarks, service marks, and any other intellectual property rights in the product shall remain with the business unless specifically transferred to the authority under a mutual agreement or through loan default.

**Statutory Authority:** *MS s 116M.08 subd 4*

**History:** *11 SR 669*

### 8300.4112 DERIVATIVE PRODUCTS AND SUCCESSOR BUSINESSES.

All agreements made as part of the technology product investment program, including product loan and security agreements, must contain an appropriate clause to maintain and secure the authority's financial interests in derivative products and successor businesses.

**Statutory Authority:** *MS s 116M.08 subd 4*

**History:** *11 SR 669*

## DISTRICT HEATING LOANS

### 8300.4500 DEFINITIONS.

Subpart 1. **Applicability.** The definitions in Minnesota Statutes, section 116J.36 and part 8300.0100 and the definitions in this part apply to parts 8300.4500 to 8300.5100.

Subp. 2. **Construction loan.** "Construction loan" means a loan to fund all construction costs as defined in Minnesota Statutes, section 116J.36, subdivision 2.

Subp. 3. **Design loan.** "Design loan" means a loan made to fund those activities required to be completed during the final design phase of a district heating system in order to finance and construct the system. These activities include conducting economic feasibility analyses, obtaining heat source commitments and customer contracts, structure financing, and related district heating project tasks.

Subp. 4. **District heating project.** "District heating project" means a district heating design or construction project for a new or existing system.

Subp. 5. **Existing system.** "Existing system" means a district heating system that has a minimum of one customer and which has been operational for more than one year.

Subp. 6. **Financial consultant.** "Financial consultant" means a reputable person or firm experienced in working with complex revenue-supported financial plans and qualified to assess the financial condition and operation of the district heating project.

Subp. 7. **Gross revenues.** "Gross revenues" means all revenues, fees, user charges, rents, franchise fees, special assessments, and other income and receipts derived from the ownership or operation of the district heating project, the proceeds of any insurance that insures against the loss of gross revenues, any investment income from money or securities derived from the state loan under Minnesota Statutes, section 116J.36, and any other income and receipts attributable to the ownership or operation of the project from whatever source derived, calculated on an annual basis.

Subp. 8. **New system.** "New system" means a district heating system that has a minimum of one customer and has been operational for less than one year.

Subp. 9. **Operating expenses.** "Operating expenses" means the expenses directly and properly attributable to the operation of the project on an annual basis including: expenses for operation, maintenance, repairs, ordinary replacement, ordinary acquisition of equipment, fuel and heat, labor and fringe benefits, lease rental payments, insurance premiums, administration, legal services, engineering services, payments of all indebtedness, and any other current expenses or obligations required to be paid by the municipality or owner of the district heating project, all to the extent properly and directly attributable to the operation of the district heating project. Operating expenses do not include any costs or expenses for new construction or any allowance for depreciation.

**Statutory Authority:** *MS s 116J.37 subd 7*

**History:** *10 SR 1500*

### 8300.4600 PURPOSE.

Parts 8300.4500 to 8300.5100 are adopted for the purpose of allowing prompt and proper applications for design and construction loans after comprehensive preliminary engineering, economic, and, when applying for a construction loan, design studies have been completed. Applications to the authority must be submitted to the commissioner on behalf of the authority. The commissioner shall review applications to determine the eligibility of the municipality, eligibility of the district heating project, and application completeness. If the commissioner determines that an application is incomplete, the procedures in parts 8300.2750 and 8300.4300 apply.

**Statutory Authority:** *MS s 116J.37 subd 7*

**History:** *10 SR 1500*

### 8300.4700 CONTENTS OF APPLICATION FOR NEW SYSTEM.

A completed application for a loan for a new system shall contain:

A. The name, address, and telephone number of the responsible official of the municipality.

B. Complete engineering design of the district heating project, including:

(1) an analysis of the proposed piping layout which must address optimum service to the total designated area; reliability of service; system temperatures and pressure requirements; thermal and hydraulic operability for normal and emergency conditions; optimum piping configuration to provide service; and flexibility for future expansion;

(2) an analysis of the proposed piping design which must address reliability of service; ease of construction; ease of maintenance; installation methods; specifications and standards; and

(3) an analysis of the heat source design which must define the proposed roles of the following heat sources in the development and future operation of the system: base load heating plant; peaking plants; large boiler plants in existing buildings; mobile boilers; accumulators; and future heat sources such as solid waste, solar, and industrial waste heat.

C. A market study of customers who represent 90 percent of the proposed thermal load of the district heating system. This study must show detailed information on present fuel consumption or heating demand and the present heating system in each building.

D. A preliminary expansion plan showing how the system could be expanded to serve other parts of the community.

E. A complete economic analysis, including:

(1) a preliminary financing and development plan for the district heating system prepared by a financial consultant;

(2) cash flow, income, and balance sheets for the time period of the loan;

(3) a cost estimate and expenditure schedule for all transmission and distribution piping, heat source conversion, purchase or rental, operating and maintenance costs excluding fuel costs, and building heating conversion costs; and

(4) a statement showing the source of all of the funds to be used by the applicant for the design or construction of the system, and the amount of funds from each of those sources.

F. For construction loans, a certification by the municipality that a bid package for the construction of the project has been completed and is available to the department if requested.

G. A copy of the standard contract entered into with customers of the project and a list of customers already under contract, listing the thermal load of each customer presently under contract and comparing the total of the thermal load already contracted with the total load of the district heating project.

H. Where applicable, a copy of any contract for the furnishing of heat and fuel for the district heating project.

I. A resolution in support of the project from the governing body of the municipality which must include the pledges the municipality proposes to make to guarantee repayment of the loan and evidence of the municipality's capability to sponsor the district heating project.

J. Identification of all licenses, permits, zoning regulations, and other requirements of federal, state, or local governments with which the project would be expected to comply and the present status of compliance with each.

K. A list of key personnel and their qualifications as they relate to the district heating project.

L. An estimate of the type and amount of fuel to be saved per year from the full operation of the district heating system compared to the type and amount of fuel used by the existing system.

M. A copy of a completed environmental impact statement, or a negative declaration of the need for an environmental impact statement from a completed environmental assessment worksheet, or in those cases where no environmental assessment worksheet is required, a statement as to the environmental effects of the project.

**Statutory Authority:** *MS s 116J.37 subd 7*

**History:** *10 SR 1500*

### **8300.4800 CONTENTS OF APPLICATION FOR EXISTING SYSTEM.**

A completed application for a loan to an existing system shall contain:



# MINNESOTA RULES 1987

## 8300.4800 FINANCIAL ASSISTANCE

7826

A. The name, address, and telephone number of the responsible official of the municipality.

B. Background information on the existing system including ownership; type and size of heat source; heat source capacity; back-up boilers; customer base including information on process loads.

C. A complete engineering design of the expansion project including:

(1) an analysis of the proposed piping layout; system temperatures and pressure requirements; and flexibility for future expansion; and

(2) an analysis of the heat source including the capacity available and information concerning the back-up heat source.

D. A discussion of proposed customer load including information on present fuel consumption or heating demand and the present heating system in each building for new customers.

E. A complete discussion of how the loan is to be secured, the current outstanding debt of the applicant, and the cash flow for the term of the loan. This discussion must also contain a cost estimate and expenditure schedule for all transmission and distribution piping, heat source conversion, purchase or rental, operating and maintenance costs excluding fuel costs, and building heating conversion costs.

F. For construction loans, a certification by the municipality that a bid package for the construction of the project has been completed and is available to the department if requested.

G. A copy of the standard contract entered into with the customers of the project and a list of customers already under contract and the total load it represents.

H. A copy of any contract for the furnishing of heat.

I. A copy of any contract for the furnishing of fuel for the district heating project if this is a waste-to-energy project.

J. A resolution in support of the project from the governing body of the municipality which must include the pledges the municipality proposes to make to guarantee repayment of the construction loan and evidence of the municipality's capability to sponsor the district heating project.

K. Identification of all licenses, permits, zoning regulations, and other requirements of federal, state, or local governments with which the district heating project would be expected to comply and the present status of compliance with each.

**Statutory Authority:** *MS s 116J.37 subd 7*

**History:** *10 SR 1500*

## 8300.4900 APPLICATION PROCEDURE.

Subpart 1. **Submitting.** The applicant shall submit a complete application to the commissioner by the first business day of a month in order for the authority to consider it in that month. If an application is received after the first business day of the month and can be reviewed by the commissioner for eligibility and financial feasibility prior to the authority agenda deadline, the commissioner shall submit the application to the authority for consideration and the authority may consider the application at the meeting in that month.

Subp. 2. **Acceptance of applications.** Applications will be accepted beginning on the date parts 8300.4500 to 8300.5100 become effective.

Subp. 3. **Number of copies.** Ten copies of an application shall be submitted to the commissioner.

**Statutory Authority:** *MS s 116J.37 subd 7*

**History:** *10 SR 1500*

**8300.5000 AUTHORITY EVALUATION PROCEDURE.**

Applications approved for processing by the commissioner and those applications rejected by the commissioner but appealed to the authority under parts 8300.2750, subpart 7 and 8300.4300, subpart 7 must be presented to the authority for approval or disapproval under the criteria contained in this part. The authority shall review each application presented to it as it is received according to the eligibility and priority criteria of Minnesota Statutes, section 116J.36; the sophistication and reasonableness of the technical approach as detailed in the application; the experience and qualifications of the applicant as they relate to the district heating project; the district heating project organization and personnel assignment; and the estimated cost of the district heating project. If the authority approves the application the commissioner shall forward the application to the commissioner of finance who may make loans to the municipality. If the authority disapproves the application, the commissioner shall notify the applicant in writing.

**Statutory Authority:** *MS s 116J.37 subd 7*

**History:** *10 SR 1500*

**8300.5100 REPORTS AND MONITORING.**

**Subpart 1. Quarterly project status report.** The municipality shall submit to the authority, on forms provided by the authority, a quarterly project status report. This report is due within 30 days of the end of each calendar quarter until the design or construction of the district heating project is completed. Projects begun part way through a quarter must submit a quarterly report for the portion of the quarter during which the project was active. The project status report must indicate the progress of the implementation of the district heating project funded, problems encountered, the effect of the problems on the project, and the corrective action taken. If, at any time, the municipality fails to substantially comply with the start and end dates given in the loan application as approved, and if the municipality cannot reasonably justify to the authority its lack of progress, the entire loan amount may become due and payable at the discretion of the authority.

**Subp. 2. Quarterly financial report.** The municipality shall submit to the authority, on forms provided by the authority, a quarterly financial status report that indicates expenditures of loan funds through the last date of each quarter. This report is due within 30 days of the end of each calendar quarter until the design or construction of the district heating project is completed and all expenses applicable to the loan are paid. Projects begun part way through a quarter must submit a quarterly report for the portion of the quarter during which the project was active.

**Subp. 3. Final report.** Within 60 days of the completion of the project, the municipality shall submit to the authority, on forms provided by the authority, a final financial status report that gives expenditures of the district heating project. The final financial report shall give actual expenditures for the costs incurred.

**Subp. 4. Failure to comply with provisions of part.** If the municipality fails to comply with any of the provisions of this part, the municipality may, with the advice and consent of the authority, be declared ineligible for further contracts with the state under the district heating loan program.

**Statutory Authority:** *MS s 116J.37 subd 7*

**History:** *10 SR 1500*

**HAZARDOUS WASTE PROCESSING FACILITY LOANS****8300.5200 SCOPE AND AUTHORITY.**

Parts 8300.5200 to 8300.5206 apply to applications for financial assistance

for hazardous waste processing facilities made to the authority under Minnesota Statutes, sections 115A.162 and 116M.07, subdivision 9.

**Statutory Authority:** *MS s 41A.04 subd 4*

**History:** *11 SR 713*

NOTE: This part was originally numbered as 8300.5000. This numbering created a duplication of rules already existing in Minnesota Rules. See the Notice of Adoption published on October 20, 1986, at 11 State Register, page 713.

### 8300.5201 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 8300.5200 to 8300.5206, the following terms have the meanings given to them.

Subp. 2. **Authority.** "Authority" means the Minnesota Energy and Economic Development Authority created in Minnesota Statutes, section 116M.06.

Subp. 3. **Board.** "Board" means the Waste Management Board established in Minnesota Statutes, section 115A.04.

Subp. 4. **Chairperson.** "Chairperson" means the chairperson of the board.

Subp. 5. **Commissioner.** "Commissioner" means the commissioner of the Department of Energy and Economic Development.

Subp. 6. **Hazardous waste processing facility.** "Hazardous waste processing facility" means any real or personal property to be used for the collection or processing of hazardous waste as those terms are defined in Minnesota Statutes, section 115A.03, subdivisions 5, 13, and 25.

Subp. 7. **Hazardous waste processing facility loan or loan.** "Hazardous waste processing facility loan" or "loan" has the meaning given to it in Minnesota Statutes, section 116M.03, subdivision 15.

Subp. 8. **Private person.** "Private person" means any person, including individuals, firms, partnerships, associations, societies, trusts, private corporations, or natural persons. "Private person" includes the plural or the singular and does not include a public or governmental body.

**Statutory Authority:** *MS s 41A.04 subd 4*

**History:** *11 SR 713*

NOTE: This part was originally numbered as 8300.5001. This numbering created a duplication of rules already existing in Minnesota Rules. See the Notice of Adoption published on October 20, 1986, at 11 State Register, page 713.

### 8300.5202 ELIGIBLE APPLICANTS FOR THE HAZARDOUS WASTE PROCESSING FACILITY LOAN PROGRAM.

A private person proposing to develop and operate a hazardous waste processing facility is eligible to apply to the authority for a loan.

**Statutory Authority:** *MS s 41A.04 subd 4*

**History:** *11 SR 713*

NOTE: This part was originally numbered as 8300.5002. This numbering created a duplication of rules already existing in Minnesota Rules. See the Notice of Adoption published on October 20, 1986, at 11 State Register, page 713.

### 8300.5203 ELIGIBLE PROJECT FOR HAZARDOUS WASTE PROCESSING FACILITY LOAN.

An eligible project must be a hazardous waste processing facility as defined in part 8300.5201, subpart 6.

**Statutory Authority:** *MS s 41A.04 subd 4*

**History:** *11 SR 713*

NOTE: This part was originally numbered as 8300.5003. This numbering created a duplication of rules already existing in Minnesota Rules. See the Notice of Adoption published on October 20, 1986, at 11 State Register, page 713.

### 8300.5204 PROCEDURES FOR HAZARDOUS WASTE PROCESSING FACILITY LOAN APPLICATIONS.

Subpart 1. **In general.** To apply for assistance from the authority, an applicant shall submit an application to the commissioner on a form provided by the

commissioner. An application must be completed, dated, and signed by an owner, general partner, or an authorized officer of an applicant. The commissioner shall follow the procedures under part 8300.3013, subparts 2 to 7 and 9 to 11.

**Subp. 2. Contents.** Applications must comply with part 8300.3011, subparts 2 and 3.

Also, applications must include information necessary for certification by the board under Minnesota Statutes, section 115A.162 and information demonstrating that general casualty and pollution liability insurance is available for the proposed hazardous waste processing facility and the cost of obtaining the insurance must be included in all financial data required to be provided under part 8300.3011, subpart 2, item J.

In addition, the application must contain a certification that the applicant, the officers and directors of the applicant, any shareholder or partner which has a five percent or more ownership of the applicant, and the proposed hazardous waste processing facility, if any, have never been a defendant in any civil or criminal action or the respondent in any administrative consent decree or assurance relating to the collection or processing of hazardous waste as those terms are defined in Minnesota Statutes, section 115A.03, subdivisions 5, 13, and 25.

**Statutory Authority:** *MS s 41A.04 subd 4*

**History:** *11 SR 713*

NOTE: This part was originally numbered as 8300.5004. This numbering created a duplication of rules already existing in Minnesota Rules. See the Notice of Adoption published on October 20, 1986, at 11 State Register, page 713.

### **8300.5205 PROCEDURES FOR APPLICATION PROCESSING.**

**Subpart 1. In general.** Processing of applications must comply with parts 8300.3012 and 8300.3013, subparts 2 to 7 and 9 to 11.

**Subp. 2. Initial review for completeness.** When an application is received by the commissioner, a copy of the application will be sent to the chairperson or a designee for review. Upon receipt of the notification from the chairperson or a designee that the application is either complete or incomplete for certification by the board, the commissioner will follow the procedure under subpart 1.

**Subp. 3. Forward application to board.** Upon determination that the application is complete it will be forwarded to the board for certification pursuant to Minnesota Statutes, section 115A.162.

**Statutory Authority:** *MS s 41A.04 subd 4*

**History:** *11 SR 713*

NOTE: This part was originally numbered as 8300.5005. This numbering created a duplication of rules already existing in Minnesota Rules. See the Notice of Adoption published on October 20, 1986, at 11 State Register, page 713.

### **8300.5206 REVIEW AND APPROVAL.**

**Subpart 1. Certification must be completed.** The authority may not approve an application nor make a loan to an applicant unless the application has been certified by the board.

**Subp. 2. Authority review and approval.** If the board has certified an application, the authority shall approve the application and make the loan if funds are available and if the authority finds that the following criteria are satisfied:

- A. the applicant is eligible under part 8300.5202;
- B. the project is eligible under part 8300.5203;
- C. the application is complete and contains all required certifications;
- D. the development and operation of the hazardous waste processing facility as proposed in the application is economically feasible; and that the hazardous waste processing facility's feasibility is sufficient to allow the authority to sell the bonds as required for its financing;

E. upon review of the application, there is a reasonable expectation that the principal and interest on the loan will be fully repaid;

# MINNESOTA RULES 1987

## 8300.5206 FINANCIAL ASSISTANCE

7830

F. the hazardous waste processing facility is unlikely to be developed and operated without a loan from the authority as certified to by the applicant in the application; and

G. the applicant has complied with parts 8300.5202 to 8300.5206.

Subp. 3. **Authority review and disapproval.** The authority shall disapprove the application if it finds that one or more of the criteria set forth in subpart 2 have not been satisfied.

Subp. 4. **Additional information and certifications.** The following additional information is required by the authority, if applicable, prior to disbursing financial assistance:

A. all additional information and certifications required under part 8300.3012, subpart 2; and

B. a certificate of the general casualty insurer and a certificate of the pollution liability insurer that the insurance is in full force and effect. Prior to expiration of any insurance policy, the applicant shall furnish the commissioner with evidence that the policy has been renewed, replaced, or is no longer required.

**Statutory Authority:** *MS s 41A.04 subd 4*

**History:** *11 SR 713*

NOTE: This part was originally numbered as 8300.5006. This numbering created a duplication of rules already existing in Minnesota Rules. See the Notice of Adoption published on October 20, 1986, at 11 State Register, page 713.

## PILOT COMMUNITY DEVELOPMENT CORPORATIONS

### 8300.5300 DEFINITIONS.

Subpart 1. **Scope.** As used in parts 8300.5300 to 8300.5350, the following words and terms shall have the meanings given.

Subp. 2. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Energy and Economic Development, or his designated representative.

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

Subp. 3. **Economic development region.** "Economic development region" means any of the geographical areas defined as such by Executive Order number 60 of Governor Wendell Anderson, dated June 12, 1970.

Subp. 4. **Federal poverty level.** "Federal poverty level" means the income level established by the United States Office of Economic Opportunity, in Community Services Administration Instruction 6004-1.

Subp. 5. **Low income.** "Low-income" means having an annual income below the federal poverty level.

Subp. 6. **Program.** "Program" means the program of funding of pilot community development corporation projects pursuant to Laws of Minnesota 1975, chapter 331, section 3.

**Statutory Authority:** *MS s 15.039 subd 3; 116M.04 subd 5*

**History:** *9 SR 111*

### 8300.5310 PURPOSE.

The purpose of parts 8300.5300 to 8300.5350 is to augment Laws of Minnesota 1975, chapter 331, section 3, by establishing criteria for the establishment of pilot community development corporation projects.

**Statutory Authority:** *MS s 116M.04 subd 5*

### 8300.5320 AVAILABILITY OF PROGRAM FUNDS.

Program funds shall be available only to eligible community development corporations designated as such by the authority.

**Statutory Authority:** *MS s 15.039 subd 3; 116M.04 subd 5*

**History:** *9 SR 111*

**8300.5330 ORGANIZATIONAL CRITERIA FOR COMMUNITY DEVELOPMENT CORPORATIONS.**

**Subpart 1. Eligibility.** No corporation shall be designated an eligible community development corporation unless it conforms to the following requirements.

**Subp. 2. Form of organization.** A community development corporation must be incorporated under the Minnesota Nonprofit Corporations Act, Minnesota Statutes, chapter 317.

**Subp. 3. Designated community.** A community development corporation must identify in its articles of incorporation or its bylaws a defined geographic area within which it will operate, called its designated community.

A. At least ten percent of the population of the designated community must have incomes below the existing federal poverty level at the time of incorporation.

B. No more than one community development corporation shall be designated within any one out-state economic development region, with the exception of economic development regions in which a community development corporation was in existence at the time of promulgation of these rules.

C. Within the metropolitan area, the designated community shall be an identifiable neighborhood or combination of neighborhoods where designated by the Metropolitan Council. Elsewhere in region eleven, the designated community shall be townships, cities, unincorporated areas or combinations thereof.

**Subp. 4. Membership.** Voting membership in a community development corporation shall be limited to residents of the corporation's designated community.

**Subp. 5. Board of directors.** The articles of incorporation or bylaws of a community development corporation shall conform to the following requirements concerning its board of directors:

A. **Size:** the board shall be composed of not less than 15 and not more than 30 directors, unless the corporation can demonstrate to the satisfaction of the assistant commissioner that the disadvantages of a smaller or larger board will be overcome.

B. Not less than 60 percent of the directors of a community development corporation shall be low-income members of the corporation.

C. The remaining directors shall be members of the business, financial, and general communities who, to the maximum extent possible, shall be residents of the designated community.

D. **Election of directors:** The low-income directors shall be elected by the members of the community development corporation. The remaining directors shall be elected either by the members of the corporation or by the low-income directors.

**Subp. 6. Employees.** Nonmanagerial and nonprofessional employees of a community development corporation shall be hired from among the low-income residents of the designated community.

**Statutory Authority:** *MS s 116M.04 subd 5*

**8300.5340 PROJECT GRANTS.**

**Subpart 1. Program funds.** Program funds shall be made available to eligible community development corporations in the form of project grants, on approval by the authority of an application therefor. All applications shall be in a form prescribed by the commissioner. Project grants shall be made only with respect to projects that will be carried on within the designated community of the

applicant community development corporation, except where the applicant demonstrates that a project carried on outside the designated community will have a significant impact within the designated community.

Subp. 2. **Types of grants.** Grants shall be available for planning and capital venture projects.

Subp. 3. **Planning grants.** Planning grants shall be available for:

- A. the organizational development of a community development corporation;
- B. comprehensive economic development planning for the designated community; and
- C. the development of operational funding proposals.

Subp. 4. **Capital venture grants.** Capital venture grants shall be available for two categories of projects:

A. **Business ventures:** projects in this category involve the community development corporation's establishment of, assistance to existing, or purchase of a partial or full ownership interest in a business venture to be carried on for profit within the designated community.

B. **infrastructure development:** projects in this category involve the community development corporation's development of resources or facilities within its designated community that are necessary preconditions to the development of business ventures. Such projects shall be approved only where it can be shown that they will, in fact, lead to immediate business development and employment opportunities.

Subp. 5. **Priorities for approval of project applications.** Project applications that present the greatest potential for achievement of the following goals shall receive priority in the distribution of program funds:

- A. creation of employment opportunities;
- B. maximization of profits;
- C. short-term economic impact on the designated community; and
- D. use of nonstate funds to complement program funds.

Subp. 6. **Restrictions on use of program funds.** No part of a project funded by program funds shall be conducted by a religious or church-related institution. Projects must be entirely secular in content and purpose.

No program funds shall be expended for the cost of meals for employees or officers of community development corporations or authorized business ventures.

No program funds shall be expended for the cost of securing or developing social services.

**Statutory Authority:** *MS s 15.039 subd 3; 116M.04 subd 5*

**History:** *9 SR 111*

### 8300.5350 NO DISCRIMINATION.

No person shall, on the grounds of race, color, religion, sex, age, or national origin, be excluded from participation in, be denied the proceeds of, or be the subject of discrimination in a project approved and funded under the program. In all hiring or employment made possible by or resulting from a grant action, each employer will not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, or national origin, and will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, age, or national origin.

**Statutory Authority:** *MS s 116M.04 subd 5*

## RULES GOVERNING UNIFORM BUSINESS LICENSING

**8300.5400 DEFINITIONS.**

Subpart 1. **Scope.** For the purposes of parts 8300.5400 to 8300.5420, the terms defined in this part have the meanings given them.

Subp. 2. **Agency.** "Agency" has the meaning given it in Minnesota Statutes, section 14.02, subdivision 2.

Subp. 3. **Director.** "Director" has the meaning given it in Minnesota Statutes, section 116J.74, subdivision 6.

Subp. 4. **Initial response period.** "Initial response period" means the 60-day time limit imposed by Minnesota Statutes, section 116J.79, subdivision 3 on an agency for the rendering of a written review and opinion.

Subp. 5. **License.** "License" has the meaning given "business license" in Minnesota Statutes, section 116J.70, subdivision 2.

Subp. 6. **Person.** "Person" has the meaning given it in Minnesota Statutes, section 116J.74, subdivision 8.

Subp. 7. **Written review and opinion.** "Written review and opinion" means a written statement by an agency that incorporates the information required by Minnesota Statutes, section 116J.79, subdivision 2 relating to a proposed business activity.

**Statutory Authority:** *MS s 116J.79 subd 5*

**8300.5410 PREAPPLICATION CONFERENCE.**

Subpart 1. **Request.** Any person may request a preapplication conference by submitting to the bureau of business licenses a formal request in the format prescribed by the bureau.

Subp. 2. **Approval and notice.** If the director determines, after consideration of a formal request, that a preapplication conference is warranted, he shall secure the participation of the interested agencies and notify the person in writing of the date, time, and place of the conference.

The director will consider the following factors in making his determination as to whether a preapplication conference is warranted:

A. the dollar volume of the proposed activity;

B. whether the proposed activity involves multiple licenses from agencies; and

C. whether the proposed activity involves business or corporate structures, activities, technologies, products, or processes that are different from, or reasonably appear to be different from, those for which a license has been required in the past.

Subp. 3. **Supervision.** The director or his designated representative shall preside over the preapplication conference to ensure that it achieves the purposes set forth in Minnesota Statutes, section 116J.79, subdivision 1.

Subp. 4. **Effect upon participants.** A preapplication conference is not binding upon any of the participants.

**Statutory Authority:** *MS s 116J.79 subd 5*

**8300.5420 WRITTEN REVIEW AND OPINION.**

Subpart 1. **Authorization.** If during a preapplication conference the director determines that a proposed business activity meets the criteria set forth in Minnesota Statutes, section 116J.79, subdivision 2, he shall request each affected agency to provide the person with a written review and opinion as to every license the agency requires for the proposed business activity.

Subp. 2. **Request.** The director's request for a written review and opinion shall be submitted in writing to the agency. The request shall specify the date on which the agency's initial response period begins.



# MINNESOTA RULES 1987

## 8300.5420 FINANCIAL ASSISTANCE

7834

**Subp. 3. Extensions.** A request for an extension of the initial response period shall be set forth in writing by the agency and include the specific reasons justifying the extension.

If the agency does not receive written notice from the director denying the extension within ten days of submission of its request, the extension is granted and is effective for an additional 60-day period.

The director shall provide the person with written notice of his approval of the extension, its duration, and the reasons the extension was approved.

**Subp. 4. Modification or amendment.** An agency may modify or amend a written review and opinion by notifying the person and the director in writing of its intent to do so. The notice shall include a statement setting forth the reasons for the modification or amendment.

The modification or amendment shall be provided to the person and director within 30 days of transmittal of the agency's notification of modification or amendment.

**Statutory Authority:** *MS s 116J.79 subd 5*