

1 Department of Energy and Economic Development
2 Energy and Economic Development Authority
3
4 Adopted Rules Relating to Small Business Development; Pollution
5 Control Financial Assistance
6
7 Rules as Adopted

8 8300.0050 SCOPE.

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

13 8300.0100 DEFINITIONS.

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

17 Subp. 2. Act. "Act" means Laws of Minnesota 1980, chapter
18 547.

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

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

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

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

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

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

1 8300.3011 PROCEDURES FOR FINANCIAL ASSISTANCE APPLICATIONS.

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

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

10 A. A written history of the business.

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

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

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

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

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

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

31 D. A marketing plan that describes:

32 (1) the industry the applicant is in;

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

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

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

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

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

9 F. A resolution of support or other comparable
10 preliminary approval from the local government unit with respect
11 to the project to be financed or secured with financial
12 assistance.

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

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

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

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

- 31 A. a management summary of the plan including:
- 32 (1) name of the business;
 - 33 (2) business location and plan description;
 - 34 (3) discussion of the product, market, and
35 competition;
 - 36 (4) expertise of the management team;

- 1 (5) summary of financial projections;
- 2 (6) amount of financial assistance requested;
- 3 (7) form of and purpose for the financial
- 4 assistance;
- 5 (8) purpose for undertaking the project; and
- 6 (9) business goals;

7 B. a description of the company including the
8 following:

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

15 C. a market analysis including:

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

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

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

35 E. a description of the marketing strategy including:

- 36 (1) overall strategy;

- 1 (2) pricing policy;
- 2 (3) sales channels and terms;
- 3 (4) method of selling, distributing, and
- 4 servicing product;
- 5 (5) estimated sales and market share; and
- 6 (6) advertising, public relations, and promotion;
- 7 F. the management plan including:
 - 8 (1) form of business organization;
 - 9 (2) board of directors composition, if applicable;
 - 10 (3) officers organization chart and
 - 11 responsibilities; and
 - 12 (4) resumes of key personnel;
- 13 G. an operating plan including:
 - 14 (1) schedule of upcoming work for the next one to
 - 15 two years;
 - 16 (2) facilities plan or planned capital
 - 17 improvements for the next three years;
 - 18 (3) manufacturing processes; and
 - 19 (4) staffing plan (number of employees);
- 20 H. a schedule indicating the completion dates for
- 21 realizing the significant aspects of the business plan;
- 22 I. a discussion of the risks and problems inherent to
- 23 the business plan, including both the negative factors and plans
- 24 to minimize the impact of those factors; and
- 25 J. financial data including:
 - 26 (1) a funding request indicating the desired
 - 27 financing, capitalization, use of funds, and future financing;
 - 28 (2) financial statements for the past three
 - 29 years, if applicable;
 - 30 (3) current financial statements;
 - 31 (4) monthly cash flow financial projections
 - 32 including the proposed financing for two years; and
 - 33 (5) projected balance sheets, income statement,
 - 34 and statement of changes in financial position for two years
 - 35 including the proposed financing.

1 CERTIFICATIONS.

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

8 A. mortgage on real property;

9 B. security position on personal property;

10 C. security of its financial assistance with assets
11 being financed by the financial assistance and other assets of
12 the company to protect the interests of the state's financial
13 participation;

14 D. letter of credit or equivalent instrument;

15 E. guarantees or other assurances of repayment of
16 affiliates of the applicant or other interested parties with
17 respect thereto;

18 F. guarantees or other assurances of repayment of
19 shareholders or partners who have 20 percent or more ownership
20 in the applicant;

21 G. bond insurance or other credit enhancements; and

22 H. assignments of leases or rents on property or
23 equipment.

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

30 A. a lease agreement on property or equipment;

31 B. a listing of property, including serial numbers
32 for machinery and equipment, that will serve as collateral to
33 the financial assistance;

34 C. certification of insurance for workers'
35 compensation and employer's liability;

36 D. a statement provided by the Internal Revenue

1 Service of tax clearance;

2 E. an appraisal of collateral offered to the
3 authority for the financial assistance; and

4 F. a certificate of the insurers of all collateral
5 that insurance is in force and effect. Prior to expiration of
6 any insurance policy, the applicant shall furnish the
7 commissioner with evidence that the policy has been renewed,
8 replaced, or is no longer required.

9 8300.3013 PROCEDURES FOR APPLICATION PROCESSING.

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

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

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

29 Subp. 4. Review of eligibility of project and applicant.
30 The commissioner shall review all completed applications to
31 determine if the project and the applicant are eligible and meet
32 the requirements of the act and any of parts 8300.3011 to
33 8300.3014 and any parts relating to the financial assistance for
34 which the applicant has applied.

35 If the project and applicant are eligible, the commissioner
36 shall review the application for economic feasibility as

1 provided in subpart 6.

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

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

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

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

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

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

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

36 Subp. 7. Rejection of application based on economic

1 feasibility. The commissioner shall notify the applicant in
2 writing if the application is not economically feasible and the
3 application is rejected.

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

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

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

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

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

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

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

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

36 F. Energy sources and public facilities will be

1 sufficient to support the successful operation of the project.

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

7 Subp. 9. Authority evaluation procedure. Applications
8 approved for processing by the commissioner must be presented to
9 the authority for approval or disapproval. The authority shall
10 review and consider approval of an application on the basis of
11 effectuating the purposes of the act as expressed in Minnesota
12 Statutes, section 116M.09 or assist in fulfilling one or more of
13 the criteria listed in subpart 8. If the authority disapproves
14 the application, the commissioner shall so notify the
15 applicant. If the authority approves the financial assistance,
16 it shall pass a preliminary or a final resolution giving
17 approval to the project to be financed and stating in either the
18 preliminary or final resolution or combination of both the name
19 of the project owner; a brief description of the project; the
20 maximum amount of bonds to be issued, or the maximum amount of
21 the loan to be made, or the maximum amount of the loan to be
22 guaranteed or insured, whichever is applicable; and other
23 provisions as the authority in its sole discretion deems
24 advisable for prudent financial management of authority
25 financial assistance. The commissioner shall notify the
26 applicant of the authority's approval and provide the applicant
27 with a copy of the resolution passed. If the financial
28 assistance is funded by bonds, then passage of a preliminary and
29 a final resolution as provided in subpart 10 are required before
30 financial assistance is approved. Throughout this process if
31 the authority does not extend financial assistance, the
32 authority has no liability to the applicant.

33 Subp. 10. Funding of financial assistance by bonds. If
34 the authority intends to fund the financial assistance by
35 issuing bonds, the authority shall first pass a preliminary
36 resolution. The preliminary resolution must not obligate the

1 authority to issue bonds or to fund financial assistance, but
2 must only constitute an expression of current intention of the
3 authority to issue bonds or to fund the financial assistance.
4 If the authority subsequently determines that there are no
5 adverse changes in the financial conditions or key personnel of
6 the applicant, market conditions, availability of bond issuance
7 authority, and other conditions that the authority deems
8 necessary and the authority decides in accordance with generally
9 accepted commercial lending practices to make financial
10 assistance available, the authority shall pass a final
11 resolution that authorizes the issuance and sale of bonds to
12 extend financial assistance. The final resolution must specify
13 the terms and conditions under which bonds will be issued. The
14 preliminary resolution may contain a time limit with respect to
15 the issuance of the bonds, may be revoked or amended by the
16 authority at any time prior to the final resolution of the
17 authority without liability to the authority, and may impose any
18 conditions or requirements that the authority deems desirable.
19 The commissioner shall notify the applicant of the authority's
20 approval and provide the applicant with a copy of the resolution
21 passed. Throughout this process, if the authority does not
22 extend financial assistance, the authority has no liability to
23 the applicant.

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

28 SMALL BUSINESS DEVELOPMENT LOAN PROGRAM

29 8300.3020 PURPOSE OF SMALL BUSINESS DEVELOPMENT LOAN PROGRAM.

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

34 8300.3021 ELIGIBLE APPLICANTS FOR SMALL BUSINESS DEVELOPMENT
35 LOAN PROGRAM.

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

7 8300.3022 ELIGIBLE LOANS FOR SMALL BUSINESS DEVELOPMENT LOAN
8 PROGRAM.

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

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

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

36 Working capital loans are not eligible for financial

1 assistance under this loan program.

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

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

23 Subp. 5. Maximum term. The maximum term of a small
24 business development loan may not exceed the average useful life
25 of the real property, or 80 percent of the useful life of the
26 equipment or machinery, or the following limits, whichever is
27 less:

- 28 A. for real property, land, or buildings, 21 years;
- 29 B. for equipment or machinery, 11 years;
- 30 C. for a combination of items A and B, a weighted
31 average of those years will be used.

32 Subp. 6. Interest rate. The authority shall set interest
33 rates at a negotiated rate that approximates the market rate of
34 interest for securities of equivalent value at the time the
35 bonds are initially sold.

36 Subp. 7. Security requirements. Financial assistance,

1 either for real property or equipment, may be secured only with
2 the best available security including one or more of the
3 following:

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

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

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

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

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

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

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

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

1 DEVELOPMENT LOAN PROGRAM.

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

17 8300.3024 FINAL RESOLUTION FOR SMALL BUSINESS DEVELOPMENT LOAN
18 PROGRAM.

19 Subpart 1. Final resolution. After the authority passes a
20 preliminary resolution, the authority may pass a final
21 resolution that authorizes the issuance and sale of bonds to
22 fund the financial assistance to the applicant, both as
23 discussed in part 8300.3013, subpart 10. Whether the authority
24 may pass the final resolution for an application under the
25 program depends, in part, upon the following:

- 26 A. a determination that there are no adverse changes
27 in the financial condition or key personnel of the applicant
28 since the date of completion of the application;
- 29 B. market conditions;
- 30 C. availability of bond issuance authority; and
- 31 D. other conditions that the authority considers
32 necessary in accordance with generally accepted commercial
33 lending practices.

34 Subp. 2. Bond issuance. Upon passage of the final
35 resolution, the authority shall commence to issue bonds in
36 accordance with market conditions and the other legal conditions

1 that govern the issuance of its bonds and notes. This issuance
2 must be in accordance with the contents of any insurance
3 contracts, agreements with lenders providing letters of credit,
4 or other forms of financial assistance and other terms and
5 conditions necessary to effectuate bond sale. Funds will not be
6 disbursed at the loan closing until it has been determined by
7 the commissioner that there are no adverse changes in the
8 condition or key personnel of the business entity applying for
9 the financial assistance in accordance with generally accepted
10 commercial lending practices. After the bonds are issued and
11 sold, there will be a loan closing at which the funds are
12 transferred and documents are signed in accordance with the
13 terms of the final resolution and the respective bond resolution.

14 POLLUTION CONTROL FINANCIAL ASSISTANCE

15 8300.3025 POLLUTION CONTROL FINANCIAL ASSISTANCE.

16 An applicant for pollution control financial assistance
17 shall submit to the commissioner an application form approved by
18 the commissioner and shall comply with parts 8300.3011 to
19 8300.3013. The application processing and evaluation shall be
20 in accordance with the act and parts 8300.3011 to 8300.3013,
21 8300.3025, and 8300.3026.

22 8300.3026 ACCEPTANCE OF POLLUTION CONTROL FINANCIAL ASSISTANCE
23 APPLICATIONS.

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

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

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

31 C. the location of the proposed facilities;

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

34 E. the extent to which the financial assistance will
35 assist and encourage the establishment, maintenance, and growth

1 of business in Minnesota and reduce to a manageable level the
2 cost of the control of pollution and disposal of waste resulting
3 from the operations of business.

4 MINNESOTA FUND LOANS

5 8300.3030 PURPOSE FOR MINNESOTA FUND LOANS.

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

16 8300.3031 ELIGIBILITY OF PROJECT FOR MINNESOTA FUND LOANS.

17 An applicant for financial assistance from the Minnesota
18 fund established under Laws of Minnesota 1984, chapter 583,
19 section 36, shall submit to the commissioner an application form
20 approved by the authority. The amount applied for cannot exceed
21 20 percent of the eligible project costs, as defined in part
22 8300.3032. The applicant shall provide the commissioner with
23 written verification that an amount at least equal to ten
24 percent of the eligible project costs has been or will be
25 committed by the applicant or local development agency to the
26 project. The applicant shall provide the commissioner with a
27 written commitment from the lender who provides the 70 percent
28 financing. The project must meet the requirements of the act,
29 Minnesota Statutes, chapter 472, and parts 8300.3011 to
30 8300.3013 and 8300.3030 to 8300.3034. If the money to be loaned
31 is from a source other than the Minnesota fund, then the
32 eligibility criteria required by the source will be imposed.

33 8300.3032 ELIGIBLE PROJECT COSTS FOR MINNESOTA FUND LOANS.

34 Eligible project costs for financing by the authority
35 include the acquisition of land, buildings, or both land and

1 buildings, site preparation, building construction or
2 improvement, and architectural engineering, equipment, and
3 machinery.

4 8300.3033 INTEREST RATE FOR MINNESOTA FUND LOANS.

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

13 8300.3034 TERM OF FINANCIAL ASSISTANCE FOR MINNESOTA FUND LOANS.

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

17 The commissioner may restructure the financial assistance
18 at the request of the applicant or upon his or her own
19 initiative if the commissioner determines that restructuring the
20 financial assistance will increase the probability that the
21 financial assistance will be repaid to the state.

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

27 SPECIAL ASSISTANCE PROGRAM

28 8300.3039 PURPOSE OF SPECIAL ASSISTANCE.

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

32 8300.3040 PUBLIC PURPOSE.

33 To qualify for special assistance, an applicant shall
34 submit an application on a form to be prepared by the

1 commissioner. In addition, an applicant shall certify in
2 writing that the special assistance will be used for the public
3 purposes provided in Minnesota Statutes, section 116M.07,
4 subdivision 11, paragraph (b).

5 8300.3041 FORM OF SPECIAL ASSISTANCE.

6 If an applicant requests special assistance in a form
7 similar to that of the Small Business Development Loan Program,
8 the applicant shall comply with parts 8300.3011 to 8300.3024 and
9 8300.3039 to 8300.3042, except the applicant need not comply
10 with the requirement in part 8300.3022, subpart 3, and the
11 application will be processed under parts 8300.3013 and
12 8300.3024.

13 If an applicant requests special assistance in a form other
14 than that of the Small Business Development Loan Program, the
15 applicant shall comply with parts 8300.3011 to 8300.3013 and
16 8300.3039 to 8300.3042, and the application evaluation will be
17 performed in accordance with parts 8300.3013 and 8300.3039 to
18 8300.3042.

19 8300.3042 EXPENDITURES ELIGIBLE FOR SPECIAL ASSISTANCE.

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

- 23 A. land and/or building acquisition costs;
- 24 B. site preparation;
- 25 C. construction costs;
- 26 D. engineering costs;
- 27 E. equipment and/or machinery;
- 28 F. bond issuance costs;
- 29 G. underwriting or placement fees;
- 30 H. trustee's fee;
- 31 I. fees of guarantor, fees or insurance contracts,
32 letters of credit, municipal bond insurance, and surety bonds;
- 33 J. Small Business Administration processing and
34 administration fee, if applicable;
- 35 K. authority fee and administrative costs and

1 expenses;

2 L. certain contingency costs;

3 M. interest costs during construction;

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

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

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

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

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

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

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

28

29 REPEALER. Minnesota Rules, parts 8300.1000, 8300.1100,
30 8300.1200, 8300.1500, 8300.1600, 8300.1700, 8300.1800,
31 8300.1900, 8300.2000, 8300.2100, and 8300.2200, are repealed.