

1 Energy and Economic Development Authority

2

3 Adopted Rules Governing Energy Financial Assistance

4

5 Rules as Adopted

6 8300.4010 SCOPE.

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

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

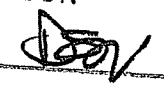
14 8300.4011 DEFINITIONS.

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

18 ~~Subp. 2. Annual total benefits. "Annual total benefits"~~  
19 ~~means B<sub>1</sub> in subpart 8 that accrue to the applicant plus the~~  
20 ~~annual monetary value of outputs expected to result from the~~  
21 ~~undertaking of a qualified energy project that accrue to the~~  
22 ~~public at large. Outputs must be estimated in dollars based~~  
23 ~~upon the most recent credible evidence available including~~  
24 ~~scientific studies, economic studies, or other analysis.~~  
25 ~~Outputs include the estimated value of new jobs produced, the~~  
26 ~~monetary value of decreased levels of air, water, or other forms~~  
27 ~~of pollution, or other avoided public costs.~~

28 ~~Subp. 3. Annual total costs. "Annual total costs" means~~  
29 ~~the annual repayments of interest plus principal for F in~~  
30 ~~subpart 7, incurred by the applicant of the qualified energy~~  
31 ~~project plus the annual incremental monetary costs incurred by~~  
32 ~~the state through the use of appropriated money in any one or a~~  
33 ~~combination of the funds administered by the authority, the~~  
34 ~~economic recovery fund, or other appropriations made available~~  
35 ~~to assist the qualified project by the legislature.~~

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1        ~~Subp. 4. -- Avoided public costs. -- "Avoided public costs"~~  
 2        ~~include the estimated dollar costs that could reasonably be~~  
 3        ~~expected to be incurred during the useful life of the qualified~~  
 4        ~~energy project by a unit of local, state, or federal government,~~  
 5        ~~if the project is not undertaken, but will be avoided if the~~  
 6        ~~project is financed. -- Avoided public costs include the costs of~~  
 7        ~~siting, designing, or constructing facilities of any type~~  
 8        ~~necessary to comply with environmental regulations, or the costs~~  
 9        ~~associated with unemployment compensation, welfare benefits, or~~  
 10       ~~other benefits that would otherwise be paid to existing workers~~  
 11       ~~who would be unemployed if the qualified energy project is not~~  
 12       ~~undertaken.~~

13       ~~Subp. 5. -- Cost effective. -- Except for qualified energy~~  
 14       ~~projects for conservation of energy, "cost effective" means that~~  
 15       ~~the present value of a project's benefits exceeds the present~~  
 16       ~~value of its costs over the life of the project. -- Only those~~  
 17       ~~costs and benefits that can be quantified in dollars may be~~  
 18       ~~included in determining whether a project is cost effective.~~  
 19       ~~The discount rate used in determining present value shall~~  
 20       ~~include the time value and incremental carrying cost of money.~~  
 21       ~~For qualified energy projects for conservation of energy a~~  
 22       ~~project is cost effective when it has a payback period of ten~~  
 23       ~~years or less and the payback period is less than the useful~~  
 24       ~~life of the project.~~

25       Subp. 6 2. Energy financial assistance. "Energy financial  
 26       assistance" means loans, loan guarantees or insurance, to enter  
 27       into or pay fees on insurance contracts, letters of credit,  
 28       municipal bond insurance, surety bonds, or similar obligations  
 29       and other agreements or contracts with financial institutions or  
 30       providers of similar services and any other use of money from  
 31       the energy development account and the energy loan insurance  
 32       account as permitted by the act.

33       Subp. 7 3. Investment cost. "Investment cost" means: I =  
 34       the total amount of the loan obtained by the applicant required  
 35       by the qualified energy project to generate annual net cost  
 36       savings or net revenues equal to  $B_t$  in subpart 8 4. "I" is the

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1 present value of annual repayments of the interest plus  
2 principal discounted at the rate r in subpart 8 4, over the term  
3 of the loan for I.

4 Subp. 8 4. Present value. "Present value" of the annual  
5 net cost savings or net revenues generated by the qualified  
6 energy project means:

$$\begin{array}{r}
 7 \qquad \qquad \qquad L \qquad \qquad \qquad B_t \\
 8 \qquad \qquad \qquad \left[ \qquad \qquad \qquad \frac{\qquad \qquad \qquad}{\qquad \qquad \qquad} \right. \\
 9 \qquad \qquad \qquad t=1 \qquad \qquad \qquad (1+r)^t
 \end{array}$$

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

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

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

19 Subp. 9 5. Project. "Project" means that which is funded  
20 or secured or is proposed to be funded or secured by energy  
21 financial assistance.

22 8300.4012 PROCEDURES FOR ENERGY FINANCIAL ASSISTANCE  
23 APPLICATIONS.

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

31 Subp. 2. Contents. An application must comply with part  
32 8300.3011, subparts 2 and 3.

33 8300.4013 COLLATERAL REQUIREMENTS AND ADDITIONAL INFORMATION OR  
34 CERTIFICATIONS.

35 The authority shall require collateral and additional

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1 information or certifications in compliance with part 8300.3012.

2 8300.4014 PROCEDURES FOR APPLICATION PROCESSING.

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

7 ENERGY DEVELOPMENT LOAN PROGRAM

8 8300.4015 PURPOSE.

9 The energy development loan program issues energy financial  
10 assistance in the form of energy loans funded by proceeds of the  
11 authority's revenue bonds that may be secured by a guarantee or  
12 insurance from the energy development account or energy loans  
13 made directly with money in the energy development account.  
14 Energy loans funded by proceeds of the authority's revenue bonds  
15 must be made in accordance with parts 8300.4010 to 8300.4018.  
16 Energy loans funded directly with money in the energy  
17 development account must be made in accordance with parts  
18 8300.4010 to 8300.4016 and 8300.4019.

19 8300.4016 ELIGIBLE APPLICANTS FOR ENERGY DEVELOPMENT LOAN  
20 PROGRAM.

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

23 8300.4017 ELIGIBLE LOANS FOR ENERGY DEVELOPMENT LOAN PROGRAM.

24 Subpart 1. In general. The authority shall make energy  
25 loans to applicants in compliance with the act and parts  
26 8300.0100 and 8300.3011 to 8300.3013 and 8300.4010 to 8300.4019.

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

- 32 A. acquisition costs of land, buildings, or both;  
33 B. site preparation;  
34 C. construction costs;

- 1 D. engineering costs;
- 2 E. costs of equipment, machinery, or both;
- 3 F. bond issuance costs;
- 4 G. underwriting or placement fees;
- 5 H. trustee's fees;
- 6 I. fee of guarantor, insurer, or financial  
7 institution, other than the authority, who provides letters of  
8 credit, surety bonds, or equivalent security;
- 9 J. authority fees, including application and guaranty  
10 fees of the authority and administrative costs and expenses;
- 11 K. certain contingency costs;
- 12 L. interest costs during construction;
- 13 M. legal fees, including those of the authority's  
14 bond counsel; and
- 15 N. debt service reserve account.

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

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

31 Subp. 4. **Maximum term.** The maximum term of an energy loan  
32 may not exceed the average useful life of the real property or  
33 80 percent of the useful life of equipment or machinery or 31  
34 years, whichever is less.

35 Subp. 5. **Security requirements.** Energy financial  
36 assistance for real property, equipment, or other authorized

1 expenditures, must be secured with the best available security  
2 or guaranty as required by either insurers or other providers of  
3 collateral or security of the bonds other than the authority, or  
4 as required by the authority in accordance with generally  
5 accepted commercial lending practices.

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

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

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

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

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

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

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

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

1 8300.4011~~7~~-subpart-5.

2 8300.4018 ENERGY LOANS FUNDED BY BONDS.

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

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

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

34 Subp. 4. Final resolution. After the authority passes a  
 35 preliminary resolution, it may pass a final resolution that

1 authorizes the issuance and sale of bonds to fund the financial  
2 assistance to the applicant, as discussed in part 8300.3013,  
3 subpart 9. The final resolution for an application under the  
4 program depends, in part, upon a determination that there are no  
5 adverse changes in the condition of the applicant in accordance  
6 with generally accepted commercial lending practices that the  
7 authority deems necessary.

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

23 8300.4019 ENERGY LOANS FUNDED DIRECTLY FROM MONEY IN THE ENERGY  
24 DEVELOPMENT ACCOUNT.

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

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

30 B. that no other sources of financing including bonds  
31 issued by the authority are available to the project in  
32 sufficient quantities or at interest rates which will not render  
33 the project economically infeasible.

34 Subp. 2. **Maximum loan amount.** The principal amount of  
35 energy loans made directly with money in the energy development

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1 account must not exceed \$500,000.

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

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

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

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

26 **ENERGY LOAN INSURANCE PROGRAM**

27 **8300.4020 SCOPE.**

28 Parts 8300.0100 to 8300.0600 and 8300.4020 to 8300.4028  
29 apply to applications for energy financial assistance from the  
30 energy loan insurance account made available by the authority  
31 under Minnesota Statutes, section 116M.11. Unless otherwise  
32 specified, parts 8300.4010 to 8300.4014 do not apply to energy  
33 financial assistance provided by the authority under parts  
34 8300.4020 to 8300.4028.

35 **8300.4021 DEFINITIONS.**

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

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

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

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

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

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

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

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

33 8300.4022 APPLICATIONS FOR ENERGY LOANS SUBMITTED TO FINANCIAL  
34 INSTITUTIONS.

35 Subpart 1. **Contents of energy loan applications.** To apply

1 for an energy loan under the energy loan insurance program, a  
2 borrower shall submit an application for an energy loan to a  
3 lender. The application must be completed, dated, and signed by  
4 an owner, general partner, or an authorized corporate officer  
5 and include the fee as required under part 8300.4012, subpart  
6 1. The application must contain the information required under  
7 part 8300.3013.

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

15 8300.4023 SUBMISSION OF APPLICATIONS FOR ENERGY LOAN INSURANCE.

16 Subpart 1. Contents of applications by lenders.

17 Applications for energy loan insurance must be submitted by a  
18 lender to the commissioner on forms prescribed by the  
19 commissioner that must include the name of the lender, the name  
20 of the borrower, the total project cost, the amount and  
21 percentage of the insurance requested, the term of the loan, the  
22 interest rate, and amortization schedule, and other terms and  
23 conditions of the lender. The application must be completed,  
24 dated, and signed by a duly authorized officer of the lender.  
25 In addition, the following information must be submitted:

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

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

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

35 D. a statement of need from the lender that specifies

1 reasons why the loan will not be made without energy loan  
2 insurance;

3 E. an appraisal of collateral showing total retail  
4 value;

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

9 G. a participating lender's agreement on a form  
10 provided by the commissioner in accordance with part 8300.4024  
11 and signed by an authorized officer of the lender if the lender  
12 has not been previously designated a participating lender by the  
13 authority.

14 Subp. 2. **Review by commissioner.** Upon receipt of the  
15 application for insurance, the commissioner shall review the  
16 application in accordance with the procedures set forth in parts  
17 8300.3013, except subpart 8, and 8300.4013.

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

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

33 If the authority approves or disapproves of the submitted  
34 application, it shall follow the procedures as set forth in part  
35 8300.3013.

36 Subp. 5. **Preparation of documents.** The commissioner has

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1 the authority and responsibility to prepare or cause to be  
2 prepared all necessary documents and to execute them on behalf  
3 of the authority.

4 8300.4024 PARTICIPATING LENDER.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 the authority.

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

8 8300.4025 PROCEDURES UPON DEFAULT.

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

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

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

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

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

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

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

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

34 8300.4026 APPLICATION AND CLAIM FORMS.

35 The commissioner must prepare application and claim forms

1 for use by the lender and for the administration of the energy  
2 loan insurance program.

3 8300.4027 PRIOR COMMITMENT.

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

12 8300.4028 REPORTS.

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

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