

1 Energy and Economic Development Authority

2

3 Adopted Rules Relating to Tourism Loan Program

4

5 Rules as Adopted

6

CHAPTER 8300

7

MINNESOTA ENERGY AND ECONOMIC DEVELOPMENT AUTHORITY

8

TOURISM LOAN PROGRAM

9 8300.3060 PURPOSE OF TOURISM LOAN PROGRAM.

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

15 8300.3061 DEFINITIONS.

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

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

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

23 Subp. 4. Eligible borrower. "Eligible borrower" means a  
24 person, partnership, firm, or corporation engaged in, and  
25 determined by the authority to constitute, a tourism business as  
26 defined by the standard industrial classification (SIC) codes of  
27 7011 and 7033, as set out in Code of Federal Regulations, title  
28 13, section 121.2, and a targeted small business. Any person to  
29 whom a loan has been made under parts 8300.3060 to 8300.3070  
30 must maintain the SIC code classification throughout the term of  
31 the loan.

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

35 Subp. 6. Participation. "Participation" means a contract

1 by which the authority purchases a share of the financial  
2 institution's loan to an eligible borrower.

3 8300.3062 ELIGIBILITY OF PROJECT FOR TOURISM LOANS.

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

11 8300.3063 ELIGIBLE COSTS FOR TOURISM LOANS.

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

- 15 A. building construction and improvement;
- 16 B. site preparation;
- 17 C. equipment;
- 18 D. construction;
- 19 E. engineering;
- 20 F. authority fees including application fees of the  
21 authority; and
- 22 G. interest due on the loan during the period of  
23 construction.

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

27 8300.3064 INTEREST RATE FOR TOURISM LOANS.

28 The interest rate on the authority's participation under  
29 the tourism loan program is three percentage points below a full  
30 faith and credit obligation of the United States government of  
31 comparable maturity, calculated at the time of submission of a  
32 completed application to the authority. The authority may, in  
33 the alternative, set interest rates at a different rate after  
34 reviewing market rates and comparable sources of financing

1 available to the borrowers at the time the financial assistance  
2 is extended.

3 8300.3065 TERM OF LOAN FOR TOURISM LOANS.

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

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

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

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

12 The financial institution is permitted to amortize the loan  
13 over a period of years up to 15 years. If the note between the  
14 financial institution and the borrower matures before the  
15 expiration of the contract between the financial institution and  
16 the authority and the note is renewed, the contract shall remain  
17 in effect until the expiration of the contract. The authority  
18 need not participate in the refinancing of any remaining portion  
19 of the principal not fully amortized and paid at the maturity of  
20 the contract between the financial institution and the authority.

21 8300.3066 SECURITY REQUIREMENTS FOR TOURISM LOANS.

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

33 8300.3067 CONTENTS OF APPLICATION FOR TOURISM LOANS.

34 An application for participation must be made by the

1 financial institution on behalf of the eligible borrower on a  
2 form provided by the commissioner and must contain or be  
3 accompanied by:

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

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

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

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

16 8300.3068 PROCEDURES FOR TOURISM LOAN APPROVAL.

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

24 Subp. 2. Notification of deficiencies. If the  
25 commissioner determines the application to be incomplete, the  
26 commissioner or his or her designee shall notify the borrower,  
27 specifying the deficiencies. The financial institution has 60  
28 days from the date of the commissioner's notification to  
29 complete the application in accordance with parts 8300.3060 to  
30 8300.3070. If an application is not made complete within 60  
31 days of the date of the commissioner's notification of  
32 deficiencies, the application shall be rejected for processing  
33 and the financial institution must resubmit the application at a  
34 later date in order for it to be considered by the authority.  
35 An application which is completed by the last day of the month

1 must be reviewed at the next month's authority meeting.

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

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

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

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

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

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

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

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

36 Subp. 6. Approval. The authority may reject or disapprove

1 any application for participation that does not provide  
2 sufficient documentation or otherwise comply with the provisions  
3 of the act and parts 8300.3060 to 8300.3070. If the authority  
4 approves an application for participation, it shall pass a  
5 resolution stating the name of the borrower, a brief description  
6 of the project, the amount of participation, and the amount of  
7 and interest charged on participation.

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

14 8300.3069 LOAN SERVICING.

15 The financial institution shall collect payments according  
16 to the payment schedule outlined in the note. The financial  
17 institution shall notify the authority in case of default, as  
18 determined by the financial institution. The financial  
19 institution may retain interest collected as payment for duties  
20 performed by it pursuant to the contract in the amount of one  
21 percent per annum of the authority's proportional share of the  
22 loan.

23 8300.3070 AMORTIZATION SCHEDULES.

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