

STATE OF MINNESOTA

MINNESOTA HOUSING FINANCE AGENCY

In the Matter of the Proposed Adoption  
of Rule of the Minnesota Housing Finance  
Agency Governing the Solar Energy and  
Energy Conservation Bank Programs

Statement of Need  
and Reasonableness

4900.1600

This part describes the scope of parts 4900.1600 to 4900.1650. The federal program from which the Agency will fund the programs set forth in these parts allows considerable flexibility in program design. These rules establish the guidelines for disposition of these funds by the agency.

4900.1610

This part incorporates certain federal regulations by reference as part of the rules set forth in parts 4900.1600 to 4900.1650. As the programs described in these parts are funded with federal funds it is necessary that the program be operated in compliance with these regulations.

4900.1620

This part sets forth definitions as they apply to terms used in parts 4900.1600 to 4900.1650. These definitions supplement, and in some cases limit, the definitions which are a part of the federal regulations incorporated by part 4900.1610.

Subp. 2 The definition of Agency is a shortened form of Minnesota Housing Finance Agency.

Subp. 3 The definition of Bank is a shortened form of Solar Energy and Energy Conservation Bank.

Subp. 4 The definition of Bank Assistance refers to funds provided to an eligible applicant from funds the agency receives from the Solar Energy and Energy Conservation Bank.

Subp. 5 The definition of Deferred Loan refers to a loan which does not have periodic payments. The definition also limits the use of deferred loans to the financing of energy conservation measures in one-to-four family residences. It is necessary to set forth these limitations because the federal regulations permit financing to be used for additional types of improvements and buildings. It is reasonable to establish these limitations because the participating entities contributing funds used to match the funds from the bank have specified, by agreement with the Agency, that they require the funds to be used in this manner.

Subp. 6 Deferred Loan Recipient is defined as one or more individuals who receive a deferred loan. The definition limits the availability of deferred loans to natural persons. This limitation is necessary because the federal regulations define eligible persons to include partnerships and corporations. The limitation is reasonable because the participating entities which provided matching funds have required that the recipients of these funds must be individual owner-occupants of one-to-four family structures.

Subp. 7 The definition of Grant refers to the extension of financial assistance without interest or periodic payments. The definition limits the use of grants in a manner identical to that set forth in the discussion of 4900.1620 Subp. 5 above.

Subp. 8 Grant Recipient is defined as one or more individuals who receive a grant. The necessity and reasonableness of the limitation to individuals is as set forth in the discussion of 4900.1620 Subp. 6 above.

Subp. 9 Participating Entity is defined as an entity which contributes funds to the Agency to be used in conjunction with funds received by the bank. Since the bank requires that there be a source of matching funds for the funds it provides, it is necessary for the Agency to seek such funds and to provide for their usage.

Subp. 10 The definition of Passive Solar Subsidy refers to financial assistance provided to finance a portion of the purchase of a house with a passive solar space heating system. The definition limits eligibility for a passive solar subsidy to newly-constructed single family homes containing passive solar space heating systems. It is necessary to establish these limitations because the federal regulations allow such subsidies to apply to additional types of buildings and to other solar technologies. It is reasonable to limit the availability of subsidies to newly-constructed houses because it is more difficult and costly to obtain an accurate energy design analysis for solar modifications to existing buildings than for newly-constructed buildings. The federal regulations require that an energy design analysis be done for each building to which a subsidy is awarded.

The limitation as to single family homes is reasonable because a primary purpose of the agency in administering this program is to obtain performance data on homes with passive solar space heating systems. This data will be added to an existing data base which is composed entirely of data from single-family homes. Therefore, if this new data is to be compatible with the existing data, it must also be collected from single-family homes.

The limitation as to passive solar space heating systems is reasonable because, at the time the program was established, the federal regulations did not allow active solar space heating systems. As the agency does not anticipate allocating any funds in addition to the original allocation to this activity, it is reasonable to retain the limitation.

Subp. 11 Passive Solar Subsidy Recipient is defined as one or more individuals who receive a passive solar subsidy. The definition limits the availability of subsidies to individuals. This limitation is necessary because the federal regulations define eligible persons to include partnerships and corporations. The limitation is reasonable because the agency intends to monitor the energy performance of the buildings which receive subsidies. The agency has found in previous programs involving monitoring that they are most effective when the owners are personally committed to the project.

Subp. 12 The definition of Rental Subsidy refers to that bank assistance which is provided to an owner of a residential property.

Subp. 13 Rental Subsidy Recipient is defined as one or more persons who receive a rental subsidy. This definition incorporates the federal regulation definition of person, which includes partnerships and corporations.

Subp. 14 Rental Property is defined as an existing building that is used primarily for residential purposes. This definition is necessary to clearly identify the type of building which is eligible. The requirement that the building be primarily residential is necessary because it is required by the federal regulations.

4900.1630

This part sets forth the standards which govern the program, to be financed with funds received from the bank, which is referred to as the Energy Conservation Deferred Loan and Grant Program.

Subp. 1 This subpart establishes criteria, in addition to those set forth in the cited federal regulation, which an applicant must meet in order to qualify for a grant or a deferred loan under this part.

Paragraph A of subpart 1 limits assistance to families who own and occupy one-to-four unit residential buildings. This limitation is necessary because the federal regulations allow financial assistance in the form of grants to be provided to tenants in residential buildings. The participating entities which have provided the matching funds to be used in conjunction with the bank assistance have specified that the availability of the funds be limited to owner-occupants. It is therefore reasonable to establish this limitation because without the matching funds, the agency would be unable to make use of the federal funds.

Paragraph B of subpart 1 limits assistance to families which have not received and are not seeking assistance for the same improvements from other specified programs which finance energy conservation improvements. This limitation is reasonable because the total dollars available to the state to address the energy conservation needs of low income homeowners are insufficient to meet all of the demand. This provision ensures that there will not be a duplication of effort in this area by limiting the availability of this assistance to those who cannot obtain similar assistance through another program.

Subp. 2 This subpart sets forth certain provisions which differentiate eligibility for grants and for deferred loans; and establish conditions under which the agency may further limit the use of funds under this part.

Paragraph A of Subp. 2 establishes that grants will be available only to families with annual incomes of 80% of the median area income or less. This provision is necessary because the federal regulations limit the availability of assistance in the form of a grant to families in this income category.

Paragraph B of Subp. 2 establishes that deferred loans will be available only to families with annual incomes of 150% of the median area income or less. This limitation is necessary because the federal regulations limit the availability of assistance to owner-occupants within this income range.

Paragraph C of Subp. 3 establishes that the agency may place certain additional restrictions on the eligibility for funds if the agency determines that insufficient funds are unavailable to meet all of the demand for the program. The limitations, if implemented, would give preference to families of lower incomes, limit the maximum amount of assistance and limit the eligible improvements. The ability to implement these limitations is necessary to allow the agency to target scarce funds to those families with the greatest need and to those improvements which are likely to have the greatest positive benefit in conserving energy.

Subp. 3 This subpart establishes the maximum amount of financial assistance at \$5,000. It is necessary to establish a maximum assistance level to inform potential applicants of the amount of assistance they may expect to receive. It is reasonable to establish the maximum at \$5,000 because, based on statistics provided by the Minnesota Department of Energy and Economic Development, this amount is sufficient to finance the installation of all cost-effective energy conservation improvements in the average house.

Subp. 4 This subpart establishes the types of financial assistance, as defined in the federal regulations, for which deferred loan recipients and grant recipients, respectively, are eligible. This statement is necessary to ensure compliance with federal regulations which limit the availability of assistance in the form of grants to families with incomes of 80% or less than the area median.

Subp. 5 This subpart provides for financing the cost of a processing fee as part of a deferred loan or grant. This provision is necessary because such a fee is not an eligible improvement under the federal regulations. It is reasonable because the agency receives insufficient administrative funds to reimburse processing agents for costs they incur in processing grants and deferred loans for submission to the agency.

Subp. 6 This subpart sets forth the provisions by which the agency may require repayment of all or part of a deferred loan or grant. This provision is reasonable because it minimizes abuses within the program by requiring that the deferred loan or grant recipient must continue to reside in the improved property for at least 5 years after receiving assistance to avoid repayment of the assistance.

Subp. 7 This support specifies that the agency must publish a notice of fund availability in the State Register prior to the time when funds are made available for grants and deferred loans. It is necessary to include this provision because the agency may receive additional funds from time to time, and changes may occur in the agents which the agency authorizes to process applications.

Subp. 8 This subpart establishes that the agency will not accept applications directly from applicants but that applications must be submitted through one of its authorized agents. This provision is necessary because the agency does not have sufficient staff to process applications if they were submitted directly to the agency.

Subp. 9 This subpart sets forth that the basis on which applications will be selected for funding will be a first-come, first-served basis. This method is reasonable because there are few objective criteria on which applications could be evaluated.

#### 4900.1640

This part sets forth the standards which govern the program, to be financed with funds received from the bank, which is referred to as the Rental Properties Energy Conservation Program.

Subp. 1 This subpart specifies that, to be eligible, a rental subsidy recipient must meet the applicable criteria of the federal regulations. This provision is necessary to ensure compliance with the federal regulations.

Subp. 2 This subpart establishes that bank assistance may be provided to rental subsidy recipients either in the form of a grant or a reduction of principal. This statement is necessary because the federal regulations also allow financial assistance in the form of a reduction of interest. It is reasonable to establish this limitation because the lending institutions which will process these subsidies are unwilling to process subsidies in the form of interest reductions, because the federal regulations for recordkeeping on interest reduction subsidies would be prohibitively expensive.

Subp. 3 This subpart states that the proceeds of a rental subsidy must be used to the extent necessary to bring the building into compliance with the state energy conservation standards for rental housing. This requirement is reasonable because these standards are mandatory standards with which all residential rental buildings in Minnesota must comply.

Subp. 4 This subpart specifies that the agency must publish a notice of fund availability in the State Register prior to the time when funds are made available for rental subsidies. It is necessary to include this provision because the agency may receive additional funds from time to time, and changes may occur in the lending institutions which are processing applications for the program. The agency intends to notify potential applicants of such changes by this method.

Subp. 5 This subpart specifies that applications for rental subsidies must be through a lending institution unless the agency specifies, by notice in the State Register, that it will accept direct applications. This requirement is necessary in order to allow the agency to assess whether, from time to time, it has sufficient staff to process direct applications for rental subsidies.

Subp. 6 This subpart establishes that applications for rental subsidies will be selected on a first-come, first-served basis. This method is reasonable because there are few objective criteria on which applications could be evaluated.

4900.1650

This part sets forth the standards which govern the program, to be financed with funds received from the bank, which is referred to as the Passive Solar New Construction Program.

Subp. 1 This subpart specifies that, to be eligible, a passive solar subsidy recipient must meet the applicable criteria of the federal regulations. This provision is necessary to ensure compliance with the federal regulations. In addition, an eligible recipient must intend to own and occupy the property for which a passive solar subsidy is received. This requirement is reasonable because it provides greater assurance to the agency that the subsidy recipient will actively participate in the monitoring program which the agency intends to implement. If a person other than the subsidy recipient occupies the property, their cooperation in the monitoring effort is less certain.

Subp. 2 This subpart establishes limitations on buildings eligible for passive solar subsidies. The necessity and reasonableness of these limitations are discussed in 4900.1620, subpart 10 above.

Subp. 3 This subpart specifies that all passive solar subsidies will be in the form of a reduction of principal. This provision is necessary because the federal regulations also allow subsidies in the form of interest reductions. The limitation is reasonable because the lending institutions which will process the subsidies have indicated that they are unwilling to process subsidies in the form of interest reductions, because the federal regulations for recordkeeping on interest reduction subsidies would be prohibitively expensive.

Subp. 4 This subpart establishes the provisions of the monitoring program which the agency intends to implement. These provisions are necessary to ensure that the agency has access to the properties which it will monitor for the period of time during which the monitoring will occur.

Subp. 5 This subpart specifies that the agency must publish a notice of fund availability in the State Register prior to the time when funds are made available for passive solar subsidies. It is necessary to include this provision because the agency may receive additional funds from time to time. The agency intends to notify potential applicants of such changes by this method.

Subp. 6 This subpart establishes the method by which the agency will select those applications which will be funded. A priority will be given to those applicants with

annual incomes of \$38,000 or less. The basis for this priority is reasonable because the agency has, as its primary purpose, the provision of housing for low and moderate income households. The \$38,000 priority limit is the definition of low and moderate income household for the agency's Home Mortgage Program as set forth in 4900.0010, Subp. 23 of these rules.

In addition to this priority, applications to be funded will be selected by lot. This method is reasonable because the agency will accept applications from all applicants on an equal basis until a deadline announced in the notice of fund availability. After the deadline, all applications will be evaluated, making a first-come, first-served selection method impracticable.

The Agency is cognizant of the provisions of Section 14.115 of the Minnesota Statutes, entitled Small Business Considerations in Rulemaking, however, since the recipients of the funds under the Solar Energy and Energy Conservation Programs must be individuals who will use the funds to finance energy conservation measures the proposed rules do not affect small businesses directly, and the said law, by its terms, is inapplicable to this proposed rules. In addition, the proposed rules do not establish any compliance or reporting requirements, design or operational standards, or directly affect the way any business must operate. Further, to the extent the proposed rules may have an indirect effect on small businesses, the effect is to make such funds more readily available and, as a result, the proposed rule has no negative effect on small businesses. Therefore, the provisions contained in Minn. Stat. § 14.115 (1983) Supp.) do not apply to the proposed rules discussed herein.