

FORM OF ORDER AND TRANSMITTAL BY AGENCY HAVING SINGLE HEAD

State of Washington

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

(agency name)

Administrative Order No. 82-1

(1) I, RICHARD T. SCHROCK, director of the Department of Commerce and Economic Development do promulgate and adopt at Olympia, Washington

the annexed rules relating to: Industrial development facility eligibility determination pursuant to RCW 39.84.090 (1), (2).

(2) ALTERNATIVE A. Use only for Adoption of Permanent Rules.

82-01-089

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This action is taken pursuant to Notice No. filed with the code reviser on 12/23/81. Such rules shall take effect:

- [x] pursuant to RCW 34.04.040(2).
[] at a later date, such date being

Bd

(2) ALTERNATIVE B. Use only for Adoption of Emergency Rules.

I, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is:

Such rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

(3) Pursuant to the requirements of RCW 34.04.026 that "every agency shall incorporate the most specific, but in no case omit all, of the following language alternatives when adopting or amending rules" (fill in statement (a), (b), or (c) as appropriate):

- [] (a) This rule is promulgated pursuant to RCW 39.84.090 and is intended to administratively implement that statute.
[] (b) This rule is promulgated pursuant to RCW which directs that the

(agency)

has authority to implement the provisions of

(name of act or RCW citation)

- [] (c) This rule is promulgated under the general rule-making authority of the

(agency)

as authorized in RCW

(4) The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

STATE OF WASHINGTON FILED This document is being first recorded in the order register of this agency is herewith transmitted to the Code Reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

APPROVED AND ADOPTED January 26 1982

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By RICHARD T. SCHROCK Director

Title

CODE REVISER'S OFFICE WSR 82-04-022

NEW SECTION

WAC 130-16-010 PURPOSE AND AUTHORITY. The department of commerce and economic development is charged with determining whether proposed construction or improvement projects, for which financing is sought through revenue bonds issued under chapter 39.84 RCW (Laws of 1981, chapter 300) are for industrial development facilities eligible for such financing. The purpose of the rules contained in this chapter is to establish the procedure and requirements for submitting an application for such an eligibility determination, as required by RCW 39.84.090 (Laws of 1981, chapter 300, § 9), and these rules are intended to administratively implement that statute.

NEW SECTION

WAC 130-16-020 DEFINITIONS. The following words and terms have the following meanings for the purposes of this chapter, unless the context in which they are used indicates otherwise: (1) "Department" means the department of commerce and economic development. Where appropriate, the term "department" also means members of the staff or employees of the department of commerce and economic development.

(2) "Director" means the director of the department of commerce and economic development.

(3) "The Act" means Laws of 1981, chapter 300 (Municipal Industrial Development Program), as codified in chapter 39.84 RCW.

(4) "Industrial development facilities" means manufacturing, processing, production, assembly, warehousing, transportation, pollution control, solid waste disposal, and energy facilities.

(5) "Facilities" means land, rights in land, buildings, structures, docks, wharves, machinery, transmission equipment, landscaping, utilities, approaches, roadways and parking, handling and storage areas, and similar ancillary facilities.

(6) "Construction" or "construct" means construction and acquisition, whether by devise, purchase, gift, lease, or otherwise.

(7) "Improvement" means reconstruction, remodeling, rehabilitation, extension, and enlargement; and "to improve" means to reconstruct, to remodel, to rehabilitate, to extend, and to enlarge.

(8) "Revenue bond" means a nonrecourse revenue bond, nonrecourse revenue note, or other nonrecourse revenue obligation issued under the Act for the purpose of financing an industrial development facility on an interim or permanent basis.

(9) "Public corporation" means a corporation created pursuant to provisions of the Act.

(10) "Project costs" means costs of (a) acquisition, construction, and improvement of any facilities included in an industrial development facility; (b) architectural, engineering, consulting, accounting, and legal costs related directly to the development, financing, and construction of an industrial development facility, including costs of studies assessing the feasibility of an industrial development facility; (c) finance costs, including discounts, if any, the costs of issuing revenue bonds, and costs incurred in carrying out any trust agreement entered into pursuant to section 12 of the Act; (d) interest during construction and during the six months after estimated completion of construction, and capitalized debt service or repair and replacement or other appropriate reserves; (e) the refunding of any outstanding obligations incurred for any of the costs outlined in this subsection; and (f) other costs incidental to any of the costs listed in this subsection.

NEW SECTION

WAC 130-16-030 APPLICATION PROCEDURE. (1) Prior to issuance of any revenue bonds to finance the project costs of industrial development facilities, each public corporation proposing such a bond issue shall submit an application to the department for a determination of the eligibility of the industrial development facility under the Act for such financing.

(2) Such application shall be submitted on a form prescribed by the director, copies of which may be obtained from the department by writing to:

Department of Commerce and Economic Development
Industrial Development Division
101 General Administration Building
Olympia, Washington 98504
Mail Stop AX-13

(3) Where indicated on the form, each applicant for eligibility determination shall

(a) describe fully the proposed acquisition, construction or improvement project and the facilities affected thereby; and

(b) specify the basis for qualification as an industrial development facility by describing the manufacturing, processing, production, assembly, warehousing, transportation, pollution control, solid waste disposal, or energy related functions of the facilities.

(4) Each application form must be accompanied by a copy of the applicant public corporation's enabling ordinance and charter; Provided however, if a copy of such ordinance and charter, current as of the date of the application, has previously been submitted to the department in connection with a different application for eligibility determination, then the requirement for submitting a copy of enabling ordinance and charter may be satisfied by reference to the prior application.

NEW SECTION

WAC 130-16-040 APPLICATION PROCESSING. (1) Upon receipt of any application for determination of industrial development facility eligibility, the department will initially review the application for satisfactory compliance with WAC 130-16-030(3) and WAC 130-16-030(4).

(2) If the department determines that the descriptive information required by WAC 130-16-030(3), as provided in the application, is insufficient upon which to render a determination of eligibility, the public corporation will be so notified within five (5) working days of receipt of the application. The notice so provided will address the department's concerns with the adequacy of the information provided, and will invite the public corporation to amend the descriptive information in its application, in writing. The public corporation may thereafter submit an amended application with new or supplemental descriptive information as appropriate, or it may notify the department in writing that no further descriptive information will be provided with the application.

(3) No application will be deemed complete, for purposes of determining the eligibility of an industrial development facility, until the public corporation has complied with WAC 130-16-030(3) to the satisfaction of the department or until the public corporation has notified the department in writing that no further descriptive information will be provided with the application. Failure to comply with WAC 130-16-030(4) will not preclude determination of eligibility, however, the public corporation will be advised that it has failed to comply with RCW 39.84.090(1) and WAC 130-16-030(4).

(4) Within twelve (12) working days of the receipt of a completed application, the department will notify the public corporation if the industrial development facility described in the application is not eligible under the Act. Such notice will specify the department's basis for determining ineligibility.

(5) Failure to be notified of ineligibility as herein provided will be deemed a determination of eligibility; the department may also notify the public corporation of eligibility.

NEW SECTION

WAC 130-16-050 PETITION FOR RECONSIDERATION. (1) Any public corporation, after receipt of the department's notice of the ineligibility of an industrial development project, may petition for reconsideration. Such petitions must set forth with particularity the grounds upon which reconsideration is sought.

(2) A petition for reconsideration must be received by the department within fifteen (15) days of when the notice of ineligibility is received by the public corporation.

(3) The timely filing of a petition for reconsideration shall suspend the department's determination of ineligibility until the corporation receives the department's written notification that the petition is denied or that the determination of ineligibility is reversed.

(4) In response to a petition for reconsideration, the department may either (a) deny the same, (b) call for further answer, or (c) reverse its prior determination of ineligibility.

NEW SECTION

WAC 130-16-060 CONTESTED CASE HEARINGS. The department shall hold a formal hearing on a petition for reconsideration, conducted as a contested case under chapter 34.04 RCW (Administrative Procedure Act), as now or hereafter amended, whenever requested by a public corporation in its petition for reconsideration.

NEW SECTION

WAC 130-16-070 JUDICIAL REVIEW. Any public corporation aggrieved by a final decision in a contested case before the department is entitled to judicial review in the manner prescribed in chapter 34.04 RCW (Administrative Procedure Act), as now or hereafter amended.

NEW SECTION

WAC 130-16-080 TIME. In computing any period of time prescribed or allowed in this chapter, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, a Sunday nor a legal holiday. Legal holidays are prescribed in RCW 1.16.050. When the period of time prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.

NEW SECTION

WAC 130-16-090 WRITTEN NOTIFICATION. Whenever in this chapter written notification is prescribed, which shall include the filing of a petition for reconsideration, the notification shall be made by depositing the papers in the post office, properly addressed, with postage prepaid. Whenever in this chapter written notification is required to be given by the department, such notification shall be by certified mail. Any written notice shall be deemed received upon the third day following the day upon which the notice is placed in the mail, unless the third day falls on a Saturday, Sunday or legal holiday, in which event the notice shall be deemed received on the first day other than a Saturday, Sunday or legal holiday, following the third day. Legal holidays are prescribed in RCW 1.16.050.