

**CHAPTER 7380**  
**DEPARTMENT OF TRADE AND ECONOMIC**  
**DEVELOPMENT**  
**MINNESOTA PUBLIC FACILITIES AUTHORITY**  
**LOAN PROGRAMS**

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**GENERAL ADMINISTRATION**

**7380.0100 DEFINITIONS.**

Subpart 1. **Scope.** The terms defined in this part apply to parts 7380.0100 to 7380.0130.

Subp. 2. **Meetings.** Regular meetings and special meetings of the authority, and notice of such meetings, shall be as provided in the Minnesota Open Meeting Law, Minnesota Statutes, section 471.705.

Subp. 3. **Statute.** "Statute" means Minnesota Statutes, section 471.705, cited as the Minnesota Open Meeting Law.

**Statutory Authority:** *MS s 446A.06 subd 2.*

**History:** *13 SR 1822*

**7380.0110 REGULAR MEETINGS.**

Regular meetings of the authority are held as provided in the notice of meeting schedule issued by the authority and on file at the office of the authority at 500 Metro Square, 121 7th Place East, Saint Paul, Minnesota 55101-2146. If the authority decides to hold a regular meeting at a time or place different from the time or place stated in its schedule of regular meetings, it shall do so as provided by Minnesota Statutes, section 471.705, subdivision 1c.

**Statutory Authority:** *MS s 446A.06 subd 2*

**History:** *13 SR 1822*

**7380.0120 SPECIAL MEETINGS.**

Special meetings of the authority may be called by the chair or by a majority of the members of the authority, provided the notice is given as required by statute. The purpose of the meeting shall be only as provided in the notice, and shall be held at the office of the authority in Saint Paul, Minnesota, unless another place of meeting is designated by resolution..

**Statutory Authority:** *MS s 446A.06 subd 2*

**History:** *13 SR 1822*

**7380.0130 AGENDA.**

A proposed agenda of business to be conducted at any regular or special meeting of the authority must be included with the notice of meeting to all members of the authority. Any citizen, group, or organization that has requested to be included on the Public Facilities Authority mailing list shall receive an agenda. The mailing list will be updated every two years. Any member of the authority who wishes to add an item on the agenda of a regular meeting may do so with the concurrence of the majority of the members.

**Statutory Authority:** *MS s 446A.06 subd 2*

**History:** *13 SR 1822*

**HEALTH CARE EQUIPMENT LOAN PROGRAM****7380.0200 SCOPE AND AUTHORITY.**

Parts 7380.0200 to 7380.0240 apply to applications for loans for health care equipment made to the authority under Minnesota Statutes, section 446A.08, subdivision 3.

**Statutory Authority:** *MS s 446A.08; 446A.10; 446A.11*

**History:** *10 SR 1813; L 1987 c 386 art 3 s 28*

**7380.0210 DEFINITIONS.**

Subpart 1. **Scope.** For the purposes of parts 7380.0200 to 7380.0240, the following terms have the meanings given to them.

Subp. 2. **Application fees.** "Application fees" means the fee charged by the authority, in connection with an application for program funds, based on the actual direct cost of processing the application and servicing loans by the commissioner and the commissioner of health. The application fee is two-fifths of one percent of the program funds requested in applications received during any calendar quarter established by part 7380.0240, subpart 1, and shall be paid in accordance with part 7380.0240, subpart 6. The fees shall not exceed the applicable federal limitations imposed by section 103(c) of the Internal Revenue Code of 1954, as amended, or other applicable federal laws governing the issuance of bonds or notes by the authority.

Subp. 3. **Authority.** "Authority" means the Minnesota Public Facilities Authority created in Minnesota Statutes, section 446A.01.

Subp. 4. **Commissioner.** "Commissioner" means the commissioner of Trade and Economic Development or a designee.

Subp. 5. **Program funds.** "Program funds" means the money for loans made available from the sale of bonds or notes as set forth in the indenture adopted by the Minnesota Public Facilities Authority pursuant to Minnesota Statutes, section 446A.08, subdivision 2.

Subp. 6. **Project.** "Project" means all functionally related equipment and all associated costs including application fees; bond issuance costs; underwriting or placement fees; trustee fees; bond insurance; fees of guarantor, insurer, or financial institution other than the authority who provides letter of credit, surety bonds, or equivalent security; legal fees, including those of the authority's bond counsel; and debt service reserve fund.

**Statutory Authority:** *MS s 446A.08; 446A.10; 446A.11*

**History:** *10 SR 1813; L 1987 c 312 art 2 s 26 subd 2; 386 art 3 s 28*

**7380.0220 ELIGIBLE PROJECT FOR PROGRAM FUNDS.**

To be eligible for program funds, an application must meet the criteria outlined in Minnesota Statutes, section 446A.08, subdivision 3 and part 4647.0200, subpart 3.

**Statutory Authority:** *MS s 446A.08; 446A.10; 446A.11*

**History:** *10 SR 1813; L 1987 c 386 art 3 s 28*

**7380.0230 PROCEDURES FOR HEALTH CARE EQUIPMENT LOAN APPLICATIONS.**

Subpart 1. **In general.** To apply for assistance from the authority, an applicant shall submit two completed application forms to the commissioner on a form provided by the commissioner. An application must be completed, dated, and signed by an authorized officer of an applicant and include certification of bond insurance issued by a private insurer as required by Minnesota Statutes, section 446A.08, subdivision 2.

Subp. 2. **Contents.** Applications must include the amount of the requested loan and information necessary for approval by the commissioner of health pursuant to Minnesota Statutes, section 446A.08, subdivision 3, and parts 4647.0100 to 4647.0400.

**Statutory Authority:** *MS s 446A.08; 446A.10; 446A.11*

**History:** *10 SR 1813; L 1987 c 386 art 3 s 28*

**7380.0240 PROCEDURES FOR APPLICATION PROCESSING.**

Subpart 1. **Deadline for submission.** Applications for program funds will be processed on a quarterly basis. Applicants shall submit completed application forms by February 1, May 1, August 1, or November 1 to receive consideration or priority under part 4647.0300 in the respective quarter. If an application is received after the quarterly application deadline, it shall be forwarded to the commissioner of health.

Subp. 2. **Review by Department of Health.** When an application is received by the commissioner, a copy of the application will be sent to the commissioner of health for review. Upon receipt of the notification from the commissioner of health that the application or a project within an application has been approved, the commissioner will follow the procedure under subpart 3 or 4.

Subp. 3. **Review and approval.** The authority may not approve an application, or a project within an application, nor make a loan to an applicant unless the application or project within an application has been approved by the commissioner of health. If the commissioner of health has approved an application or project within an application, the authority shall pass a resolution approving the application or project and make the loan if sufficient program funds are available and if the loan to the applicant has been approved by the private insurer which has issued a letter of credit or bond insurance policy with respect to the indenture adopted by the authority pursuant to Minnesota Statutes, section 446A.08, subdivision 2.

Subp. 4. **Authority review and rejection.** If the commissioner of health has approved an application or project within an application, the authority shall pass a resolution rejecting the application or project, and notify the applicant of the rejection, only if the authority finds that there are insufficient program funds available or that the applicant had been denied by the private insurer which has issued a letter of credit or bond insurance policy with respect to the indenture adopted by the authority pursuant to Minnesota Statutes, section 446A.08, subdivision 2.

Subp. 5. **Loan agreement and disbursement.** Upon approval of an application or project within an application by the authority, the commissioner shall send a loan agreement to the applicant. The applicant shall have a duly authorized officer execute and return the executed loan agreement to the commissioner. The program funds approved by the authority for an applicant will be disbursed upon execution of and according to the terms of the loan agreement and the health care equipment program indenture.

Subp. 6. **Payment of application fee.** The application fee established pursuant to part 7380.0210, subpart 2, shall be paid by the trustee specified in the health care equipment loan indenture on a quarterly basis no later than at the time of disbursement.

Subp. 7. **Preparation of documents.** The commissioner has the authority and responsibility to prepare or cause to be prepared all necessary documents and to execute them on behalf of the authority.

**Statutory Authority:** *MS s 446A.08; 446A.10; 446A.11*

**History:** *10 SR 1813; L 1987 c 386 art 3 s 28*

## WASTEWATER INFRASTRUCTURE FUNDING PROGRAM

**7380.0300 PURPOSE.**

The wastewater infrastructure funding program shall provide supplemental assistance to eligible municipalities as provided in Minnesota Statutes, section 446A.071, which also receive loans or other financing assistance from the water pollution control revolving fund under parts 7380.0400 to 7380.0480 and Minnesota Statutes, section 446A.07.

**Statutory Authority:** *MS s 446A.071*

**History:** *18 SR 887*

**7380.0310 DEFINITIONS.**

Subpart 1. **Scope.** The terms defined in this part and the terms defined in part 7380.0410 apply to parts 7380.0300 to 7380.0380.

Subp. 2. **Allowable costs.** "Allowable costs" means those costs that may be financed by the fund, as provided in parts 7380.0400 to 7380.0480, that are:

- A. certified to be essential project components by the commissioner of the agency;
- B. land acquisition, easements, and associated costs as certified by the commissioner of the agency; and
- C. expansion capacity for nonresidential users for economic development projects as provided in part 7380.0370.

Subp. 3. **Satisfactory performance of a project.** "Satisfactory performance of a project" means the constructed facilities achieve the operational performance standards established by the agency in part 7077.0290.

Subp. 4. **Supplemental assistance.** "Supplemental assistance" means the financing assistance which the authority may provide to reduce the debt service component of the sewer service charge of a municipality undertaking a wastewater treatment project when the sewer service charge upon satisfactory completion of the project exceeds the level of sewer charges as provided in part 7380.0350.

**Statutory Authority:** *MS s 446A.071*

**History:** *18 SR 887*

**7380.0320 PROGRAM ADMINISTRATION.**

Subpart 1. **In general.** The process to apply to the authority for supplemental assistance shall be as provided in part 7380.0420. The authority shall review and evaluate applications to determine the applicant's capacity to comply with parts 7380.0320 to 7380.0380 and Minnesota Statutes, section 446A.071. Applications must be certified by the commissioner of the agency and funded in accordance with the priority ranking as listed on the first intended use plan each year prepared by the agency, except for economic development projects as provided in part 7380.0370. The authority shall consider projects added to the intended use plan through amendments, provided sufficient funding exists after funding for eligible projects on the first intended use plan is set aside for those projects.

Subp. 2. **Eligibility.** Before being considered for supplemental assistance an eligible applicant must:

- A. be eligible for a water pollution control revolving fund loan as provided in parts 7380.0400 to 7380.0480;
- B. receive the certification of the commissioner of the agency, including the essential project components percentage as calculated under part 7077.0276, subpart 2;
- C. have applied to all grant-in-aid financing programs which the authority has informed the applicant are available for financing its wastewater treatment project;
- D. demonstrate that it does not have adequate funds through its own resources or other grant-in-aid assistance to keep the sewer service charge from exceeding the level of sewer service charges as provided in part 7380.0350; and

E. provide a general obligation promissory note to the authority pledging the full faith and credit of the municipality for the amount of supplemental assistance to be provided by the authority.

**Statutory Authority:** *MS s 446A.071*

**History:** *18 SR 887*

### **7380.0330 TERMS AND CONDITIONS OF FINANCIAL ASSISTANCE.**

Subpart 1. **In general.** The terms and conditions of supplemental assistance provided by the authority to approved applicants are as provided by applicable federal law, state law, parts 7380.0400 to 7380.0480, Minnesota Statutes, sections 446A.07 and 446A.071, and this part.

Subp. 2. **Wastewater system replacement fund.** A recipient of supplemental assistance must establish a system replacement fund that provides for the future replacement of the system. The fund shall only be used for expansion, major rehabilitation, or replacement of the wastewater treatment system. The recipient shall deposit at least ten cents per 1,000 gallons of wastewater flow in the fund. The fund shall be maintained for the term of the water pollution control revolving fund loan, or until the fund balance equals the amount of supplemental assistance and other grant funds provided for this project, whichever occurs first. The amount deposited may be less if the recipient demonstrates that an amount less than ten cents per 1,000 gallons over a 20-year period would equal the funding needed to replace the system. The applicant may deposit more into the fund up to the amount needed to replace the entire system at the end of its useful life.

Subp. 3. **Form of assistance.** Supplemental assistance shall be a loan until satisfactory performance of the project is achieved. Upon satisfactory performance, supplemental assistance shall be forgiven or applied to the semiannual debt payments due the authority.

Subp. 4. **Failure to achieve satisfactory performance.** If loan payments become due before satisfactory performance of the project has been achieved, they shall be paid in accordance with the repayment schedule in the project financing agreement.

The authority may defer one or more payments due on the supplemental assistance provided:

A. there is either a delay in starting construction, or in the construction schedule, and these delays are approved by the commissioner of the agency in accordance with the water permit discharge schedule issued by the agency; or

B. the system does not meet performance standards; however, the agency determines that the municipality is developing or implementing a corrective action plan according to part 7077.0288, subpart 3.

**Statutory Authority:** *MS s 446A.071*

**History:** *18 SR 887*

### **7380.0340 AUTHORITY EVALUATION PROCEDURE.**

The authority shall evaluate applications certified by the commissioner of the agency to determine the applicant's capacity to comply with parts 7380.0300 to 7380.0380 and Minnesota Statutes, section 446A.071.

**Statutory Authority:** *MS s 446A.071*

**History:** *18 SR 887*

### **7380.0350 DETERMINATION OF AMOUNT OF SUPPLEMENTAL ASSISTANCE.**

Subpart 1. **Generally.** The authority shall determine the average household cost for operation, maintenance, equipment replacement, the system replacement fund for up to a maximum of fifty cents per 1,000 gallons of wastewater, and debt service under the water pollution control revolving fund, taking into account the applicant's own funds available for the project and any other grant-in-aid programs that the applicant is eligible for and can expect to obtain. At the time of approval for a water pollution control revolving fund loan, the applicant's residential sewer service charge is calculated to be at least \$18 per month per household or 1.5 percent of the applicant's median household income level, whichever is greater. If

necessary, the authority shall update the applicant's demographic information and sewer and water service charges using the Consumer Price Index, state demographer data, or other indexing methods, as provided in part 7380.0440, subpart 4, item D.

Subp. 2. **Supplemental assistance computation.** The authority shall determine the amount of assistance necessary to reduce the residential sewer service charge to a level of \$18 per month per household, as adjusted in subpart 3, or to a level of 1.5 percent of the median household income, whichever is greater. The amount of the authority's assistance shall be no greater than 75 percent of the amount determined, except as provided in subpart 4.

Subp. 3. **Scheduled change to the computation of supplemental assistance.** Beginning in 1996, the authority shall adjust the \$18 per month sewer service charge figure and median household income level by 75 percent of the Consumer Price Index using the year 1995 as the base year. If more current demographic data is available, the authority shall use that data rather than indexing.

Subp. 4. **Additional subsidy consideration.** The authority shall increase the percentage of supplemental assistance by an additional five percent if at least two of the following conditions are met:

- A. the applicant is a multijurisdiction sanitary sewer district;
- B. the residential water service fees in the applicant's jurisdictional area are in excess of \$2 per 1,000 gallons;
- C. the applicant has a poverty rate that exceeds two times the national average; or
- D. the applicant provides at least ten percent of the project cost from its own funds.

Subp. 5. **Program funds.** Based upon the amount of program funds available to the authority in a fiscal year, the amount of supplemental assistance the authority is able to provide to a municipality may not allow a municipality to lower the level of its sewer service charges to that provided under this part.

Subp. 6. **Supplemental assistance limitation.** Supplemental assistance shall not be used to reduce the sewer service charges of a significant wastewater contributor unless the applicant can demonstrate to the authority that the significant wastewater contributor cannot pay its fair share. In order to demonstrate the inability of the significant wastewater contributor to pay its fair share, the applicant shall provide the significant wastewater contributor's past three year's financial statements and business plans to the authority. A significant wastewater contributor is as defined in part 7380.0410, subpart 20.

**Statutory Authority:** *MS s 446A.071*

**History:** *18 SR 887*

### 7380.0360 REPAYMENT OF SUPPLEMENTAL ASSISTANCE.

Subpart 1. **In general.** If the supplemental assistance is not deferred, waived, or forgiven, and repayments are due to the authority, the requirements in items A and B apply.

A. Supplemental assistance shall be repaid on February 20 or August 20, whichever is the first date after the project is scheduled to be completed and to meet its one-year performance certification. The repayments of loans to the authority provided by this part shall be as provided in part 7380.0430, subpart 5.

B. The amortization schedule for a loan provided under this part shall be in addition to the amortization schedule of the loan provided under parts 7380.0400 to 7380.0480.

Subp. 2. **Dedicated sources of revenue.** The dedicated sources of revenue provided by the municipality to the authority shall be in the form of a general obligation promissory note.

Subp. 3. **Payments.** Payments by the municipality to the authority shall be as provided in part 7380.0430, subpart 5.

**Statutory Authority:** *MS s 446A.071*

**History:** *18 SR 887*

### 7380.0370 ASSISTANCE TO ECONOMIC DEVELOPMENT PROJECTS.

As provided in Minnesota Statutes, section 446A.071, subdivisions 1, paragraph (c), and 4, paragraph (c), the authority may set aside up to ten percent of program funds to provide supplemental assistance to municipalities, identified by the commissioner of Trade and Eco-

conomic Development, for wastewater treatment projects or portions of projects that are necessary to accommodate economic development projects. Economic development projects provided for by this subpart shall be funded on a first-come, first-served basis. Assistance shall be as provided by this part, except part 7380.0320, subpart 1, shall not apply. Unexpended economic development funds in a given year may be carried over to the following year as provided in Minnesota Statutes, section 446A.11, subdivision 13.

**Statutory Authority:** *MS s 446A.071*

**History:** *18 SR 887*

### 7380.0380 RELEASE OF FUNDS.

The release of funds shall be as provided in part 7380.0470.

**Statutory Authority:** *MS s 446A.071*

**History:** *18 SR 887*

## WATER POLLUTION CONTROL REVOLVING FUND

### 7380.0400 PURPOSE.

The Water Pollution Control Revolving Fund administered by the Minnesota Public Facilities Authority provides loans and other forms of financial assistance for the planning, designing, and construction of municipal wastewater treatment systems to assure maintenance of progress toward municipal compliance, or implementation of nonpoint source management controls, as required by the Federal Water Pollution Control Act, to municipalities for projects that have been certified by the Minnesota Pollution Control Agency. The United States Environmental Protection Agency provides a capitalization grant to the state of Minnesota to provide loans through the authority to ensure that the Revolving Fund is available to finance water pollution control projects in perpetuity. The terms and conditions of the loan agreement for financial assistance provided by the authority must be in conformance with the Federal Water Pollution Control Act, United States Code, title 33, particularly sections 1381 to 1387, the rules of the agency, and this part.

**Statutory Authority:** *MS s 446A.07; 446A.071*

**History:** *13 SR 2155; 18 SR 614*

### 7380.0410 DEFINITIONS.

Subpart 1. **Scope.** The terms defined in this part, in Minnesota Statutes, section 446A.02, and in the Federal Water Pollution Control Act, apply to parts 7380.0400 to 7380.0480.

Subp. 2. **Act.** "Act" means the Federal Water Pollution Control Act, United States Code, title 33, sections 1251 to 1387.

Subp. 3. **Agency.** "Agency" means the Minnesota Pollution Control Agency.

Subp. 4. **Applicant.** "Applicant" means:

A. a governmental unit as defined in Minnesota Statutes, section 446A.02, subdivision 5; or

B. a municipality as defined in this part.

Subp. 5. **Average coupon rate.** "Average coupon rate" means the weighted average of bonds at the various maturity dates as provided in the bond.

Subp. 6. **Dedicated sources of revenue for repayment.** "Dedicated sources of revenue for repayment" means one or more dedicated sources of revenue established by the municipality to ensure repayment of the loan to the authority. Dedicated sources of revenue may be: special assessments; general taxes or general obligation bonds; sewer service charges; or other revenue sources acceptable to the authority.

Subp. 7. **Allowable costs.** Allowable costs that may be financed by the authority, provided the allowable cost item is reasonable, necessary, and permitted by the act, include those provided in the list of costs given below. The listing is only representative of allowable costs that may be financed by a loan from the authority. Other allowable costs may also fall within the language of the act, United States Code, title 33, sections 1381 to 1387.

A. acquisition costs of buildings or land under United States Code, title 33, sections 1381 to 1387;

B. site preparation;

C. construction costs;

D. engineering costs;

E. costs of equipment, machinery, or both;

F. bond issuance costs;

G. underwriting, financial advisors, or placement fees;

H. trustee fees;

I. fees of guarantor, insurer, or financial institution, other than the authority, which provide letters of credit, surety bonds, or equivalent security;

J. authority fees, including application and guaranty fees of the authority;

K. certain contingency costs;

L. interest costs during construction;

M. legal fees, including those of the authority; and

N. a debt service reserve fund.

Subp. 8. **Executive director.** "Executive director" means the executive director of the Public Facilities Authority.

Subp. 9. **Fund.** "Fund" means the Minnesota Water Pollution Control Revolving Fund created by Minnesota Statutes, section 446A.07, as amended.

Subp. 10. **Intended use plan.** "Intended use plan" means the document prepared annually by the agency according to requirements of the act and submitted to the United States Environmental Protection Agency. The plan will identify the intended uses of the amounts available to the fund, including a list of wastewater treatment projects and other eligible activities scheduled to be funded during the fiscal year.

Subp. 11. **Loan agreement.** "Loan agreement" means the loan agreement or financing agreement between the authority and the municipality that provides all the terms and conditions of the loan.

Subp. 12. **Municipal bond index.** "Municipal bond index" means the index based on the yield that about 500 major issuers, mainly of investment grade, would pay on new long-term (20 years) general obligation, tax exempt bonds. The index is published each Friday in the Wall Street Journal.

Subp. 12a. **Municipal service area.** "Municipal service area" means the geographic area of the municipality.

Subp. 13. **Municipality.** "Municipality" means any county, city, and town, the Metropolitan Waste Control Commission established in Minnesota Statutes, chapter 473 and the Metropolitan Council when acting under the provisions of that chapter or an Indian tribe or an authorized Indian tribal organization, and any other governmental subdivision of the state responsible by law for the prevention, control, and abatement of water pollution in any area of the state.

Subp. 14. **Poverty level.** "Poverty level" means the number of persons in poverty in a municipality, expressed as a percentage, identified as the poverty level of a municipality by the United States Census Bureau; or by another federal or state agency; or by an accredited independent survey, which most accurately measures the level of poverty within a municipality.

Subp. 15. **Project completion.** "Project completion" means the date on which the operation of the treatment works is initiated or is capable of being initiated.

Subp. 16. MR 1991 [Renumbered as Subp. 12a, 18 SR 614]

Subp. 17. **Quarterly set rate.** "Quarterly set rate" means the maximum rate of interest set for a calendar quarter and shall be determined by the authority using as guidance the average of the municipal bond index for the four weeks prior to the beginning of the quarter minus 100 basis points for 20-year term loans. For loans of less than 20 years, a discount of five basis points for each year less than 20 years shall be deducted from the quarterly set rate.

Subp. 18. **Sewer service area.** "Sewer service area" means the sewer service area that utilizes the municipal wastewater treatment system.



Subp. 19. **Sewer service charge.** "Sewer service charge" means a charge levied upon the users in the municipal service area to pay for the capital cost, operation, and maintenance, and replacement of equipment. Service charges include tax assessment, special assessments, user charges, or other charges identified by any other name.

Subp. 20. **Significant wastewater contributor.** "Significant wastewater contributor" means a nonresidential user whose current wastewater flow or projected wastewater flow causes the need for the construction of the wastewater treatment project, or whose current wastewater contribution is at or exceeds one-half of the current wastewater treatment plant's flow.

**Statutory Authority:** *MS s 446A.07; 446A.071*

**History:** *13 SR 2155; 18 SR 614*

### **7380.0420 PROCEDURES FOR FINANCIAL ASSISTANCE APPLICATIONS PROCESSING.**

Subpart 1. **In general.** To apply for financial assistance from the authority, eligible applicants identified in the annual intended use plan prepared by the agency may submit an application at any time to the executive director of the authority, using the Department of Trade and Economic Development, Community Development Division's single application process.

Prior to the submission of an application to the authority, the municipality shall contact the authority to receive the authority's advice under Minnesota Statutes, section 446A.051.

The authority shall forward the application to the agency within ten day after receipt of the application by the authority. The agency will accept and review the application as provided in its rules.

Subp. 2. **Authority review.** When an application that has been certified by the commissioner of the agency and the as-bid cost have been received by the authority on or before the first business day of the month, the authority shall consider the application at the authority meeting that month. If the certified application is received after the first business day of the month and can be reviewed by the executive director prior to the authority agenda deadline, the authority may consider the application at the meeting in that month.

Subp. 3. **Completed application.** An application certified by the commissioner of the agency is considered complete when the executive director of the authority determines that the exhibits and documentation which have been received provide a full and accurate account of the project financing to the extent that the authority is able to make an informed determination on the application.

Subp. 4. **Incomplete application.** If an incomplete application is received, the executive director shall notify the applicant in writing of specific deficiencies in the application. The applicant has 60 days from the date of mailing of the executive director's notification to complete the application. If the application is not completed and received by the executive director within those 60 days, the application is deemed to be rejected and the applicant, subject to agency rules, must reapply to be further considered.

Subp. 5. **Applications not receiving certification.** An application not receiving certification by the commissioner of the agency will not receive consideration for financial assistance by the authority. The executive director of the authority shall notify the applicant of the rejection of the application by the authority within ten days of the rejection determination.

Subp. 6. **Rejection of loan applications by authority.** The authority shall not provide financing for projects if the per household cost is in excess of \$10,000, in 1992 dollars, as adjusted by the Consumer Price Index, unless the commissioner of the agency certifies that the project should be funded due to the environmental benefit to the state. The authority may reject an application for financial assistance for the following reasons:

A. failure to obtain certification from the of the agency for the project;

B. failure to develop and document dedicated sources of revenue sufficient in the judgment of the authority to ensure repayment of the loan to the authority; and

C. failure to submit a completed application using the procedure provided in part 7380.0420, subpart 4.

**Statutory Authority:** *MS s 446A.07; 446A.071*

**History:** *13 SR 2155; 18 SR 614*

### **7380.0430 AUTHORITY EVALUATION PROCEDURE.**

Subpart 1. **In general.** The authority shall evaluate applications certified by the commissioner of the agency to determine the applicant's capacity to comply with the terms and conditions of the Act and the rules of the authority as provided in this part.

The applicant's project must have been identified in the agency's intended use plan for the year in which the applicant is applying.

The authority will only provide financial aid for the allowable costs provided in part 7380.0410, subpart 7.

#### **Subp. 2. Loan terms and conditions.**

A. The terms and conditions for loans and other forms of financial assistance provided by the authority to eligible applicants for certified projects are as provided by the act; Minnesota Statutes, chapter 446A; this part; and as provided by the authority in the loan agreement and the general obligation promissory note issued by the municipality to the authority for the project financing.

B. If the authority provides a loan to a municipality for planning or design engineering of a wastewater treatment facility, the interest rate, terms, and conditions must be the same as for loans elsewhere in this part.

Subp. 3. **Repayment.** The repayment of loans to the authority by the recipient must be sufficient to fully amortize the loan for a period of not more than 20 years after project completion. If treatment works have been segmented or phased, the repayment requirements of this subpart and the payment requirements of subpart 6 apply to each phase or segment of the project.

Subp. 4. **Dedicated sources of revenue.** Loan recipients shall establish, and identify in the application, dedicated sources of revenue sufficient to operate and maintain the new facility, replace equipment, and fully amortize the loan for a term of not more than 20 years. The authority shall examine the identified dedicated sources of revenue to ensure that they are a sufficient amount and of sufficient certainty to fully repay the loan. Municipalities whose projects involve significant wastewater contributors shall be required to enter into an agreement with the significant wastewater contributor so as to ensure that the municipality and the authority are adequately protected in the event that the significant wastewater contributor curtails its operations, ceases operations, or moves out of the municipality.

Subp. 5. **Payments.** The first principal and interest payment is due and payable not later than one year after project completion, or 24 months from the approval of the loan by the authority, whichever is earlier. Subsequent principal and interest payments by the loan recipient must be made at the times agreed upon by the loan recipient and the authority in the loan agreement. In general, semiannual loan payments will be required, unless a different payment schedule is agreed upon and provided in the loan agreement. However, in no case shall payments be less frequent than annual principal and interest payments sufficient to amortize the debt within the contracted period. Interest shall accrue on any funds paid out to the borrower by the authority starting six months prior to the due date of the first loan repayment to the authority.

**Statutory Authority:** *MS s 446A.07; 446A.071*

**History:** *13 SR 2155; 18 SR 614*

### **7380.0440 INTEREST RATE DETERMINATIONS.**

Subpart 1. **In general.** The interest rate charged by the authority to a loan recipient must be determined as provided in this part, except that in no case shall the rate of interest on a loan to a borrower be reduced to less than one percent, except as provided in subpart 6.

#### **Subp. 2. Setting of interest rates.**

A. The interest rate charged to a loan recipient must be determined by the authority using as guidance the quarterly set rate in effect at either the time of the municipality's ap-

plication to the authority, or at the time of the approval of the loan by the authority as determined by the municipality at the time of the approval by the authority.

B. The applicant is entitled to the cumulative interest rate adjustments provided in this part, regardless of when the applicant chooses to set the interest rate as provided in item A. If an applicant's project includes a facility which has been in significant noncompliance in the past 12 months, all basis point reductions provided under this part shall be halved. Significant noncompliance means the facility is listed on the most recent "Facilities in Significant Noncompliance" report which the commissioner of the Minnesota Pollution Control Agency shall certify to the authority with the intended use plan and amendments to the intended use plan.

C. If the authority funds an applicant's project through the sale of authority bonds, the applicant may request in its loan application the specific basis point reduction from the average coupon rate of the bonds sold by the authority as provided in item D. If an applicant chooses this option, the applicant will not be entitled to receive any other interest rate adjustment as provided in item B or subparts 4 to 6. The applicant also must comply with the following conditions:

- (1) the payment schedule agreed to follows the payment schedule of the bonds sold by the authority;
- (2) acceptable agreement on fund accountability is reached;
- (3) the municipality can demonstrate its creditworthiness; and
- (4) the integrity of the fund is maintained.

D. The authority shall annually provide by resolution the specific basis point reduction it will allow under item C.

Subp. 3. **Suspension of loans at the quarterly set rate.** The authority may suspend offering loans at the quarterly set rate if it determines that market conditions impacting the municipal bond index are unsettled or impair the viability of the fund. At the time of that determination, the authority may by resolution adopt a revised quarterly set rate, based upon generally accepted practices of interest rate forecasting, for a period of time determined by the authority. The authority may, based upon market conditions, extend the offering of loans at the revised quarterly set rate and continue to do so until the time the authority considers it prudent to again use the municipal bond index as guidance for the quarterly set rate.

Subp. 4. **Demographic considerations.**

A. A loan application will be considered for an interest rate reduction based upon the population of the municipal project service area, and be eligible for a reduction as follows:

(1) Applicants with a municipal service area population of 25,000 or less and larger than 5,000 are eligible to receive the quarterly set rate minus 25 basis points, subject to the interest rate adjustments in this part.

(2) Applicants with a municipal service area population of 5,000 or less and larger than 2,500 are eligible to receive the quarterly set rate minus 50 basis points, subject to the interest rate adjustments in this part.

(3) Applicants with a municipal service area population of 2,500 or less but larger than 1,000 are eligible to receive the quarterly set rate minus 75 basis points, subject to the interest rate adjustments in this part.

(4) Applicants with a municipal service population of 1,000 or less are eligible to receive the quarterly set rate minus 100 basis points, subject to the interest rate adjustments in this part.

B. The data used to determine the population, the median household income, and poverty level of the municipality should be that which most accurately measures the population, median household income, and poverty level of the municipality. The authority shall determine if the data submitted by the municipality is an appropriate and accurate measurement of the population, household income, and poverty level of the municipality.

C. The metropolitan and nonmetropolitan median household income levels of the state must be determined from income data from the most recent census of the United States or from data from the state demographer. The data provided must be applied as the criteria to

determine if the municipality's service area household income is at, below, or above the median household level for the metropolitan or nonmetropolitan area as applicable.

D. If there is reason to believe that the United States census data or the data from the state demographer is not a currently accurate representation of the median household income, poverty level, or population of the municipality, the applicant may document the reasons why the data is not an accurate representation, and obtain additional information regarding median household income, poverty level, or population of the municipality. The information must consist of reliable data from local, regional, state or federal sources, or from a survey conducted by a reliable impartial source. If the authority determines that the demographic data submitted by the municipality does not reflect the most current or accurate measure of the municipality's population, median household income level, and poverty level, the authority shall update the demographic data to reflect the most current and accurate figures.

**Subp. 5. Interest rate adjustment.** Any applicant is eligible to receive consideration for interest rate adjustments to the interest rate to be charged by the authority as provided in this subpart.

A. The median household income is the income level for the municipal service area of the facility being financed by the authority. If the median household income level of the municipality is below the median household income level for a metropolitan or nonmetropolitan area, as applicable, the applicant is eligible for a 50 basis point reduction in the rate.

B. If the percentage of poverty level households in the municipality is at or above the national average, the applicant is eligible for a 100 basis points reduction in the interest rate charged by the authority.

C. If the estimated annual sewer service charge of the municipality after the completion of the project:

(1) is at or exceeds one percent of the median household income level of the municipality, the municipality is eligible for a 50 basis point reduction in the interest rate;

(2) is at or exceeds 1-1/2 percent of the applicant's median household income, the municipality is eligible for a 100 basis point reduction in the interest rate; or

(3) is at or exceeds two percent of the applicant's median household income, the municipality is eligible for a 150 basis point reduction in the interest rate.

**Subp. 6. Interest-free or reduced rate loans.** The authority shall reduce interest rates further or offer interest-free loans to municipalities which are approved for the wastewater infrastructure funding program as provided in parts 7380.0300 to 7380.0380. The authority shall limit the number of and the amount of interest-free loans in a given year if the offering of such loans would impair the ability of the fund to meet anticipated future financing needs or the revenue coverage requirements of the fund.

Interest-free loans for any applicant are limited to \$1,000,000, or the eligible cost of the project, whichever is less. The authority shall not provide interest-free loans, in total, exceeding up to ten percent of the total capitalization grant funds scheduled to be received by the authority.

**Statutory Authority:** *MS s 446A.07; 446A.071*

**History:** *13 SR 2155; 18 SR 614*

### **7380.0450 OTHER FINANCIAL ASSISTANCE.**

In addition to the loans provided in parts 7380.0430 to 7380.0440, the authority may use any forms of financial aids provided in United States Code, title 33, section 1383(d). The use of specific financing tools will be determined by the authority based on existing financial market conditions at the time the financing of the project takes place.

The revolving loan fund authorized by the act may be used:

A. to buy or refinance the debt obligation of municipalities for treatment works for which the debt was incurred and construction begun after March 7, 1985, at or below market rate;

B. to guarantee or purchase insurance for local obligations to improve credit market access or reduce interest rates;

C. to provide a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the authority if bond proceeds are deposited in the fund; and

D. to provide loan guarantees for similar revolving funds established by a governmental unit other than state agencies.

**Statutory Authority:** *MS s 446A.07 subd 10*

**History:** *13 SR 2155*

#### 7380.0460 FEES.

If the authority charges a loan recipient a loan origination fee, the fee must be based on a schedule established by the authority and must not exceed one and one-half percent of funds borrowed from the authority. The fees, if any, will be charged to all loan recipients and must be as provided in the loan application form. These fees may be included as an eligible project activity or category in the municipality's application to the authority, and are due and payable as provided in the loan agreement.

**Statutory Authority:** *MS s 446A.07 subd 10*

**History:** *13 SR 2155*

#### 7380.0470 RELEASE OF FUNDS.

Subpart 1. **In general.** Subject to the availability of funds, payments to the governmental unit for an approved project will be made in accordance with applicable state and federal law governing payments, but payments will not be made until the authority has determined the total estimated cost of the project, and ascertained that the total final financing of the project is assured by the following:

A. a loan authorized by state law or the appropriation proceeds of bonds or other money of the municipality to a fund for construction of a project; and

B. an irrevocable undertaking, by resolution of the applicant, to use the loan proceeds exclusively for the project, and to pay any additional amount by which the cost of the project exceeds the final estimate by the appropriation to the construction fund of additional money or proceeds of additional bonds to be issued by the governmental unit.

Subp. 2. **Adverse change.** The authority shall not release funds to a municipality for an approved project until the authority has determined that there have been no adverse changes in the financial capacity of the municipality since the day of the completion of the application.

The authority reserves the right to suspend or terminate funding to the municipality if the authority determines that there has been an adverse change.

Subp. 3. **Conformance with plans and reporting requirements.** The authority shall withhold, suspend, or terminate either total or partial payments if the authority determines that a project does not substantially conform to approved plans and specifications, or there has been substantial noncompliance with reporting requirements.

The executive director shall give a municipality written notice of the deficiencies the authority has determined exist, and the time in which the municipality must demonstrate to the authority's satisfaction that the condition has or will be corrected. The time for demonstration must not exceed 90 days.

**Statutory Authority:** *MS s 446A.07 subd 10*

**History:** *13 SR 2155*

#### 7380.0480 REPORTS AND AUDITS.

Subpart 1. **Reports.** During the term of the loan, the municipality shall make written reports to the executive director on forms provided by the authority and on a schedule determined by the executive director.

Subp. 2. **Audits.** Financial assistance recipients must arrange and pay for independent audits, acceptable to the authority and prepared, if required by the Clean Water Act, in compliance with the Office of Management and Budget, Circular A-128, published in the Feder-

al Register, volume 50, number 188, page 39083, on September 27, 1985, and in compliance with the Single Audit Act of 1984, United States Code, title 31, sections 7501 to 7507.

**Statutory Authority:** *MS s 446A.07; 446A.071*

**History:** *13 SR 2155; 18 SR 614*

### **INDEPENDENT WASTEWATER TREATMENT GRANTS PROGRAM**

#### **7380.0500 SCOPE OF RULES.**

Parts 7380.0500 to 7380.0582 provide for the awarding of grants by the Minnesota Public Facilities Authority under Minnesota Statutes, chapter 446A, to municipalities for wastewater treatment projects certified by the commissioner of the Minnesota Pollution Control Agency, as provided in Minnesota Statutes, sections 116.16 to 116.181, and chapter 7075.

The executive director of the authority shall assist municipalities in determining which grants or loans to apply for to finance eligible projects and the manner in which the municipality shall pay for its portion of the project cost.

Municipalities making application to the authority must comply with the requirements of the Pollution Control Agency independent grant program rules in chapter 7075 in order to receive the required certification of the commissioner of the agency before any determination by the authority on the municipality's application.

The authority shall, as provided in Minnesota Statutes, section 446A.051, review the proposed project financing for a municipal project certified by the commissioner of the agency to determine if the municipality has demonstrated in its application that:

A. the total financing of the project is assured; and

B. the municipality's financial plan to pay for its portion of the project is feasible.

**Statutory Authority:** *MS s 446A.06 subd 2*

**History:** *13 SR 1922*

#### **7380.0510 DEFINITIONS.**

The definitions in Minnesota Statutes, section 116.16, subdivision 2, and part 7380.0410, apply to parts 7380.0500 to 7380.0582.

**Statutory Authority:** *MS s 446A.06 subd 2*

**History:** *13 SR 1922*

#### **7380.0520 STATE INDEPENDENT GRANTS PROGRAM.**

**Subpart 1. Grants for certified projects.** The authority shall award state independent grants to municipalities for projects certified by the commissioner of the agency as provided in Minnesota Statutes, section 116.18, subdivisions 3a to 3d. The amount to be awarded by the authority must be equal to 50 percent of the eligible project cost as provided in the agency rules, or if the population of the municipality is 25,000 or less, 80 percent of the eligible project cost, as provided in the agency rules.

**Subp. 2. Grant limitation.** Until December 31, 1990, the authority shall award not more than 20 percent of the total amount of grants awarded under this part to any municipality in any fiscal year.

**Subp. 3. Economic development set-aside.** The authority shall set aside up to ten percent of the money to be awarded as grants under this part in any fiscal year for municipalities having substantial economic development projects that cannot come to fruition without municipal wastewater treatment improvements.

After the authority has allocated the first 90 percent of the total available money for the fiscal year to municipalities in accordance with agency priorities, the set-aside must be used by the authority to award grants to the remaining municipalities that have been identified by the authority.

**Subp. 4. Reimbursement.** The authority may award grants under this part to reimburse municipalities willing to proceed with projects and be reimbursed in a later year if an appropriation of sufficient funds has been made under Minnesota Statutes, section 116.18, subdivision 1, for that year.

Subp. 5. **Reimbursement grant percentages.** A municipality awarded a state independent grant for reimbursement for a project shall receive an additional five percent of the total eligible project construction cost beyond the percentage to which the municipality is entitled under subpart 1.

**Statutory Authority:** *MS s 446A.06 subd 2*

**History:** *13 SR 1922*

#### **7380.0530 ELIGIBLE COSTS.**

Eligible costs for grant applications are the eligible costs provided in the agency independent grant program rules and certified by the commissioner of the agency.

**Statutory Authority:** *MS s 446A.06 subd 2*

**History:** *13 SR 1922*

#### **7380.0540 CAPITAL COST COMPONENT GRANT PROGRAM.**

Subpart 1. **Grants for certified projects.** The authority shall award capital cost component grants to municipalities for projects certified by the commissioner of the agency.

Subp. 2. **Amount set aside.** The authority may set aside up to \$1,500,000 of the funds to be awarded as grants under part 7380.0520, subpart 1, in any fiscal year for capital cost component grants.

Subp. 3. **Project amount.** The amount of the award granted by the authority shall be as provided in the agency rules.

**Statutory Authority:** *MS s 446A.06 subd 2*

**History:** *13 SR 1922*

#### **7380.0550 INDIVIDUAL ON-SITE TREATMENT SYSTEMS PROGRAM.**

Subpart 1. **Grants for certified projects.** The authority shall award individual on-site treatment systems grants to municipalities for projects certified by the commissioner of the agency.

Subp. 2. **Amount set aside.** The authority may set aside up to ten percent of the funds to be awarded as grants as provided in part 7380.0520, subpart 1, in any fiscal year, up to a maximum of \$1,000,000, for the award of grants to municipalities to reimburse owners of individual on-site wastewater treatment systems for 50 percent of the costs of upgrading or replacing the systems, as provided in part 7075.1250, subpart 2.

**Statutory Authority:** *MS s 446A.06 subd 2*

**History:** *13 SR 1922*

#### **7380.0560 CORRECTIVE ACTION GRANTS.**

The authority shall award corrective action grants to municipalities for projects certified by the commissioner of the agency.

**Statutory Authority:** *MS s 446A.06 subd 2*

**History:** *13 SR 1922*

#### **7380.0570 APPLICATION PROCESS.**

Subpart 1. **In general.** To apply for state independent grants or the other grants programs as provided under parts 7380.0520, 7380.0530, 7380.0540, 7380.0550, and 7380.0560, applications by municipalities shall be made to the authority on forms provided by the agency which require information prescribed by the agency rules.

Subp. 2. **Notice of taking applications.** Applications must be taken as provided by the agency independent grant program rules. The application period for any of the grants programs shall be established by the commissioner of the agency.

Subp. 3. **Application processing.** The authority shall forward an application to the agency within ten days of receipt of an application by the authority. The agency will accept and review applications as provided in the program rules in chapter 7075.

Subp. 4. **Certified applications.** When an application certified by the commissioner of the agency is returned to the authority on or before the first business day of the month, the

authority shall consider the application at the authority meeting that month. If a certified application is received after the first business day of the month and can be reviewed by the executive director before the authority agenda deadline, the authority may consider the application at the meeting in that month.

**Subp. 5. Complete applications.** An application is complete for the authority's purposes when the executive director receives all documentation and exhibits required for the authority to make the determinations required by Minnesota Statutes, section 446A.051.

**Subp. 6. Incomplete applications.** If the executive director determines, relative to the authority's requirements, that an application is incomplete, the executive director shall notify the applicant of the specific deficiencies in the application. The applicant has 30 days from the date of mailing of the executive director's notification to complete the application. If the application is not completed and received by the executive director within 30 days from the date of mailing, the application is considered rejected and the applicant, subject to agency rules, shall reapply to be further considered.

**Subp. 7. Applications not receiving certification.** An application not certified by the commissioner of the agency will not be considered for financial assistance by the authority. The executive director of the authority shall notify the applicant of the rejection of the application by the authority within ten days of the rejection of the application by the authority.

**Subp. 8. Rejection of applications by the authority.** An application for financial assistance may be rejected by the authority for the following reasons:

A. failure to develop and document that other project-required funding commitments have been secured, as provided in Minnesota Statutes, section 446A.051;

B. failure to submit a completed application using the procedure provided in subpart 6; and

C. failure to demonstrate that the municipality's financial plan to pay for its portion of the project is feasible, as provided in Minnesota Statutes, section 446A.051.

**Statutory Authority:** *MS s 446A.06 subd 2*

**History:** *13 SR 1922*

### **7380.0580 AWARD OF GRANTS AND LOANS.**

**Subpart 1. In general.** Upon certification of an application by the agency and the review and approval of the application by the authority, the authority shall make the award and notify the municipality that it is to receive a grant or loan and prepare and advise the municipality of the grant or loan forms or other documents that must be executed to complete the grant or loan.

**Subp. 2. Amendments to grant award.** A municipality that seeks an amendment to a previously awarded grant or loan shall follow the procedure in part 7380.0570 for applying to the authority.

**Statutory Authority:** *MS s 446A.06 subd 2*

**History:** *13 SR 1922*

### **7380.0581 RELEASE OF FUNDS.**

Subject to the availability of funds, payments to a municipality, which have been certified by the commissioner of the agency, will be made in accordance with applicable federal and state laws governing those payments. However, payments will not be made until the authority has determined the total estimated cost of the project and ascertained that financing of the project is assured by:

A. a grant to the municipality by an agency of the federal government within the amount of funds then appropriated to that agency and allocated by it to projects within the state;

B. a grant of funds appropriated by state law;

C. a loan authorized by state law;

D. the appropriation of proceeds of bonds or other funds of the municipality to a fund for the construction of the project; or

E. any or all of the means referred to in items A to D; and



F. an irrevocable undertaking, by resolution of the governing body of the municipality, to use all funds made available exclusively for the construction of the project, and to pay any additional amount by which the cost of the project exceeds the estimate, by the appropriation to the construction fund of additional municipal funds or the proceeds of additional bonds to be issued by the municipality; and

G. conformity of the project and of the grant or loan application with the state water pollution control plan as certified to the federal government and with all other conditions under applicable state and federal law for a grant of state or federal funds of the nature and in the amount involved.

**Statutory Authority:** *MS s 446A.06 subd 2*

**History:** *13 SR 1922*

### 7380.0582 REPORTS.

During the term of the grant or loan agreement, the municipality shall make written reports to the executive director of the authority on forms provided by the authority on a schedule determined by the executive director.

**Statutory Authority:** *MS s 446A.06 subd 2*

**History:** *13 SR 1922*

## DISTRICT HEATING LOANS

### 7380.0600 DEFINITIONS.

Subpart 1. **Scope.** The terms defined in this part and in Minnesota Statutes, section 216C.36, subdivision 2, apply to parts 7380.0600 to 7380.0650.

Subp. 2. **Construction loan.** "Construction loan" means a loan to fund construction costs.

Subp. 3. **Design loan.** "Design loan" means a loan made to fund those activities required to be completed during the final design phase of a district heating system in order to finance and construct the system. These activities include conducting economic feasibility analyses, obtaining heat source commitments and customer contracts, structuring financing, and related district heating project tasks.

Subp. 4. **District heating project or project.** "District heating project" or "project" means a district heating design or construction project for a new or existing district heating system.

Subp. 5. **Existing system.** "Existing system" means a district heating system that has at least one customer and has been operational for more than one year.

Subp. 6. **Financial consultant.** "Financial consultant" means a reputable person or firm experienced in working with complex revenue-supported financial plans and qualified to assess the financial condition and operation of the district heating project.

Subp. 7. **Gross revenues.** "Gross revenues" means all revenues, fees, user charges, rents, franchise fees, special assessments, and other income and receipts derived from the ownership or operation of the district heating project, the proceeds of any insurance that insures against the loss of gross revenues, any investment income from money or securities derived from the state loan under Minnesota Statutes, section 216C.36, and any other income and receipts attributable to the ownership or operation of the project from whatever source derived, calculated on an annual basis.

Subp. 8. **New system.** "New system" means a district heating system that has at least one customer and has been operational for less than one year.

Subp. 9. **Operating expenses.** "Operating expenses" means the expenses directly and properly attributable to the operation of the project on an annual basis, including: expenses for operation, maintenance, repairs, ordinary replacement, ordinary acquisition of equipment, fuel and heat, labor and fringe benefits, lease rental payments, insurance premiums, administration, legal services, engineering services, payments of all indebtedness, and any other current expenses or obligations required to be paid by the municipality or owner of the district heating project, all to the extent properly and directly attributable to the operation of

the district heating project. Operating expenses do not include any costs or expenses for new construction or any allowance for depreciation.

**Statutory Authority:** *MS s 446A.11 subd 2*

**History:** *13 SR 1922*

### **7380.0610 CONTENTS OF APPLICATION FOR NEW SYSTEM.**

A completed application for a construction loan to a new system must contain:

A. The name, address, and telephone number of the responsible official of the municipality.

B. Complete engineering design of the district heating project, including:

(1) an analysis of the proposed piping layout that must address optimum service to the total designated area, reliability of service, system temperatures and pressure requirements, thermal and hydraulic operability for normal and emergency conditions, and optimum piping configuration to provide service and flexibility for future expansion;

(2) an analysis of the proposed piping design that must address reliability of service, ease of construction, ease of maintenance, installation methods, and specifications and standards; and

(3) an analysis of the heat source design that must define the proposed roles of the following heat sources in the development and future operation of the system: base load heating plant, peaking plants, large boiler plants in existing buildings, mobile boilers, accumulators, and future heat sources such as solid waste, solar, and industrial waste heat.

C. A market study of customers who represent 90 percent of the proposed thermal load of the district heating system. This study must show detailed information on present fuel consumption or heating demand and the present heating system in each building.

D. A preliminary expansion plan showing how the system could be expanded to serve other parts of the community.

E. A complete economic analysis, including:

(1) a preliminary financing and development plan for the district heating system prepared by a financial consultant;

(2) cash flow, income, and balance sheets for the time period of the loan;

(3) a cost estimate and expenditure schedule for all transmission and distribution piping, heat source conversion, purchase or rental, operating and maintenance costs excluding fuel costs, and building heating conversion costs; and

(4) a statement showing the source of all funds to be used by the applicant for the design or construction of the system, and the amount of funds from each of those sources.

F. A certification by the municipality that a bid package for the construction of the project has been completed and is available to the department of public service if requested.

G. A copy of the standard contract entered into with customers of the project and a list of customers already under contract, listing the thermal load of each customer presently under contract and comparing the total of the thermal load already contracted with the total load of the district heating project.

H. Where applicable, a copy of any contract for the furnishing of heat and fuel for the district heating project.

I. A resolution in support of the project from the governing body of the municipality that must include the pledges the municipality proposed to make to guarantee prepayment of the loan and evidence of the municipality's capability to sponsor the district heating project.

J. Identification of all licenses, permits, zoning regulations, and other requirements of federal, state, or local governments with which the project would be expected to comply and the present status of compliance with each.

K. A list of key personnel and their qualifications as they relate to the district heating project.

L. An estimate of the type and amount of fuel to be saved per year from the full operation of the district heating system compared to the type and amount of fuel used by the existing system.

M. A copy of a completed environmental impact statement or a negative declaration of the need for an environmental impact statement from a completed environmental assessment worksheet, or in those cases where no environmental assessment worksheet is required, a statement as to the environmental effects of the project.

**Statutory Authority:** *MS s 446A.11 subd 2*

**History:** *13 SR 1922*

### 7380.0620 CONTENTS OF APPLICATION FOR EXISTING SYSTEM.

A completed application for a construction loan to an existing system must contain:

A. The name, address, and telephone number of the responsible official of the municipality.

B. Background information on the existing system, including: ownership, type and size of heat source, heat source capacity, backup heat boilers, and customer base, including information on process loads.

C. A complete engineering design of the expansion project, including:

(1) an analysis of the proposed piping layout, system temperatures and pressure requirements, and flexibility for future expansion; and

(2) an analysis of the heat source, including the capacity available and information concerning the backup heat source.

D. A discussion of proposed customer load including information on present fuel consumption or heating demand and the present heating system in each building for new customers.

E. A complete discussion of how the loan is to be secured, the current outstanding debt of the applicant, and the cash flow for the term of the loan. This discussion must also contain a cost estimate and expenditure schedule for all transmission and distribution piping, heat source conversion, purchase or rental, operating and maintenance costs excluding fuel costs, and building heating conversion costs.

F. A certification by the municipality that a bid package for the construction of the project has been completed and is available to the department of public service if requested.

G. A copy of the standard contract entered into with the customers of the project and a list of customers already under contract and the total load it represents.

H. A copy of any contract for the furnishing of heat.

I. A copy of any contract for the furnishing of fuel for the district heating project if this is a waste-to-energy project.

J. A resolution in support of the project from the governing body of the municipality that must include the pledges the municipality proposes to make to guarantee repayment of the construction loan and evidence of the municipality's capability to sponsor the district heating project.

K. Identification of all licenses, permits, zoning regulations, and other requirements of federal, state, or local governments with which the district heating project would be expected to comply and the present status of compliance with each.

**Statutory Authority:** *MS s 446A.11 subd 2*

**History:** *13 SR 1922*

### 7380.0630 APPLICATION PROCEDURE.

Subpart 1. **Submitting.** The applicant shall submit ten copies of a complete application to the chair of the authority on a form provided by the authority.

Subp. 2. **Review by Department of Public Service.** When an application is received by the chair, copies of the application shall be sent to the commissioner of the Department of Public Service for review. The commissioner of public service shall prepare and submit to the authority a technical evaluation and a recommendation on the application.

**Statutory Authority:** *MS s 446A.11 subd 2*

**History:** *13 SR 1922*

### 7380.0640 AUTHORITY REVIEW AND EVALUATION.

The authority will review the application for compliance with Minnesota Statutes, section 216C.36, and the rules of this part in conjunction with the recommendation of the com-

missioner of public service on the application. The authority shall also review the commissioner of public service priority list for funding district heating loans that must be based on the requirements under Minnesota Statutes, section 216C.36, subdivisions 3, 4, 5, 6, and 7. The authority shall give higher priority to a project as provided in Minnesota Statutes, section 216C.36, subdivision 4.

The commissioner of finance shall sell bonds and the authority shall make loans for district heating projects only upon the recommendation of the commissioner of public service.

If the authority disapproves the application, the chair shall notify the applicant in writing.

**Statutory Authority:** *MS s 446A.11 subd 2*

**History:** *13 SR 1922*

### **7380.0650 REPORTS AND MONITORING.**

**Subpart 1. Quarterly project status report.** The municipality shall submit to the authority, on forms provided by the authority, a quarterly project status report. This report is due within 30 days of the end of each calendar quarter until the design or construction of the district heating project is completed. Projects begun part way through a quarter must submit a quarterly report for the portion of the quarter during which the project was active. The project status report must indicate the progress of the implementation of the district heating project funded, problems encountered, the effect of the problems on the project, and the corrective action taken. The authority shall, in consultation with the commissioner of public service, declare the entire loan amount due and payable if the authority determines that a project does not substantially conform to the construction schedule or if there has been substantial non-compliance with reporting requirements. The executive director of the authority shall inform the municipality in writing of any noncompliance with the construction schedule or reporting requirements and of the time in which the municipality must correct the deficiencies to the authority's satisfaction. If the deficiencies are not corrected to the authority's satisfaction the authority shall declare the entire amount of the loan due and payable.

**Subp. 2. Quarterly financial report.** The municipality shall submit to the authority, on forms provided by the authority, a quarterly financial status report that indicates expenditures of loan funds through the last date of each quarter. This report is due within 30 days of the end of each calendar quarter until the design or construction of the district heating project is completed and all expenses applicable to the loan are paid. Projects begun part way through a quarter must submit a quarterly report for the portion of the quarter during which the project was active.

**Subp. 3. Final report.** Within 60 days of the completion of the project, the municipality shall submit to the authority, on forms provided by the authority, a final financial status report that gives expenditures of the district heating project. The final financial report shall give actual expenditures for the costs incurred.

**Subp. 4. Failure to comply with provisions of part.** If the municipality fails to comply with any of this part, the municipality may, with the advice and consent of the authority, be declared ineligible for further contracts with the state under the district heating loan program.

**Statutory Authority:** *MS s 446A.11 subd 2*

**History:** *13 SR 1922*

**7380.0700** [Renumbered 7607.0100]

**7380.0710** [Renumbered 7607.0110]

**7380.0720** [Renumbered 7607.0120]

**7380.0730** [Renumbered 7607.0130]

**7380.0740** [Renumbered 7607.0140]

**7380.0750** [Renumbered 7607.0150]

**7380.0760** [Renumbered 7607.0160]

**7380.0770** [Renumbered 7607.0170]

7380.0780 [Renumbered 7607.0180]

**ONCE-THROUGH COOLING CONVERSION LOAN PROGRAM****7380.0800 DEFINITIONS.**

Subpart 1. **Scope.** The terms defined in this part apply to parts 7380.0800 to 7380.0840.

Subp. 2. **Applicant.** "Applicant" means those applicants which are eligible to apply as provided in Minnesota Statutes, section 446A.21.

Subp. 3. **Authority.** "Authority" means the Minnesota Public Facilities Authority.

Subp. 4. **Capital cost.** "Capital cost" means the costs to be incurred for the replacement of once-through cooling systems with environmentally acceptable cooling systems. Capital cost includes construction and renovation costs, engineering costs, machinery and equipment costs; and legal costs, professional services costs, or loan fees, including those of the authority.

Subp. 5. **Department.** "Department" means the Department of Public Service.

Subp. 6. **Financial institution.** "Financial institution" means an investment or banking institution, a savings and loan, an insurance company, an investment company, a public entity authorized to make loans, or an entity operating a district cooling system, making, purchasing, or participating in a loan or part of a loan.

Subp. 7. **Participation agreement.** "Participation agreement" means the agreement by and between the financial institution and the authority which establishes the relationship between the parties, and contains all the terms and conditions regarding the participation in the borrower's loan which the authority has purchased from the financial institution, and any amendment, modification, or substitution thereof.

Subp. 8. **Participation loan.** "Participation loan" means a loan made under a contract with a financial institution in which the authority purchases a share of a financial institution's loan to an eligible borrower for the purposes of the program.

**Statutory Authority:** *MS s 446A.021*

**History:** *19 SR 1227*

**7380.0810 PROCEDURES FOR FINANCIAL ASSISTANCE APPLICATION.**

Subpart 1. **In general.** To apply for financial assistance from the authority, an applicant shall obtain an application form from the authority and submit a completed form to the authority by June 1 of each calendar year. The application form must be signed by a financial institution expressing interest in providing a loan for the purpose of converting the applicant's once-through cooling system to an environmentally sound cooling system. Applications shall be sent to the authority which shall forward the applications to the department for its review and certification of eligible projects.

Those applications certified by the department, based on the information provided by the applicants in the applications, shall be assigned rankings by the authority for funding in a given year as provided in subpart 2, item C, and Minnesota Statutes, section 446A.21. The authority shall provide the balance of the application forms by August 1 of a given year to those applicants which have been certified. Applicants shall submit the rest of the applications as provided in subpart 3 to the executive director of the authority postmarked no later than October 1 or the first business day of October of each year. The full applications must include a letter from the participating financial institution committing the financial institution to provide project funding conditioned upon the authority approval of the loan. The authority shall fund certified projects in order of their rankings, as provided in subpart 2, item C, and Minnesota Statutes, section 446A.21, and award loans by December 31 of each year. The authority shall change the application submission due dates and award dates only by public notice in the State Register.

**Subp. 2. Authority review.**

A. When an applicant's project has been certified by the commissioner of the department, the authority shall review and evaluate the application to determine the applicant's capacity to comply with the terms and conditions of this part, Minnesota Statutes, section 446A.21, and the terms and conditions of the participation agreement.

B. The authority shall only approve and provide financial assistance for the capital cost for certified applicants that demonstrate that:

- (1) the total financing of the project is assured;
- (2) the applicant has the capacity to repay the loan to the authority;
- (3) the applicant has a written commitment from a financial institution for the necessary amount of the project loan; and
- (4) the applicant is able to provide collateral for the loan.

C. The authority shall give priority to, and shall first fund in a given year, projects for nonprofit organizations and school districts, listed on the Department of Natural Resources once-through cooling water use permit list. Should the authority not have sufficient program funds in a given year to fund all certified and approved projects, the authority shall first fund the most cost-effective projects. The cost effectiveness of a project shall be determined by:

- (1) calculating for each loan application, the gallons per year of groundwater consumption eliminated based on the average of the previous three years consumption as provided by Department of Natural Resources records, per dollar of the authority loan money for which the application has been made;
- (2) ranking applications in descending order according to gallons per year eliminated per dollar of the authority loan; and
- (3) providing funding to as many projects as possible within the limits of available funding based on the rank order.

**Subp. 3. Completed application.** A project application certified by the commissioner of the department is considered complete by the authority at such time as the applicant provides all the information required in the application.

**Subp. 4. Incomplete application.** If an incomplete application is received from an applicant before August 1 of a given year, the executive director of the authority shall notify the applicant of the specific deficiencies in the application. If a revised and completed application is not received by the executive director by the application deadline, October 1, or the first business day of October, the application is deemed to be rejected, and the applicant, subject to parts 7685.0100 to 7685.0140, must reapply in a later year to be considered.

**Subp. 5. Projects not receiving certification.** A project application not receiving certification by the commissioner of the department shall not receive consideration for financial assistance by the authority. The executive director of the authority shall notify the applicant of the rejection of the application by the authority within ten days of the rejection determination.

**Subp. 6. Rejection of certified applications by authority.** The authority shall reject a certified application from applicants unable to comply with subpart 2, item B.

**Statutory Authority:** *MS s 446A.021*

**History:** *19 SR 1227*

### **7380.0820 PARTICIPATION LOAN TERMS AND CONDITIONS.**

**Subpart 1. In general.** The authority shall provide financial assistance as provided by this part.

**Subp. 2. Type of assistance and interest rates.** The authority shall provide financial assistance and determine interest rates as described in items A and B.

A. The authority shall utilize loan participation as the means to provide financial assistance to borrowers. An applicant may select a financial institution of its choice. The authority, subject to the requirements of this part, shall purchase a loan participation in a loan up to 50 percent of the total eligible project cost of the project.

B. The authority shall set its interest rates to be charged all borrowers on October 1 or the first business day of October of each year. The interest rate on the authority's portion of the loan shall be at the rate of a United States government treasury security of a comparable maturity to the term of a loan being made, minus 100 basis points. The interest rate to the borrower on the total amount of a participation loan to the borrower shall be a blended rate of the financial institution's rate and the authority's rate in proportion to the respective rates of participation.

**Subp. 3. Dedicated sources of repayment and collateral requirements.**

A. A public entity shall establish, and identify in its application, dedicated sources of revenue sufficient to fully amortize the loan.

B. A public entity shall also, if empowered to do so, provide the financial institution and the authority with a general obligation note for the full amount of the principal and interest payments to be received by the authority.

C. A public entity not empowered to issue general obligation notes shall provide to the financial institution and the authority collateral for the loan that the financial institution and the authority have determined to be adequate to collateralize the loan.

D. As required by Minnesota Statutes, section 446A.21, subdivision 2, paragraph (b), a public entity shall provide to the financial institution and the authority, audits and budgets which document that the entity has the revenue to repay the loan.

E. As required in Minnesota Statutes, section 446A.21, subdivision 2, paragraph (b), private and nonprofit organizations shall provide to the financial institution or the authority, income and earnings forecasts, audits, credit reports, and other related materials that documents that the entity has revenues to repay the loan. The financial institution and the authority shall take a security interest in capital assets or real property.

**Subp. 4. Term of Loan.** The maximum term of a loan shall not exceed the useful life of the real property being offered as collateral, 80 percent of the useful life of the equipment or machinery, or the following limits, whichever is less:

A. ten years for land, building, or other real property;

B. five years for equipment or machinery; or

C. a weighted average of the limits provided in items A and B for loans that are for a combination of real property and equipment or machinery.

**Statutory Authority:** *MS s 446A.021*

**History:** *19 SR 1227*

**7380.0830 FEES.**

Any loan origination fees charged a loan recipient by the authority shall be as provided in Minnesota Statutes, section 446A.04, subdivision 5, paragraph (a).

**Statutory Authority:** *MS s 446A.021*

**History:** *19 SR 1227*

**7380.0840 AUDITS.**

During the term of the loan, loan recipients shall provide annual independent audits.

**Statutory Authority:** *MS s 446A.021*

**History:** *19 SR 1227*