

1 Department of Trade and Economic Development

2

3 Adopted Permanent Rules Relating to the Wastewater

4 Infrastructure Funding Program

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6 Rules as Adopted

7 WASTEWATER INFRASTRUCTURE FUNDING PROGRAM

8 7380.0300 PURPOSE.

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

15 7380.0310 DEFINITIONS.

16 Subpart 1. **Scope.** The terms defined in this part and the
17 terms defined in part 7380.0410 apply to parts 7380.0300 to
18 7380.0380.

19 Subp. 2. **Allowable costs.** "Allowable costs" means those
20 costs that may be financed by the fund, as provided in parts
21 7380.0400 to 7380.0480, that are:

22 A. certified to be essential project components by
23 the commissioner of the agency;

24 B. land acquisition, easements, and associated costs
25 as certified by the commissioner of the agency; and

26 C. expansion capacity for nonresidential users for
27 economic development projects as provided in part 7380.0370.

28 Subp. 3. **Satisfactory performance of a project.**

29 "Satisfactory performance of a project" means the constructed
30 facilities achieve the operational performance standards
31 established by the agency in part 7077.0290.

32 Subp. 4. **Supplemental assistance.** "Supplemental
33 assistance" means the financing assistance which the authority
34 may provide to reduce the debt service component of the sewer
35 service charge of a municipality undertaking a wastewater

1 treatment project when the sewer service charge upon
2 satisfactory completion of the project exceeds the level of
3 sewer charges as provided in part 7380.0350.

4 7380.0320 PROGRAM ADMINISTRATION.

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

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

21 A. be eligible for a water pollution control
22 revolving fund loan as provided in parts 7380.0400 to 7380.0480;

23 B. receive the certification of the commissioner of
24 the agency, including the essential project components
25 percentage as calculated under part 7077.0276, subpart 2;

26 C. have applied to all grant-in-aid financing
27 programs which the authority has informed the applicant are
28 available for financing its wastewater treatment project;

29 D. demonstrate that it does not have adequate funds
30 through its own resources or other grant-in-aid assistance to
31 keep the sewer service charge from exceeding the level of sewer
32 service charges as provided in part 7380.0350; and

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

1 provided by the authority.

2 7380.0330 TERMS AND CONDITIONS OF FINANCIAL ASSISTANCE.

3 Subpart 1. **In general.** The terms and conditions of
4 supplemental assistance provided by the authority to approved
5 applicants are as provided by applicable federal law, state law,
6 parts 7380.0400 to 7380.0480, Minnesota Statutes, sections
7 446A.07 and 446A.071, and this part.

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

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

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

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

35 A. there is either a delay in starting construction,

1 or in the construction schedule, and these delays are approved
 2 by the commissioner of the agency in accordance with the water
 3 permit discharge schedule issued by the agency; or

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

8 7380.0340 AUTHORITY EVALUATION PROCEDURE.

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

13 7380.0350 DETERMINATION OF AMOUNT OF SUPPLEMENTAL ASSISTANCE.

14 Subpart 1. Generally. The authority shall determine the
 15 average household cost for operation, maintenance, equipment
 16 replacement, the system replacement fund for up to a maximum of
 17 fifty cents per 1,000 gallons of wastewater, and debt service
 18 under the water pollution control revolving fund, taking into
 19 account the applicant's own funds available for the project and
 20 any other grant-in-aid programs that the applicant is eligible
 21 for and can expect to obtain. ~~Applicants must impose a~~
 22 ~~residential sewer service charge of at least \$18 per month per~~
 23 ~~household, or 1.5 percent of the applicant's median household~~
 24 ~~income level, whichever is greater.~~ At the time of approval for
 25 a water pollution control revolving fund loan, the applicant's
 26 residential sewer service charge is calculated to be at least
 27 \$18 per month per household or 1.5 percent of the applicant's
 28 median household income level, whichever is greater. If
 29 necessary, the authority shall update the applicant's
 30 demographic information and sewer and water service charges
 31 using the Consumer Price Index, state demographer data, or other
 32 indexing methods, as provided in part 7380.0440, subpart 4, item
 33 D.

34 Subp. 2. Supplemental assistance computation. The
 35 authority shall determine the amount of assistance necessary to

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

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

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

18 A. the applicant is a multijurisdiction sanitary
19 sewer district;

20 B. the residential water service fees in the
21 applicant's jurisdictional area are in excess of \$2 per 1,000
22 gallons;

23 C. the applicant has a poverty rate that exceeds two
24 times the national average; or

25 D. the applicant provides at least ten percent of the
26 project cost from its own funds.

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

32 Subp. 6. **Supplemental assistance limitation.** Supplemental
33 assistance shall not be used to reduce the sewer service charges
34 of a significant wastewater contributor unless the applicant can
35 demonstrate to the authority that the significant wastewater
36 contributor cannot pay its fair share. In order to demonstrate

1 the inability of the significant wastewater contributor to pay
2 its fair share, the applicant shall provide the significant
3 wastewater contributor's past three year's financial statements
4 and business plans to the authority. A significant wastewater
5 contributor is as defined in part 7380.0410, subpart 20.

6 7380.0360 REPAYMENT OF SUPPLEMENTAL ASSISTANCE.

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

10 A. Supplemental assistance shall be repaid on
11 February 20 or August 20, whichever is the first date after the
12 project is scheduled to be completed and to meet its one-year
13 performance certification. The repayments of loans to the
14 authority provided by this part shall be as provided in part
15 7380.0430, subpart 5.

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

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

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

24 7380.0370 ASSISTANCE TO ECONOMIC DEVELOPMENT PROJECTS.

25 As provided in Minnesota Statutes, section 446A.071,
26 subdivisions 1, paragraph (c), and 4, paragraph (c), the
27 authority may set aside up to ten percent of program funds to
28 provide supplemental assistance to municipalities, identified by
29 the commissioner of Trade and Economic Development, for
30 wastewater treatment projects or portions of projects that are
31 necessary to accommodate economic development projects.

32 Economic development projects provided for by this subpart shall
33 be funded on a first-come, first-served basis. Assistance shall
34 be as provided by this part, except part 7380.0320, subpart 1,
35 shall not apply. Unexpended economic development funds in a

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1 given year may be carried over to the following year as provided
2 in Minnesota Statutes, section 446A.11, subdivision 13.

3 7380.0380 RELEASE OF FUNDS.

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