

1 Department of Trade and Economic Development

2

3 Adopted Permanent Rules Relating to Water Pollution Control

4 Revolving Fund

5

6 Rules as Adopted

7 7380.0400 PURPOSE.

8       The Water Pollution Control Revolving Fund administered by  
9 the Minnesota Public Facilities Authority provides loans and  
10 other forms of financial assistance for the planning, designing,  
11 and construction of municipal wastewater treatment systems to  
12 assure maintenance of progress toward municipal compliance, or  
13 implementation of nonpoint source management controls, as  
14 required by the Federal Water Pollution Control Act, to  
15 municipalities for projects that have been certified by the  
16 Minnesota Pollution Control Agency. The United States  
17 Environmental Protection Agency provides a capitalization grant  
18 to the state of Minnesota to provide loans through the authority  
19 to ensure that the Revolving Fund is available to finance water  
20 pollution control projects in perpetuity. The terms and  
21 conditions of the loan agreement for financial assistance  
22 provided by the authority must be in conformance with the  
23 Federal Water Pollution Control Act, United States Code, title  
24 33, particularly sections 1381 to 1387, the rules of the agency,  
25 and this part.

26 7380.0410 DEFINITIONS.

27                   [For text of subps 1 to 5, see M.R.]

28       Subp. 6. **Dedicated sources of revenue for repayment.**

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

35                   [For text of subps 7 to 13, see M.R.]

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

7 [For text of subp 15, see M.R.]

8 Subp. 16. **Municipal service area.** "Municipal service area"  
9 means the geographic area of the municipality.

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

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

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

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

34 7380.0420 PROCEDURES FOR FINANCIAL ASSISTANCE APPLICATIONS  
35 PROCESSING.

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

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

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

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

24 [For text of subps 3 to 5, see M.R.]

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

33 [For text of items A to C, see M.R.]

34 7380.0430 AUTHORITY EVALUATION PROCEDURE.

35 [For text of subpart 1, see M.R.]

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

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

9                           [For text of item B, see M.R.]

10                           [For text of subp 3, see M.R.]

11           Subp. 4. **Dedicated sources of revenue.** Loan recipients

12 shall establish, and identify in the application, dedicated  
13 sources of revenue sufficient to operate and maintain the new  
14 facility, replace equipment, and fully amortize the loan for a  
15 term of not more than 20 years. The authority shall examine the  
16 identified dedicated sources of revenue to ensure that they are  
17 a sufficient amount and of sufficient certainty to fully repay  
18 the loan. Municipalities whose projects involve significant  
19 wastewater contributors shall be required to enter into an  
20 agreement with the significant wastewater contributor so as to  
21 ensure that the municipality and the authority are adequately  
22 protected in the event that the significant wastewater  
23 contributor curtails its operations, ceases operations, or moves  
24 out of the municipality.

25           Subp. 5. **Payments.** The first principal and interest

26 payment is due and payable not later than one year after project  
27 completion, or 24 months from the approval of the loan by the  
28 authority, whichever is earlier. Subsequent principal and  
29 interest payments by the loan recipient must be made at the  
30 times agreed upon by the loan recipient and the authority in the  
31 loan agreement. In general, semiannual loan payments will be  
32 required, unless a different payment schedule is agreed upon and  
33 provided in the loan agreement. However, in no case shall  
34 payments be less frequent than annual principal and interest  
35 payments sufficient to amortize the debt within the contracted  
36 period. Interest shall accrue on any funds paid out to the

1 borrower by the authority starting six months prior to the due  
2 date of the first loan repayment to the authority.

3 7380.0440 INTEREST RATE DETERMINATIONS.

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

9 Subp. 2. Setting of interest rates.

10 A. The interest rate charged to a loan recipient must  
11 be determined by the authority using as guidance the quarterly  
12 set rate in effect at either the time of the municipality's  
13 application to the authority, or at the time of the approval of  
14 the loan by the authority as determined by the municipality at  
15 the time of the approval by the authority.

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

27 [For text of item C, see M.R.]

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

30 [For text of subp 3, see M.R.]

31 Subp. 4. Demographic considerations.

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

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

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

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

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

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

25           C. The metropolitan and nonmetropolitan median  
26 household income levels of the state must be determined from  
27 income data from the most recent census of the United States or  
28 from data from the state demographer. The data provided must be  
29 applied as the criteria to determine if the municipality's  
30 service area household income is at, below, or above the median  
31 household level for the metropolitan or nonmetropolitan area as  
32 applicable.

33           D. If there is reason to believe that the United  
34 States census data or the data from the state demographer is not  
35 a currently accurate representation of the median household  
36 income, poverty level, or population of the municipality, the

1 applicant may document the reasons why the data is not an  
2 accurate representation, and obtain additional information  
3 regarding median household income, poverty level, or population  
4 of the municipality. The information must consist of reliable  
5 data from local, regional, state or federal sources, or from a  
6 survey conducted by a reliable impartial source. If the  
7 authority determines that the demographic data submitted by the  
8 municipality does not reflect the most current or accurate  
9 measure of the municipality's population, median household  
10 income level, and poverty level, the authority shall update the  
11 demographic data to reflect the most current and accurate  
12 figures.

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

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

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

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

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

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

36 (3) is at or exceeds two percent of the

1 applicant's median household income, the municipality is  
2 eligible for a 150 basis point reduction in the interest rate.

3       Subp. 6. Interest-free or reduced rate loans. The  
4 authority shall reduce interest rates further or offer  
5 interest-free loans to municipalities which are approved for the  
6 wastewater infrastructure funding program as provided in parts  
7 7380.0300 to 7380.0380. The authority shall limit the number of  
8 and the amount of interest-free loans in a given year if the  
9 offering of such loans would impair the ability of the fund to  
10 meet anticipated future financing needs or the revenue coverage  
11 requirements of the fund.

12       Interest-free loans for any applicant are limited to  
13 \$1,000,000, or the eligible cost of the project, whichever is  
14 less. The authority shall not provide interest-free loans, in  
15 total, exceeding up to ten percent of the total capitalization  
16 grant funds scheduled to be received by the authority.

17 7380.0480 REPORTS AND AUDITS.

18                   [For text of subpart 1, see M.R.]

19       Subp. 2. Audits. Financial assistance recipients must  
20 arrange and pay for independent audits, acceptable to the  
21 authority and prepared, if required by the Clean Water Act, in  
22 compliance with the Office of Management and Budget, Circular  
23 A-128, published in the Federal Register, volume 50, number 188,  
24 page 39083, on September 27, 1985, and in compliance with the  
25 Single Audit Act of 1984, United States Code, title 31, sections  
26 7501 to 7507.

27 RENUMBERING INSTRUCTION. Minnesota Rules, part 7380.0410,  
28 subpart 16, shall be renumbered as subpart 12a.