

1 Public Facilities Authority

2 Adopted Permanent Rules Relating to Grants and Loans

3 7380.0250 DEFINITIONS.

4 Subpart 1. **Scope.** The terms defined in this part apply to
5 parts 7380.0250 to 7380.0480. In addition, terms defined in
6 Minnesota Statutes, chapter 446A, have the meanings as defined
7 therein.

8 Subp. 2. **Act.** "Act" means:

9 A. for the drinking water revolving fund in parts
10 7380.0252 to 7380.0297, act means the Public Health Service Act,
11 as amended, federal Safe Drinking Water Act, United States Code,
12 title 42, chapter 6A, Public Health Service, subchapter 12,
13 Safety of Public Water Systems, Part E, sections 300j-12, et
14 seq., Public Law 104-184, title XIV, section 1452, Part E; and

15 B. for the water pollution control revolving fund in
16 parts 7380.0400 to 7380.0480, act means the federal Water
17 Pollution Control Act, as amended, United States Code, title 33,
18 Navigation and Navigable Waters Act, chapter 26, Water Pollution
19 Control and Prevention, subchapter VI, State Water Pollution
20 Control Revolving Funds, section 1381, et seq., Public Law
21 92-500.

22 Subp. 3. **Applicant.** "Applicant" means an entity that has
23 applied, or intends to apply, to the authority for financial
24 assistance, and:

25 A. for a drinking water revolving fund project, is
26 any county, city, town, township, regional entity, or other
27 governmental entity, or such other entity as provided in part

1 4720.9010, which is responsible for providing public drinking
2 water.

3 If an entity responsible for providing public drinking
4 water is not empowered to issue a general obligation bond to the
5 authority and another governmental entity agrees to issue a
6 general obligation bond on behalf of the drinking water
7 supplier, applicant refers to both entities. All data used in
8 these circumstances to determine the interest rate of a loan
9 under part 7380.0272 shall be based on the entity responsible
10 for providing public drinking water; or

11 B. for a water pollution control revolving fund
12 project, is a governmental unit as defined in Minnesota
13 Statutes, section 446A.02, subdivision 5.

14 Subp. 4. **Application.** "Application" means the completed
15 documents, including the application forms obtained from the
16 authority, submitted to the authority by the applicant which
17 contain information and data in support of the applicant's
18 request for financial assistance.

19 [For text of subp 5, see M.R.]

20 Subp. 5a. **Base discount.** "Base discount" means the
21 interest rate discounts set by the authority in the drinking
22 water revolving fund intended use plan and the water pollution
23 control revolving fund intended use plan to be applied in the
24 determination of interest rates as provided in parts 7380.0272,
25 subpart 3, and 7380.0442, subpart 3. The authority shall have
26 the option to set the base discount at decreasing levels for
27 increasing loan amounts.

1 [For text of subp 6, see M.R.]

2 Subp. 6a. **Bond yield scale-authority bonds.** "Bond yield
3 scale-authority bonds" or "authority scale" means a scale of
4 annual rates that consists of the yield to maturity for each
5 maturity including mandatory sinking fund redemptions of the
6 applicable series of authority bonds. If a loan has principal
7 redemptions in years for which no maturity exists in the
8 authority bond series, the authority will use, for those years,
9 the rates from the applicable bond yield scale-market index.

10 Subp. 6b. **Bond yield scale-market index.** "Bond yield
11 scale-market index" or "market scale" means the scales of annual
12 rates by term of maturity and by grade, for example, Aaa, Aa, A,
13 on tax-exempt municipal bonds, from a nationally recognized
14 daily index.

15 Subp. 7. **Borrower.** "Borrower" means an applicant that has
16 entered into a loan agreement with the authority.

17 Subp. 8. [See repealer.]

18 Subp. 8a. **Debt security.** "Debt security" means a general
19 obligation bond or note, revenue bond, or promissory note and
20 other instruments required by the authority.

21 Subp. 9. **Debt service account.** "Debt service account"
22 means a separate account established and maintained in a
23 borrower's official financial records to account for the
24 accumulation of resources for, and the payment of, the debt
25 security issued by a borrower and purchased by the authority to
26 effect the loan transaction for the financing of the borrower's
27 ~~drinking-water-supply~~ project.

1 Subp. 10. Dedicated sources of revenue. "Dedicated
2 sources of revenue" means one or more sources of revenue pledged
3 by a borrower for payment of debt service required by the loan
4 agreement.

5 Subp. 10a. Default. "Default" means a failure by a
6 borrower to make timely payments of interest and principal or a
7 failure to comply with the terms and conditions of the debt
8 security and the loan agreement with the authority, including
9 parts 7380.0250 to 7380.0480, where applicable.

10 Subp. 11. [See repealer.]

11 Subp. 12. Eligible costs. "Eligible costs" means the
12 costs that may be financed by the authority, pursuant to the
13 applicable acts, provided that the eligible cost items are
14 reasonable, necessary, permitted by the applicable law, and are
15 within the project scope as certified by the Department of
16 Health or Pollution Control Agency, as applicable. Eligible
17 costs may include, but are not limited to, the following:

18 A. land acquisition costs:

19 (1) for a drinking water revolving fund project
20 under United States Code, title 42, chapter 6A, subchapter XII,
21 Part E, section 300j-12; and

22 (2) for a water pollution control revolving fund
23 project ~~if the land will be an integral part of the wastewater~~
24 ~~treatment process~~, under United States Code, title 33, chapter
25 26, subchapter VI, sections 1381 to 1387;

26 B. site preparation;

27 C. construction costs;

- 1 D. engineering costs;
- 2 E. cost of equipment and machinery;
- 3 F. bond issuance costs;
- 4 G. underwriting, financial advisor, or placement
- 5 fees;
- 6 H. trustee or paying agent fees;
- 7 I. fees of guarantor, insurer, or financial
- 8 institution, other than the authority, which provide letters of
- 9 credit, surety bonds, or equivalent security;
- 10 J. certain contingency costs;
- 11 K. interest costs during construction, including
- 12 capitalized interest; and
- 13 L. legal fees, including those of the authority.

14 Subp. 13. [See repealer.]

15 Subp. 14. **Executive director.** "Executive director" means

16 the executive director of the authority.

17 Subp. 15. **Financial capability.** "Financial capability"

18 means the capability of an applicant to pay for its portion of

19 the project costs, debt service, operation, and maintenance.

20 Financial capability indicators include, but are not limited to,

21 available fiscal and socioeconomic data such as population

22 trends, median household income, composition of municipal

23 long-term debt, debt per capita, debt service coverage ratio,

24 and available reports such as audits or financial statements, as

25 applicable, financial forecasts, credit reports, and net worth

26 calculations.

27 [For text of subp 16, see M.R.]

1 Subp. 17. **Fund.** "Fund" means:

2 A. for parts 7380.0252 to 7380.0297, the drinking
3 water revolving fund as provided in Minnesota Statutes, section
4 446A.081, subdivision 2; or

5 B. for parts 7380.0400 to 7380.0480, the water
6 pollution control revolving fund created by Minnesota Statutes,
7 section 446A.07.

8 Subp. 18. **General obligation bond.** "General obligation
9 bond" means a bond or note secured by the full faith and credit
10 of a borrower as provided in Minnesota Statutes, chapters 116A
11 and 475.

12 [For text of subp 19, see M.R.]

13 Subp. 20. [See repealer.]

14 Subp. 20a. **Loan.** "Loan" means the transaction in which
15 the authority purchases the debt security of a borrower.

16 Subp. 21. **Loan agreement.** "Loan agreement" means the
17 financing agreement between a borrower and the authority that
18 outlines the terms and conditions under which the authority will
19 purchase the debt security of the borrower.

20 Subp. 21a. **Loan closing.** "Loan closing" means the date on
21 which a borrower delivers and the authority accepts an executed
22 debt security.

23 Subp. 21b. **Municipal drinking water system.** "Municipal
24 drinking water system" means the collective term to denote all
25 property involved in the operation of a public drinking water
26 supply system, including, but not limited to, the source of the
27 drinking water supply, treatment facilities, water storage,

1 water lines, valves, meters, and general property, regardless of
2 whether a private, public, or nonprofit system.

3 Subp. 21c. **Municipal storm water system.** "Municipal storm
4 water system" means the collective term to denote all publicly
5 owned property involved in the operation of a storm water
6 treatment system including, but not limited ~~limited~~ to, a
7 device, method, system, or systems designed to reduce, store,
8 treat, separate, stabilize, or dispose of storm water for
9 purposes of preventing or abating pollution, or maintaining or
10 improving water quality.

11 Subp. 21d. **Municipal wastewater system.** "Municipal
12 wastewater system" means the collective term to denote all
13 publicly owned property involved in the operation of a
14 wastewater treatment system, including, but not limited to,
15 collector sewers, interceptors, lift stations, treatment
16 facilities, outfall lines, and general property.

17 Subp. 22. [See repealer.]

18 Subp. 23. **Official statement.** "Official statement" means
19 the legal document prepared by the authority that summarizes all
20 the salient features of the underlying documents and agreements
21 which support the bond offerings of the authority. It is
22 considered a disclosure document which presents information that
23 is material to the offering, and contains what a reasonable
24 investor would need to know in making a decision about investing
25 in the bond offering. The document sets forth the pertinent
26 facts concerning the issuer, the issuer's financial condition,
27 the security pledged for the bonds being offered, the projected

1 use of the proceeds of the bond sale, and pertinent facts about
2 the authority's borrowers.

3 Subp. 24. **Participation loan.** "Participation loan" means
4 a loan made under contract with a financial institution in which
5 the authority purchases a portion of the financial institution's
6 loan to an eligible borrower. The authority's share of the
7 participation loan must not exceed 50 percent of the loan
8 balance at the time of purchase or \$50,000, whichever is less.

9 Subp. 25. [See repealer.]

10 Subp. 25a. **Project.** "Project" means the planning, design,
11 and construction of a drinking water, wastewater, or storm water
12 system, or portion thereof, for which an applicant applies for
13 financial assistance from the authority.

14 [For text of subp 26, see M.R.]

15 Subp. 27. [See repealer.]

16 Subp. 27a. **Project service area.** "Project service area"
17 means the geographic area to be served by the project. If the
18 project will serve only a portion of the entire geographic area
19 served by the ~~municipality's~~ applicant's drinking water,
20 wastewater, or storm water system, the project service area
21 shall be that portion of the geographic area to be served by the
22 project, unless any of the costs of the project will be paid by
23 the entire geographic area served by the ~~municipality's~~
24 applicant's drinking water, wastewater, or storm water system.

25 Subp. 27b. **Residential system cost.** "Residential system
26 cost" means that portion of the costs associated with building,
27 operating, and maintaining the municipal drinking water system,

1 the municipal storm water system, or the municipal wastewater
2 system that will be charged to residential users in the project
3 service area.

4 Subp. 28. Revenue bond. "Revenue bond" means a bond or
5 note payable from one or more specified sources of revenue and
6 to which the full faith and credit of the issuing entity is not
7 pledged, issued by a city of the first class which cannot issue
8 a general obligation bond to finance its water supply system
9 without first obtaining the approval of the electors at a
10 referendum.

11 Subp. 28a. Significant storm water contributor.

12 "Significant storm water contributor" means a nonresidential
13 property owner or developer from whose property the current
14 storm water flow or the projected storm water flow causes the
15 need for the project, or which, after project completion, will
16 exceed 50 percent of the storm water treatment system's capacity.

17 Subp. 28b. Significant storm water contributor agreement.

18 "Significant storm water contributor agreement" means a written
19 agreement between a borrower and a significant storm water
20 contributor that will protect the financial interest of the
21 borrower in the event the storm water contributor curtails or
22 ceases its operation. This agreement must include a secured,
23 written guarantee by the significant storm water contributor for
24 its proportional share of the debt payments for the term of the
25 authority's loan with the borrower.

26 Subp. 28c. Significant wastewater contributor.

27 "Significant wastewater contributor" means a nonresidential user

1 of a municipal wastewater treatment system whose current
2 wastewater flow or projected wastewater flow causes the need for
3 the construction of the project, or whose wastewater
4 contribution, after project completion, will exceed 50 percent
5 of the wastewater treatment system's capacity.

6 Subp. 28d. **Significant wastewater contributor agreement.**

7 "Significant wastewater contributor agreement" means a written
8 agreement between a borrower and a significant wastewater
9 contributor that will protect the financial interest of the
10 borrower in the event the wastewater contributor curtails or
11 ceases its operation. The agreement must include a secured,
12 written guarantee by the significant wastewater contributor for
13 its proportional share of the debt payments for the term of the
14 authority's loan with the borrower.

15 Subp. 29. **Significant water user.** "Significant water user"
16 means a nonresidential user of a municipal drinking water system
17 whose current water needs or projected water needs cause the
18 need for construction of the project, or whose water intake
19 after the project is completed will exceed 50 percent of the
20 total gallons annually supplied by the water supply system.

21 Subp. 29a. **Significant water user agreement.** "Significant
22 water user agreement" means an agreement between a borrower and
23 a significant water user that will protect the financial
24 interest of the borrower in the event the water user curtails or
25 ceases its operation. The agreement must include a secured,
26 written guarantee by the significant water user for its
27 proportional share of the debt payments for the term of the

1 authority's loan with the borrower.

2 Subp. 30. [See repealer.]

3 Subp. 31. [See repealer.]

4 Subp. 32. [See repealer.]

5 Subp. 33. [See repealer.]

6 7380.0252 PURPOSE.

7 The drinking water revolving fund provides loans and other
8 forms of financial assistance to eligible public drinking water
9 suppliers to plan, design, and construct facilities to ensure
10 safe and adequate drinking water. Under the provisions of the
11 federal Safe Drinking Water Act and Minnesota Statutes, section
12 446A.081, the Minnesota Public Facilities Authority receives
13 capitalization grants from the United States Environmental
14 Protection Agency and is responsible for managing the fund in
15 perpetuity, including making loans to eligible borrowers and
16 receiving debt service payments. Parts 7380.0252 to 7380.0297
17 provide for the authority's administration of its
18 responsibilities under Minnesota Statutes, section 446A.081.
19 The Minnesota Department of Health also has administrative
20 responsibilities under Minnesota Statutes, section 446A.081,
21 including determining project priorities and approving projects
22 prior to the award of financial assistance by the authority.
23 Parts 4720.9000 to 4720.9080 provide for the administration of
24 the Minnesota Department of Health's responsibilities.

25 7380.0255 INTENDED USE PLAN.

26 Subpart 1. Adoption of intended use plan. The authority

1 shall, after providing for public notice and comment, annually
2 adopt an intended use plan which describes the intended uses of
3 the amounts in the fund in a particular fiscal year. The
4 intended use plan shall identify:

5 A. projects listed in the fundable range on the prior
6 year's intended use plan that met the application requirements
7 in part 7380.0260 and were certified by the Department of Health
8 as provided in part 4720.9060 but did not receive a loan award;

9 B. new projects meeting the eligibility requirements
10 in subpart 2 which are in the fundable range as determined in
11 subpart 3;

12 C. the base ~~discounts~~ discount for interest rates on
13 loans ~~under-part-7380-02727-subpart-37-item-A;~~ and

14 D. the other eligible activities to be funded as
15 provided in the act, and the amounts to be allocated for each.

16 Subp. 2. Eligibility. To be eligible for placement on the
17 intended use plan:

18 A. the project must be listed on the project priority
19 list maintained by the Department of Health as provided in part
20 4720.9015; and

21 B. the applicant must submit a written request to the
22 authority for placement on the intended use plan that includes:

23 (1) a brief description of the project for which
24 financial assistance is sought;

25 (2) a project cost estimate and the requested
26 loan amount; and

27 (3) a project schedule indicating that the

1 project will proceed in the fiscal year for which the intended
2 use plan is being prepared.

3 Subp. 3. Fundable range. Eligible projects shall be
4 listed on the intended use plan in order of their priority on
5 the project priority list maintained by the Department of
6 Health, as provided in part 4720.9015, beginning first with the
7 projects identified in subpart 1, item A, and, secondly with the
8 projects meeting the requirements in subpart 1, item B. The
9 authority shall identify the fundable range based on the amount
10 determined to be available for loans.

11 Subp. 4. [See repealer.]

12 Subp. 5. Amendments to intended use plan. If the
13 authority determines that sufficient funds are available and
14 projects meet the eligibility criteria of subpart 2, the
15 authority has the option to amend the intended use plan to place
16 additional projects in the fundable range.

17 7380.0260 APPLICATIONS.

18 Subpart 1. Timing. Applicants whose projects are listed
19 in the fundable range on the intended use plan as described in
20 part 7380.0255 must submit the following within six months after
21 the date the authority adopts the intended use plan or an
22 amendment to the intended use plan:

23 A. an application for financial assistance to the
24 authority; and

25 B. plans and specifications for construction projects
26 to the Department of Health as provided in part 4720.9045.

27 Subp. 2. [See repealer.]

1 Subp. 3. [See repealer.]

2 Subp. 4. **Complete applications.** An application must
3 contain the required forms, data, exhibits, and documentation
4 for the authority to make an informed determination that:

5 A. the financing of the project is fully assured;

6 B. the applicant has the financial capability to
7 repay the loan based on the authority's analysis of ~~information~~
8 ~~which may include~~ user charges, special assessments, population
9 trends, major employers, building permits, largest taxpayers,
10 trends of estimated market values, property tax rates, property
11 tax collection, net tax capacity, indebtedness, budget
12 forecasts, planned capital expenditures, and other information
13 ~~deemed-necessary~~ requested by the authority to make an informed
14 determination on the creditworthiness of the applicant;

15 C. the applicant has provided the assurances,
16 certifications, and resolutions necessary to comply with the
17 laws and regulations applicable to the fund; and

18 D. adequate collateral is being provided by the
19 applicant to secure the loan.

20 Subp. 5. [See repealer.]

21 Subp. 6. **Evaluation of applications.** The executive
22 director and staff shall evaluate applications for projects
23 certified by the Department of Health to determine the
24 applicant's capacity to comply with the act, Minnesota Statutes,
25 section 446A.081, parts 7380.0250 to 7380.0297, the loan
26 agreement, and the covenants of the debt security that will be
27 issued. When the Department of Health's certification of an

1 applicant's project and the as-bid costs have been received, the
2 staff shall provide a signed recommendation to the authority,
3 approved and countersigned by the executive director,
4 recommending whether the loan should be approved, approved with
5 special conditions, or rejected.

6 Subp. 7. Rejection of an application. The authority or
7 executive director on behalf of the authority shall reject an
8 application for financial assistance for one or more of the
9 following reasons:

10 A. failure of the project to receive certification by
11 the Department of Health under part 4720.9060;

12 B. failure of the applicant to submit a complete
13 application as provided in subpart 4;

14 C. failure of the applicant to develop and document
15 dedicated sources of revenue sufficient to ensure debt service
16 payment of the loan and adequate operation and maintenance of
17 the facility;

18 [For text of item D, see M.R.]

19 E. failure of the applicant to demonstrate
20 creditworthiness sufficient to repay the authority debt or
21 adequately collateralize the loan;

22 F. failure of the applicant to demonstrate its
23 capacity to comply with the act, Minnesota Statutes, section
24 446A.081, parts 7380.0252 to 7380.0297, the loan agreement, and
25 the covenants of the debt security; or

26 G. failure of the applicant to correct a default
27 condition on a prior loan with the authority.

1 7380.0265 LOAN TERMS AND CONDITIONS.

2 Subpart 1. In general. Subject to the availability of
3 funds, the authority shall provide loans or other financial
4 assistance for eligible costs of projects listed in the fundable
5 range on the intended use plan which are not rejected for any of
6 the reasons listed in part 7380.0260, subpart 7. The act, other
7 applicable federal laws and regulations, Minnesota Statutes,
8 Minnesota Rules including parts 7380.0252 to 7380.0297, the
9 capitalization grant, and the authority's basic bond resolution
10 and series bond resolution, all as amended from time to time,
11 govern the terms and conditions of the loan agreement issued by
12 the authority. Except as provided in subpart 3, all borrowers
13 shall issue a general obligation bond or a revenue bond to the
14 authority as debt security for the loan agreement. The
15 borrower's authorizing resolution for issuance of debt to the
16 authority shall acknowledge the primacy of the terms and
17 conditions of the loan agreement.

18 Subp. 2. Borrowers providing general obligation or revenue
19 bonds. A borrower providing a general obligation or revenue
20 bond to the authority must use a nationally recognized bond
21 counsel, identified as such and included in The Bond Buyer's
22 Municipal Marketplace Directory, to prepare the bonds and other
23 related documentation and render an opinion to the authority.
24 Items A to F apply to borrowers providing general obligation or
25 revenue bonds to the authority.

26 A. The loan must be amortized over a period not to
27 exceed 20 years. In no case may the term of the loan exceed the

1 design life of the project being financed.

2 [For text of items B to D, see M.R.]

3 E. The borrower shall begin making interest payments
4 on the loan no later than one year after approval of the loan.
5 The principal payments must begin no later than 18 months after
6 approval of the loan or one year after project completion as
7 estimated in the application, whichever is earlier. Principal
8 and interest payments must be made in the amounts and at the
9 times stated by the authority in the loan agreement. Interest
10 accrues immediately on funds disbursed to the borrower by the
11 authority.

12 F. Throughout the life of the loan ~~the authority may~~
13 ~~request and~~ the borrower shall, upon request of the authority:

14 (1) update pertinent information contained in the
15 original application;

16 (2) attest that the information does not contain
17 any untrue statement of material fact; and

18 (3) authorize the authority to use the
19 information to meet its continuing disclosure obligations; ~~and~~

20 ~~(4) notify the authority if the borrower becomes~~
21 ~~aware of any changes that cause the information submitted to~~
22 ~~contain an untrue statement or omit a material fact.~~

23 Subp. 3. Borrowers not providing general obligation or
24 revenue bonds. The authority shall provide financial assistance
25 to a borrower not issuing a general obligation or revenue bond
26 by utilizing a participation loan. The maximum participation
27 must not exceed 50 percent of the loan balance at time of

1 purchase or \$50,000, whichever is less. The terms and
2 conditions in items A to D apply to participation loans.

3 A. The maximum term of the loan shall be based on the
4 useful life of the project not to exceed the following limits:

5 [For text of subitems (1) to (3), see M.R.]

6 [For text of items B and C, see M.R.]

7 D. For participation loans, the financial institution
8 and the authority shall take a proportional security interest in
9 capital assets or real property of the borrower to collateralize
10 the loan.

11 7380.0272 INTEREST RATE DETERMINATIONS.

12 Subpart 1. In general.

13 A. Except as provided in part 7380.0275 for
14 participation loans, the rate of interest on a loan must be
15 based on the principal redemption schedule of the loan, the
16 appropriate bond yield scale identified in subpart 2, and the
17 applicable interest rate discounts identified in subpart 3.

18 B. The interest rate on a loan must be set based on
19 the date that the authority receives from the applicant a formal
20 request to proceed with the loan agreement. This must be after
21 the authority has received all of the following:

22 (1) a complete application;

23 (2) project certification by the Department of
24 Health; and

25 (3) documentation of as-bid costs.

26 C. In no case may the interest rate on a loan be less
27 than one percent.

1 D. For loans funded in whole or in part with proceeds
2 of authority bonds, the rate of interest on those loans must not
3 exceed a rate which results in the yield on the loan being
4 materially higher than the yield on the bonds as required and
5 defined in the Internal Revenue Code of 1986, as amended, and
6 the regulations and interpretations of the United States
7 Department of Treasury promulgated with respect thereto,
8 including and without limitation Code of Federal Regulations,
9 title 26, section 1.148(2)(d).

10 Subp. 2. **Bond yield scale.** The bond yield scale used in
11 calculating the loan rate must be the greater of the adjusted
12 authority scale, if authority bond proceeds are available, or
13 the market scale, as described in items A to D.

14 A. For loans secured with a tax-exempt general
15 obligation bond, the rate must be based on the greater of the
16 Aaa market scale or the unadjusted authority scale.

17 B. For loans secured with a taxable general
18 obligation bond, the rate must be based on the greater of the Aa
19 market scale or the authority scale adjusted for the difference
20 between the Aaa market scale and the Aa market scale.

21 C. For loans under item A, the authority has the
22 option to accept a tax-exempt revenue bond, in place of a
23 tax-exempt general obligation bond, from a city of the first
24 class that cannot issue a general obligation bond to finance a
25 water supply system without first obtaining the approval of the
26 electors at a referendum. The rate for a loan secured with a
27 tax-exempt revenue bond must be based on the greater of the Aaa

1 market scale or the unadjusted authority scale.

2 D. For loans under item B, the authority has the
3 option to accept a taxable revenue bond, in place of a taxable
4 general obligation bond, from a city of the first class that
5 cannot issue a general obligation bond to finance a water supply
6 system without first obtaining the approval of the electors at a
7 referendum. The rate for a loan secured with a taxable revenue
8 bond must be based on the greater of the Aa market scale or the
9 authority scale adjusted for the difference between the Aaa
10 market scale and the Aa market scale.

11 Subp. 3. Interest rate discounts. Interest rate discounts
12 must be provided as described in items A and B unless item C
13 applies.

14 A. Borrowers are eligible for a base discounts
15 discount as determined by the authority in part 7380.0255,
16 subpart 1, item C.

17 B. Borrowers with a project service area population
18 under 2,500 ~~population~~ must receive additional discounts on loan
19 amounts up to \$20,000 per household as provided in subitems (1)
20 and (2).

21 (1) A borrower must receive an interest rate
22 discount of 50 basis points if the median household income level
23 of the borrower is below the median household income level for
24 the metropolitan or nonmetropolitan area, as applicable, based
25 on the most recent census.

26 (2) A borrower must receive an interest rate
27 discount based on its estimated average annual residential

1 system cost per household after completion of the project. If
2 the average residential system cost per household, as a
3 percentage of median household income of the borrower, is
4 greater than:

5 (a) 2.00 percent, the borrower must receive
6 a discount of 150 basis points;

7 (b) 1.75 percent but less than 2.00 percent,
8 the borrower must receive a discount of 125 basis points;

9 (c) 1.50 percent but less than 1.75 percent,
10 the borrower must receive a discount of 100 basis points;

11 (d) 1.25 percent but less than 1.50 percent,
12 the borrower must receive a discount of 75 basis points; or

13 (e) 1.00 percent but less than 1.25 percent,
14 the borrower must receive a discount of 50 basis points.

15 C. For loans with projects involving a significant
16 water user, the interest rate discounts provided in items A and
17 B must not be applied unless a significant water user agreement
18 is in place.

19 Subp. 4. **Demographic data.** For the purpose of calculating
20 interest rate discounts in subpart 3, the data used to determine
21 the population and median household income of the borrower must
22 be that which most accurately measure the current population and
23 median household income of the project's service area. If there
24 is reason to believe that the United States Census data or the
25 data from the state demographer is not a current, accurate
26 representation of the median household income or population of
27 the project's service area, the borrower may document the

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

12 7380.0275 INTEREST RATE DETERMINATIONS FOR PARTICIPATION LOANS.

13 Subpart 1. Participation loans. The interest rate on the
14 participation share of the loan purchased by the authority shall
15 be at the rate of two percent. The financial institution may
16 retain 50 percent of the interest collected on the authority's
17 participation share of the loan as payment for duties performed
18 as lead lender to the borrower.

19 Subp. 2. [See repealer.]

20 Subp. 3. Disbursement. The authority shall make a single
21 disbursement to the financial institution after project
22 completion and within 30 days upon receipt of a request and
23 supporting documentation from the financial institution.

24 7380.0277 MARKET CONSIDERATIONS.

25 Subpart 1. Market adjustments. If the authority
26 determines that market conditions are such that interest rates

1 calculated under part 7380.0272 are noncompetitive, the
2 authority has the option to establish a temporary market
3 adjustment discount in addition to the other interest rate
4 discounts established under part ~~7380.02557-subpart-1~~ 7380.0272.

5 Subp. 2. Suspension of loans.

6 A. The executive director, acting on behalf of the
7 authority, shall suspend offering loans if it is determined that
8 there are extreme or unusual events impacting the bond market
9 and that to continue making loans under existing terms,
10 conditions, and interest rates would be detrimental to the
11 authority's bondholders or the financial viability of the fund.

12 B. If loans are suspended under item A, the authority
13 shall have the option to resume making loans under existing
14 criteria or reset the criteria and the means by which it will
15 determine loan terms, conditions, and interest rates that will
16 be offered.

17 7380.0280 SUPPLEMENTAL ASSISTANCE FOR DISADVANTAGED COMMUNITIES.

18 Subpart 1. In general. The authority shall provide
19 supplemental assistance, in the form of a reduction in the
20 amount of loan principal which a borrower has to repay, to
21 public water supply systems owned by a governmental or
22 intergovernmental agency, a nonprofit organization, an Indian
23 tribe, or any combination of them that meet the criteria in
24 subpart 2. The total amount of supplemental assistance provided
25 in any one year shall not exceed ten percent of the federal
26 capitalization grants available.

27 Subp. 2. Disadvantaged community criteria. An applicant

1 is eligible for supplemental assistance as described in subpart
2 1 if:

3 A. the applicant's project receives public health
4 priority points on the Department of Health's project priority
5 list under part 4720.9020; and

6 B. after completion of the project, the applicant
7 will have an estimated average annual residential water system
8 cost of 1.4 percent of median household income or more.

9 Subp. 3. Amount of supplemental assistance. The
10 supplemental assistance amount shall be equal to 80 percent of
11 the amount needed to reduce the as-bid average annual
12 residential water system cost to 1.4 percent of median household
13 income. If the current average annual residential water system
14 cost is at or exceeds 1.4 percent of median household income,
15 the supplemental assistance amount shall be 80 percent of the
16 project cost. The supplemental assistance amount provided to a
17 single borrower shall not exceed \$500,000.

18 7380.0285 OTHER FINANCIAL ASSISTANCE.

19 In addition to the loans provided in parts 7380.0265 to
20 7380.0275 and the supplemental assistance provided in part
21 7380.0280, the authority may provide other forms of financial
22 assistance as provided in the act and in Minnesota Statutes,
23 section 446A.081, subdivision 9. The authority shall determine
24 when other forms of financial assistance are appropriate based
25 on existing financial conditions, the impact on the drinking
26 water revolving fund, the financial capacity of the borrower,
27 and the advantages to the borrower in using one form of

1 financing as opposed to another form.

2 7380.0295 RELEASE OF FUNDS.

3 Subpart 1. **In general.** No disbursements shall be made to
4 a borrower until and unless the authority has determined the
5 total estimated cost of the project and ascertained that the
6 financing of the project is assured. Subject to the
7 availability of funds and appropriate documentation of incurred
8 costs, disbursements to the borrower must be made after the
9 following occurs:

10 A. the loan closing has been completed; and

11 B. the borrower has submitted a request for payment
12 of incurred, eligible costs on forms provided by the authority.

13 Subp. 2. **Adverse change.** The authority shall not release
14 funds to a borrower for an approved project if there has been a
15 material negative change in the financial condition of the
16 borrower, as reasonably determined by the authority, since the
17 day of the completion of the application including, but not
18 limited to, a default on any general obligation bond. The
19 authority reserves the right to suspend or terminate financial
20 assistance to a borrower if the authority determines that there
21 has been an adverse change.

22 Subp. 3. **Withholding, disallowance, or termination of**
23 **disbursements.**

24 A. The authority shall withhold or disallow either
25 total or partial disbursements if:

26 (1) the commissioner of the Department of Health
27 requests disbursements be withheld or disallowed as provided in

1 part 4720.9075;

2 (2) the borrower fails to comply with the
3 requirements of the act, Minnesota Statutes, section 446A.081,
4 parts 7380.0252 to 7380.0297, the loan agreement, or the bonds
5 or promissory note and security agreement issued by the borrower
6 to the authority;

7 (3) the borrower fails to submit documentation
8 that eligible costs have been incurred; or

9 (4) the borrower fails to submit required
10 compliance reports including, but not limited to, annual audits.

11 B. If the authority withholds or disallows
12 disbursements under item A, the executive director shall give a
13 borrower written notice of the reasons and the time in which the
14 borrower must demonstrate that the condition has or will be
15 corrected. If the condition has not been corrected in the
16 specified time period, withheld or disallowed disbursements may
17 be terminated. Termination of disbursements means that the
18 amount of the loan available to the borrower is reduced by the
19 amount so terminated.

20 7380.0296 PENALTIES FOR DEFAULT.

21 Subpart 1. **Penalty for late payment.** If a borrower fails
22 to make a payment in the amount and at the times prescribed by
23 the authority, and fails to remedy the default within five
24 business days after the payment due date, the authority shall
25 charge the borrower the lesser of 18 percent per annum, based on
26 30-day months and a 360-day year or the highest interest rate
27 allowed by law, on the unpaid principal amount.

1 Subp. 2. **Penalty for material noncompliance.** If the
2 authority notifies a borrower that the borrower is not in
3 compliance with the loan conditions provided in parts 7380.0252
4 to 7380.0297, the borrower shall have three months from the date
5 of notification to return to compliance or provide a written
6 plan to the authority for returning to compliance. Upon
7 submission of a plan by the borrower, the authority shall either
8 accept or reject the plan. A borrower's failure to return to
9 compliance or to provide an acceptable plan, or failure to
10 return to compliance within the time periods specified in an
11 accepted plan, shall result in an immediate increase in the
12 interest rate on the loan by eliminating all interest rate
13 discounts that were applied in determining the interest rate
14 under part 7380.0272, subpart 3. If the authority determines
15 that the borrower has returned to compliance, the interest rate
16 on the unpaid loan principal shall revert back to the original
17 interest rate as of the date of the notification of
18 noncompliance by the authority.

19 7380.0297 REPORTS, DISCLOSURE, AND AUDITS.

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

21 Subp. 2. **Disclosure.** During the term of the loan, the
22 borrower is required on its own volition to disclose to the
23 authority any material information or events impacting the
24 creditworthiness of the borrower, including, but not limited to,
25 those requirements contained in the Code of Federal Regulations,
26 title 17, section 240.15c2-12 adopted by the United States
27 Securities and Exchange Commission. If and when required by the

1 rule, the borrower shall enter into a continuing disclosure
2 document in a form acceptable to the authority.

3 Subp. 3. Audits. Except as provided in subpart 4, a
4 municipal borrower shall provide to the authority acceptable
5 reports of independent annual audits for the term of the loan.
6 Audit reports must be submitted within 30 days after the
7 completion of the audit but no later than nine months after the
8 end of the audit period. The audits must be conducted in
9 accordance with generally accepted government auditing standards
10 and, where applicable, in compliance with the Single Audit Act
11 requirements of the federal Office of Management and Budget,
12 circular A-133, published in the Federal Register, volume 61,
13 number 215, on November 5, 1996, and in compliance with the
14 Single Audit Act Amendment of 1996, United States Code, title
15 31, sections 7501 to 7507, as amended from time to time. A
16 borrower pledging a general obligation bond shall list the debt
17 as a general obligation debt of the borrower in its audit
18 report. A borrower pledging a revenue bond shall list the debt
19 as revenue debt in its audit report.

20 Subp. 4. Waiver of audit requirements.

21 A. Beginning in the calendar year following the final
22 disbursement of loan funds, the borrower may request a waiver
23 from the authority of the annual independent audit. A waiver
24 shall be granted by the authority if ~~the-borrower-has~~
25 ~~demonstrated-satisfactory-financial-management-practices-and~~ the
26 following conditions are met:

27 (1) the borrower submits a request in writing;

1 (2) the total outstanding balance of all
2 authority loans are less than \$300,000 or such other amount
3 acceptable to the agencies that rate the authority's debt;

4 (3) independent annual audits have been provided
5 as required; and

6 (4) loan repayments have been made to the
7 authority on time;

8 (5) revenues are sufficient to repay debt and
9 operate and maintain the system; and

10 ~~(4)~~ (6) the borrower is in compliance with all
11 terms and conditions of the loan agreements.

12 B. A waiver provided to a borrower shall be revoked
13 by the authority if either any of the following conditions occur:

14 (1) failure to make payments when due; or

15 (2) failure to submit, within 12 months of the
16 end of the reporting year, an annual financial report as
17 required by the Office of the State Auditor pursuant to
18 Minnesota Statutes, section 6.47, including operating statements
19 from the enterprise funds and any future independent audits
20 completed for other purposes; or

21 (3) failure to comply with all terms and
22 conditions of the loan agreements.

23 C. The waiver shall be suspended by the authority
24 when the authority issues a new loan to the borrower.

25 ~~D.--Waivers-granted-by-the-authority-under-this~~
26 ~~subpart-remain-in-effect-until-all-authority-loans-are-fully~~
27 ~~repaid,-unless-revoked-by-the-authority-in-its-sole-option-and~~

1 ~~discretion.~~

2 7380.0400 PURPOSE.

3 The water pollution control revolving fund provides loans
4 and other forms of financial assistance to eligible
5 ~~municipalities~~ applicants to plan, design, and construct
6 municipal wastewater or storm water systems, or nonpoint source
7 pollution control. Under the provisions of the act and
8 Minnesota Statutes, section 446A.07, the authority receives
9 capitalization grants from the United States Environmental
10 Protection Agency and is responsible for managing the fund in
11 perpetuity, including making loans to eligible borrowers and
12 receiving debt service payments. Parts 7380.0400 to 7380.0480
13 provide for the authority's administration of its
14 responsibilities under Minnesota Statutes, section 446A.07. The
15 Pollution Control Agency also has administrative
16 responsibilities under Minnesota Statutes, section 446A.07,
17 including determining project priorities and approving projects
18 prior to the award of financial assistance by the authority.
19 Parts 7077.0100 to 7077.0292 provide for the administration of
20 the Pollution Control Agency's responsibilities.

21 7380.0422 INTENDED USE PLAN.

22 Subpart 1. **Adoption of intended use plan.** The authority
23 shall, after providing for public notice and comment, annually
24 adopt an intended use plan that describes the intended uses of
25 the amounts in the fund in a particular fiscal year. The
26 intended use plan shall identify:

1 A. projects listed in the fundable range on the prior
2 year's intended use plan that met the application requirements
3 in part 7380.0425 and were certified by the Pollution Control
4 Agency as provided in part 7077.0281 but did not receive a loan
5 award;

6 B. new projects meeting the eligibility requirements
7 in subpart 2 which are in the fundable range as determined under
8 subpart 3;

9 C. the base ~~discounts~~ discount for interest rates on
10 loans ~~under part 7380.04427, subpart 3, item A;~~ and

11 D. the other eligible activities to be funded as
12 provided in the act and Minnesota Statutes, section 446A.07, and
13 the amounts to be allocated for each.

14 Subp. 2. Eligibility. To be eligible for placement on the
15 intended use plan:

16 A. the project must be listed on the project priority
17 list maintained by the Pollution Control Agency as provided in
18 part 7077.0115; and

19 B. the applicant must submit a written request to the
20 authority for placement on the intended use plan that includes:

21 (1) a brief description of the project for which
22 financial assistance is sought;

23 (2) a project cost estimate and the requested
24 loan amount; and

25 (3) a project schedule indicating that the
26 project will proceed in the fiscal year for which the intended
27 use plan is being prepared.

1 Subp. 3. **Fundable range.** Eligible projects shall be
 2 listed on the intended use plan in order of their priority on
 3 the project priority list maintained by the Pollution Control
 4 Agency as provided in part 7077.0115, beginning first with the
 5 projects identified in subpart 1, item A, and, secondly, with
 6 the projects meeting the requirements in subpart 1, item B. The
 7 authority shall identify the fundable range based on the amount
 8 determined to be available for loans.

9 Subp. 4. **Amendments to intended use plan.** If the
 10 authority determines that sufficient funds are available and
 11 projects meet the eligibility criteria in subpart 2, the
 12 authority has the option to amend the intended use plan to place
 13 additional projects in the fundable range.

14 7380.0425 APPLICATIONS.

15 Subpart 1. **Timing.** Applicants whose projects are listed
 16 in the fundable range on the intended use plan as described in
 17 part 7380.0422 must submit the following within six months after
 18 the date the authority adopts the intended use plan or an
 19 amendment to the intended use plan:

- 20 A. an application for financial assistance to the
- 21 authority; and
- 22 B. plans and specifications for construction projects
- 23 to the Pollution Control Agency as provided in part 7077.0274.

24 Subp. 2. **Complete application.** An application must
 25 contain the required forms, data, exhibits, and documentation
 26 for the authority to determine that:

- 27 A. the financing of the project is fully assured;

1 B. the applicant has the financial capability to
2 repay the loan based on the authority's analysis of ~~information~~
3 ~~which-may-include~~ user charges, special assessments, population
4 trends, major employers, building permits, largest taxpayers,
5 trends of estimated market values, property tax rates, property
6 tax collection, net tax capacity, indebtedness, budget
7 forecasts, planned capital expenditures, and other information
8 ~~deemed-necessary~~ requested by the authority to make an informed
9 determination on the creditworthiness of the applicant;

10 C. the applicant has provided the assurances,
11 certifications, and resolutions necessary to comply with the
12 various laws and regulations applicable to the fund; and

13 D. adequate collateral is being provided by the
14 applicant to secure the loan.

15 Subp. 3. **Evaluation of applications.** The executive
16 director and staff shall evaluate applications for projects
17 certified by the Pollution Control Agency to determine the
18 applicant's capacity to comply with parts 7380.0400 to
19 7380.0480, the act, Minnesota Statutes, section 446A.07, the
20 loan agreement, and the covenants of the debt security that will
21 be issued. When the Pollution Control Agency's certification of
22 an applicant's project and the as-bid costs have been received,
23 the staff shall provide a signed recommendation to the
24 authority, approved and countersigned by the executive director,
25 recommending whether the loan should be approved, approved with
26 special conditions, or rejected.

27 Subp. 4. **Rejection of application.** The authority or

1 executive director on behalf of the authority shall reject an
2 application for financial assistance for one or more of the
3 following reasons:

4 A. failure of the project to receive certification
5 from the Pollution Control Agency under part 7077.0281;

6 B. failure of the applicant to submit a complete
7 application as provided in subpart 2;

8 C. failure of the applicant to develop and document
9 dedicated sources of revenue sufficient to ensure debt service
10 payment of the loan to the authority and adequate operation and
11 maintenance of the facility;

12 D. failure of the applicant to demonstrate that it
13 has the technical, managerial, and financial capability to
14 construct the facility and adequately operate and maintain the
15 wastewater system for the term of the loan;

16 E. failure of the applicant to demonstrate
17 creditworthiness sufficient to repay the authority debt or
18 adequately collateralize the loan;

19 F. failure of the applicant to demonstrate its
20 capacity to comply with parts 7380.0400 to 7380.0480, the act,
21 Minnesota Statutes, section 446A.07, the loan agreement, and the
22 covenants of the debt security; or

23 G. failure of the applicant to correct a default
24 condition on a prior loan with the authority.

25 7380.0430 LOAN TERMS AND CONDITIONS.

26 Subpart 1. In general. Subject to the availability of
27 funds, the authority shall provide loans or other financial

1 assistance for eligible costs of projects listed in the fundable
2 range on the intended use plan, which are not rejected for any
3 of the reasons listed in part 7380.0425, subpart 4. The act,
4 other applicable federal laws and regulations, Minnesota
5 Statutes, Minnesota Rules, including parts 7380.0400 to
6 7380.0480, the capitalization grant, and the authority's basic
7 bond resolution and series bond resolution, all as amended from
8 time to time, govern the terms and conditions of the loan
9 agreement issued by the authority. All borrowers shall issue a
10 general obligation bond to the authority as debt security for
11 the loan agreement. The borrower's authorizing resolution for
12 issuance of debt to the authority shall acknowledge the primacy
13 of the terms and conditions of the loan agreement.

14 Subp. 2. Borrowers pledging general obligation bonds. A
15 borrower providing a general obligation bond to the authority
16 must use a nationally recognized bond counsel, identified as
17 such and included in the Bond Buyer's Municipal Marketplace
18 Directory, to prepare the bonds and other related documentation
19 and render an opinion to the authority. Items A to F apply to
20 borrowers providing general obligation bonds to the authority.

21 A. The loan must be fully amortized over a period not
22 to exceed 20 years. In no case may the term of the loan exceed
23 the design life of the project being financed. If treatment
24 works have been segmented or phased, the debt service payment
25 requirements of this subpart apply to each phase or segment of
26 the project.

27 B. The borrower shall designate and maintain, for the

1 term of the loan, dedicated sources of revenue sufficient to
2 fully amortize the loan and to fully provide for the operation
3 and maintenance of the wastewater system.

4 C. The borrower shall establish and maintain a debt
5 service account and an operation and maintenance account in
6 amounts to achieve the purposes in items A and B.

7 D. The borrower shall maintain the technical,
8 managerial, and financial capability to adequately operate and
9 maintain the wastewater system for the full term of the loan.

10 E. The borrower shall begin making interest payments
11 on the loan no later than one year after approval of the loan.
12 The principal payments must begin no later than 18 months after
13 the approval of the loan or one year after project completion as
14 estimated in the application, whichever is earlier. Principal
15 and interest payments must be made in the amounts and at the
16 times stated by the authority, in the loan agreement. Interest
17 accrues immediately on funds disbursed to the borrower by the
18 authority.

19 F. Throughout the life of the loan ~~the authority may~~
20 ~~request and~~ the borrower shall, upon request of the authority:

21 (1) update pertinent information contained in
22 their original application;

23 (2) attest that such information does not contain
24 any untrue statement of material fact; and

25 (3) authorize the authority to use the
26 information to meet its continuing disclosure obligations; ~~and~~

27 ~~(4) notify the authority if the borrower becomes~~

1 ~~aware-of-any-changes-which-cause-the-information-submitted-to~~
2 ~~contain-an-untrue-fact-or-omit-a-material-fact.~~

3 Subp. 3. [See repealer.]

4 Subp. 4. [See repealer.]

5 Subp. 5. [See repealer.]

6 7380.0442 INTEREST RATE DETERMINATION.

7 Subpart 1. In general.

8 A. In general, the rate of interest on a loan must be
9 based on the principal redemption schedule of the loan, the
10 appropriate bond yield scale identified in subpart 2, and the
11 applicable interest rate discounts identified in subpart 3.

12 B. The interest rate on a loan must be set based on
13 the date that the authority receives from the applicant a formal
14 request to proceed with the loan agreement. This must be after
15 the authority has received all of the following:

16 (1) a complete application;

17 (2) project certification by the Pollution
18 Control Agency; and

19 (3) documentation of as-bid costs.

20 C. In no case may the interest rate on a loan be less
21 than one percent.

22 D. For loans funded in whole or in part with proceeds
23 of authority bonds, the rate of interest on those loans must not
24 exceed a rate which results in the yield on the loan being
25 materially higher than the yield on the bonds as required and
26 defined in the Internal Revenue Code of 1986, as amended, and
27 the regulations and interpretations of the United States

1 Department of Treasury promulgated with respect thereto,
2 including and without limitation Code of Federal Regulations,
3 title 26, section 1.148(2)(d).

4 Subp. 2. Bond yield scale. The bond yield scale used in
5 calculating the loan rate is the greater of the adjusted
6 authority scale, if authority bond proceeds are available, or
7 the market scale, as described in items A and B.

8 A. For loans secured with a tax-exempt general
9 obligation bond, the rate must be based on the greater of the
10 Aaa market scale or the unadjusted authority scale.

11 B. For loans secured with a taxable general
12 obligation bond, the rate must be based on the greater of the Aa
13 market scale or the authority scale adjusted for the difference
14 between the Aaa market scale and the Aa market scale.

15 Subp. 3. Interest rate discounts. Interest rate discounts
16 must be provided as described in items A and B unless item C
17 applies.

18 A. Borrowers are eligible for a base discounts
19 discount as determined by the authority in part 7380.0422,
20 subpart 1, item C.

21 B. Borrowers with a project service area population
22 under 2,500 ~~population~~ must receive additional discounts on loan
23 amounts up to \$20,000 per household as provided in subitems (1)
24 and (2).

25 (1) A borrower must receive an interest rate
26 discount of 50 basis points if the median household income level
27 of the borrower is below the median household income level for

1 the metropolitan or nonmetropolitan area, as applicable, based
2 on the most recent census.

3 (2) A borrower must receive an interest rate
4 discount based on its estimated average annual residential
5 system cost per household after completion of the project. If
6 the estimated average annual residential cost per household, as
7 a percentage of median household income of the borrower, is
8 greater than:

9 (a) 2.00 percent, the borrower must receive
10 a discount of 150 basis points;

11 (b) 1.75 percent but less than 2.00 percent,
12 the borrower must receive a discount of 125 basis points;

13 (c) 1.50 percent but less than 1.75 percent,
14 the borrower must receive a discount of 100 basis points;

15 (d) 1.25 percent but less than 1.50 percent,
16 the borrower must receive a discount of 75 basis points; or

17 (e) 1.00 percent but less than 1.25 percent,
18 the borrower must receive a discount of 50 basis points.

19 C. For loans with projects involving a significant
20 wastewater contributor, the interest rate discounts provided in
21 items A and B must not be applied unless a significant
22 wastewater contributor agreement is in place.

23 Subp. 4. Demographic data. For the purpose of calculating
24 interest rate discounts in subpart 3, the data used to determine
25 the population and the median household income of the borrower
26 must be that which most accurately measures the current
27 population and median household income of the project's service

1 area.

2 If there is reason to believe that the United States Census
3 data or the data from the state demographer is not a current,
4 accurate representation of the median household income or
5 population of the project's service area, the borrower may
6 document the reasons why the data is not an accurate
7 representation, and obtain additional information regarding
8 median household income or population of the project's service
9 area. The information must consist of reliable data from local,
10 regional, state, or federal sources, or from a survey conducted
11 by a reliable impartial source. If the authority determines
12 that the demographic data submitted by the borrower does not
13 reflect the most current or accurate measure of the population
14 and median household income of the project's service area, the
15 authority shall update the demographic data to reflect the most
16 current and accurate figures.

17 7380.0445 MARKET CONSIDERATIONS.

18 Subpart 1. **Market adjustments.** If the authority
19 determines that market conditions are such that interest rates
20 calculated under part 7380.0442 are noncompetitive, the
21 authority has the option to establish a temporary market
22 adjustment discount in addition to the other interest rate
23 discounts established under part 7380.0442.

24 Subp. 2. **Suspension of loans.**

25 A. The executive director, acting on behalf of the
26 authority, shall suspend offering loans if it is determined that
27 there are extreme or unusual events impacting the bond market

1 and that to continue making loans under existing terms,
2 conditions, and interest rates would be detrimental to the
3 authority's bondholders or the financial viability of the fund.

4 B. If loans are suspended under item A, the authority
5 shall have the option to resume making loans under existing
6 criteria or reset the criteria and the means by which it will
7 determine loan terms, conditions, and interest rates that will
8 be offered.

9 7380.0450 OTHER FINANCIAL ASSISTANCE.

10 In addition to the loans provided in parts 7380.0430 to
11 7380.0442, the authority may provide other forms of financial
12 assistance as provided in the act and in Minnesota Statutes,
13 section 446A.07, subdivision 8. The authority shall determine
14 when other forms of financial assistance are appropriate based
15 on existing financial conditions, the impact on the water
16 pollution control revolving fund, the financial capacity of the
17 borrower, and the advantages to the borrower in using one form
18 of financing as opposed to another form.

19 7380.0460 FEES.

20 If the authority charges fees, they must be as provided in
21 Minnesota Statutes, section 446A.04, subdivision 5, paragraph
22 (a).

23 7380.0470 RELEASE OF FUNDS.

24 Subpart 1. In general. No disbursements shall be made to
25 a borrower until and unless the authority has determined the
26 total estimated cost of the project and ascertained that the

1 financing of the project is assured. Subject to the
2 availability of funds and appropriate documentation of incurred
3 costs, disbursements to the borrower must be made after the
4 following occurs:

5 A. the loan closing has been completed; and

6 B. the borrower has submitted a request for payment
7 of incurred, eligible costs on forms provided by the authority.

8 Subp. 2. **Adverse change.** The authority shall not release
9 funds to a borrower for an approved project if there has been a
10 material negative change in the financial condition of the
11 borrower, as reasonably determined by the authority since the
12 day of the completion of the application including, but not
13 limited to, a default on any general obligation bond.

14 The authority reserves the right to suspend or terminate
15 financial assistance to a borrower if the authority determines
16 that there has been an adverse change.

17 Subp. 3. **Withholding, disallowance, or termination of**
18 **disbursements.**

19 A. The authority shall withhold or disallow either
20 total or partial disbursements if:

21 (1) the commissioner of the Pollution Control
22 Agency requests disbursements be withheld or disallowed as
23 provided in part 7077.0292;

24 (2) the borrower fails to comply with the
25 requirements of the act, Minnesota Statutes, section 446A.07,
26 parts 7380.0400 to 7380.0480, the loan agreement, or the bonds
27 or promissory note and security agreement issued by the borrower

1 to the authority;

2 (3) the borrower fails to submit documentation
3 that eligible costs have been incurred; or

4 (4) the borrower fails to submit required
5 compliance reports including, but not limited to, annual audits.

6 B. If the authority withholds or disallows
7 disbursements under item A, the executive director shall give a
8 borrower written notice of the reasons and the time in which the
9 borrower must demonstrate that the condition has or will be
10 corrected. If the condition has not been corrected in the
11 specified time period, withheld or disallowed disbursements may
12 be terminated. Termination of disbursements means that the
13 amount of the loan available to the borrower is reduced by the
14 amount so terminated.

15 7380.0475 PENALTIES FOR DEFAULT.

16 Subpart 1. Penalty for late payment. If a borrower fails
17 to make a payment in the amount and at the times prescribed by
18 the authority, and fails to remedy the default within five
19 business days after the payment due date, the authority shall
20 charge the borrower the lesser of 18 percent per annum, based on
21 30-day months and a 360-day year, or the highest interest rate
22 allowed by law, on the unpaid principal amount.

23 Subp. 2. Penalty for material noncompliance. If the
24 authority notifies a borrower that the borrower is not in
25 compliance with the loan conditions provided in parts 7380.0400
26 to 7380.0480, the borrower shall have three months from the date
27 of notification to return to compliance or provide a written

1 plan to the authority for returning to compliance. Upon
2 submission of a plan by the borrower, the authority shall either
3 accept or reject the plan. A borrower's failure to return to
4 compliance or to provide an acceptable plan, or failure to
5 return to compliance within the time periods specified in an
6 accepted plan, shall result in an immediate increase in the
7 interest rate on the loan by eliminating all interest rate
8 discounts that were applied in determining the interest rate
9 under part 7380.0442, subpart 3. If the authority determines
10 that the borrower has returned to compliance, the interest rate
11 on the unpaid loan principal shall revert back to the original
12 interest rate as of the date of the notification of
13 noncompliance by the authority.

14 7380.0480 REPORTS, DISCLOSURE, AND AUDITS.

15 Subpart 1. Reports. During the term of the loan, the
16 borrower shall make written reports to the authority on forms
17 provided by the authority and on a schedule determined by the
18 executive director.

19 Subp. 1a. Disclosure. During the term of the loan, the
20 borrower is required on its own volition to disclose to the
21 authority any material information or events impacting the
22 creditworthiness of the borrower, including, but not limited to,
23 those requirements contained in the Code of Federal Regulations,
24 title 17, section 240.15c2-12, adopted by the United States
25 Securities and Exchange Commission. If and when required by the
26 rule, the borrower shall enter into a continuing disclosure
27 document in a form acceptable to the authority.

1 Subp. 2. Audits. Except as provided in subpart 3, a
2 municipal borrower shall provide to the authority acceptable
3 reports of independent annual audits for the term of the loan.
4 Audit reports must be submitted within 30 days after the
5 completion of the audit but no later than nine months after the
6 end of the audit period. The audits must be conducted in
7 accordance with generally accepted government auditing standards
8 and, where applicable, in compliance with the Single Audit Act
9 requirements of the federal Office of Management and Budget,
10 Circular A-133, published in the Federal Register, volume 61,
11 number 215, on November 5, 1996, and in compliance with the
12 Single Audit Act Amendment of 1996, United States Code, title
13 31, sections 7501 to 7507, as amended from time to time. A
14 borrower pledging a general obligation bond shall list the debt
15 as a general obligation debt of the borrower in its audit report.

16 Subp. 3. Waiver of audit requirements.

17 A. Beginning in the calendar year following a final
18 disbursement of loan funds, a borrower may request a waiver from
19 the authority of the annual independent audit. A waiver must be
20 granted by the authority if ~~the-borrower-has-demonstrated~~
21 ~~satisfactory-financial-management-practices-and~~ the following
22 conditions are met:

23 (1) the borrower submits a request in writing;

24 (2) the total outstanding balance of all
25 authority loans are less than \$300,000 or such other amount
26 acceptable to the agencies that rate the authority's debt;

27 (3) independent annual audits have been provided

1 as required; and

2 (4) loan repayments have been made to the
3 authority on time;

4 (5) revenues are sufficient to repay debt and
5 operate and maintain the system; and

6 ~~(4)~~ (6) the borrower is in compliance with all
7 terms and conditions of the loan agreement.

8 B. A waiver provided to a borrower shall be revoked
9 by the authority if either any of the following conditions occur:

10 (1) failure to make payments when due; or

11 (2) failure to submit, within 12 months of the
12 end of the reporting year, an annual financial report as
13 required by the Office of the State Auditor pursuant to
14 Minnesota Statutes, section 6.47, including operating statements
15 from the enterprise funds and any future independent audits
16 completed for other purposes; or

17 (3) failure to comply with all terms and
18 conditions of the loan agreement.

19 C. The waiver shall be suspended by the authority
20 when the authority issues a new loan to the borrower.

21 ~~D.--Waivers-granted-by-the-authority-under-this~~
22 ~~subpart-remain-in-effect-until-all-authority-loans-are-fully~~
23 ~~repaid,-unless-revoked-by-the-authority-in-its-sole-option-and~~
24 ~~discretion-~~

25 REPEALER. Minnesota Rules, parts 7380.0100; 7380.0110;
26 7380.0120; 7380.0130; 7380.0245; 7380.0250, subparts 8, 11, 13,
27 20, 22, 25, 27, 30, 31, 32, and 33; 7380.0255, subpart 4;

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1 7380.0260, subparts 2, 3, and 5; 7380.0270; 7380.0275, subpart
2 2; 7380.0410; 7380.0420; 7380.0430, subparts 3, 4, and 5; and
3 7380.0440, are repealed.

4 **EFFECTIVE DATE.** The amendments to Minnesota Rules, parts
5 7380.0250 to 7380.0480, are effective ~~July~~ August 20, 2007.
6 Minnesota Rules, parts 7380.0252; 7380.0272; 7380.0277;
7 7380.0422; 7380.0425; 7380.0442; 7380.0445; and 7380.0475, are
8 effective ~~July~~ August 20, 2007. The repealer is
9 effective ~~July~~ August 20, 2007.