

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

ATTORNEY GENERAL

January 12, 1989

MARTIN B. ENGLISH
Public Finance Officer

JULIE A. LEPPINK
Special Assistant
Attorney General

6-9422

In the Matter of the Adopted Rule Relating to
Independent Wastewater Treatment Grants Program

The above-referenced rule has been approved as to its legality by the Attorney General on Janaury 3, 1989.

Enclosed is the agency's copy of the approved rule. This office has already filed two copies with the Secretary of State who will forward one copy to the Revisor of Statutes. The fourth is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submission or comments received by the agency and any extra copies of documents which the agency submitted to the Attorney General.

In order for a permanent rule without a hearing to become effective, your agency must publish a notice of adoption in the State Register in accoradance with Minn. Stat. §14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. §14.34.

If you have any questions in this regard, please contact me.

JAL:rer
Enclosures

cc: Maryanne Hruby
Executive Director
Legislative Commission to Review
Administrative Rules

William Brown
Chief Administrative Law Judge
Office of Administrative Hearings

gal

File No. 1556 _____ Docket 05.0209. 0183

DATE RECEIVED 12/23/88 ADOPTED W/O HEARING X

REVIEW DATE 1/3/89 EMERGENCY RULE _____

DUE DATE 1/6/89 REVISOR APPROVED ✓

APPROVED 1/3/89 gal REVISOR DISAPPROVED _____

DISAPPROVED _____ FILED W/SEC. OF STATE _____

WITHDRAWN _____ RETURNED TO AGENCY _____

✓ Rule as adopted (4 copies)

_____ ~~Notice to Solicit Outside Information/Opinion (if applicable)~~

_____ ~~Date published in State Register~~

_____ ~~Comments~~

_____ ~~Petition for Adoption of a Rule (if applicable)~~

_____ ~~Board's Authorizing Resolution~~

_____ ~~Date adopted~~

✓ Proposed Rule

yes Revisor's Certificate

✓ Notice of Intent to Adopt Rule

446A.b6 Statutory Authority
no Small Business Statement
no Expenditure of public money statement
no Signature

✓ Statement of Need and Reasonableness (if applicable)

no Small Business Statement
n/a Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule

9/16/88 Date (30)/25 days before adoption
yes Notice attached
_____ ~~Copy of rule or summary attached~~

_____ Publication in State Register

9/26/88 Date (30)/25 days before adoption

_____ 180-day deadline from:

10/26/88 end of comment period (§ 14.26) (rules without hearing)

_____ ~~effective date of statutory authority (§ 14.29) (emergency rules)~~

_____ ~~Resolution Adopting~~

_____ ~~Date adopted~~

✓ Findings of Fact, Conclusions & Order Adopting

12/13/88 Date

_____ ~~Written requests, submissions or comments~~

✓ Declaration of attorney

K. Sonneman Name of SAAG representing agency

_____ ~~Notice of Submission to Atty. Gen. (if applicable)~~

_____ ~~Aff. of Mailing Notice to Atty. Gen. (if applicable)~~

Department of Trade and Economic Development

Adopted Permanent Rules Relating to Independent Wastewater Treatment Grants Program

Rules as Adopted

7380.0500 SCOPE OF RULES.

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

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

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

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

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

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

7380.0510 DEFINITIONS.

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

Approved by Revisor CMR

7380.0520 STATE INDEPENDENT GRANTS PROGRAM.

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

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

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

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

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

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

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by Revisor _____

7380.0530 ELIGIBLE COSTS.

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

7380.0540 CAPITAL COST COMPONENT GRANT PROGRAM.

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

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

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

7380.0550 INDIVIDUAL ON-SITE TREATMENT SYSTEMS PROGRAM.

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

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

7380.0560 CORRECTIVE ACTION GRANTS.

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

7380.0570 APPLICATION PROCESS.

Subpart 1. **In general.** To apply for state independent grants or the other grants programs as provided under parts

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7380.0520, 7380.0530, 7380.0540, 7380.0550, and 7380.0560, applications by municipalities shall be made to the authority on forms provided by the agency which require information prescribed by the agency rules.

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

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

Subp. 4. **Certified applications.** When an application certified by the commissioner of the agency is returned to the authority on or before the first business day of the month, the authority shall consider the application at the authority meeting that month. If a certified application is received after the first business day of the month and can be reviewed by the executive director before the authority agenda deadline, the authority may consider the application at the meeting in that month.

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

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

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applicant, subject to agency rules, shall reapply to be further considered.

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

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

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

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

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

7380.0580 AWARD OF GRANTS AND LOANS.

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

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

7380.0581 RELEASE OF FUNDS.

Subject to the availability of funds, payments to a municipality, which have been certified by the commissioner of

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the agency, will be made in accordance with applicable federal and state laws governing those payments. However, payments will not be made until the authority has determined the total estimated cost of the project and ascertained that financing of the project is assured by:

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

B. a grant of funds appropriated by state law;

C. a loan authorized by state law;

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

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

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

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

7380.0582 REPORTS.

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

Approved
by Revisor _____

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

JAN 1 1 1989

Joan Anderson Growe

Secretary of State

9:10 AM

APPROVED AS TO FORM AND LEGALITY

January 3, 1989

HUBERT H. HUMPHREY III
ATTORNEY GENERAL

BY Justin A Jeppink

SPECIAL ASSISTANT ATTORNEY GENERAL

#11

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Independent Wastewater Treatment Grants Program

AGENCY: Department of Trade and Economic Development

MINNESOTA RULES: Chapter 7380

The attached rules are approved for publication in the State Register

David S. Niss
Assistant Revisor

Department of Trade and Economic Development

Proposed Permanent Rules Relating to Independent Wastewater Treatment Grants Program

Rules as Proposed (all new material)

7380.0500 SCOPE OF RULES.

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

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

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

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

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

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

7380.0510 DEFINITIONS.

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

Approved by Revisor

7380.0520 STATE INDEPENDENT GRANTS PROGRAM.

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

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

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

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

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

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

7380.0530 ELIGIBLE COSTS.

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by Revisor _____

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

7380.0540 CAPITAL COST COMPONENT GRANT PROGRAM.

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

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

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

7380.0550 INDIVIDUAL ON-SITE TREATMENT SYSTEMS PROGRAM.

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

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

7380.0560 CORRECTIVE ACTION GRANTS.

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

7380.0570 APPLICATION PROCESS.

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

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by Revisor _____

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

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

Subp. 4. **Certified applications.** When an application certified by the commissioner is returned to the authority on or before the first business day of the month, the authority shall consider the application at the authority meeting that month. If a certified application is received after the first business day of the month and can be reviewed by the executive director before the authority agenda deadline, the authority may consider the application at the meeting in that month.

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

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

Subp. 7. **Applications not receiving certification.** An application not certified by the commissioner will not be considered for financial assistance by the authority. The

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executive director of the authority shall notify the applicant of the rejection of the application by the authority within ten days of the rejection of the application by the authority.

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

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

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

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

7380.0580 AWARD OF GRANTS AND LOANS.

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

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

7380.0581 RELEASE OF FUNDS.

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

A. a grant to the municipality by an agency of the

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by Revisor _____

federal government within the amount of funds then appropriated to that agency and allocated by it to projects within the state;

B. a grant of funds appropriated by state law;

C. a loan authorized by state law;

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

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

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

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

7380.0582 REPORTS.

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

Approved
by Revisor _____

#10

STATE OF MINNESOTA

In the Matter of the Proposed
Adoption of the Rule of the
Commissioner of the Department of
Trade and Economic Development
for the Public Facilities Authority
Governing:
Administrative Rules
Independent Wastewater Treatment Grants Program
Water Pollution Control Revolving Fund Program
District Heating Loan Program
Energy Conservation Investment Loan Program

AFFIDAVIT OF MAILING
THE NOTICE OF INTENT
TO ADOPT A RULE WITHOUT
A PUBLIC HEARING AND
CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA)
) §
COUNTY OF RAMSEY)

Mary Andersen, being duly sworn says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minn. Stat. §14.14, Subd. 1a and 14.22 (1986) that their names be placed on the Minnesota Department of Trade and Economic Development rulemaking mailing list is accurate, complete, and current as of this 13th day of September, 1988.

Mary Andersen
Name

Data Processing Coordinator
Title

Subscribed and sworn to before me

this 1st day of November, 1988.

Richard B. Nadeau
Notary Public

RICHARD B. NADEAU
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
My Comm Expires Apr. 12, 1993

Terry Kuhlman, being duly sworn says:

That on the 16th day of September, 1988, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt Rules Without a Public Hearing by depositing in the State of Minnesota Central Mail System for United States Mail or in the United States mail a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

Terry Kuhlman
Name

Director, Public Facilities Authority
Title

Subscribed and sworn to before me

this 1st day of November, 1988.

Richard B. Nadeau
Notary Public

RICHARD B. NADEAU
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
My Comm Expires Apr. 12, 1993

Comm...ioner of Trade and Economic Development

Public Facilities Authority

#9

Proposed Permanent Rules Relating to the
Independent Wastewater Treatment Grants Program

Notice of Intent to Adopt Rules Without a Public Hearing

Notice is hereby given that the Commissioner of Trade and Economic Development proposes to adopt the above entitled rules without a public hearing following the procedures set forth in the Administrative Procedures Act for adopted rules without a public hearing in Minnesota Statutes, sections 14.22 tro 14.28. Authority for the adoption of these rules is contained in Minnesota Statutes, section 446A.06, subd. 2.

All persons have 30 days to submit comments in support of or in opposition to the proposed rules or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment and any change proposed. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Department and do not result in a substantial change.

Any person may make a written request for a public hearing within the 30 day comment period. If 25 or more persons submit a written request for a public hearing within the 30 day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the Department will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to:

Terry Kuhlman
Acting Executive Director
Public Facilities Authority
800 American Center Building
150 East Kellogg Boulevard
St. Paul, MN 55101

The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

A copy of the proposed rule is attached to this notice.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from Terry Kuhlman upon request.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Terry Kuhlman.

David Speer
Commissioner of Trade and Economic Development

#12

COMMISSIONER OF TRADE AND
ECONOMIC DEVELOPMENT

IN THE MATTER OF THE PROPOSED
RULES OF THE MINNESOTA PUBLIC
FACILITIES AUTHORITY GOVERNING
THE ADMINISTRATION OF THE
INDEPENDENT WASTEWATER TREATMENT
GRANTS PROGRAM

STATEMENT OF NEEDS
AND REASONABLENESS

INTRODUCTION:

This Statement of Needs and Reasonableness describes the rules proposed for the operation of the Independent Wastewater Treatment Grants Program. The format used in this statement is as follows: each rule is first stated, followed by a discussion of the necessity of the proposed rule, and its reasonableness.

7380.0500 SCOPE OF RULES

PARTS 7380.0500 TO 8390.0582 PROVIDES FOR THE AWARDING OF GRANTS BY THE MINNESOTA PUBLIC FACILITIES AUTHORITY AS PROVIDED IN MINNESOTA STATUTES CHAPTER 446A, TO MUNICIPALITIES FOR WASTEWATER TREATMENT PROJECTS CERTIFIED BY THE COMMISSIONER OF THE MINNESOTA POLLUTION CONTROL AGENCY, AS PROVIDED IN MINN. STAT. 116.16 TO 116.181, AND CHAPTER 7075.

THE EXECUTIVE DIRECTOR OF THE AUTHORITY SHALL ASSIST MUNICIPALITIES IN DETERMINING WHICH GRANTS OR LOANS TO APPLY FOR TO FINANCE ELIGIBLE PROJECTS AND THE MANNER IN WHICH THE MUNICIPALITY SHALL PAY FOR ITS PORTION OF THE PROJECT COST.

MUNICIPALITIES MAKING APPLICATION TO THE AUTHORITY MUST COMPLY WITH THE REQUIREMENTS OF THE POLLUTION CONTROL AGENCY INDEPENDENT GRANT PROGRAM RULES IN CHAPTER 7075, IN ORDER TO RECEIVE THE REQUIRED CERTIFICATION OF THE COMMISSIONER OF THE AGENCY, BEFORE TO ANY DETERMINATION BY THE AUTHORITY ON THE MUNICIPALITY'S APPLICATION.

THE AUTHORITY SHALL, AS PROVIDED IN MINNESOTA STATUTES, SECTION 446A.051, REVIEW THE PROPOSED PROJECT FINANCING FOR A MUNICIPAL PROJECT CERTIFIED BY THE COMMISSIONER OF THE AGENCY TO DETERMINE IF THE MUNICIPALITY HAS DEMONSTRATED IN ITS APPLICATION THAT:

A. THE TOTAL FINANCING OF THE PROJECT IS ASSURED; AND
B. THAT THE MUNICIPALITY'S FINANCIAL PLAN TO PAY FOR ITS PORTION OF THE PROJECT IS FEASIBLE.

This part is necessary as it provides a program summary of the Independent Wastewater Treatment Grants Program requirements so as to facilitate potential applicants the ability to determine the suitability of the program to the applicant's needs. It is reasonable as it is as provided in Minn. Stat. 116.16 to 116.181, and Minn. Stat., Chapter 446A.

7380.0510 DEFINITIONS

THE DEFINITIONS IN MINNESOTA STATUTES, SECTION 116.16, SUBDIVISION 2, AND PART 7380.0410 APPLY TO PARTS 7380.0500 TO 7380.0582.

This statement is necessary to inform applicants where the meanings to terms used in this part may be found. It is reasonable to provide such a reference and to provide statutory authority form use of a definition.

7380.0520 STATE INDEPENDENT GRANTS PROGRAM.

SUBP. 1 GRANTS FOR CERTIFIED PROJECTS. THE AUTHORITY SHALL AWARD STATE INDEPENDENT GRANTS TO MUNICIPALITIES FOR PROJECTS, CERTIFIED BY THE COMMISSIONER OF THE AGENCY, AS PROVIDED IN MINNESOTA STATUTES, SECTION 116.18, SUBDIVISIONS 3A TO 3D. THE AMOUNT TO BE AWARDED BY THE AUTHORITY MUST BE EQUAL TO 50 PERCENT OF THE ELIGIBLE PROJECT COST AS PROVIDED IN THE AGENCY RULES, OR IF THE POPULATION OF THE MUNICIPALITY IS 25,000 OR LESS, 80 PERCENT OF THE ELIGIBLE PROJECT COST, AS PROVIDED IN THE AGENCY RULES.

SUBP. 2 GRANT LIMITATION. UNTIL DECEMBER 31, 1990, THE AUTHORITY SHALL AWARD NOT MORE THAN 20 PERCENT OF THE TOTAL AMOUNT OF GRANTS AWARDED UNDER THIS PART TO ANY MUNICIPALITY IN ANY FISCAL YEAR.

SUBP. 3 ECONOMIC DEVELOPMENT SET ASIDE. THE AUTHORITY SHALL SET ASIDE UP TO TEN PERCENT OF THE MONEY TO BE AWARDED AS GRANTS UNDER THIS PART IN ANY FISCAL YEAR FOR MUNICIPALITIES HAVING SUBSTANTIAL ECONOMIC DEVELOPMENT PROJECTS THAT CANNOT COME TO FRUITION WITHOUT MUNICIPAL WASTEWATER TREATMENT IMPROVEMENTS.

AFTER THE AUTHORITY HAS ALLOCATED THE FIRST 90 PERCENT OF THE TOTAL AVAILABLE MONEY FOR THE FISCAL YEAR TO MUNICIPALITIES IN ACCORDANCE WITH AGENCY PRIORITIES, THE SET-ASIDE MUST BE USED BY THE AUTHORITY TO AWARD GRANTS TO THE REMAINING MUNICIPALITIES THAT HAVE BEEN IDENTIFIED BY THE AUTHORITY.

SUBP. 4 REIMBURSEMENT. THE AUTHORITY MAY AWARD GRANTS UNDER THIS PART TO REIMBURSE MUNICIPALITIES WILLING TO PROCEED WITH PROJECTS AND BE REIMBURSED IN A LATER YEAR IF AN APPROPRIATION OF SUFFICIENT FUNDS HAS BEEN MADE UNDER MINNESOTA STATUTES, SECTION 116.18, SUBDIVISION 1, FOR THAT YEAR.

SUBP. 5 REIMBURSEMENT GRANT PERCENTAGES. A MUNICIPALITY AWARDED A STATE INDEPENDENT GRANT FOR REIMBURSED FOR A PROJECT SHALL RECEIVE AN ADDITIONAL FIVE PERCENT OF THE TOTAL ELIGIBLE PROJECT CONSTRUCTION COST BEYOND THE PERCENTAGE TO WHICH THE MUNICIPALITY IS ENTITLED UNDER SUBPART 1.

It is necessary to inform applicants in Subpart 1 to Subpart 5, of Part 7380.0520 of the scope, requirements, and restrictions of the grant program. It is reasonable as it is as provided in Minn. Stat. 116.16 to 116.181.

7380.0530 ELIGIBLE COSTS

SUBP. 1 ELIGIBLE COSTS FOR GRANT APPLICATIONS ARE THE ELIGIBLE COSTS PROVIDED IN THE AGENCY INDEPENDENT STATE GRANT PROGRAM RULES AND CERTIFIED BY THE COMMISSIONER.

It is necessary to identify what constitutes eligible cost for a project funded by the State Independent Grants Program in order that a potential applicant may judge suitability of the program to the applicant's needs. It is reasonable as it is as provided in the Act and Minn. Stat. 368.01, Subd. 1 or 1a.

7380.0540 CAPITAL COST COMPONENT GRANT PROGRAM

SUBP. 1 GRANTS FOR CERTIFIED PROJECTS. THE AUTHORITY SHALL AWARD CAPITAL COST COMPONENT GRANTS TO MUNICIPALITIES FOR PROJECTS CERTIFIED BY THE COMMISSIONER.

SUBP. 2 AMOUNT SET ASIDE. THE AUTHORITY SET ASIDE UP TO $1,500,000 OF THE FUNDS TO BE AWARDED AS GRANTS UNDER PART 7380.0520, SUBPART 1, IN ANY FISCAL YEAR FOR CAPITAL COST COMPONENT GRANTS.

SUBP. 3 PROJECT AMOUNT. THE AMOUNT OF THE AWARD GRANTED BY THE AUTHORITY SHALL BE AS PROVIDED IN THE AGENCY RULES.

This part is necessary as it provides for a program which provides grant funds for a specific use which may be suitable for the specific needs of an applicant and informs applicants of the requirements of the program and the dollar amount of funds available on a yearly basis. It is reasonable as it is as provided in Minn. Stat. 116.181.

7380.0550 INDIVIDUAL ON-SITE TREATMENT SYSTEMS PROGRAM

SUBP. 1 GRANTS FOR CERTIFIED PROJECTS. THE AUTHORITY SHALL AWARD INDIVIDUAL ON-SITE TREATMENT SYSTEMS GRANTS TO MUNICIPALITIES FOR PROJECTS CERTIFIED BY THE COMMISSIONER.

SUBP. 2 THE AUTHORITY MAY SET ASIDE UP TO TEN PERCENT OF THE FUNDS TO BE AWARDED AS GRANTS AS PROVIDED IN PART 7380.0520, SUBPART 1, IN ANY FISCAL YEAR, UP TO A MAXIMUM OF $1,000,000, FOR THE AWARD OF GRANTS TO MUNICIPALITIES TO REIMBURSE OWNERS OF INDIVIDUAL ON-SITE WASTEWATER TREATMENT SYSTEMS FOR 50 PERCENT OF THE COSTS OF UPGRADING OR REPLACING THE SYSTEMS, AS PROVIDED IN PART 7075.1250, SUBPART 2.

This part is necessary as it provides for a program which provides grant funds for a specific use which may be suitable for specific needs of an applicant. It is also necessary to inform applicants of the requirements of the program, and the dollar amount of funds available on a yearly basis. It is reasonable as it is as provided by Minn. Stat. 116.181.

7380.0560 CORRECTIVE ACTION GRANTS

SUBP. 1 IN GENERAL. THE AUTHORITY SHALL AWARD CORRECTIVE ACTION GRANTS TO MUNICIPALITIES CERTIFIED BY THE COMMISSIONER.

Part 7380.0560 is necessary as it informs the applicant of the availability of grant funds for a specific use which may be suitable for the particular needs of an applicant. It is reasonable as it is as provided in Minn. Stat. 116.181.

7380.0570 APPLICATION PROCESS

SUBP. 1 IN GENERAL. TO APPLY FOR STATE INDEPENDENT GRANTS OR THE OTHER GRANTS PROGRAMS AS PROVIDED UNDER PARTS, 7380.520, 7280.0530, 7380.0540, 7380.0550, AND 7380.0560, APPLICATIONS BY MUNICIPALITIES SHALL BE MADE TO THE AUTHORITY ON FORMS PROVIDED BY THE AGENCY WHICH REQUIRES INFORMATION PRESCRIBED BY THE AGENCY RULES.

SUBP. 2 NOTICE OF TAKING APPLICATIONS. APPLICATIONS MUST BE TAKEN AS PROVIDED BY THE AGENCY INDEPENDENT GRANT PROGRAM RULES. THE APPLICATION PERIOD FOR ANY OF THE GRANTS PROGRAMS SHALL BE ESTABLISHED BY THE COMMISSIONER.

SUBP. 3 APPLICATION PROCESSING. THE AUTHORITY SHALL FORWARD AN APPLICATION TO THE AGENCY WITHIN TEN DAYS OF RECEIPT OF AN APPLICATION BY THE AUTHORITY. THE AGENCY WILL ACCEPT AND REVIEW APPLICATIONS AS PROVIDED IN THE PROGRAM RULES AS PROVIDED IN CHAPTER 7075.

Part 7380.0570, Subparts 1 to 3 are necessary to inform an applicant that the Authority will forward the application to the Agency within a specified time period, and that the Agency will review the application in accordance with its rules for such projects. It is reasonable because it is consistent with Minn. Stat. 116.16, Subp. 9.

SUBP. 4 CERTIFIED APPLICATIONS. WHEN AN APPLICATION CERTIFIED BY THE COMMISSIONER IS RETURNED TO THE AUTHORITY, ON OR BEFORE THE FIRST BUSINESS DAY OF THE MONTH, THE AUTHORITY SHALL CONSIDER THE APPLICATION AT THE AUTHORITY MEETING THAT MONTH. IF A CERTIFIED APPLICATION IS RECEIVED AFTER THE FIRST BUSINESS DAY OF THE MONTH AND CAN BE REVIEWED BY THE EXECUTIVE DIRECTOR BEFORE TO THE AUTHORITY AGENDA DEADLINE, THE AUTHORITY MAY CONSIDER THE APPLICATION AT THE MEETING IN THAT MONTH.

It is necessary to inform applicants of the process which will be followed by the Authority in handling of an application and the time constraints involved in that process. It is reasonable as the Authority requires a period of time to reach a determination of whether to approve or disapprove a loan application.

SUBP. 5 COMPLETED APPLICATIONS. A LOAN APPLICATION IS COMPLETE FOR THE AUTHORITY'S PURPOSES WHEN THE EXECUTIVE DIRECTOR RECEIVES ALL

DOCUMENTATION AND EXHIBITS REQUIRED FOR THE AUTHORITY IS ABLE TO MAKE THE DETERMINATION REQUIRED BY MINNESOTA STATUES, SECTION 446A.051.

It is necessary to inform an applicant that the Executive Director shall determine if documentation and information which has been submitted by the applicant provides a complete and accurate account of the project financing in order that the Authority can make an informed judgment of the municipality's capacity to comply with the terms and conditions of the financing to be provided to the applicant. It is reasonable as it is consistent with the standard granting process and required by the statute.

SUBP. 6 INCOMPLETED APPLICATIONS. IF THE EXECUTIVE DIRECTOR DETERMINES, RELATIVE TO THE AUTHORITY'S REQUIREMENTS, THAT AN APPLICATION IS INCOMPLETE, THE EXECUTIVE DIRECTOR SHALL NOTIFY THE APPLICANT OF SPECIFIC DEFICIENCIES IN THE APPLICATION. THE APPLICANT HAS 30 DAYS FROM THE DATE OF MAILING OF THE EXECUTIVE DIRECTOR'S NOTIFICATION TO COMPLETE THE APPLICATION. IF THE APPLICATION IS NOT COMPLETED AND RECEIVED BY THE EXECUTIVE DIRECTOR WITHIN 30 DAYS FROM THE DATE OF MAILING, THE APPLICATION IS CONSIDERED REJECTED AND THE APPLICANT, SUBJECT TO AGENCY RULES, SHALL REAPPLY TO BE FURTHER CONSIDERED.

It is necessary to inform an applicant of the procedures that will be followed if an application has been determined to be incomplete by the Authority and the time frame in which an applicant has to supply the information required by the Authority. It is reasonable since this procedure allows for sufficient time for and ensures that all applicants are afforded an opportunity to complete their application.

SUBP. 7 APPLICATIONS NOT RECEIVING CERTIFICATION. AN APPLICATION NOT CERTIFICATION BY THE COMMISSIONER WILL NOT RECEIVE CONSIDERATION FOR FINANCIAL ASSISTANCE BY THE AUTHORITY. THE EXECUTIVE DIRECTOR OF THE AUTHORITY SHALL NOTIFY THE APPLICANT OF THE REJECTION OF THE APPLICATION BY THE AUTHORITY WITHIN TEN DAYS OF THE REJECTION OF THE APPLICATION BY THE AUTHORITY.

It is necessary to inform an applicant of the procedures that will be followed should an application not receive certification by the Commissioner of the Agency and the consequences of not receiving certification. It is reasonable as it is consistent with Minn. Stat. 446A.06, Subd. 1.

SUBP. 8 REJECTION OF APPLICATIONS BY THE AUTHORITY. AN APPLICATION FOR FINANCIAL ASSISTANCE MAY BE REJECTED BY THE AUTHORITY FOR THE FOLLOWING REASONS:

A. FAILURE TO DEVELOP AND DOCUMENT THAT OTHER PROJECT-REQUIRED FUNDING COMMITMENTS HAVE BEEN SECURED, AS PROVIDED IN MINNESOTA STATUTES, SECTION 446A.051;

B. FAILURE TO SUBMIT A COMPLETED APPLICATION, USING THE PROCEDURE PROVIDED IN SUBPPART 6; AND

C. FAILURE TO DEMONSTRATE THAT THE MUNICIPALITY'S FINANCIAL PLAN TO PAY FOR ITS PORTION OF THE PROJECT IS FEASIBLE, AS PROVIDED IN MINNESOTA STATUTES, SECTION 446A.051.

It is necessary to summarize the reasons why an application may be rejected by the Authority. It is reasonable because Subp. 6 A, B, and C are consistent with the Act.

7380.0580 AWARD OF GRANTS AND LOANS

SUBP. 1 IN GENERAL. UPON CERTIFICATION OF AN APPLICATION BY THE AGENCY AND THE REVIEW AND APPROVAL OF THE APPLICATION BY THE AUTHORITY, THE AUTHORITY SHALL MAKE THE AWARD AND NOTIFY THE MUNICIPALITY THAT IT IS TO RECEIVE A GRANT OR LOAN AND PREPARE AND ADVISE THE MUNICIPALITY OF THE GRANT OR LOAN FORMS OR OTHER DOCUMENTS THAT MUST BE EXECUTED TO COMPLETE THE GRANT OR LOAN.

SUBP. 2 AMENDMENTS TO GRANT AWARD. A MUNICIPALITY THAT SEEKS AN AMENDMENT TO A PREVIOUSLY AWARDED GRANT OR LOAN SHALL FOLLOW THE PROCEDURE IN PART 7380.0570 FOR APPLYING TO THE AUTHORITY.

It is necessary, as provided in Part 7380.0378, Subparts 1 and 2, to inform an approved applicant of the process involved in the awarding of grants and also of the procedures by which an applicant must follow to seek an amendment to a grant or loan award. It is reasonable as it is as provided in Minn. Stat. 116.16, Subd. 11 and 12.

7380.0581 RELEASE OF FUNDS

SUBP. 1 SUBJECT TO THE AVAILABILITY OF FUNDS, PAYMENTS TO A MUNICIPALITY, WHICH HAVE BEEN CERTIFIED BY THE COMMISSIONER, WILL BE MADE IN ACCORDANCE WITH APPLICABLE FEDERAL AND STATE LAWS GOVERNING THOSE PAYMENTS. HOWEVER, THAT PAYMENTS WILL NOT BE MADE UNTIL THE AUTHORITY HAS DETERMINED THE TOTAL ESTIMATED COST OF THE PROJECT AND ASCERTAINED THAT FINANCING OF THE PROJECT IS ASSURED BY:

A. A GRANT TO THE MUNICIPALITY BY AN AGENCY OF THE FEDERAL GOVERNMENT WITHIN THE AMOUNT OF FUNDS THEN APPROPRIATED TO THAT AGENCY AND ALLOCATED BY IT TO PROJECTS WITHIN THE STATE;

B. A GRANT OF FUNDS APPROPRIATED BY STATE LAW;

C. A LOAN AUTHORIZED BY STATE LAW;

D. THE APPROPRIATION OF PROCEEDS OF BONDS OR OTHER FUNDS OF THE MUNICIPALITY TO A FUND FOR THE CONSTRUCTION OF THE PROJECT; OR

E. ANY OR ALL OF THE MEANS REFERRED TO IN PARAGRAPHS A TO D; AND

F. AN IRREVOCABLE UNDERTAKING, BY RESOLUTION OF THE GOVERNING BODY OF THE MUNICIPALITY TO USE ALL FUNDS SO MADE AVAILABLE EXCLUSIVELY FOR THE CONSTRUCTION OF THE PROJECT, AND TO PAY ANY ADDITIONAL AMOUNT BY WHICH THE COST OF THE PROJECT EXCEEDS THE ESTIMATE, BY THE APPROPRIATION TO THE CONSTRUCTION FUND OF ADDITIONAL MUNICIPAL FUNDS OR THE PROCEEDS OF ADDITIONAL BONDS TO BE ISSUED BY THE MUNICIPALITY; AND

G. CONFORMITY OF THE PROJECT AND OF THE GRANT OR LOAN APPLICATION WITH THE STATE WATER POLLUTION CONTROL PLAN AS CERTIFIED TO THE FEDERAL GOVERNMENT AND WITH ALL OTHER CONDITIONS UNDER APPLICABLE STATE AND FEDERAL LAW FOR A GRANT OF STATE OR FEDERAL FUNDS OF THE NATURE AND IN THE AMOUNT INVOLVED.

It is necessary to inform municipalities that the Authority will not release funds to an approved applicant unless certain requirements are met by the applicant and the Authority has the funds to fund the project. It is reasonable as it is consistent with the Act and Minn. Stat. 116.16, Subd. 4, and Chapter 446A.

It is also necessary to inform an applicant that the applicant's representations made in the application, as approved by the Authority, must remain in effect if not, the Authority has the right to suspend, terminate or call the grant. It is reasonable as it is standard granting practices.

7380.0582 REPORTS.

DURING THE TERM OF THE GRANT OR LOAN AGREEMENT, THE MUNICIPALITY SHALL MAKE WRITTEN REPORTS TO THE EXECUTIVE DIRECTOR OF THE AUTHORITY ON FORMS PROVIDED BY THE AUTHORITY ON A SCHEDULE DETERMINED BY THE EXECUTIVE DIRECTOR.

It is necessary to inform the loan recipient that reports are required on an as agreed upon basis in order that the Authority may comply with the statutory requirements of the Authority for its activities. It is reasonable as it is required by Minn. Stat. 446A.04, Subd. 7.

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continuing nature that might reasonably affect ~~his~~ the ability to operate a school bus, ~~shall~~ must be denied a school bus driver's endorsement. One or more of the deficiencies specified in items A to M ~~will~~ disqualify the applicant for a school bus driver's endorsement:

A. visual acuity less than 20/40 ~~(Snellen)~~ Snellen in either eye without lenses or by correction with lenses; total form field of vision in the horizontal meridian less than 140 degrees in either eye (drivers ~~requiring correction by~~ required to wear corrective lenses shall wear properly prescribed lenses ~~at all times~~ when driving);

B. hearing less than 30 db (10/20) in the better ear, with or without a hearing aid;

C. ~~inebriates~~ abusers of alcohol or users of narcotics or drugs that may impair driving ability;

D. ~~any indication of~~ coronary or heart ailment likely to interfere with safe driving, electrocardiogram is required when other findings indicate desirability;

E. blood pressure over 160/90;

F. failure to have a satisfactory Mantoux or chest x-ray as required by Minnesota Department of Health, parts 4605.3400 and 4605.3500;

G. ~~any~~ a communicable disease ~~as~~ listed in Minnesota Department of Health rules, parts 4605.0200 to 4605.0600, 4605.1700 to 4605.3300, and 4605.3600 to 4605.5100;

H. loss or impairment of foot, leg, hand, or arm, ~~or other structural defect or limitation of movement likely to interfere with safe driving~~ unless the commissioner grants a waiver after determining that the loss or impairment will not interfere with the applicant's ability to transport students safely;

I. ~~any~~ a mental, nervous, organic, or functional disease likely to interfere with safe driving;

J. diabetes unless controlled by diet or oral medication only;

K. epilepsy or other episodic (Paroxysmal) periods of unconsciousness;

L. use of ~~any~~ medication that the examining physician determines is likely to interfere with safe driving; or

M. ~~applicant not~~ lack of good general health.

Department of Trade and Economic Development

Proposed Permanent Rules Relating to Independent Wastewater Treatment Grants Program

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Commissioner of Trade and Economic Development proposes to adopt the above entitled rules without a public hearing following the procedures set forth in the Administrative Procedures Act for adopted rules without a public hearing in *Minnesota Statutes,* sections 14.22 to 14.28. Authority for the adoption of these rules is contained in *Minnesota Statutes,* section 446A.06, subd. 2.

All persons have 30 days to submit comments in support of or in opposition to the proposed rules or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment and any change proposed. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Department and do not result in a substantial change.

Any person may make a written request for a public hearing within the 30 day comment period. If 25 or more persons submit a written request for a public hearing within the 30 day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the Department will proceed pursuant to *Minnesota Statutes,* sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to:

Terry Kuhlman
Acting Executive Director
Public Facilities Authority
800 American Center Building
150 East Kellogg Boulevard
St. Paul, MN 55101

The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

A copy of the proposed rule is attached to this notice.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from Terry Kuhlman upon request.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Terry Kuhlman.

David Speer
Commissioner of Trade and Economic Development

Rules as Proposed (all new material)

7380.0500 SCOPE OF RULES.

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

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

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

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

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

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

7380.0510 DEFINITIONS.

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

7380.0520 STATE INDEPENDENT GRANTS PROGRAM.

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

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

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

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

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

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

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

7380.0530 ELIGIBLE COSTS.

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

7380.0540 CAPITAL COST COMPONENT GRANT PROGRAM.

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

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

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

7380.0550 INDIVIDUAL ON-SITE TREATMENT SYSTEMS PROGRAM.

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

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

7380.0560 CORRECTIVE ACTION GRANTS.

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

7380.0570 APPLICATION PROCESS.

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

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

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

Subp. 4. **Certified applications.** When an application certified by the commissioner is returned to the authority on or before the first business day of the month, the authority shall consider the application at the authority meeting that month. If a certified application is received after the first business day of the month and can be reviewed by the executive director before the authority agenda deadline, the authority may consider the application at the meeting in that month.

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

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

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

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

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

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

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

7380.0580 AWARD OF GRANTS AND LOANS.

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

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

7380.0581 RELEASE OF FUNDS.

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

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

B. a grant of funds appropriated by state law;

C. a loan authorized by state law;

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

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

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

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

7380.0582 REPORTS.

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

Department of Trade and Economic Development

Proposed Permanent Rules Relating to the Public Facilities Authority

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Commissioner of Trade and Economic Development proposes to adopt the above entitled rules without a public hearing following the procedures set forth in the Administrative Procedures Act for adopted rules without a public hearing in *Minnesota Statutes,* sections 14.22 to 14.28. Authority for the adoption of these rules is contained in *Minnesota Statutes,* section 446A.06, subd. 2.

All persons have 30 days to submit comments in support of or in opposition to the proposed rules or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment and any change proposed. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Department and do not result in a substantial change.

Any person may make a written request for a public hearing within the 30 day comment period. If 25 or more persons submit a written request for a public hearing within the 30 day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a hearing should state his or her name and address, and is encouraged to

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STATE OF MINNESOTA

COMMISSIONER OF TRADE AND ECONOMIC DEVELOPMENT

In the Matter of the Proposed Adoption of the Rules Governing the Administration of the State Independent Grant Program by the Public Facilities Authority

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULES WITHOUT PUBLIC HEARING

Notice of the Commissioner's intent to adopt the above-entitled rules was published in the State Register on September 26, 1988 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 on September 16, 1988. The statement of need and reasonableness was prepared before the notice of intent to adopt a rule without a public hearing was mailed to all persons on the rulemaking mailing list and published in the State Register and was available to the public.

All persons were given the opportunity to submit comment on the rules for 30 days after notice of proposed rulemaking. No requests for a public hearing on the rules were received by the agency.

No submissions or comments on the rules were received by the commissioner. No requests for notice of submission to the attorney general were received by the Commissioner.

No submissions or comments on the rules were received by the Commissioner during the public comment period. Subsequent to the comment period, the Authority's attorney, Mr. Karl Sonneman, recommended that two modifications be made to the rules as proposed for clarity.

The first modification recommended by Mr. Sonneman was to more fully identify in each reference to the "Commissioner" contained in the rule. He recommended the phrase "Commissioner of the agency" be used to eliminate any confusion on the part of any reader of the rules. ("Agency" being defined as the Minnesota Pollution Control Agency by reference in the definition section of the rules.)

As the Commissioner desires to be as clear as possible in the rules, I find that the rules should be modified and order that all references contained in the rules to the "Commissioner" be changed to "Commissioner of the agency."

The second modification for clarity recommended by Mr. Sonneman was to Subpart 5, Complete Applications, appearing on page 5, line 18 of the Revisor's copy of the rule and as published in the State Register. The referenced subpart begins; "A loan application . . ." should be changed to read; "An application . . ." As originally submitted to the Revisor of Statutes the subpart read "An application . . ." As the program does provide for grants, and all applications submitted to the Authority will be judged for completeness, the phase "An application" is more appropriate than the phrase "A loan application" which could be construde to exclude or not apply to grant applications.

I therefore find and order that the phrase "A loan application . . ." as found on page 5, line 18 of the Revisor's copy of the rule, and as published in the State Register be changed to read "An application . . ."

Based on the evidence in the record before the Commissioner, I find the following:

The above-captioned rules are needed and reasonable.

NOW, THEREFORE, IT IS ORDERED that the rules identified as State Independent Grants Program are adopted this 13 day of December, 1988, pursuant to authority vested in me by Minnesota Statutes, section 446A.06.

David J. Speer
Commissioner of Trade and Economic Development

PFA II/17-(2-2A)

STATE OF MINNESOTA
DEPARTMENT OF TRADE AND ECONOMIC DEVELOPMENT
PUBLIC FACILITIES AUTHORITY

In the Matter of the Adoption of the
Rules Governing the Independent
Wastewater Treatment Grants Program
Minn. Rules Parts 7380.0500 to 7380.0582

DECLARATION OF COUNSEL

I, KARL W. SONNEMAN, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rule and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules, chapter 2010 have been followed. Any exceptions are listed below.

1. The FFCLO makes findings changing the proposed rule but does not address the issue of substantial change. Because the changes are for clarification and do not materially change the effect or introduce new subject matter, there is no substantive change.

2. The rules at several points refer to procedures for processing loans as well as grants. These rules do not apply to loans and are not being adopted under authority to make loans. However, because the rule language regarding loans conveys no authority, the language is superfluous and may be ignored.

For Attorney General billing purposes, the four-digit docket client code is 0183.

Karl W. Sonneman
(Attorney's Name)
Special Assistant
Attorney general

Dated: 12/23/88

Minnesota Department of
Trade and Economic Development

Community Development Division

900 American Center
150 East Kellogg Boulevard
St. Paul, MN 55101-1421

612/296-5005
Fax: 612/296-1290

December 8, 1988

RECEIVED

DEC 23 88

ATTORNEY GENERAL'S OFFICE
515 TRANSPORTATION BLDG.
ST. PAUL, MN 55155

Ms. Martha Casserly
Assistant Attorney General
Office of the Attorney General
204 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155

RE: In the Matter of Proposed Rules Governing the Independent Wastewater Treatment Grants Program
Minn. Rules Parts 7380.0500 to 7380.0582

Dear Ms. Casserly:

On December 13, 1988, the Commissioner of Trade and Economic Development adopted the above-captioned rules governing the Independent Wastewater Treatment Grants Program. Enclosed for your review are the following:

1. Rules as adopted (original and three copies).

2. Findings of Fact, Conclusions, and Order Adopting Rules (two copies).

N/A 3. Certificate of Resolution Adopting Rules.

N/A 4. Notice of Intent to Solicit Outside Opinion S. R. _____.

N/A 5. Copies of written comments received pursuant to Notice of Intent to Solicit Outside Opinion.

N/A 6. Certificate of Authorizing Resolution.

7. Notice of Intent to Adopt Rules Without a Public Hearing and rules as proposed 13 S. R. 13, September 26, 1988.

N/A 8. Comments received during the comment period.

9. Notice of Intent to Adopt Rules Without a Public Hearing, as mailed.

10. Affidavit of Mailing the Notice of Intent to Adopt Rules Without a Public Hearing and Certificate of Mailing List.

11. Rules as proposed.

12. Statement of Need and Reasonableness.

13. Declaration of Counsel.

N/A 14. Notice of Submission of Rule Adopted Without Public Hearing to the Attorney General.

N/A 15. Affidavit of Mailing of Notice of Submission of Rule Adopted Without Public Hearing to the Attorney General.

N/A 16. [Petition for Rulemaking].

Sincerely,

Martin B. English
Public Finance Officer

MBE:cd

PFA II/26-2

Enclosures