

Chapter 161.

Bulk Fuel Loan Revolving Fund

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3 AAC 161.010. Application process

To apply for a loan for the purchase and transportation of bulk fuel under AS 42.45.250 - 42.45.299, an applicant must file with the division

- (1) a completed application for a bulk fuel loan, on a form provided by the division;
- (2) proof that the application is for a community within the meaning given in AS 42.45.299;
- (3) a letter of intent, on a form provided by division, stating the amount requested and the intended use of the proposed loan money;
- (4) a bulk fuel loan agreement and promissory note, on a form provided by the division;
- (5) if the applicant is a Native village council, a resolution waiving sovereign immunity from suit for claims related to the loan, on a form provided by the division;
- (6) a resolution by community or corporate applicants approving the purchase of bulk fuel, on a form provided by the division; and
- (7) any other information requested by the division to demonstrate the applicant's eligibility for a loan.

History: Eff. 9/2/2008, Register 188; am 1/28/2009, Register 189; am 3/8/2013, Register 205

Ref.: 3 AAC 161.020 *Authority:* AS 42.45.250, AS 42.45.260, AS 42.45.270

3 AAC 161.020. Examination

(a) The division will process the material described in 3 AAC 161.010 and 3 AAC 161.040 and evaluate

(1) the eligibility of the community;

(2) the applicant's eligibility, financial and credit records, and ability to repay the loan; and

(3) any other information relevant to eligibility for or the issuance of a bulk fuel loan or bulk fuel bridge loan.

(b) If the application is incomplete, or if the division needs additional information in order to complete an evaluation described in (a) of this section, the division will request the information necessary from the applicant. The applicant must provide the requested information not later than 30 days after the date that the division received the application. If the applicant fails to provide the requested information timely, the division will inactivate the application.

(c) On the basis of the evaluation described in (a) of this section, the division will

(1) deny the application, if the applicant is ineligible; or

(2) approve the application as a bulk fuel loan or a bulk fuel bridge loan; in its approval, the division may include modifications to the applicant's original request. (d) The division will fix, in accordance with AS 42.45.250 - 42.45.299, the terms of a loan, including the interest rate and a repayment schedule. (e) If the division denies or significantly modifies a loan request, the division will provide the applicant with a written

statement of the reasons for the action and the information on which the division relied for the denial or modification. (f) An applicant's material misstatement or omission of fact constitutes grounds for denial of a loan request.

History: Eff. 9/2/2008, Register 188; am 1/28/2009, Register 189; am 3/8/2013, Register 205

Authority: AS 42.45.250, AS 42.45.260, AS 42.45.270

3 AAC 161.030. Eligibility

To be eligible for a loan,

(1) an applicant must intend to use the loan for purchase of fuel to generate power or supply the public with fuel for use, including the necessary costs of transporting the fuel;

(2) an applicant must agree to repay the loan in one year or less, according to a repayment plan determined by the division;

(3) the amount of the loan, added to the amounts of all other bulk fuel revolving loan principal balances to the same borrower

(A) may not exceed \$750,000, unless the loan is from the bulk fuel loan account and the borrower

(i) is a cooperative corporation organized under AS 10.15 or an electric cooperative organized under AS 10.25; and

(ii) uses the loan to purchase bulk fuel on behalf of more than one community; and

(B) may not exceed the lesser of

(i) \$750,000 multiplied by the number of eligible communities on whose behalf the bulk fuel is to be purchased; or

(ii) \$1,800,000.

History: Eff. 9/2/2008, Register 188; am 1/28/2009, Register 189; am 3/8/2013, Register 205

Authority: AS 42.45.250, AS 42.45.260, AS 42.45.270

3 AAC 161.040. Financial and credit record

The division may consider the following in evaluating an applicant's financial and credit record:

- (1) existing and prior debts;
- (2) credit reports obtained from creditors and private credit reporting services;
- (3) prior loan history with other known fuel lenders or the division;
- (4) timeliness in making payments on loans and other debts;
- (5) the existence of tax liens;
- (6) unpaid judgments and prior foreclosures;
- (7) the applicant's financial and credit reputation.

History: Eff. 9/2/2008, Register 188; am 1/28/2009, Register 189; am 3/8/2013, Register 205

Ref.: 3 AAC 161.020 *Authority:* AS 42.45.250, AS 42.45.260, AS 42.45.270

3 AAC 161.045. Interest

(a) In evaluating a potential interest rate reduction under AS 42.45.280

(b), the division will reduce the interest rate by

(1) one percent for a borrower whom the division considers not to have been delinquent in repayment on at least one previous bulk fuel loan made by the division;

(2) two percent for a borrower whom the division considers not to have been delinquent in repayment on two or more bulk fuel loans made by the division.

(b) If an application for an interest rate reduction is denied, the division will provide the applicant with a written statement of the reasons for the denial.

History: Eff. 3/8/2013, Register 205

Authority: AS 42.45.250, AS 42.45.280

3 AAC 161.050. Lending practices

(a) The division will fix a loan period based on the needs of the borrower. However, the borrower shall repay a loan not later than one year after the date of the disbursement.

(b) Proceeds of a bulk fuel loan may not be used to

(1) purchase fuel other than bulk fuels; or

(2) make a profit, unless the profit is used to purchase additional community fuel supplies.

History: Eff. 9/2/2008, Register 188; am 1/28/2009, Register 189; am 3/8/2013, Register 205; am 10/27/2018, Register 228

Authority: AS 42.45.250, AS 42.45.260, AS 42.45.270

3 AAC 161.060. Disbursement of loan money

(a) Loan money will be disbursed after the borrower has complied with the provisions of the loan documents and the requirements of this chapter.

(b) Loan money will be disbursed upon receipt by the division of delivery bills and fuel invoices.

History: Eff. 9/2/2008, Register 188; am 1/28/2009, Register 189; am 3/8/2013, Register 205

Authority: AS 42.45.250, AS 42.45.260, AS 42.45.270

3 AAC 161.070. Modifications

A request for a modification to a loan made under AS 42.45.250 - 42.45.299 will be processed in the same manner as a loan application. The division may require the applicant to provide additional information in support of the request.

3 AAC 161.080. Reconsideration of a loan request

(a) If the division denies, inactivates, or significantly modifies a loan request, an applicant may file, not later than 30 days after receipt of notice of the division's decision, a written request for reconsideration of that decision.

(b) The division will consider a request for reconsideration if the applicant submits information to show that

(1) a substantial change has occurred in the circumstances leading to the division's decision;

(2) additional relevant information can be provided to the division that was not initially available; or

(3) the division made administrative errors.

History: Eff. 9/2/2008, Register 188; am 1/28/2009, Register 189; am 3/8/2013, Register 205

Authority: AS 42.45.250, AS 42.45.260, AS 42.45.270

3 AAC 161.090. Confidentiality of loan information

Repealed. *History:* Eff. 9/2/2008, Register 188; am 1/28/2009, Register 189; am 3/8/2013, Register 205

3 AAC 161.100. Definitions

Repealed. *History:* Eff. 3/8/2013, Register 205

3 AAC 161.110. Default

The division may consider a borrower to be in default on a loan made under AS 42.45.250 - 42.45.299 if the borrower

(1) violates a provision of AS 42.45.250 - 42.45.299, this chapter, or the loan documents;

or

(2) fails to make a necessary payment during the 30-day period after the date that the payment is due; or

(3) fails to maintain any insurance that the division requires as a condition for the loan.

History: Eff. 3/8/2013, Register 205

Authority: AS 42.45.250, AS 42.45.260, AS 42.45.270

3 AAC 161.900. Definitions

In this chapter, unless the context requires otherwise,

(1) "bulk fuel" means bulk petroleum fuels or biomass fuel;

(2) "bulk fuel loan" means a loan made under AS 42.45.260 from the bulk fuel loan account;

(3) "bulk fuel bridge loan" means a loan made under AS 42.45.270 from the bulk fuel bridge loan account;

(4) "division" means the division in the Department of Commerce, Community, and Economic Development that is responsible for community and regional affairs;

(5) "Native village council" means

(A) a council organized under 25 U.S.C. 476 (sec. 16 of the Indian Reorganization Act);

(B) the council for the Annette Island Reserve established by 25 U.S.C. 495 for the Metlakatla Indian Community; or

(C) a traditional village council recognized by the United States as eligible for federal aid to Indians;

(6) "biomass fuel" means a product that is

(A) derived from wood, such as wood pellets, wood chips, or cordwood, or from other organic matter; and

(B) proven and feasible for use as fuel to generate heat or electricity.

History: *Eff. 1/28/2009, Register 189; am 3/8/2013, Register 205; am 10/27/2018, Register 228*

Authority: *AS 42.45.250, AS 42.45.260, AS 42.45.270*