

CHAPTER 4200
DEPARTMENT OF ENERGY, PLANNING AND
DEVELOPMENT
ENERGY DIVISION
RULES GOVERNING DISTRICT HEATING
SYSTEMS

NOTE: Under Laws of Minnesota 1983, chapter 289, section 40, this chapter of Minnesota Rules shall be administered by the Department of Energy and Economic Development. Thus, references to the Department of Energy, Planning and Development, or to its divisions, should be read as intending the Department of Energy and Economic Development.

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PRELIMINARY PLANNING GRANTS

4200.0200 DEFINITIONS.

Subpart 1. **Scope.** For the purpose of parts 4200.0200 to 4200.0800, the words or terms defined in this part have the meanings given them.

Subp. 2. **Agency.** "Agency" means the Energy Division of the Minnesota Department of Energy, Planning and Development.

Subp. 3. **Applicant.** "Applicant" means a municipality as defined in subpart 7, as well as any organization submitting a joint application with the municipality. No application shall be accepted unless submitted by a municipality as sponsor or cosponsor.

Subp. 4. **Community heatload survey and map.** "Community heatload survey and map" means a description of the district heating market, including: location of heat source; location, type, and age of heating systems of potential nonresidential customers; annual energy consumption and temperature requirements; and approximate load duration for process heat customers.

Subp. 5. **Director.** "Director" means the director of the Energy Division of the Minnesota Department of Energy, Planning and Development.

Subp. 6. **Major central system.** "Major central system" is one that does not rely on oil or natural gas.

Subp. 7. **Municipality.** For purposes of applying for grants under this program, "municipality" means a city however organized.

Subp. 8. **Project.** "Project" means the preliminary planning project.

Subp. 9. **Satellite or heat island.** A "satellite or heat island" system relies on oil, natural gas, or the combustion of waste material and is a heating system that in the future would become a part of a major central system.

Statutory Authority: *MS s 116J.10*

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4200.0300 AUTHORITY AND PURPOSE.

Subpart 1. **Authority.** Parts 4200.0200 to 4200.0800, implementing the district heating preliminary planning grants program, are promulgated by the agency pursuant to Laws of Minnesota 1981, chapter 356, section 30.

Subp. 2. **Purpose.** The objective of the district heating preliminary planning grant program is to encourage the development and expansion of economically viable district heating systems that have the potential to save energy and displace scarce fuels such as oil and natural gas. The program shall encourage: construction of new hot water district heating systems; reconstruction or major expansion of existing steam district heating systems; and expansion of district heating systems by development of satellite systems or heat islands that could be connected to an existing or proposed major central heating system later.

Statutory Authority: *MS s 116J.10*

4200.0400 PRELIMINARY PLANNING GRANT PROGRAM.

Subpart 1. **Application schedule.** The agency shall accept grant applications on two-month intervals after the effective date of parts 4200.0200 to 4200.0800. Applications received shall be ranked, and the director shall recommend ranked applications that meet all the criteria to the legislative advisory committee for approval and funding. No municipality shall be awarded more than two grants out of the same appropriation.

Subp. 2. **Review process.** Applications shall be reviewed and ranked by the agency. The director shall prepare and submit to the legislative advisory committee a list of all district heating grant requests. The list shall contain the necessary supporting information. The recommendations of the legislative advisory committee shall be transmitted to the governor. The governor shall approve, disapprove, or return for further consideration each project recommended for approval by the legislative advisory committee. Upon approval by the governor, a grant agreement shall be negotiated with the agency in accordance with part 4200.0700. Comments on applications not selected for grant awards shall be forwarded to the applicant. Applications not funded shall be included in the next funding round, unless withdrawn. Applicants may modify or supplement their proposals for the next funding interval if desired.

Statutory Authority: *MS s 116J.10*

4200.0500 CONTENTS OF PRELIMINARY PLANNING GRANT APPLICATIONS.

Subpart 1. **Statutory requirement.** Applications shall contain the information required by Laws of Minnesota 1981, chapter 356, section 30, and at least the information in subparts 2 to 7.

Subp. 2. **Community heatload survey and map.** The survey shall contain a description of the heat source and an estimate of the district heating market.

If plans call for an existing heat source such as an electric generation plant or a coal-fired boiler, the application shall include at least a discussion of: type, size, age, fuel, present use, and emission controls. If a new heat source is proposed to be used, the application shall include: fuel, estimated cost of fuel, and fuel availability.

The estimate of the district heating market shall contain nonresidential building information including location, type and age of heating system, type of fuel and annual energy consumption, and a description of process load including temperature requirements and load duration.

The map shall show the location of the heat source and major load concentrations.

Subp. 3. **Community benefit.** Briefly discuss the impact of the district heating system on the community and how it would relate to community development plans.

Subp. 4. **Community commitment.** Include written expressions of interest and commitment from major potential loads, owner of heat source, and the municipal governing body.

Subp. 5. **Project plan.** The project plan shall include a list of tasks, time estimates for each task, and a list of deliverables. It should also include rough estimates of time required in successive stages such as design and construction.

Subp. 6. **Project budget.** Include an estimate of expenditures by categories such as personnel and travel, and estimates of costs by project plan task.

Subp. 7. **Project organization chart and use of consultants.** Assistance in preparing applications can be obtained from the agency.

Statutory Authority: *MS s 116J.10*

4200.0600 RANKING CRITERIA.

Applications will be ranked according to the following criteria, which are listed in order of importance:

- A. estimated capital cost per million Btu of energy sold per year;
- B. benefit to the community;
- C. project plan;
- D. community commitment;
- E. thoroughness of community heatload survey;
- F. qualifications of project personnel; and
- G. clarity and conciseness.

Statutory Authority: *MS s 116J.10*

4200.0700 AGREEMENT.

Subpart 1. **Governor's approval.** After approval by the governor, the applicant shall enter into an agreement with the agency.

Subp. 2. **Contents.** The agreement shall specify the grant amount and the duration of the grant. The agreement shall include assurance that the local share will be provided and that the agreed-upon work program will be carried out. A grant agreement based upon a joint application must be executed by the lead applicant. Amendments and extensions may only be made in writing and must be signed by all parties.

Subp. 3. **Funding period.** Planning grants will be approved for a period of up to one year.

Subp. 4. **Grant limitations.** Planning grants shall not exceed 90 percent of eligible planning costs. No single grant shall exceed \$20,000.

Subp. 5. **Disbursement schedule.** Ninety percent of grant moneys shall be disbursed at the outset upon receipt of invoice to the agency of project costs. The remaining ten percent shall be disbursed upon completion and receipt of a satisfactory final report.

Subp. 6. **Required reports.** The grantee shall submit to the agency on the first of each month a report briefly stating the activities that have transpired during the month. The grantee shall provide the agency with three copies, one of which shall be a camera-ready copy, of the final preliminary planning report.

Subp. 7. **Records.** The grantee shall maintain for a period of not less than three years from the date of the execution of the contract all records relating to the receipt and expenditures of grant moneys.

Subp. 8. **Contract deviations.** No grant funds shall be used to finance activities by consultants or local staff if the activities are not included in the grant contract, unless agreed upon in writing by the agency. Unless agreed upon by the agency, a municipality may not contract out all its energy-related

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activities to consultants.

Statutory Authority: *MS s 116J.10*

4200.0800 EVALUATION.

Subpart 1. Conducting. The agency shall conduct an evaluation within 60 days of the submission by the grantee to the agency of the final report and all the required reports and financial documents. The evaluation shall assess:

A. whether the local share contributed was equal to or greater than ten percent of the total cost of the preliminary planning project;

B. whether the agreed-upon work program was completed; and

C. whether the governing body has formally reviewed the completed preliminary district heating plan.

Subp. 2. Review. Upon completion of a satisfactory evaluation the remaining ten percent of the grant shall be disbursed to the grant recipient. If the results of the evaluation are unfavorable to the grantee and the grantee does not agree with the findings of the evaluation, the grantee may request a review by the director.

Statutory Authority: *MS s 116J.10*

DESIGN LOANS

4200.2100 DEFINITIONS.

Subpart 1. Scope. For the purposes of parts 4200.2100 to 4200.2700 the terms defined in subparts 2 to 7 have the meanings given them.

Subp. 2. Act. "Act" means Laws of Minnesota 1981, chapter 334.

Subp. 3. Commissioner. "Commissioner" means the commissioner of the Department of Energy, Planning and Development.

Subp. 4. Department. "Department" means the Department of Energy, Planning and Development.

Subp. 5. Design loan. "Design loan" means a loan made to fund those activities required to be completed during the final design phase of a district heating system in order to finance and construct the system. These activities include conducting economic feasibility analyses, obtaining heat source commitments and customer contracts, structuring financing, and related management tasks.

Subp. 6. Preliminary engineering design. "Preliminary engineering design" means a design effort with the objective of estimating district heating design and construction costs within 15 percent of the actual costs.

Subp. 7. Project. "Project" means a district heating design project.

Statutory Authority: *MS s 116J.36 subd 11*

4200.2200 AUTHORITY, PURPOSE, AND SCOPE.

Subpart 1. Authority. Parts 4200.2100 to 4200.2700 are authorized by Minnesota Statutes, section 116H.31, subdivision 11.

Subp. 2. Purpose. Parts 4200.2100 to 4200.2700 are promulgated for the purpose of allowing prompt and proper applications for design loans after comprehensive preliminary engineering, economic, and design studies have been completed. Parts 4200.2100 to 4200.2700 set forth the procedures that municipalities must follow to apply for loans and establish the criteria by which the applications are reviewed.

Subp. 3. Scope. Parts 4200.2100 to 4200.2700 apply to the department and to any municipality applying for design loans under the act.

Statutory Authority: *MS s 116J.36 subd 11*

4200.2300 APPLICATION PROCEDURE.

Applications for design loans under the act and parts 4200.2100 to 4200.2700 shall be submitted to the commissioner. Ten complete copies shall be submitted. Applications will be accepted beginning on the date parts 4200.2100 to 4200.2700 become effective.

Statutory Authority: *MS s 116J.36 subd 11*

4200.2400 APPLICATION CONTENTS.

An application shall contain the following information:

A. name, address, and telephone number of the responsible official of the municipality;

B. a comprehensive business plan for the project as specified in part 4200.2500;

C. a resolution in support of the project from the governing body of the municipality, which must include the pledges the municipality proposes to make to guarantee repayment of the design loan;

D. a resolution or letter of intent from the proposed owner or operator of the district heating system indicating that he would expect to proceed with construction if the results of the design and final feasibility project are consistent with the preliminary feasibility study;

E. identification of all licenses, permits, zoning regulations, and other requirements of federal, state, or local governments with which the project would be expected to comply, and the present status of each;

F. a list of key personnel and their qualifications as they relate to the project;

G. an estimate of the type and amount of fuel to be saved per year from the full operation of the district heating system compared to the type and amount of fuel used by the existing system; and

H. a copy of a completed environmental impact statement, or a negative declaration of the need for an environmental impact statement from a completed environmental assessment worksheet, or in those cases where no environmental rules or regulations apply, a statement as to the environmental effects of the project.

Statutory Authority: *MS s 116J.36 subd 11*

4200.2500 CONTENTS OF COMPREHENSIVE BUSINESS PLAN.

Subpart 1. **Minimum contents.** The comprehensive business plan submitted under part 4200.2400, item B must contain no less than the information specified in subparts 2 to 8.

Subp. 2. **Preliminary engineering design.** A preliminary engineering design of the project must include the following information.

A. An analysis of the proposed piping layout must address optimum service to the total designated area; reliability of service; system temperatures and pressure requirements; thermal and hydraulic operability for normal and emergency conditions; optimum piping configuration to provide service; and flexibility for future expansion.

B. An analysis of the proposed piping design must address reliability of service; ease of construction; ease of maintenance; installation methods; and specifications and standards.

C. An analysis of the heat source design must define the proposed roles of the following heat sources in the development and the future operation of the system: base load heating plant; peaking plants; large boiler plants in existing buildings; mobile boilers; accumulators; and future heat sources such as solid waste, solar, and industrial waste heat.

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Subp. 3. **Market study.** The comprehensive business plan must include a market study of customers who represent 90 percent of the proposed thermal load of the district heating system defined by the business plan. This study must show detailed information on present fuel consumption or heating demand and the present heating system in each building.

Subp. 4. **Preliminary expansion plan.** A preliminary expansion plan must show how the system could be expanded to serve other parts of the community.

Subp. 5. **Preliminary economic analysis.** A preliminary economic analysis must include a preliminary financing and development plan for the district heating system and cash flow, income, and balance sheets for a 20-year planning period. This analysis must also contain a cost estimate and expenditure schedule for all transmission and distribution piping; heat source conversion, purchase, or rental; operating and maintenance costs excluding fuel costs; and building heating conversion costs.

Subp. 6. **Letters of intent to purchase heat.** The applicant shall submit copies of letters of intent to purchase heat supplied by the project, from major customers representing at least 50 percent of the thermal load.

Subp. 7. **Letter of intent to furnish heat.** The applicant shall submit a copy of a letter of intent to furnish heat, from the owner of the heat source or the proposed system owner or operator.

Subp. 8. **Engineering opinion.** The business plan requires an opinion by a registered professional engineer that the system described by the preliminary designs is technically feasible and that the preliminary engineering design and cost estimate is within standard engineering practice.

Statutory Authority: *MS s 116J.36 subd 11*

4200.2600 APPLICATION REVIEW CRITERIA.

The commissioner shall review each application as it is received according to the eligibility and priority criteria of Minnesota Statutes, section 116H.31; the sophistication and reasonableness of the technical approach as detailed in the application; the experience and qualifications of the applicant as they relate to the project; the project organization and personnel assignment; and the estimated cost of the project.

Statutory Authority: *MS s 116J.36 subd 11*

4200.2700 EXPENDITURES NOT REQUIRED.

Parts 4200.2100 to 4200.2700 do not require expenditure of money not available.

Statutory Authority: *MS s 116J.36 subd 11*

CONSTRUCTION LOANS

4200.3000 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 4200.3000 to 4200.4200, the terms defined in subparts 2 to 12 have the meanings given them.

Subp. 2. **Act.** "Act" means Minnesota Statutes, section 116J.36.

Subp. 3. **Assistant commissioner of energy.** "Assistant commissioner of energy" means the assistant commissioner of the Energy Division of the Department of Energy, Planning and Development.

Subp. 4. **Commissioner.** "Commissioner" means the commissioner of the Department of Energy, Planning and Development.

Subp. 5. **Debt service cost.** "Debt service cost" means the sum of all costs amortizing lease indebtedness, bond indebtedness, urban development action grant indebtedness, and any state indebtedness that is attributed to the project on an annual basis.

Subp. 6. **Debt service coverage.** "Debt service coverage" means the gross revenues of the project minus the operating expenses, plus the debt service cost. The debt service coverage is expressed as a percentage of the debt service cost.

Subp. 7. **Department.** "Department" means the Department of Energy, Planning and Development.

Subp. 8. **Financial consultant.** "Financial consultant" means a reputable person or firm experienced in working with complex revenue-supported financial plans and qualified to assess the financial condition and operation of the project.

Subp. 9. **Gross revenues.** "Gross revenues" means all revenues, fees, user charges, rents, franchise fees, special assessments, and other income and receipts derived from the ownership or operation of the project, the proceeds of any insurance that insures against the loss of gross revenues, any investment income from money or securities derived from the state loan under the act, and any other income and receipts attributable to the ownership or operation of the project from whatever source derived, calculated on an annual basis.

Subp. 10. **Operating expenses.** "Operating expenses" means all expenses directly and properly attributable to the operation of the project on an annual basis. Examples are: expenses for operation, maintenance, repairs, ordinary replacement, ordinary acquisition of equipment, fuel and heat, labor and fringe benefits, lease rental payments, insurance premiums, administration, legal services, engineering services, payments of all indebtedness, and any other current expenses or obligations required to be paid by the municipality or owner of the project, all to the extent properly and directly attributable to the operation of the project. Operating expenses do not include any costs or expenses for new construction or any allowance for depreciation.

Subp. 11. **Project.** "Project" means a district heating construction project as described by the business plan.

Subp. 12. **Take-or-pay contract.** "Take-or-pay contract" means a contract between a district heating system and a thermal load customer whereby the customer agrees to take a predesignated amount of thermal energy over a certain time period or to pay a sum equivalent to the value of the predesignated amount of thermal energy, even if less is taken.

Statutory Authority: *MS s 116J.10; 116J.36 subd 11*

4200.3100 PURPOSE.

The purpose of parts 4200.3000 to 4200.4200 is to allow district heating projects that have already completed comprehensive engineering, economic, and design studies to make prompt and proper application for construction loans. These parts set forth the procedures that municipalities must follow to apply for loans and establish the criteria by which the applications are reviewed.

Statutory Authority: *MS s 116J.10; 116J.36 subd 11*

4200.3200 SCOPE.

Parts 4200.3000 to 4200.4200 apply to the department and to any municipality applying for construction loans under the act.

Statutory Authority: *MS s 116J.10; 116J.36 subd 11*

4200.3300 CONTENTS OF APPLICATION.

The application for construction loans shall contain the following information:

A. name, address, and telephone number of the responsible official of the municipality;

B. a comprehensive business plan for the project, as described in part 4200.3400;

C. a resolution in support of the project from the governing body of the municipality, as described in part 4200.3800;

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D. identification of all licenses, permits, zoning regulations, and any other requirements of federal, state, or local governments with which the project would be expected to comply, and the present status of each;

E. a list of key personnel and their qualifications as they relate to the project;

F. an estimate of the type and amount of fuel saved per year from the full operation of the district heating system compared to the type and amount of fuel to be used by the system; and

G. a copy of the environmental assessment worksheet or environmental impact statement prepared for the project. If neither is required, then the applicant shall submit a statement as to the environmental effects of the project.

Statutory Authority: *MS s 116J.10; 116J.36 subd 11*

4200.3400 COMPREHENSIVE BUSINESS PLAN.

The comprehensive business plan required by part 4200.3300, item B must include all of the following information:

A. a complete engineering design of the project, as described in part 4200.3500;

B. a market study of customers of the district heating system defined by the business plan who represent 90 percent or more of the proposed thermal load, as described in part 4200.3600;

C. a preliminary plan that shows how the system could be expanded to serve other parts of the community;

D. a complete economic analysis, as described in part 4200.3700, that includes cash flow, income, and balance sheets for a 20-year planning period, and a financing and development plan for the district heating system prepared by a financial consultant;

E. a certification by the municipality that a bid package for the construction of the project has been completed and is available to the department if requested;

F. a copy of the standard contract entered into with customers of the project with a list of customers already under contract, listing the thermal load of each customer presently under contract and comparing the total of the thermal load already contracted with the total load of the project; and

G. a copy of the contract for the furnishing of the heat source or fuel for the project.

Statutory Authority: *MS s 116J.10; 116J.36 subd 11*

4200.3500 ENGINEERING DESIGN.

The complete engineering design of the project required by part 4200.3400, item A must include at least the following information:

A. an analysis of the proposed piping layout that addresses the areas of optimum service to the total designated area, reliability of service, system temperatures and pressure requirements, thermal and hydraulic operability for normal and emergency conditions, optimum piping configuration to provide service, and flexibility for future expansion;

B. an analysis of the proposed piping design that addresses the areas of reliability of service, ease of construction, ease of maintenance, installation methods, and specifications and standards; and

C. an analysis of the heat source design that defines the proposed roles of the following heat sources in the development and the future operation of the system: base load heating plant, peaking plants, large boiler plants in existing

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buildings, mobile boilers, accumulators, and future heat sources such as solid waste, solar, and industrial waste heat.

Statutory Authority: MS s 116J.10; 116J.36 subd 11

4200.3600 MARKET STUDY.

The market study required by part 4200.3400, item B must show detailed information on present fuel consumption or heating demand and the present heating system in each building.

Statutory Authority: MS s 116J.10; 116J.36 subd 11

4200.3700 ECONOMIC ANALYSIS.

The economic analysis required by part 4200.3400, item D must include a cost estimate and expenditure schedule for all transmission and distribution piping; heat source conversion, purchase, or rental; operating and maintenance costs, excluding fuel costs; and building heating conversion costs.

Statutory Authority: MS s 116J.10; 116J.36 subd 11

4200.3800 RESOLUTION IN SUPPORT OF PROJECT.

The resolution required by part 4200.3300, item C must include the pledges the municipality proposes to make to guarantee repayment of the construction loan and evidence of the municipality's financial capability to sponsor the project.

Statutory Authority: MS s 116J.10; 116J.36 subd 11

4200.3900 APPLICATION PROCEDURES.

Subpart 1. **Submitting.** Applications for construction loans under the act and parts 4200.3000 to 4200.4200 must be submitted to the commissioner.

Subp. 2. **Effective date.** The period for accepting applications begins on the date parts 4200.3000 to 4200.4200 become effective.

Subp. 3. **Copies.** Ten complete copies of the application must be submitted to the commissioner.

Statutory Authority: MS s 116J.10; 116J.36 subd 11

4200.4000 DISTRICT HEATING ADVISORY TASK FORCE.

Subpart 1. **Membership.** Under Minnesota Statutes, section 15.014, the assistant commissioner of energy shall appoint a district heating advisory task force consisting of at least four members in addition to the assistant commissioner of energy who shall act as chairperson.

Task force members must be knowledgeable in the area of district heating, but cannot be directly or indirectly involved in any district heating project under consideration by the commissioner.

The assistant commissioner of energy may from time to time add or delete task force members, subject only to the limitations in this subpart.

Subp. 2. **Task force duties.** The task force shall review each application for a loan under the act, and shall advise and assist the commissioner in carrying out the requirements of the act and parts 4200.3000 to 4200.4200. The commissioner shall retain final responsibility for all statutory and rule requirements.

Statutory Authority: MS s 116J.10; 116J.36 subd 11

4200.4050 FEASIBILITY ASSESSMENT.

The commissioner shall review each application as received according to the following feasibility assessment parameters:

A. the eligibility and priorities criteria of Minnesota Statutes, section 116J.36, subdivisions 3 and 4;

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- B. the debt service coverage represented by the business plan;
- C. the debt service coverage from revenues currently under contract;
- D. the total cost of the project;
- E. the ratio of the state loan under the act to the total cost of the project;
- F. the terms of the contracts with customers; and
- G. the total number of customers for the project.

Statutory Authority: *MS s 116J.10; 116J.36 subd 11*

4200.4100 EVALUATION OF APPLICATION.

Upon reviewing each application, the commissioner shall award points to applicants based upon the following criteria:

- A. four points to applicants that have a debt service coverage of at least 130 based upon the revenues currently under contract;
- B. four points to applicants that have take-or-pay contracts for at least the term of the state loan under the act; two points, if the contracts are for a term less than the term of the state loan under the act;
- C. two points to applicants whose total project cost is less than \$5,000,000 or whose state loan under the act would be less than 50 percent of the project's total cost;
- D. two points to applicants that have 50 or more customers identified in the marketing study of their business plans, if these customers comprise at least 50 percent of the project's thermal load.

Statutory Authority: *MS s 116J.10; 116J.36 subd 11*

4200.4200 RECOMMENDATION.

Subpart 1. Tallying points. The commissioner shall tally the points awarded to each applicant under part 4200.4100 and shall make recommendations based upon the standards set forth in subparts 2 and 3.

Subp. 2. Eight or more points. For applicants who have been awarded a total of eight or more points, the commissioner shall recommend that the revenues of the project be pledged for repayment of the state loan under the act. In addition, the state loan may take a position subordinate to other financing.

Subp. 3. Seven or fewer points. For applicants who have been awarded a total of seven or fewer points, the commissioner shall recommend that the applicant pledge additional funds adequate to ensure the repayment of the state loan under the act. If additional funds are not available or the applicant chooses not to pledge them, then the applicant may pledge to levy an ad valorem tax of a similar amount.

Statutory Authority: *MS s 116J.10; 116J.36 subd 11*