

Minnesota Attorney General: Administrative Rules Proceedings

Copyright Notice:

This material may be protected by copyright law (U.S. Code, Title 17). Researchers are liable for any infringement. For more information, visit www.mnhs.org/copyright.

Version 3
August 20, 2018

TEMPORARY

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 10-13-83
DATE FOR REVIEW
DATE DUE 10-20-83

Adopted w/a hearing
Adopted w/o hearing
Temporary rule ✓

Approved 10-20-83 mjc Disapproved Returned to Agency

Resubmitted Due
Approved Disapproved Returned to Agency

Date filed w/Secretary of State Revisor approved / disapproved

---

_____ Rule as Adopted

_____ Rule as Proposed

✓ Order Adopting 10.11.83 Date (misc cites relevant section of APA)

_____ Notice of Intent to Solicit Outside Opinion

✓ Order for rulemaking
N/A date of Hearing

N/A Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency

✓ Affidavit of Mailing Notice or rulemaking
9.20.83 At least ~~30~~ 20 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

✓ Publication in State Register
9.19.83 At least ~~30~~/20 days prior to ~~hearing~~/adoption

N/A Hearing Examiner's Report

_____ Chief Hearing Examiner's Report(s)
_____ Approving H.E.'s Report
_____ Approving agency action

_____ Agency's Findings of Fact

_____ LCRAR Report or agency Affidavit

_____ Certificate of Board's Resolution Adopting Rules

_____ Order Approving Incorporation by Reference

_____ Statement of Need and Reasonableness

_____ Petition for Adoption of a Rule

✓ Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

✓ Certificate of Compliance w/Rulemaking Procedures

N/A Affidavit of Mailing Notice of Submission to Attorney General

✓ Notice of Submission to the Attorney General

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

STATE OF MINNESOTA

OFFICE OF THE ATTORNEY GENERAL

ST. PAUL 55155

ADDRESS REPLY TO:
1100 BREMER TOWER
SEVENTH PL. AND MINNESOTA ST.
ST. PAUL, MN 55101
TELEPHONE: (612) 296-9412

October 12, 1983

J. Michael Miles
Assistant Attorney General
204 Administration Building
50 Sherburne Avenue
St. Paul, Minnesota 55155

RECEIVED
OCT 13 1983
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

Re: Adopted Temporary Rules

Dear Michael:

Enclosed for review by the Attorney General pursuant to Minn. Stat. § 14.32 (1980), and 1 MCAR § 1.204 are the ~~Proposed~~ Adopted Temporary Rules of the Department for District Heating Planning Grants pursuant to section 116J.36, subdivision 3a, as created by Laws of 1983, chapter 301, section 129.

Very truly yours,

THOMAS J. BARRETT
Special Assistant
Attorney General

Telephone: (612) 296-1265

TJB:bl

Enclosure

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : MARK B. DAYTON, Commissioner DATE: 10/20/83
Attn: THOMAS J. BARRETT
Special Assistant Attorney General

FROM : MARTHA J. CASSERLY MJC PHONE: 296-4347
Legal Assistant

SUBJECT: In the Matter of the Proposed Adoption of Temporary Rules of the Department of Energy and Economic Development Governing Administration of the District Heating Grant Program. (temporary)

Enclosed herewith are the rules you have submitted for approval. These rules have been approved by this office and filed with the Secretary of State. Please note that they have not been filed with the State Register. This must be done promptly by your agency.

Upon receipt and before transmittal to your agency, however, it is important that you recheck these rules as to:

1. Affixation of stamps of the Attorney General and Secretary of State;

2. Coverage by these stamps of all rules submitted; and

3. Inclusion of all pages to the rules in the approved set.

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

Encs.
MJC/ls
cc: Ms. Kathy Burek
Mr. Duane Harves

Department of Energy and Economic Development

Adopted Temporary Rules for the Administration of the District Heating Grant Program

Temporary Rules as Adopted

6 MCAR S 2.4040 [Temporary] Definitions.

For the purpose of 6 MCAR SS 2.4041-2.4048 [Temporary] the words or terms defined in this rule have the meanings given them.

A. Applicant. "Applicant" means a municipality as defined in H. 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 co-sponsor.

B. Commissioner. "Commissioner" means the commissioner of the Department of Energy and Economic Development.

C. Committee. The commissioner shall select a committee consisting of at least four members to review and rank applications. Committee 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.

D. Community heat load survey and map. "Community heat load 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.

E. Department. "Department" means the Department of Energy and Economic Development.

F. Eligible planning grant costs. "Eligible planning grant costs" are as defined in Minnesota Statutes, section 116J.36, subdivision 3a.

G. Major central system. "Major central system" is one that does not rely primarily on oil or natural gas.

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

I. Preliminary planning grant project. "Preliminary planning grant project" is a project with a goal to undertake a preliminary examination of a district heating opportunity, including technical, organizational, and economic feasibility.

J. 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 which in the future would become a part of a major central system.

K. Secondary planning grant project. "Secondary planning grant project" is an in-depth examination of a district heating opportunity. Results of this study should allow a city to proceed to design and construct in a timely fashion, provided results of the project indicate continued feasibility.

6 MCAR S 2.4041 [Temporary] Authority and purpose.

A. Authority. Rules 6 MCAR SS 2.4040-2.4048 [Temporary] implementing the district heating planning grant program are promulgated by the department according to Minnesota Statutes, section 116J.36, subdivisions 3a and 11.

B. Purpose. The objective of the district heating planning grant program is to encourage the development and expansion of economically viable district heating systems which have the potential to save energy and displace scarce fuels such as oil and natural gas. The program is designed to encourage construction of new district heating systems, reconstruction or major expansion of existing district heating systems, and expansion of district heating systems by development of satellite systems or heat islands which could be connected to an existing or proposed major central heating system at a later time.

C. Maximum award amount. The maximum amount of a preliminary planning grant is $20,000 and requires at least a ten percent local match. The maximum amount of a secondary planning grant is $50,000 and requires at least a ten percent local match.

6 MCAR S 2.4042 [Temporary] Planning grant program.

A. Application schedule. After the effective date of 6 MCAR SS 2.4040-2.4048 [Temporary] and after announcement of the program by the department in the State Register, the department shall accept applications for secondary planning grants only. First priority shall be given to funding secondary planning projects which meet the criteria for eligible projects. If funds remain, a preliminary planning grant program will be announced in the State Register. Applications received shall be ranked, and a committee shall recommend all completed projects in a priority rank.

B. Review process. The commissioner shall select a committee which shall assist the department in reviewing and ranking applications. The recommendations of this committee shall be transmitted to the commissioner. The commissioner shall approve, disapprove, or return for further consideration projects recommended by the committee. Upon approval by the commissioner, a grant agreement shall be negotiated with the department in accordance with 6 MCAR S 2.4047 [Temporary]. Comments on applications not selected for grant awards shall be forwarded to the applicant.

6 MCAR S 2.4043 [Temporary] Contents of preliminary planning grant applications.

Applications shall contain at least the following information:

A. A community heat load survey and map. The survey shall contain a description of the heat source and an estimate of the district heating market.

1. 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, the application shall also include fuel, estimated cost of fuel, and fuel availability.

2. 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 for a representative number of customers.

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

B. Completed independent assessment questionnaire. This form will be provided to the applicant.

C. Project plan. A detailed project work plan explaining how the applicant intends to prepare the information defined in the following list. The applicant must include a breakdown of tasks, personnel assigned to and responsible for each task, estimate of time required to complete each task, and project schedule including beginning and end dates for each task. Expected results and product of each task must be identified.

1. Briefly discuss the unit of government and individuals responsible for this project. Describe how the team is organized.

2. Explain plans to develop more detailed information about heat source, heat loads, distribution system, and building conversion costs.

3. Explain how the applicant will develop a business profile, market analysis, or strategy.

4. Discuss the ownership options being considered and how the applicant plans to narrow them down.

5. Explain how the applicant will develop a funding strategy for successive stages of development.

6. Discuss how the applicant will develop a preliminary economic analysis. This analysis should contain preliminary cost estimates for heat source, distribution pipe, and conversion costs to individual building owners. The analysis should also contain revenue projections for the project and an operating budget.

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

E. Community benefit. Briefly discuss the impact of the

district heating system on the community and how it would relate to community development plans.

F. Project budget. Include an estimate of expenditures by categories such as personnel and travel. Also include an estimate of costs by project plan task.

G. Project organization chart and use of consultants.

6 MCAR S 2.4044 [Temporary] Ranking criteria for preliminary planning grants.

The committee will use the following criteria to rank applications:

A. community heat load survey and map, up to a maximum of 30 points;

B. thoroughness of project plan, up to a maximum of 30 points;

C. community commitment/business commitment, up to a maximum of 15 points;

D. qualifications of project personnel, up to a maximum of ten points;

E. benefit to the community, up to a maximum of ten points;

F. clarity and conciseness, up to a maximum of five points.

6 MCAR S 2.4045 [Temporary] Contents of secondary planning grant application.

Applications shall contain at least the following information.

A. History of project to date.

B. A community heat load survey and map. The survey shall contain a detailed discussion of the heat source and proposed heat load. A map that shows the location of the heat source and heat loads must be included.

C. Project plan. A detailed project work plan explaining how the applicant intends to prepare marketing, economic analysis, engineering, and other data defined in the following list. Applicant must include a breakdown of tasks, personnel assigned to and responsible for each task, estimate of time required to complete each task, and project schedule including

beginning and end dates for each task. The expected results and product of each task must be identified.

1. Marketing. The applicant must prepare a work plan for obtaining the following information.

a. A market study of customers who represent at least 90 percent of the thermal load, to include detailed information on present fuel consumption and the present heating system in each building. Specific feedback on customers' attitudes toward district heating building improvements, capital intensive projects, and conservation must be obtained.

b. A market strategy is to be prepared using the information gained in a. This strategy ~~should~~ must include marketing to the community as a whole and also to the individual customers of the system. Marketing efforts may include any or all of the following: public meetings, newspaper articles, radio spots, slide shows, brochures, one-to-one meetings with individual customers, developing financial mechanisms for customer conversion costs, and working with community organizations and other branches of city government. Specific conversion cost information for a representative number of potential customers must be prepared as part of this project.

c. A form contract must be prepared ~~and will~~ to be used to market district heating to potential customers and obtain commitments from customers representing 50 percent of the heat load to purchase heat from the district heating system. If contracts will not be used, a statement must be included setting out the security to be pledged for the bonds.

d. A resolution from the owner of the heat source stating his intention to proceed to design and/or construct the system.

e. A resolution from the city council stating their continued interest in the project and also what pledges they would make for repayment of a state design loan.

f. A description of how the system could be expanded to serve other parts of the community.

2. Economic analysis. The application ~~should~~ must

contain at a minimum plans for developing the following information.

a. Cash flow, income, and balance sheets for a 20-year planning period.

b. Cost expenditures for transmission and distribution pipe, heat source operation, and maintenance costs excluding fuel, building heating conversion costs, system replacement costs, and building and land acquisition as necessary.

c. An explanation of what provisions if any will be provided for customer conversions.

3. Engineering. An applicant must explain how the following information will be attained.

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 configurations 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. 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; back-up heat source; mobile boilers; accumulators; and future heat sources such as solid waste, solar, and industrial waste heat.

4. Other. The applicant must provide plans for obtaining the following additional information.

a. Identification of all licenses, permits, zoning regulations, and other requirements of federal, state, and local government with which the project will be expected to comply.

b. Copy of completed environmental impact statement or negative declaration of an EAW or, in those cases where no environmental rules and regulations apply, a statement as to the

environmental effects of the project.

c. An estimate of the type and amount of fuel saved per year with district heating compared to the type and amount of fuel used by existing system.

D. Project budget. An estimate of expenditures by categories such as personnel and travel, and estimates of cost by project plan task and by proposed source of funds from state, local government, or other source must be included.

E. Project organization chart and use of consultants. The role and responsibilities of all parties involved with this project must be discussed. Appropriate background material for each person ~~should~~ must be submitted.

F. Community commitment. Written expressions of interest and commitment from major potential loads, the owner of the heat source, the municipal governing body, and other organizations ~~should~~ must be included. Amount and source of nonstate funds committed to the planning project ~~should~~ must be indicated.

G. Community benefit. The impact of the district heating system on the community and its relationship to community development plans ~~should~~ must be discussed briefly. The results of the preliminary economic analysis and the manner in which these results will benefit the community ~~should~~ must also be discussed.

6 MCAR S 2.4046 [Temporary] Ranking criteria for secondary planning grants.

The committee will use the following criteria to rank applications:

A. thoroughness of project plan, up to a maximum of 40 points;

B. heat load, up to a maximum of 20 points;

C. community commitment, up to a maximum of 15 points;

D. qualifications of project personnel, up to a maximum of ten points;

E. benefit to the community/favorable preliminary economic analysis, up to a maximum of ten points;

F. clarity and conciseness, up to a maximum of five points.

6 MCAR S 2.4047 [Temporary] Agreement.

After approval by the commissioner, the applicant shall enter into an agreement with the department.

A. 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.

B. Funding period. Planning grants will be approved for a period of ~~up-to-one-year,-unless-other-terms-are-agreed-to-by the-commissioner~~ time which the commissioner will approve.

C. Grant limitations. Planning grants shall not exceed 90 percent of eligible planning costs. No single grant shall exceed $20,000 for a preliminary planning grant or $50,000 for a secondary planning grant.

D. Disbursement schedule. Eighty percent of grant money shall be disbursed at the outset upon receipt of invoice to the department of project costs. The remaining 20 percent shall be disbursed upon completion and receipt of a satisfactory final report.

E. Required reports. The grantee shall submit to the department on the first of each month a one to two page report briefly stating the activities that have taken place during the month. The grantee shall provide the department with three copies of the final planning report, one of which shall be a camera-ready copy.

F. Records. The grantee shall maintain financial records according to generally recognized accounting methods for a period of not less than three years from the date of the execution of the contract of all transactions relating to the receipt and expenditure of grant money.

G. Contract deviations. No grant funds shall be used for work done prior to the time the grant is awarded. 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-department. Unless-agreed-upon-by-the-department,~~ A municipality may not contract out all its energy-related activities to consultants.

6 MCAR S 2.4048 [Temporary] Evaluation.

A. Evaluation. The department shall conduct an evaluation of the final report and all the required reports and financial documents within 60 days of their submission by the grantee to the department. The evaluation shall assess:

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

2. whether the agreed upon work program was completed; and

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

B. Review. Upon completion of a satisfactory evaluation, the remaining ~~ten~~ 20 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 commissioner.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
OCT 28 1983
Joan Anderson Growe
Secretary of State
10:57 AM

APPROVED AS TO FORM AND LEGALITY
October 20 1983
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY Martha J Cassedy
~~SPECIAL ASSISTANT ATTORNEY GENERAL~~
Legal Assistant

Exhibit H-3

STATE OF MINNESOTA

DEPARTMENT OF Energy and Economic Development

In the Matter of the Proposed Adoption
of Temporary Rules of the

Department of Energy and Economic Development

Governing Administration of the District

Heating Grant Program (temporary)

ORDER ADOPTING
TEMPORARY RULES

The above-entitled matter was published in the State Register on September 19, 1983. as a proposed temporary rule pursuant to Minnesota Statutes section 15.0412, subdivision 5. After affording interested and affected persons an opportunity to submit written data and views within 20 days of the publication date, reviewing and considering the data and views, and determining that the above-captioned rules are needed and reasonable.

NOW, THEREFORE, IT IS ORDERED that these rules identified as 6 MCAR § 2.4040 - 2.4048 are adopted this 11 day of October, 1983. pursuant to authority vested in me by Minnesota Statutes section 116J.10 and 116J.36, subdivision 3a, Laws of 1983, Chapter 301, Section 129

STATE OF MINNESOTA

Mark B. Dayton

Commissioner of

Department of Energy and Economic Development

STATE OF MINNESOTA

DEPARTMENT OF ENERGY AND ECONOMIC DEVELOPMENT

ENERGY DIVISION

In the Matter of the Proposed Adoption of Temporary Rules of the Department of Energy and Economic Development Governing Administration of the District Heating Grant Program (Temporary)

ORDER FOR NOTICE OF INTENT TO ADOPT TEMPORARY RULES

IT IS ORDERED this 2nd day of September 1983 that Notice of Intent to Adopt Temporary Rules in the above-entitled matter be published in the State Register. The most specific statutory authority from the proposed rules is Minnesota Statute § 116J36, sub. 3a.

DEPARTMENT OF ENERGY & ECONOMIC DEVELOPMENT

Mark B. Dayton
Commissioner

In the Matter of the Proposed Adoption of
Temporary Rules of the Department of Energy
and Economic Development Governing Administration
of the District Heating Grant Program (Temporary)

AFFIDAVIT OF MAILING

STATE OF MINNESOTA)
)
COUNTY OR RAMSEY)

Jeanette M. Roesler, being first duly sworn deposes and says:

That on the 20 day of September, 1983, at the City of St. Paul, County of Ramsey, State of Minnesota, s/he served the attached Notice of Intent to Adopt Rules Without Public Hearing by depositing in the State of Minnesota Central Mail System for United States mailing at said City of St. Paul, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who have requested that their names be placed on file with the State Department of Energy and Economic Development for the purpose of receiving notice of the proposed adoption of rules by this Minnesota Department of Energy and Economic Development.

Jeanette M. Roesler

Subscribed and sworn to before me
this 21 day of SEPTEMBER, 1983.

Dennis M. Devereaux

DENNIS M. DEVEREAUX
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
My Comm. Expires April 1, 1988

STATE OF MINNESOTA)
) ss.
COUNTY OR RAMSEY)

CERTIFICATE

In The Matter of the Proposed Adoption of Temporary Rules of the Department of Energy and Economic Development Governing Administration of the District Heating Grant Program (Temporary)

I hereby certify that the list of persons, associations and other interested groups who have requested, pursuant to Minnesota Statute & 15.0412, subd. 4, that their names be placed on file with and maintained by the State Department of Energy and Economic Development for the purpose of receiving notice of the proposed adoption of rules by this Department of Energy and Economic Development is accurate and complete as of 10:00 am, this 19 day of September, 1983.

Linda Lambeck

PROPOSED RULES

Pursuant to Minn. Stat. of 1980, §§ 14.21, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless seven or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules;

and

4. that the rule may be modified if modifications are supported by the data and views submitted.

If, during the 30-day comment period, seven or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.13-14.20 which state that if an agency decides to hold a public hearing, it must publish in the *State Register* a notice of its intent to do so. This notice must appear at least 30 days prior to the date set for the hearing, along with the full text of the proposed rules. (If the agency has followed the provisions of subd. 4h and has already published the proposed rules, a citation to the prior publication may be substituted for republication.)

Pursuant to Minn. Stat. § 14.29, when a statute, federal law or court order to adopt, suspend or repeal a rule does not allow time for the usual rulemaking process, temporary rules may be proposed. Proposed temporary rules are published in the *State Register*, and for at least 20 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Energy and Economic Development Energy Division

Proposed Temporary Rules for the Administration of the District Heating Grant Program

Request for Public Comment

Notice is hereby given that pursuant to Minn. Stat. § 14.30 (1982), the Department of Energy and Economic Development is proposing the following temporary rules for the purpose of administering the district heating grant program. Authority for the adoption of these rules is contained in Minn. Stat. § 116J.36, sub. 3a. A copy of the proposed rules is attached to this notice.

Persons interested in these rules have 20 days from this publication to submit data and views on the proposed temporary rules in writing. Comments should be submitted to:

Mary Lesch-Gormley
Energy Division
980 American Center Building
150 E. Kellogg Blvd.
St. Paul, MN 55101
Telephone: 612/297-2324

The proposed temporary rules may be modified if the modifications are supported by the data and views submitted to the Division and do not result in a substantial change in the proposed language.

These proposed temporary rules, with modifications, if any, shall be submitted to the Attorney General for final approval as to form and legality. The temporary rules shall take effect immediately upon the Attorney General's approval.

These temporary rules shall then be effective for 180 days or until they are replaced by permanent rules, whichever occurs first.

Mark B. Dayton
Commissioner

Temporary Rules as Proposed (all new material)

6 MCAR § 2.4040 [Temporary] Definitions.

For the purpose of 6 MCAR §§ 2.4041-2.4048 [Temporary] the words or terms defined in this rule have the meanings given them.

A. Applicant. "Applicant" means a municipality as defined in H. 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 co-sponsor.

B. Commissioner. "Commissioner" means the commissioner of the Department of Energy and Economic Development.

C. Committee. The commissioner shall select a committee consisting of at least four members to review and rank applications. Committee 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.

D. Community heat load survey and map. "Community heat load 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, temperature requirements, and approximate load duration for process heat customers.

E. Department. "Department" means the Department of Energy and Economic Development.

F. Eligible planning grant costs. "Eligible planning grant costs" are as defined in Minnesota Statutes, section 116J.36, subdivision 3a.

G. Major central system. "Major central system" is one that does not rely primarily on oil or natural gas.

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

I. Preliminary planning grant project. "Preliminary planning grant project" is a project with a goal to undertake a preliminary examination of a district heating opportunity, including technical, organizational, and economic feasibility.

J. 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 which in the future would become a part of a major central system.

K. Secondary planning grant project. "Secondary planning grant project" is an in-depth examination of a district heating opportunity. Results of this study should allow a city to proceed to design and construct in a timely fashion, provided results of the project indicate continued feasibility.

6 MCAR § 2.4041 [Temporary] Authority and purpose.

A. Authority. Rules 6 MCAR §§ 2.4040-2.4048 [Temporary] implementing the district heating planning grant program are promulgated by the department according to Minnesota Statutes, section 116J.36, subdivisions 3a and 11.

B. Purpose. The objective of the district heating planning grant program is to encourage the development and expansion of economically viable district heating systems which have the potential to save energy and displace scarce fuels such as oil and natural gas. The program is designed to encourage construction of new district heating systems, reconstruction or major expansion of existing district heating systems, and expansion of district heating systems by development of satellite systems or heat islands which could be connected to an existing or proposed major central heating system at a later time.

C. Maximum award amount. The maximum amount of a preliminary planning grant is $20,000 and requires at least a ten percent local match. The maximum amount of a secondary planning grant is $50,000 and requires at least a ten percent local match.

6 MCAR § 2.4042 [Temporary] Planning grant program.

A. Application schedule. After the effective date of 6 MCAR §§ 2.4040-2.4048 [Temporary] and after announcement of the program by the department in the *State Register*, the department shall accept applications for secondary planning grants only. First priority shall be given to funding secondary planning projects which meet the criteria for eligible projects. If funds remain, a preliminary planning grant program will be announced in the *State Register*. Applications received shall be ranked, and a committee shall recommend all completed projects in a priority rank.

B. Review process. The commissioner shall select a committee which shall assist the department in reviewing and ranking applications. The recommendations of this committee shall be transmitted to the commissioner. The commissioner shall approve, disapprove, or return for further consideration projects recommended by the committee. Upon approval by the commissioner, a grant agreement shall be negotiated with the department in accordance with 6 MCAR § 2.4047 [Temporary]. Comments on applications not selected for grant awards shall be forwarded to the applicant.

6 MCAR § 2.4043 [Temporary] Contents of preliminary planning grant applications.

Applications shall contain at least the following information:

A. A community heat load survey and map. The survey shall contain a description of the heat source and an estimate of the district heating market.

1. 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, the application shall also include fuel, estimated cost of fuel, and fuel availability.

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.

2. 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 for a representative number of customers.

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

B. Completed independent assessment questionnaire. This form will be provided to the applicant.

C. Project plan. A detailed project work plan explaining how the applicant intends to prepare the information defined in the following list. The applicant must include a breakdown of tasks, personnel assigned to and responsible for each task, estimate of time required to complete each task, and project schedule including beginning and end dates for each task. Expected results and product of each task must be identified.

1. Briefly discuss the unit of government and individuals responsible for this project. Describe how the team is organized.

2. Explain plans to develop more detailed information about heat source, heat loads, distribution system, and building conversion costs.

3. Explain how the applicant will develop a business profile, market analysis, or strategy.

4. Discuss the ownership options being considered and how the applicant plans to narrow them down.

5. Explain how the applicant will develop a funding strategy for successive stages of development.

6. Discuss how the applicant will develop a preliminary economic analysis. This analysis should contain preliminary cost estimates for heat source, distribution pipe, and conversion costs to individual building owners. The analysis should also contain revenue projections for the project and an operating budget.

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

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

F. Project budget. Include an estimate of expenditures by categories such as personnel and travel. Also include an estimate of costs by project plan task.

G. Project organization chart and use of consultants.

6 MCAR § 2.4044 [Temporary] Ranking criteria for preliminary planning grants.

The committee will use the following criteria to rank applications:

A. community heat load survey and map, up to a maximum of 30 points;

B. thoroughness of project plan, up to a maximum of 30 points;

C. community commitment/business commitment, up to a maximum of 15 points;

D. qualifications of project personnel, up to a maximum of ten points;

E. benefit to the community, up to a maximum of ten points;

F. clarity and conciseness, up to a maximum of five points.

6 MCAR § 2.4045 [Temporary] Contents of secondary planning grant application.

Applications shall contain at least the following information.

A. History of project to date.

B. A community heat load survey and map. The survey shall contain a detailed discussion of the heat source and proposed heat load. A map that shows the location of the heat source and heat loads must be included.

C. Project plan. A detailed project work plan explaining how the applicant intends to prepare marketing, economic analysis, engineering, and other data defined in the following list. Applicant must include a breakdown of tasks, personnel assigned to and responsible for each task, estimate of time required to complete each task, and project schedule including beginning and end dates for each task. The expected results and product of each task must be identified.

1. Marketing. The applicant must prepare a work plan for obtaining the following information.

a. A market study of customers who represent at least 90 percent of the thermal load, to include detailed information on present fuel consumption and the present heating system in each building. Specific feedback on customers' attitudes toward district heating building improvements, capital intensive projects, and conservation must be obtained.

b. A market strategy is to be prepared using the information gained in a. This strategy should include marketing to the community as a whole and also to the individual customers of the system. Marketing efforts may include any or all of the following: public meetings, newspaper articles, radio spots, slide shows, brochures, one-to-one meetings with individual customers, developing financial mechanisms for customer conversion costs, and working with community organizations and other branches of city government. Specific conversion cost information for a representative number of potential customers must be prepared as part of this project.

c. A form contract must be prepared and will be used to market district heating to potential customers and obtain commitments from customers representing 50 percent of the heat load to purchase heat from the district heating system. If contracts will not be used, a statement must be included setting out the security to be pledged for the bonds.

d. A resolution from the owner of the heat source stating his intention to proceed to design and/or construct the system.

e. A resolution from the city council stating their continued interest in the project and also what pledges they would make for repayment of a state design loan.

f. A description of how the system could be expanded to serve other parts of the community.

2. Economic analysis. The application should contain at a minimum plans for developing the following information.

a. Cash flow, income, and balance sheets for a 20-year planning period.

b. Cost expenditures for transmission and distribution pipe, heat source operation, and maintenance costs excluding fuel, building heating conversion costs, system replacement costs, and building and land acquisition as necessary.

c. An explanation of what provisions if any will be provided for customer conversions.

3. Engineering. An applicant must explain how the following information will be attained.

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 configurations 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. 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; back-up heat source; mobile boilers; accumulators; and future heat sources such as solid waste, solar, and industrial waste heat.

4. Other. The applicant must provide plans for obtaining the following additional information.

a. Identification of all licenses, permits, zoning regulations, and other requirements of federal, state, and local government with which the project will be expected to comply.

b. Copy of completed environmental impact statement or negative declaration of an EAW or, in those cases where no environmental rules and regulations apply, a statement as to the environmental effects of the project.

c. An estimate of the type and amount of fuel saved per year with district heating compared to the type and amount of fuel used by existing system.

D. Project budget. An estimate of expenditures by categories such as personnel and travel, and estimates of cost by project plan task and by proposed source of funds from state, local government, or other source must be included.

E. Project organization chart and use of consultants. The role and responsibilities of all parties involved with this project must be discussed. Appropriate background material for each person should be submitted.

F. Community commitment. Written expressions of interest and commitment from major potential loads, the owner of the heat source, the municipal governing body, and other organizations should be included. Amount and source of nonstate funds committed to the planning project should be indicated.

G. Community benefit. The impact of the district heating system on the community and its relationship to community

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.

development plans should be discussed briefly. The results of the preliminary economic analysis and the manner in which these results will benefit the community should also be discussed.

6 MCAR § 2.4046 [Temporary] Ranking criteria for secondary planning grants.

The committee will use the following criteria to rank applications:

A. thoroughness of project plan, up to a maximum of 40 points;

B. heat load, up to a maximum of 20 points;

C. community commitment, up to a maximum of 15 points;

D. qualifications of project personnel, up to a maximum of ten points;

E. benefit to the community/favorable preliminary economic analysis, up to a maximum of ten points;

F. clarity and conciseness, up to a maximum of five points.

6 MCAR § 2.4047 [Temporary] Agreement.

After approval by the commissioner, the applicant shall enter into an agreement with the department.

A. 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.

B. Funding period. Planning grants will be approved for a period of up to one year, unless other terms are agreed to by the commissioner.

C. Grant limitations. Planning grants shall not exceed 90 percent of eligible planning costs. No single grant shall exceed $20,000 for a preliminary planning grant or $50,000 for a secondary planning grant.

D. Disbursement schedule. Eighty percent of grant money shall be disbursed at the outset upon receipt of invoice to the department of project costs. The remaining 20 percent shall be disbursed upon completion and receipt of a satisfactory final report.

E. Required reports. The grantee shall submit to the department on the first of each month a one to two page report briefly stating the activities that have taken place during the month. The grantee shall provide the department with three copies of the final planning report, one of which shall be a camera-ready copy.

F. Records. The grantee shall maintain financial records according to generally recognized accounting methods for a period of not less than three years from the date of the execution of the contract of all transactions relating to the receipt and expenditure of grant money.

G. Contract deviations. No grant funds shall be used for work done prior to the time the grant is awarded. 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 department. Unless agreed upon by the department, a municipality may not contract out all its energy-related activities to consultants.

6 MCAR § 2.4048 [Temporary] Evaluation.

A. Evaluation. The department shall conduct an evaluation of the final report and all the required reports and financial documents within 60 days of their submission by the grantee to the department. The evaluation shall assess:

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

2. whether the agreed upon work program was completed; and

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

B. 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 commissioner.

In the Matter of the Proposed
Adoption of Temporary Rules of
the Department of Energy and
Economic Development Governing
Administration of the District
Heating Grant Program (temporary)

STATEMENT OF COMPLIANCE
WITH RULEMAKING
PROCEDURES

I, Thomas J. Barrett, do hereby declare that I have examined the rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedures Act, and the rules of the Attorney General have been followed. Any exceptions are noted below.

Thomas J. Barrett
Special Assistant
Attorney General

Dated: October 12, 1983

No comments were received in response to the publication of the proposed temporary rules. Accordingly, none are included.

No changes were made between the rule as proposed and the rule as adopted. Accordingly, no findings of fact or conclusions from those facts have been made.