

ENVIRONMENTAL QUALITY

CHAPTER 84

RENEWABLE ENERGY GRANT AND LOAN PROGRAM

Sub-Chapter 1

Renewable Energy Grant and Loan Program

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## Sub-Chapter 1

## Renewable Energy Grant and Loan Program

17.84.101 POLICY AND PURPOSE OF RULES (1) Title 90, chapter 4, part 1, MCA, provides grant and loan funding through the department to stimulate research, development, demonstration, and commercialization of renewable energy sources. The policy and purpose of this subchapter are to provide criteria and guidelines to aid in implementing the law; to prescribe the form and content of applications; to provide policies and procedures for the preparation, evaluation and administration of those applications; to prescribe the terms and conditions for making grants and loans; and to establish interest charges for loans. (History: 90-4-104, MCA; IMP, 90-4-104, MCA; NEW, Eff. 3/7/76; AMD, 1979 MAR p. 1547, Eff. 12/13/79; AMD, 1982 MAR p. 851, Eff. 4/30/82; TRANS, from DNRC, 1996 MAR p. 2863.)

17.84.102 DEFINITIONS Unless the context requires otherwise, as used in this subchapter:

(1) "Act" means Title 90, chapter 4, part 1, MCA.

(2) "Commercialization" means the engagement by a new or expanding business incorporated, licensed or otherwise authorized to do business in Montana in developing, designing, building, manufacturing, marketing, distributing, or selling renewable energy forms, processes, systems, system components or information.

(3) "Contract monitoring" means a purposeful examination and supervision of a contractor's performance, plans, records, reports and expenditures to insure compliance with the terms and conditions described in a contractual agreement with the department.

(4) "Demonstration" means a physical display or example to illustrate the operation of a renewable energy system or device and to provide evidence of its performance to a large population.

(5) "Development" means an activity that utilizes the results of research or available knowledge and applies those results or knowledge to the design, construction and testing of hardware, models, or prototypes.

(6) "Educational or informational project" means any project that stimulates research, development, demonstration, commercialization or use of renewable energy through workshops, publications, curriculum development, technical assistance services, audio-visual materials, or other means.

(7) "Financial institution" means any state or federally chartered commercial bank, savings and loan association or

credit union authorized to do business or domiciled in the state of Montana and whose deposits are insured by the federal deposit insurance corporation (FDIC), the federal savings and loan insurance corporation (FSLIC) or the national credit union administration (NCUA). it shall also mean the farmer's home administration, the federal land bank and the production credit association.

(8) "Performance monitoring" means a systematic check, test, or investigation to collect, record, and interpret data that will describe the efficiency, energy output, or other operational functions of a renewable energy system or device.

(9) "Person" means, as defined in 90-4-102(2), MCA, "a natural person, corporation, partnership, or other business entity, association, trust, foundation, any educational or scientific institution, or any governmental unit."

(10) "Research" means a systematic study to discover facts or to discover or revise theories that will bring to a more advanced state the capabilities, understanding, availability, and suitability of a renewable energy source. (History: 90-4-104, MCA; IMP, 90-4-104, MCA; NEW, Eff. 3/7/76; AMD, 1979 MAR p. 1547, Eff. 12/13/79; AMD, 1982 MAR p. 851, Eff. 4/30/82; TRANS, from DNRC, 1996 MAR p. 2863.)

17.84.103 ELIGIBLE PROJECTS (1) The department will fund projects that best enable the state to meet the legislative mandate to reduce reliance on nonrenewable energy sources.

(2) Only projects that will be conducted within Montana are eligible for funding.

(3) Funding will be granted only for projects that are applicable to Montana's energy needs.

(4) Only projects or those portions of projects directly related to the research, development, demonstration, or commercialization of renewable energy sources and educational or informational projects are eligible for funding.

(5) Applications dealing with energy storage devices that would promote more efficient utilization of renewable energy will be considered. (History: 90-4-104, MCA; IMP, 90-4-101, 90-4-104, MCA; NEW, Eff. 3/7/76; AMD, Eff. 1/3/77; AMD, 1979 MAR p. 1547, Eff. 12/13/79; AMD, 1982 MAR p. 851, Eff. 4/30/82; TRANS, from DNRC, 1996 MAR p. 2863.)

17.84.104 ELIGIBLE APPLICANTS (1) Any person may make application for a grant or a loan to fund a project under the Act and these rules.

(2) Persons who are employees of the department, contractors of the department working on a conservation or renewable energy project other than under a renewable energy grant or loan, or are members of the board of environmental review or the renewable energy advisory council (REAC) and their immediate families are not eligible for funding. Persons who have a present grant or loan made under the Act and these rules are eligible to apply. (History: 90-4-104, MCA; IMP, 90-4-104, 90-4-105, MCA; NEW, Eff. 3/7/76; AMD, Eff. 1/3/77; AMD, 1979 MAR p. 1547, Eff. 12/13/79; AMD, 1982 MAR p. 851, Eff. 4/30/82; TRANS, from DNRC, 1996 MAR p. 2863.)

17.84.105 RENEWABLE ENERGY ADVISORY COUNCIL (1) The department may appoint a renewable energy advisory council (REAC) that may advise the department on matters pertaining to program development and make recommendations on funding projects. The department shall make the final decision concerning which projects will be funded. (History: 90-4-104, MCA; IMP, 90-4-104, MCA; NEW, Eff. 3/7/76; AMD, Eff. 1/3/77; AMD, 1979 MAR p. 1547, Eff. 12/13/79; AMD, 1982 MAR p. 851, Eff. 4/30/82; TRANS, from DNRC, 1996 MAR p. 2863.)

17.84.106 SIZE OF AWARDS (1) The maximum award given to a single project or applicant as a grant or loan shall be less than the total project cost and shall not exceed 10% of the annual appropriation from the earmarked account. There is no minimum funding limit. (History: 90-4-104, MCA; IMP, 90-4-101, 90-4-104, MCA; NEW, 1982 MAR P. 851, Eff. 4/30/82; TRANS, from DNRC, 1996 MAR p. 2863.)

17.84.107 TYPE OF AWARD (1) The department may award loans or grants. Commercialization projects will be considered for loan funding exclusively.

(2) The department will determine the appropriate type of funding based on the nature of the project. (History: 90-4-104, MCA; IMP, 90-4-101, 90-4-104, MCA; NEW, 1982 MAR p. 851, Eff. 4/30/82; TRANS, from DNRC, 1996 MAR p. 2863.)

Rules 17.84.108 through 17.84.110 reserved

17.84.111 APPLICATION (1) An applicant shall submit an application on forms prescribed by the department.

(2) An applicant shall submit 4 copies of the application to the department at the time of filing, and shall provide additional copies as requested by the department. (History: 90-4-104, MCA; IMP, 90-4-105, MCA; NEW, Eff. 3/7/76; AMD, Eff. 1/3/77; AMD, 1979 MAR p. 1547, Eff. 12/13/79; AMD, 1982 MAR p. 851, Eff. 4/30/82; TRANS, from DNRC, 1996 MAR p. 2863.)

17.84.112 SUPPLEMENTAL MATERIAL (1) The applicant shall submit additional or supplemental material as requested by the department. (History: 90-4-104, MCA; IMP, 90-4-104, 90-4-105, MCA; NEW, Eff. 3/7/76; AMD, Eff. 1/3/77; AMD, 1979 MAR p. 1547, Eff. 12/13/79; AMD, 1982 MAR p. 851, Eff. 4/30/82; TRANS, from DNRC, 1996 MAR p. 2863.)

17.84.113 CHANGES OR ADDITIONS (1) If an applicant desires to change or to add to an application other than as required by ARM 17.84.112 after it is formally filed, the applicant shall submit the change or addition to the department in writing. The department will consider any substantial change or addition to an application to constitute a new application. No substantial changes or additions to an application will be accepted after the deadlines for submittal set forth in ARM 17.84.114. (History: 90-4-104, MCA; IMP, 90-4-104, MCA; NEW, Eff. 3/7/76; AMD, Eff. 1/3/77; AMD, 1979 MAR p. 1547, Eff. 12/13/79; AMD, 1982 MAR p. 851, Eff. 4/30/82; TRANS, from DNRC, 1996 MAR p. 2863.)

17.84.114 APPLICATION SUBMITTAL DEADLINES (1) Applications for unsolicited grants must be submitted prior to November 1 or at other times specified by the department.

(2) Applications for solicited grants must be submitted at times specified by the department.

(3) Loan applications must be submitted to the department prior to January 1 or at other times specified by the department. (History: 90-4-104, MCA; IMP, 90-4-104, MCA; NEW, Eff. 3/7/76; AMD, Eff. 1/3/77; AMD, Eff. 6/4/77; AMD, 1978 MAR p. 1629, Eff. 12/14/78; AMD, 1979 MAR p. 1547, Eff. 12/13/79; AMD, 1982 MAR p. 851, Eff. 4/30/82; TRANS, from DNRC, 1996 MAR p. 2863.)

17.84.115 APPLICATION EVALUATION PROCEDURE (1) The department will accept and review each application to determine whether it is in substantial compliance with the Act and these rules. If the department determines that the application is not in substantial compliance, the application will be considered deficient and the department will return the application, notifying the applicant in writing and listing the application deficiencies. The application may be re-submitted after the necessary revisions have been made. All listed deficiencies must be corrected and the revised application filed in compliance with ARM 17.84.111 prior to the submittal deadline to be eligible for funding consideration.

(2) Grant applications received for consideration in each period will be compared with one another for relative merit as well as evaluated for individual merit. The technical soundness of the proposed project, the public benefits associated with the proposed project, and the likelihood that the proposed project will lessen reliance on nonrenewable energy sources will be evaluated in determining the merits of each application. The department will fund those grant applications showing the highest individual and relative merit consistent with the availability of funds.

(3) The department will evaluate loan applications independent of one another to determine whether the loan application meets minimum standard technical criteria established by the department. Applicants whose applications meet these criteria will be authorized for loan consideration subject to the availability of funds and the participation of a financial institution.

(4) The department shall make the final decision concerning which applications to fund. (History: 90-4-104, MCA; IMP, 90-4-104, MCA; NEW, Eff. 3/7/76; AMD, Eff. 1/3/77; AMD, 1979 MAR p. 1547, Eff. 12/13/79; AMD, 1982 MAR p. 851, Eff. 4/30/82; TRANS, from DNRC, 1996 MAR p. 2863.)



17.84.121 CONDITIONS ON GRANTS (1) Funds granted under the terms of the Act and these rules shall be used only for the purposes described in the contract. Accurate records must be kept by the grant recipient documenting all expenditures.

(2) Grant recipients shall be required to make their projects open to the public during reasonable hours for a period of time specified in the contract.

(3) The department will retain the right to inspect and monitor the performance of all projects for a specified period of up to 5 years after completion of the project.

(4) The department will require the grant recipient to assist, guide and inform the department during on-site investigations. The department may make such investigations at its discretion.

(5) The grant recipient shall operate and maintain his funded project for a specified period to comply with the performance monitoring provisions.

(6) All patents and copyrights that result directly from projects funded in whole or in part by a grant made under the Act and these rules shall be the property of the department. (History: 90-4-104, MCA; IMP, 90-4-104, 90-4-106, 90-4-107, MCA; NEW, Eff. 3/7/76; AMD, 1979 MAR p. 1547, Eff. 12/13/79; AMD, 1982 MAR p. 851, Eff. 4/30/82; TRANS, from DNRC, 1996 MAR p. 2863.)

17.84.122 GRANT CONTRACT (1) If an applicant's proposal is approved and determined to be appropriate for funding by a grant pursuant to ARM 17.84.107, the department will enter into a contractual grant agreement with the applicant under such terms and conditions as the department considers necessary. (History: 90-4-104, MCA; IMP, 90-4-104, MCA; NEW, Eff. 3/7/76; AMD, 1979 MAR p. 1547, Eff. 12/13/79; AMD, 1982 MAR p. 851, Eff. 4/30/82; TRANS, from DNRC, 1996 MAR p. 2863.)

17.84.123 PAYMENT OF GRANTS (1) Upon approval of an application by the department, funds will be set aside for that particular project.

(2) The department will reimburse the grantee only for actual and necessary expenditures incurred in compliance with the grant contract.

(3) Any balance of a grant that remains unused at the conclusion of the contract period shall revert to the department. (History: 90-4-104, MCA; IMP, 90-4-103, 90-4-104, 90-4-107, MCA; NEW, Eff. 3/7/76; AMD, 1979 MAR p. 1547, Eff. 12/13/79; AMD, 1982 MAR p. 851, Eff. 4/30/82; TRANS, from DNRC, 1996 MAR p. 2863.)

17.84.124 REPORTS AND ACCOUNTING (1) Each grant recipient shall submit periodic progress reports as specified by the department and shall submit a final report to the department within 3 months following the completion of the contract period.

(2) Grant recipients shall make oral or written presentations of progress if requested to do so by the department.

(3) The grant recipient shall adequately account for expenditures in a manner acceptable to the department. All records, reports, and other documents that relate to the project and that are required by the department to be maintained by the grant recipient are subject to audit by the office of the legislative auditor, the department, and, where required by law, the legislative fiscal analyst. (History: 90-4-104, MCA; IMP, 90-4-103, 90-4-104, 90-4-107, MCA; NEW, Eff. 3/7/76; AMD, 1979 MAR p. 1547, Eff. 12/13/79; AMD, 1982 MAR p. 851, Eff. 4/30/82; TRANS, from DNRC, 1996 MAR p. 2863.)

17.84.125 SOLICITED GRANT PROPOSALS (1) The department may issue a request for a proposal (RFP) at any time to initiate projects to meet program goals and objectives and may fund solicited proposals at any time.

(2) The RFP will describe the objectives of the project, the maximum funding that is available for the project, the deadline for submittal, and the criteria that will be used to evaluate applications submitted in response to the RFP. The RFP will be sent to consultants who are on the department's bid list, maintained in compliance with Title 18, chapter 8, part 1, MCA, and will be advertised and sent to other selected groups or individuals that the department considers to have the necessary credentials and experience to successfully carry out the project. (History: 90-4-104, MCA; IMP, 90-4-104, MCA; NEW, 1979 MAR p. 1547, Eff. 12/13/79; AMD, 1982 MAR p. 851, Eff. 4/30/82; TRANS, from DNRC, 1996 MAR p. 2863.)

Rules 17.84.126 through 17.84.129 reserved

17.84.130 APPLICATIONS AND RESULTS PUBLIC (1) Applications submitted to the department under the Act and these rules are subject to public review. The applicant waives any claim of confidentiality by filing an application with the department.

(2) The results of all projects that are funded shall be made public. (History: 90-4-104, MCA; IMP, 90-4-106, MCA; NEW, Eff. 3/7/76; AMD, Eff. 1/3/77; AMD, 1979 MAR p. 1547, Eff. 12/13/79; AMD, 1982 MAR p. 851, Eff. 4/30/82; TRANS, from DNRC, 1996 MAR p. 2863.)

17.84.131 LOAN CONDITIONS (1) No loan will be made under the Act and these rules to refinance existing debt previously incurred by the applicant.

(2) The maximum term for loans is 10 years.

(3) Loans made under the Act and these rules shall be used only for the purposes described in the loan application.

(4) The department's participation in any loan made through a financial institution under the Act and these rules shall not exceed 90% of the principal loan amount. (History: 90-4-104, MCA; IMP, 90-4-101, 90-4-104, MCA; NEW, 1982 MAR p. 851, Eff. 4/30/82; TRANS, from DNRC, 1996 MAR p. 2863.)

17.84.132 AUTHORIZATION FOR LOAN CONSIDERATION (1) If an applicant's proposal is approved and determined to be appropriate for funding by a loan pursuant to ARM 17.84.103, the department will provide the applicant with a letter of authorization for loan consideration.

(2) The letter of authorization for loan consideration will certify to financial institutions that:

(a) the applicant's proposal is consistent with the purposes of the Act and these rules; and

(b) the department will consider participation in a loan made by a financial institution for the purposes described in the proposal subject to the availability of funds.

(3) The department will describe in the authorization for loan consideration such terms and conditions as it considers necessary for the department's participation in a loan made by a financial institution for the proposed project. (History: 90-4-104, MCA; IMP, 90-4-101, 90-4-104, MCA; NEW, 1982 MAR p. 851, Eff. 4/30/82; TRANS, from DNRC, 1996 MAR p. 2863.)

17.84.133 EVALUATION OF LOAN REQUESTS (1) The applicant shall choose a financial institution to consider his loan request and shall provide the department's letter of authorization for loan consideration to the lender.

(2) The department will participate in a loan made by a financial institution only if the applicant submits to the department:

(a) written evidence that the financial institution has investigated and analyzed the applicant's loan request and related materials in the same manner as its other loan requests and consistent with the standard practices of financial institutions considering the type, size, risk, and complexity of the loan requested and the type of applicant, and

(b) a signed servicing agreement the terms and conditions of which have previously been approved by the department evidencing the financial institution's intent to originate the loan under the conditions previously described by the department.

(3) The department will indicate its decision to participate in a loan by executing the servicing agreement and providing the financial institution with a completed standard participation agreement the terms and conditions of which have been approved by the department.

(4) When the financial institution executes and delivers the completed participation agreement to the department, the department is bound to participate in the loan. (History: 90-4-104, MCA; IMP, 90-4-101, 90-4-104, MCA; NEW, 1982 MAR p. 851, Eff. 4/30/82; TRANS, from DNRC, 1996 MAR p. 2863.)

17.84.134 INTEREST RATES (1) A financial institution when making a loan to an applicant authorized for loan consideration by the department, may set the rate of interest on its share of a loan. The financial institution may charge a fixed or a variable rate on its share.

(2) The department shall charge a fixed interest rate on its share of a loan. The rate of interest the department charges on its loan share shall be equal to the federal reserve discount rate on the day the loan closes.

(3) The effective interest rate to the applicant will be the weighted average based on the respective prorata participation of the financial institution and the department. (History: 90-4-104, MCA; IMP, 90-4-101, 90-4-104, MCA; NEW, 1982 MAR p. 851, Eff. 4/30/82; TRANS, from DNRC, 1996 MAR p. 2863.)

