

State of Minnesota
Minnesota Energy and Economic
Development Authority

In the Matter of the Proposed
Adoption of Amendments to the
Community Development Corporation
Program (ED101-106 renumbered
4350.0200, 4350.0400, 4350.0600.

Statement of Need and Reasonableness

The Minnesota Energy and Economic Development Authority ("Authority") presents herein fact and justifications establishing the need for and reasonableness of its proposed amendments relating to the Community Development Corporation Program.

I. Authority for Adoption of Amendments. Authority for adoption of these rules is contained in Minnesota Statutes 116J.65, subd. 5 and Laws of Minn., 1983, ch. 289, sect. 1, subd. 3.

II. Reasonableness and Need Background. Under the original rule (Minn. Rule ED103 & ED105) all eligible CDC designations and project grants required the concurrence of the State Executive Council. Minn. Stat. 116J.65 (82) as amended by Laws of Minn., 1983, ch. 289, sections 58, 59, 60 and 115 subd. 1 (d) provides that the Minnesota Energy and Economic Development Authority (MEEDA) shall (1) administer the CDC program, (2) designate CDC's that are eligible to receive grants and (3) approve grants to CDC's. The 1983 amendments transfer authority from the Commissioner of Energy, Planning and Development to MEEDA. They also provide that the Authority shall be the assignee of all rights of a CDC in State funded loans if the CDC ceases to exist. The legislation transferring authority explicitly provides that all rules adopted pursuant to responsibilities which are transferred to another agency remain in effect and shall be enforced until amended or repealed in accordance with law by the new agency. Laws of Minn., 1983, ch. 289, sect. 1, subd. 3.

III. Reasonableness and Need. The authorizing statute does not require (nor did it ever require) concurrence by the State Executive Council in CDC grants. ED103 provides that program funds be available only to CDC's which have been desig-

nated as eligible by the Commissioner with the concurrence of the State Executive Council. ED105 provides that project grants to CDC's may be made only upon approval of the Commissioner with the concurrence of the State Executive Council. Pursuant to the transfer of powers provision of Laws of Minn., 1983, ch. 289, sect. 1, subd. 2, the Authority is required to carry out the responsibilities of the Commissioner set forth in the statute and rules. A similar provision had operated previously to transfer authority from the Commissioner of Energy, Planning and Development.

Since nothing in Laws of Minn., 1983, ch. 289 appears to amend the need for concurrence of the State Executive Council as to CDC designation and approval of CDC program grants; since the absence of constitutional offices and the difficulty of scheduling meetings when all constitutional officers can be present causes unnecessary and inappropriate delays in the designation of CDC's and approval of program grants; and since the Authority now can serve the "oversee" functions originally done by the State Executive Council, these amendments are reasonable and necessary.

IV. Impact on Small Business. Laws of Minn., 1983, ch. 188. Since Community Development Corporations as a generic group are small businesses and since the intent of these amendments is to make application easier and quicker, there are no adverse affects on small business.

The Community Development Corporations Program is a benefit program, rather than a regulatory program, and as such the program has eligibility requirements rather than compliance requirements. Additionally, the proposed rules do not contain any design or operational standards; therefore the Authority did not consider the substitution of performance standards in lieu thereof.

The rule's standards and requirements are necessary and minimal in light of the statutory directive. Exemptions of small business from rule requirement are neither appropriate nor authorized.