

appropriations to the program for the 1986 and 1987 state fiscal years, and \$165,000 in Amoco oil overcharge funds was also allocated to the program for fiscal years 1985 and 1986. The total amount of grant funds available each year has averaged \$193,000. During the three fiscal years of the program's existence 35 grants have been made to cities and counties for a wide variety of community energy programs at the local level.

Minnesota received \$36 million from the Exxon oil overcharge case (561F SUPP. 816) in August, 1986. The Governor appointed a 26 member task force to make recommendations to him concerning the use of Exxon funds, and the Legislative Commission on Energy also made recommendations to the Governor. Both sets of recommendations proposed funding for Community Energy Initiatives.

Governor Perpich and the Legislative Advisory Commission allocated \$3 million of Exxon funds for Community Energy Initiatives, which are described in the governor's announcement of his decision on the allocations and in the Legislative Advisory Commission's order on the allocations as a "supplement to existing program in the Department of Energy and Economic Development. (Locally planned programs to conserve energy.)"

Minn. Stat 116J.035 empowers the Commissioner of Energy and Economic Development to "adopt rules pursuant to Chapter 14 as necessary to carry out his duties and responsibilities pursuant to this Chapter [Minn. Stat. 116J]." This Statement of Need and

Reasonableness describes the manner in which the department proposes to amend its rules governing community energy council grants in response to the increase in available funds represented by the \$3 million Exxon allocation.

II. IMPACT ON SMALL BUSINESS

The proposed rules amend a program of state financial assistance to cities and counties in support of community energy council activities, and as such have no direct affect on small businesses. Rules covering areas such as this are exempted from Minnesota Statute 14.115 by Minnesota Statute 14.115, Subdivision 8 (b).

Nonetheless, the amendments retain two particular instances in the rules relating to small business that merit discussion in this statement. Part 4160.5500, subpart 1, item A states "Community energy councils must include representatives of labor, small business, volunteer organizations, senior citizens, and low and moderate income residents, and may include city and county officials, and other interested parties." This item has had a beneficial affect on small business because it provides small business a voice in determining the activities of community energy councils. This item established no compliance or reporting requirements or performance, design, or operational standards for small businesses.

Part 4160.5600, subpart 1, item B (renumbered as item C in this proposed amendment) allows grant funds to be expended for the planning, promotion, coordination, and implementation of business energy conservation activities. This item has had a beneficial impact on small businesses, which have received energy conservation assistance from those grantees that have chosen to undertake business energy conservation activities. This item established no compliance or reporting requirements or performance, design or operational standards for small businesses. This item is permissive rather than mandatory, and as such grantees and/or small businesses may choose whether or not to participate in business energy conservation activities, thus "exempting themselves" from this section of the rules.

III. PROCEDURAL HISTORY

The department published a Notice of Intent to Solicit Outside Opinion in the State Register on August 25, 1986. In addition the department announced in the September 8, 1986, State Register a series of five public meetings to provide opportunities throughout the state for interested parties to provide input to the department. Invitations to attend were sent to every city and county with a community energy council, to every regional development commission, to all six McKnight Foundation Minnesota Initiatives regional offices, and to every member of the Legislature. Public meeting announcements were distributed to Community Action Agencies at a Community Action Agency training session in Brainerd on September 9, 1986. Announcements of the meetings were mailed to every newspaper, radio station and television station in the state.

Meetings were held in Benson on September 23, New Ulm on September 24, Thief River Falls on September 29, Grand Rapids on October 2, and St. Paul on October 6, 1986. Each meeting had the same format and agenda. The department distributed written background information on the Exxon oil overcharge allocation, the history of the community energy council grant program, and the existing program rules. The meetings began with a fifteen to twenty minute introductory presentation by the department covering the Exxon funds, the current community energy council grant program, the rule amendment process, and the department's desire for oral and written public input. The public comment and question and answer portion of each meeting was then convened and conducted by an Administrative Law Judge from the Office of Administrative Hearings.

Fifty three people registered on the sign in sheets at the meetings. No comments were received on rule amendments or program changes at the Benson meeting, although the department did respond to a number of questions.

At the New Ulm meeting six people made oral comments and the department received written statements from New Ulm Energy Coordinator Steve Hamilton, Mankato/North Mankato Energy Coordinator Barb Maher, and Gloria Vande Brake and Ann Schaffer of the Southwest Regional Development Commission. The department will respond to the substance of each comment in the section of this statement that discusses the corresponding rule provision.

At the Thief River Falls meeting five people made oral comments, and two people spoke at the Grand Rapids meeting. Fourteen people spoke at the St. Paul meeting, and written comments were received from Sheldon Strom of the city of Minneapolis and Lt. Merle Heatwole of the Salvation Army Heatshare Program.

The department had received a total of ten written comments through October 20, 1986.

IV. DISCUSSION OF THE NEED AND REASONABLENESS OF THE PROPOSED RULE AMENDMENTS.

A. 4160.5300 GRANT PROGRAM

Part 4160.5300 describes the application schedule, review process, maximum award amount, and local match requirements of the program.

Subpart 1. Application schedule

As suggested by the city of Minneapolis, the department proposes to add language to this subpart stating that all available funds shall be announced in each grant cycle, and that no applicant may apply for more than one grant per cycle. The department believes these changes are necessary to insure that all grant funds are available each grant cycle so that as many prospective applicants as possible have access to funds each grant cycle. Similarly, it is reasonable to limit applicants to one grant so that funds can be distributed equitably among communities.

Subpart 2. Review process.

The department believes the revisor's amendment replacing "him or her" as a reference to the commissioner with "the commissioner" is necessary and reasonable to restore clear language to the rule.

As suggested by the city of Minneapolis, the department proposes to add language to this subpart requiring the department to complete application review and inform applicants of its decision within 45 days of the application deadline. The department believes it is necessary to insure timely processing of applications and believes that 45 days is a reasonable time limit for completing these tasks.

Subpart 3. Maximum award amount.

The department proposes to delete the provisions limiting individual grants to a maximum of \$15,000 for an individual applicant and up to \$50,000 for a joint application and to insert new maximum award amounts of \$30,000 for the first year and \$15,000 for the second year. The department also proposes to add new maximum amounts for a community energy council grant to a joint application for the first year of \$30,000 for the first applicant and \$24,000 for each additional applicant up to a maximum of \$80,000 and requires at least a ten percent local match. In addition, the department proposes to add that the maximum amount of a community energy council grant to a joint

application for the second year is \$15,000 for the first applicant and \$12,000 for each additional applicant up to a maximum of \$48,000, and requires at least a ten percent local match. The department proposes that these limits not apply to cities of the first class, which are covered in a proposed new subpart 4 of this part.

This proposed rule amendment would increase the maximum award amounts of individual and joint grants. It would also establish maximum award amounts for a second year of grant funding. (The need for and reasonableness of establishing a second year of funding is discussed on page 15, 4160.5800, subpart 2, Funding period. The proposed amendment to this section [part 4160.5300, subpart 3] only establishes the maximum award amounts for a second year of grant funding.)

The establishment of a \$15,000 maximum award amount in the original rules for individual applicants and additional increments for joint applications was based in part on the resources available to the program at that time (\$145,000). The original maximum award amounts was set in answer to the question "Given the limited amount of grant funds available, the number of interested prospective applicants of which the department is aware and the costs of local energy programs, what maximum award amount will make current funds available so that the greatest number of communities are provided sufficient grant funds to conduct effective local programs?" At the time the original rules were developed the most suitable answers to that question were the amounts adopted.

The department proposes to insert that grants will be approved for a second year if the first year work plan has been completed or if the grantee has made substantial progress towards completion of the first year work plan.

The original rules were developed when the program had received its first year of funding. At that time the department did not know whether the program would be continued, and the department believed it prudent to limit funding to one year. Having no prior experience funding community energy programs, the department did not know whether communities would desire to continue programs for more than one year or whether community programs would merit or benefit from state grant funding beyond the first year.

This proposed amendment is needed because the department has learned that communities with successful energy programs believe that continuing programs past the first year can provide continuing benefits to their communities. The department has observed that some communities can secure local resources to continue programs after the current one year of state funding ends. The department has also observed that some successful programs end when the current one year of state funding ends or are scaled back to minimal levels when local funds cannot be secured for their continuation. Mayor George Latimer of St. Paul wrote the department that "a serious impediment to the success of any conservation project is the short - term nature of funding," and the department agrees.

The department has observed the effect of the original maximum award amounts while monitoring the 35 grants funded during three fiscal years. While local programs have been very successful, the department has observed some of the limits resulting from the current maximum award amounts. These limitations primarily concern personnel issues. The maximum award amounts have hindered the ability of some grantees to offer a competitive enough salary to attract the most experienced personnel available to implement funded programs. The size of grants has also limited the ability of grantees to secure training for newly hired local energy staff, particularly in the area of the marketing and management skills commonly required by community energy staff. Finally, the relatively low wages provided community energy coordinators could lead to some difficulty attracting and retaining local staff.

This proposed amendment is needed both because the department is convinced that larger grants would result in better programs and because sufficient additional funds have become available to allow the department to offer larger grants and still accommodate many of the communities likely to be interested.

This proposed amendment is reasonable also because the department is convinced that larger grants would result in better programs and because sufficient additional funds have become available to allow the department to offer larger

grants and still accommodate many of the communities likely to be interested. The limit is also reasonable because it allows for grants of sufficient size to significantly contribute to grantee expenditures incurred in the conduct of eligible activities. Finally, this proposed amendment is reasonable because it ameliorates the problems of attracting, training, and retaining local staff discussed above.

The department has received 14 comments regarding the maximum grant award. Without exception each commenter supported grants larger than \$15,000. Quentin Crouch of Rochester recommended that the only maximum be for how much money an applicant could demonstrate an effective use. Several commenters proposed formulas to provide larger cities with more funds than smaller cities. The most common grant maximum proposed was \$50,000. The city of Minneapolis recommended a \$250,000 maximum. Several commenters proposed no specific maximum amount. Scott Knutson of Carver County commented that a \$250,000 maximum was reasonable for Minneapolis, but he pointed out that funds would not be available to very many communities if a \$250,000 maximum was available to all communities. Mr. Knutson added that "the smaller the grants are, the more communities can benefit." The department believes that its proposed funding levels for cities of the first class and for all other cities represents a reasonable accommodation of the comments it received. The department's amendments will provide larger amounts of Exxon money to cities of the first class while

still raising the maximum available to all other cities to a level that is comparable to the most common amount proposed by the five people who proposed specific amounts. The department believes that its proposed funding levels respond fairly to the written request of Mayor Steven Lockman of Lancaster for "a formula so the larger Cities don't get the Lions share."

While it could be argued that a different grant limit be proposed, the department believes that this proposed amendment, in conjunction with the establishment of a procedure to fund cities of the first class proposed below, achieves the reasonable objective of maximizing the number of grants in such a manner that combined state and local resources will be provided to accomplish applicant work plans. The proposed grant limit is reasonable also because it allows for at least 56 applicants to receive funds from the Exxon Community Energy Initiative allocation. The number of possible Exxon grants can be determined by performing the following calculation:

$\$3,000,000$ minus $\$300,000$ the department plans to make available to meet immediate local funding needs under the current rules, pending U.S. Department of Energy approval minus $\$460,620$ available for first class cities as proposed in part 4160.5300, subpart 4 equals $\$2,239,380$ available for all other communities divided by $\$45,000$ proposed maximum two - year individual award amount for other than first class cities equals 53 grants (plus at least three grants for first class cities equals 56 grants).

Subpart 4. Cities of the first class.

The department proposes to insert a new subpart pertaining to cities of the first class. The department proposes that this new subpart specify that when the department announces the availability of new grant funds in the State Register, the department shall announce that a portion of the funds is reserved to fund applications submitted by cities of the first class. The portion reserved for applications submitted by cities of the first class shall equal the percentage of available funds equal to the percent of the state population constituted by cities of the first class. The department shall calculate the percent of the population constituted by cities of the first class using the most recent population figures available from the Office of the State Demographer or the United States Bureau of the Census, whichever is most recent. If the review committee awards its application an average score of at least 80 points according to the criteria in part 4160.5500 a city of the first class will be eligible for a grant amount equal to the percentage of available funds equal to its percent of the state population.

This proposed amendment is needed to provide both equitable and practical grant awards to the largest cities in the state and to all other communities. The three cities of the first class, particularly Minneapolis and St. Paul, have populations that are larger and demands for service that are

greater than other communities in the state. Though each community operates energy programs differently, all have ongoing programs at orders of magnitude greater than those of other communities. In order for cities of the first class to receive state assistance that will make a contribution to their programs as equitable as the contribution the standard grant award will make in smaller communities, cities of the first class must be eligible for larger amounts of the current Exxon funds currently available than smaller communities. This objective will be accomplished by this proposed subpart. Using the most recent State Demographer population figures available, the \$3 million Exxon fund would provide Minneapolis with a grant of approximately \$259,200, St. Paul with a grant of approximately \$191,700 and Duluth with a grant of approximately \$60,900.

This proposed amendment is reasonable because it takes into account the differing size and needs of cities of the first class and provides them an equitable share of the current Exxon fund. The population basis of the funding formula for first class cities is reasonable because it is also an indicator of amount of energy used and the need for energy programs to respond to the economic and social problems that can be caused by inefficient energy use. Establishing a two-tier award system that retains a flat maximum for all other communities is reasonable because it recognizes that there is a certain base level cost of any local energy program regardless of the size of the community.

Finally, this subpart is reasonable because it establishes a threshold score that applications from first class cities must meet. This approach recognizes that the set - aside for first class cities is different than the process for all other communities. It establishes a numerical threshold for funding based on the scoring system already in the rules high enough to assure the department that funds will be spent on activities with good prospects for success, yet low enough so that promising applications are not held to standards so high that their chances for funding are unreasonably hindered.

B. 4160.5600. CLASSIFICATION OF ELIGIBLE AND INELIGIBLE GRANTEE
ACTIVITIES

Subpart 1. Eligible grantee activities.

The department proposes to insert a new item B and to renumber the following items in this subpart accordingly. The proposed new item B would add rental energy conservation activities to the list of eligible activities and describe those activities.

This proposed amendment is needed because the department received a number of comments from parties who were uncertain whether rental energy conservation activities were eligible. These comments demonstrate to the department that it is necessary to specify that rental energy conservation activities are clearly eligible so that prospective

applicants will know they can apply for grant funds to support these activities.

This proposed amendment is reasonable because it makes a provision of the rules clearer to affected parties than it has been to date.

C. 4160.5800 GRANT AGREEMENT

Subpart 1. Contents.

As suggested by the city of Minneapolis, the department proposes to add language to this subpart requiring an assurance that grantees will use all interest earned on grant funds for eligible purposes consistent with the grant agreement. The department believes this requirement is necessary to insure that funded programs benefit from grant earnings. The department believes it is reasonable to require that interest earned on grant funds further the purposes of the individual grant and the community energy council grant program. The department believes this amendment is also reasonable because it is consistent with a provision of the Exxon oil overcharge court order such that grantees will be in compliance with this provision of the court order when Exxon funds are awarded through these rules.

Subpart 2. Funding Period.

This proposed amendment is reasonable because it provides for longer, more secure funding of community energy programs by adding a second year of funding. The proposed amendment is also reasonable because it requires that grantees produce results in the first year of funding so that the department can ascertain that the grantee has the ability to make effective use of continuing funds.

The department believes its proposal to reduce the amount of funds in the second year is reasonable for two reasons. First, this approach recognizes that although the community energy council grant program has experienced an increase in its budget, the amount of grant funds available will not serve the 38 communities that have undertaken community energy programs to date and any communities with newly initiated community energy programs unless there are some constraints placed on the total funds available to each community. The department believes its proposal strikes a reasonable balance between the larger grants desired by communities from whom it has heard and the longer grants also desired by communities. The department received fourteen oral and written comments on the funding period. Suggestions ranged from "more than one year" to four years. The department did receive a recommendation from Barb Maher, Energy Coordinator for the cities of Mankato and North Mankato, that funds be available at a reduced level beyond the first year. Jerry Nagle of Crookston commented at the Thief River Falls meeting that grants should be funded for

two years with second year funding contingent on first year results. The department has incorporated these suggestions of Ms. Maher and Mr. Nagle in its proposed amendment.

Second, the funding limits of the program to date have led the department to view the grant program as one which provides seed money to begin projects that are successful enough to generate the local commitment and local resources to continue once state funds have been spent. Although eighty percent of those communities whose grants have expired have found the resources to continue programs at some level, the department has seen programs end or cut back because their successes did not become visible until it was too late to attract continuing local funding before their one year of state funding expired. The newly expanded grant program budget does make it possible to provide funding for a longer term, but the fact remains that once state funds are gone, other funds must be found or a local program will end. The department's proposal to provide declining funding in the second year gives communities a reasonable transition period in which to secure full funding from other sources.

Subpart 3. Disbursement schedule

The department proposes to insert a new item B to provide that for grants greater than \$40,000 the department shall advance grantees ten percent of the grant award, following which the department will reimburse grantees quarterly for actual expenses incurred during the preceding three months

when the grantee submits an invoice and a financial statement documenting these expenses.

The original rules provide that grantees will receive 80% of the grant at the beginning of the grant period. This disbursement schedule was appropriate to provide start-up funds to smaller communities, with small cash balances. Because the usual grant amount was \$15,000, because grants in no case could exceed \$50,000, and the usual grant length was one year, the disbursement schedule provided the simplest disbursement procedure and was appropriate for small grants.

Under the proposed amendments grant sizes will increase, and the term of grants will be lengthened. For the three cities of the first class, grant awards may approximate a half million dollars from Exxon funds.

This proposed amendment is needed because the original disbursement schedule is not appropriate for the largest grants that will be possible under the increased maximum award amounts proposed by the department in part 4160.5300, subpart 3, and for the grants to cities of the first class proposed by the department in part 4160.5300, subpart 4. In addition, the original disbursement schedule is not appropriate for grants longer than one year that would be possible under the department's proposed amendments to part 4160.5800, subpart 2. The proposed amendment is needed to

comply with Department of Finance Operating Policy and Procedure 06:04:20 which states that "grant contracts should avoid clauses calling for advances except where absolutely necessary. If advances must be paid, they should be kept to a minimum."

This proposed amendment is reasonable because it provides for timely reimbursement of grantee expenses on large grants. It is also reasonable because it retains the simple 80% advance for grants under \$40,000 so that recipients of smaller grants are not burdened with reporting and recordkeeping disproportionate to the size of their grants. The amendment is reasonable because it provides all grantees with funds necessary to meet the sudden increase in costs directly associated with the beginning of grant activities.

D. Part 4160.5900 GRANT CLOSEOUT

Subpart 2. Review

The department proposes to amend the wording regarding final payment so that grantees will be paid the remaining "amount owed" rather than the remaining "20 percent of the grant." The department believes this change is needed and reasonable in order for this subpart to be consistent with the proposed amendments to part 4160.5800, subpart 3 that establish either 20 percent or 10 percent as the amounts retained until closeout.

V. DEPARTMENT RESPONSE TO PUBLIC COMMENTS THAT ADDRESS ISSUES
OUTSIDE OF PROPOSED RULE AMENDMENTS

Mayor George Latimer of St. Paul recommended that the rules reserve a portion of the community initiatives funds for a demonstration grant program. The department believes such a reservation of funds is not needed. There is ample room within part 4160.5600, subpart 1, eligible grantee activities, and within part 4160.5500, evaluation of grant applications, for applicants to propose demonstration projects related to any of the categories of eligible activities and for those applications to meet the evaluation criteria well enough to receive funding. The community energy council grant program provides maximum flexibility to communities such as St. Paul to undertake those activities that best meet local needs. The department does not believe it is reasonable to constrain local initiative by making a state - level decision to feature one type of eligible activity by reserving a portion of available funds for only that activity. As demonstration projects are clearly eligible activities, the department urges St. Paul to propose demonstration projects if the city believes that in St. Paul such projects are in the city's interests. The department believes that with its proposed amendments the program addresses the other issues raised by Mayor Latimer.

The City of Minneapolis proposes to add a definition of the term "Community Energy Initiative" and to insert this term in place of the term community energy council in each subsequent instance where the term community energy council appears. Minneapolis also proposes to replace part 4160.5400, subpart 2, item A, which requires that applications document the existence of a community energy council, with a new item A that requires applications to contain a resolution by the municipality establishing authority and responsibility for energy programs within the boundaries of the municipality or a resolution establishing a community energy council. Minneapolis also proposes to remove the representation characteristics of a community energy council from the evaluation criteria and the scoring system contained in part 4160.5500, EVALUATION OF GRANT APPLICATIONS.

The department believes that none of these proposed changes is either needed or reasonable. The term community energy council comes directly from the statute, and was demonstrated to be a necessary and reasonable feature of the original rules. Thirty eight community energy councils have been established to date. The department does not require local governments to establish a community energy council with any particular form, and they have been established according to the usual local government practice in each community to best fit local situations. The department allows local governments to achieve the statutorily required membership representatives of labor, low and moderate income people, small business, senior citizens and volunteer organizations in any manner that best meets local needs. The

applicant must only show the department that all representation categories have at least one member.

The city has presented no evidence of any hardship it would suffer by complying with the current rules. The department is aware that the Minneapolis City Council has a standing Energy and Technology Committee that oversees the city's energy programs. The city has told the department that its existing arrangements meet its needs at this point in the history of its energy programs. In a funding application the city could state this and include a copy of the city council action establishing the Energy and Technology Committee, or other evidence of its existence, to meet this requirement of the rules. This presents no more work for the city than complying with its proposal, and it would fit the practice of the program, which has accepted and will continue to accept either the establishment of new bodies or the designation of existing bodies in fulfillment of the community energy council requirements of the program.

The department does not believe it is reasonable to diminish the community energy council features of this program. The community energy council features of the program have worked well, over 30 communities are making use of community energy councils established according to statute in ongoing community energy programs, and the department does not believe it is reasonable to reduce the key place of community energy councils in the program by making them an option rather than a requirement. The city's proposed language requiring a resolution to be submitted with applications only applies to municipalities, a term not

defined elsewhere by the city or found in the current rules. As the current rules define eligible applicant to be a Minnesota city or county, Minneapolis' language is defective and not consistent with other terms defined in the rules.

Minneapolis proposes a definition of the term "Warner Amendment" for addition to the rules, proposes language requiring applicants to agree to follow all the requirements of the Warner Amendment, proposes the addition of an eligible activity consisting of "other innovative activities allowable under the Warner Amendment", and adds requirements that administrative costs and interest income be treated by applicants as required by the Warner Amendment.

The Warner Amendment (Public Law 97-377) required that funds disbursed to states under a previous oil overcharge settlement comply with the regulations of at least one of five named federal energy programs. The Warner Amendment was applied to the Exxon case by the federal courts, which also prohibited the use of Exxon funds for "administrative costs." Minneapolis proposes to specify in the rules that these restrictions apply to all grants made under the rules.

The department notes that the rules have been used to make grants from a variety of funding sources in the past, and may apply to both state and federal funding sources in the future. Therefore, the department believes it is not reasonable to place Exxon restrictions on all future grants.

The department believes that further Exxon/Warner Amendment restrictions are not needed in the rules to achieve compliance with Exxon/ Warner Amendment requirements. U.S. Department of Energy review and approval is required of all state Exxon proposals to assure compliance with the Warner Amendment, and the department has already received federal approval of the current rules. The proposed amendments will not alter the basic design of the program, and the department believes federal approval of the amended rules will also be routine. Should there be additional federal requirements, the department can and has announced any necessary restrictions or prohibitions that are required by a particular funding source by including such restrictions in its announcement of affected grant cycles in the State Register. The department used this method to accommodate grant restrictions required by the Office of Hearings and Appeals of the U.S. Department of Energy in order to use Amoco oil overcharge funds for grants to communities under the program, and it worked well.

The City of Minneapolis proposes to add definitions for three types of grants (Rental Energy Standards Grants, Community Utility Partnership Grants and Innovative Community Energy Grants), divides part 4160.5600, subpart 1 (eligible activities) into three items corresponding to its three proposed grant types, and proposes that three application forms be used.

The department believes that Minneapolis' separation of grants is not needed or reasonable because each of the city's proposed grant types contains nothing more than activities that are

already eligible under the program. The department believes a review of previously funded grants shows that these types of activities are already included in the program. The program has funded rental energy conservation proposals from Fridley and St. Louis County. The program has funded community utility partnerships in 28 communities involving regulated utilities required to participate in the Conservation Improvement Program overseen by the Minnesota Public Utilities Commission, municipal utilities, rural electric cooperatives, and propane suppliers. Finally, although Minneapolis is using the term "innovative energy grants" as a catchall to cover all activities not specified in its other proposed grant categories rather than in a manner consistent with its usual definition, many of the projects funded under the program have truly been innovative ideas never before offered in Minnesota communities. In addition, it is not reasonable to require three application forms when one has proven adequate to date.

The department believes that the purposes Minneapolis wants Exxon community energy initiatives to accomplish are already in place in the current program. The department believes that an examination of the following summary of projects funded since the program began demonstrates conclusively that the existing rules allow for funding the types of activities requested by the City of Minneapolis, and also by the City of St. Paul and Mr. Robert Nevitt of the St. Paul Energy Resource Center, who requested that the program allow demonstration projects.

The community energy council grant program has funded demonstration projects in Wolverton to demonstrate the energy efficiency potential in a new fire hall to the rest of the community, in Shakopee and Winona County relating to recycling and in Red Wing demonstrating shared savings and solar energy use. The program has funded rental energy conservation proposals from Fridley and St. Louis County. The program has funded community utility partnerships in many communities involving regulated utilities required to participate in the Conservation Improvement Program overseen by the Minnesota Public Utilities Commission, municipal utilities, rural electric cooperatives, and propane suppliers. Finally, although Minneapolis is using the term "innovative energy grants" as a catchall to cover all activities not specified in its other proposed grant categories rather than in a manner consistent with its usual definition, many of the projects funded under the program have truly been innovative ideas never before offered in Minnesota communities.

Given these features of the program, Minneapolis' proposed rewrite of significant portions of the rules is not needed to accomplish either the city's, the task force's or the department's goals for the Exxon community energy initiatives funds. Given that the program can meet the city's goals within its present structure, the city's insistence that the rules identically mirror its task force positions is not reasonable.

The summary of program grants follows:

PROJECT SUMMARY

COMMUNITY ENERGY COUNCILS

City,
Grant Award

Program Summary

Zumbrota

Zumbrota will conduct a \$26,920 program to install weatherization materials in the homes of 130 senior citizen, handicapped and low/moderate income families. Energy audits will also be provided to 125 households and the city will establish an energy office to serve as a single source of information for Zumbrota residents. Funds have been secured from the city, Peoples Natural Gas and NSP.

Plymouth,
St. Louis Park,
Tonka Bay

Plymouth, St. Louis Park, and Tonka Bay plan a \$79,480 program to serve 150 low- and moderate-income households with "House Doctor" visits. During the home visit a qualified technician installs materials to reduce heat leaks. The cities will also hold an energy management workshop for 125 local merchants. Contributions have been secured from the West Hennepin Human Services Council and Minnegasco.

Hutchinson

Hutchinson will operate a \$79,420 small-business energy program with funds from the city, Hutchinson Utilities, and service fees. Workshops, consultations, walk-through audits, in-depth engineering audits, and loans will be provided to 150 businesses. The city proposes to establish a business energy conservation loan fund using available balances in the city's tax increment fund.

Lancaster

Lancaster plans a \$35,440 program with funds from the city, the school district, Land-O-Lakes Propane, and Ottertail Power. Lancaster will:

1. provide Home Energy Check-ups and furnace inspections to 150 homes,
2. provide consultations and energy audits to 25 businesses,
3. convert street lights to energy efficient models and make energy efficiency improvements in all city operations,
4. implement energy improvements in school buildings and promote the community energy program through the schools, and
5. conduct workshops in wood-burning safety.

Wolverton

Wolverton plans a \$20,840 program with funds from the community and NSP. The program will use the construction of a new energy efficient fire hall as a focus for a community energy program. Energy audits will be provided to businesses, workshops on super-insulation, low-cost conservation techniques and window treatments will be offered and an open house will be held when the fire hall is completed to demonstrate its energy efficiency features. The city will develop a community energy profile and energy plan with assistance from Moorhead State University.

Houston

Houston plans a \$58,220 program with funds from the city, Peoples Natural Gas and Tri-County Electric Coop. The program will inspect each furnace in the community and provide an energy audit to every residence and selected businesses. The program will conduct neighborhood energy workshops, distribute weatherization materials, and promote electric load management. Energy education curriculum will be added to 5th, 6th, 11th, and 12th grade classes, and a municipal energy plan will be developed.

Eden Prairie

Eden Prairie will operate an \$8,700 project to improve the Eden Prairie rideshare program to serve at least 800 commuters. The program will be targeted to major employers and marketing will be expanded. The program is partially funded and operated by the Chamber of Commerce.

New Germany

New Germany will conduct an \$84,549 program with funds from NSP, Carver County, MHFA, and Farmers Home. The program will provide energy audits and weatherization kits to 94 low- and moderate-income homeowners and renters. The program will match each household with an appropriate financing source for major weatherization improvements.

St. Louis County

St. Louis County will begin a \$39,853 program with funds from Arrowhead Economic Opportunity Agency and its Rental Rehab Loan Program. The county will:

1. provide at least 30 multi-family building energy audits each including feasibility analysis for converting to wood pellets;
2. inform at least 400 residential rental property owners current conservation financing programs and the energy efficiency standards for rental units;
3. document and assess the need for a public/private partnership to address the need for conservation improvements in the multi-family sector;
4. develop an approach to better enforce the rental energy efficiency standards in St. Louis County; and
5. develop at least one new multi-family conservation financing program.

Circle Pines

Circle Pines is offering a \$28,000 program with \$11,500 coming from their municipal utility. Circle Pines is providing residential audits to 225 homes, providing outreach to low-income and elderly residents, and promoting local recycling projects and bus ridership.

Chisago-Isanti

These two counties are delivering a comprehensive \$61,200 program consisting of:

1. 11 residential energy workshops,
2. 8 commercial energy workshops,
3. the inclusion of comprehensive energy conservation activities in CDBG applications from the region, and
4. the design of a shared savings program.

This joint Energy Council has financial support from three investor-owned utilities, two electric co-ops, three LPG dealers, and one fuel oil jobber.

Brainerd

Brainerd is conducting a \$71,500 program with substantial support from Minnegasco and the municipal electric utility. Brainerd will:

1. provide home energy check-ups to 500 residents with hands-on instruction and the installation of weatherization kits,
2. organize a car care clinic for 100 vehicles,
3. organize a commercial energy workshop for 100 main street merchants, and
4. develop an energy survey to gather energy data to support future program development.

Hawley

Hawley is conducting a \$23,750 program with funding from the municipal electric utility and the Northern Municipal Power Agency. Hawley is offering:

1. 150 residential audits,
2. 25 commercial audits,
3. a workshop for mobile home residents with free weatherization materials, and
4. an incentive and promotion program to finance dual fuel conversions with a shared savings approach.

Fosston

Fosston has designed a \$168,000 program using Small Cities Development Grant funds and support from the municipal electric utility, the Northern Municipal Power Agency, and Inter-County Community Council. Fosston is:

1. conducting 200 residential audits,
2. conducting 50 commercial audits,
3. providing dual-fuel incentives for 20 all electric home and
4. providing low-interest energy loans to 30 property owners.

Benson

Benson is conducting a \$47,000 program with funding from the city, the municipal electric utility and Minnegasco. Benson will provide a "Home Energy Check-up" to 375 residents. The Check-up includes:

1. a practical energy audit,
2. installation of free weatherization materials,
3. hands-on weatherization instruction,
4. a consultation about conservation priorities, and
5. client follow-up.

One hundred of the participants will be low-income and/or elderly clients who will receive additional weatherization assistance and materials.

Preston

Preston is conducting a \$33,000 program with funding from the city and Peoples Natural Gas. Preston is:

1. providing audits, kits, instruction and follow-up to 30 households; and
2. establishing a curbside recycling program with 300 participating households.

Spring Lake Park

This community designed a \$60,500 program with funding from NSP and the North Central Public Service Co. Projects include:

1. neighborhood energy workshops for 500 residents,
2. energy audits for 300 residents,
3. rideshare promotion, and
4. a pilot recycling program for 600 households.

Crookston

Crookston began a \$25,700 program with funding from Crookston Jobs, Inc. (a non-profit economic development corporation), the state, and the city. The Crookston program includes:

1. designing a Crookston energy policy, focusing on fiber fuels and the municipal ownership of renewable energy systems;
2. organizing energy workshops and promoting audits;
3. providing technical assistance to suppliers and users of fiber fuels and other renewable resources; and
4. planning and promoting car pooling and mass transportation.

Moorhead

Moorhead, in conjunction with Moorhead State University, designed a \$17,000 comprehensive energy-use survey and an energy policy planning study. Moorhead used the results to adopt a community energy policy to design and implement future programs.

Fridley

Fridley initiated a \$56,000 project. Minnegasco committed \$40,000 for residential weatherization as part of a "House Doctor" program for low-income residents. In addition, Fridley offers:

1. neighborhood energy workshops,
2. promotion of MHFA Rental Rehabilitation loans,
3. promotion of MHFA Home Improvement loans, and
4. promotion of Rideshare.

Rochester

Rochester began a \$96,700 program with funding from Peoples Natural Gas, Rochester Public Utilities, the Rochester Area Vo-Tech, and the city. The program includes:

1. the establishment of an energy office,
2. a senior citizen house doctor program to install weatherizaion kits in the homes of 400 elderly residents,
3. a car clinic,
4. residential energy audit promotion, and
5. Small-Business Energy Workshops.

Winona County

Winona County designed a \$52,055 program to expand current curbside recycling in St. Charles, Lewiston, Winona, and Goodview. The CEC grant allowed recycling to begin at 19 multi-family buildings.

N.W. Regional
Dev. Comm.

This project was submitted by a consortium of seven counties
Kittson, Marshall, Norman, Pennington, Polk,
Red Lake, and Roseau. Objectives include:

1. complete county energy profiles,
2. complete energy profiles on 30 cities,
3. help organize CEC's,
4. complete district heating feasibility studies for 10 communities,
5. provide fiber fuel technical assistance, and
6. work with utilities to perform conservation programs.

Red Wing

Red Wing has a \$54,000 program with funding from the state,
NSP, local CAP agency, and the city. The program includes:

1. residential weatherization,
2. shared-savings demonstration project on five city buildings,
3. "Energy Awareness Week," and
4. a solar hot water demonstration project.

Aurora

Aurora conducted a \$58,000 program with funding from
the state, Minnesota Power, Inter-City Gas, the local CAP
agency, and the city. The program includes:

1. neighborhood energy workshops covering the entire city,
2. distribution of weatherization kits to all participants
3. residential energy audits, and
4. follow-up visits to all participants to encourage conservation investments.

Worthington

Worthington designed a \$162,000 program with funding from the
state, Peoples Natural Gas, and the city. The budget
includes \$100,000 of MHFA Energy Loan funds. The program
will provide home energy audits to 500 residents, distribute
weatherization kits to participants, and vigorously market
the loan monies.

South St. Paul

South St. Paul operates a \$56,000 program with funding from
the state, NSP, and the city. REAP (the Residential Energy
Action Project) will attract 1,000 residents to neighborhood
energy workshops, provide weatherization kits, home energy
audits, and follow-up contacts.

Duluth

Duluth used the state grant to plan for the expenditure of
over \$300,000 in city funds. Weatherization,
super-insulation, wind, and furnace conversion activities are
being designed.

Hastings

Hastings has a \$76,000 program with funding from the state,
NSP, Minnegasco, and the city. The program offers
neighborhood energy workshops, weatherization kits to
residents, and home energy audits.

Shakopee

Shakopee designed a \$9,078 program using city and state
funds. The program tested solid waste abatement and
recycling activities for three neighborhoods. Volunteer
groups and businesses participated, and the program has
since expanded.

Richfield

Richfield began a \$326,000 program with funding from the state, NSP, Minnegasco, and the city. The program includes a "House Doctor" project, a shared-savings project, neighborhood energy workshops, weatherization kits, and residential energy audits.

New Ulm

New Ulm started a \$41,000 program with funding from the municipal utility and the state. The program includes:

1. neighborhood energy workshops,
2. distribution of weatherization kits,
3. distribution of energy conservation literature to all New Ulm households,
4. residential audits, and
5. promotion of Minnesota Rideshare and the Brown County Transportation System.

Mankato and
North Mankato

These two cities are jointly operating a \$51,000 program with funding from NSP, both cities, and the state. Joint activities include:

1. ten neighborhood energy workshops, weatherization kit distribution, and residential energy audits;
2. in-service energy training for 22 elementary school teachers;
3. "Energy Week";
4. four small-business weatherization demonstrations;
5. the utilization of volunteers to weatherize seniors' homes; and
6. the production of twelve 30-minute T.V. energy conservation programs.

Mankato will establish energy accounting for 26 municipal buildings and print and distribute a Mass Transit Users Guide North Mankato will conduct a feasibility study for an energy efficient addition to the municipal building.

Winona

Winona began a \$74,000 program with funding from the state, NSP, the local CAP, and the city. The Winona program includes:

1. neighborhood energy workshops,
2. distribution of weatherization kits to participants,
3. residential energy audits,
4. follow-up consultations with participants, and
5. mini-workshops on specific topics.

Mounds View
and Blaine

These two cities managed a \$120,000 program with funding from NSP; the local CAP; Ramsey Action Programs, Inc.; Minnesota Rideshare; both cities; and the state. The Mounds View program included:

1. making energy workshops, weatherization kits, and audits available to all residents;
2. free evening energy seminars; and
3. energy education activities in conjunction with primary and secondary educators.

The Blaine program included:

1. community education to encourage energy code enforcement;
2. encouragement of energy-efficient community planning and zoning;
3. workshops, kits, and audits;

4.
5.

Minnesota Rideshare promotion; and
promotion of bicycle paths.

The city of Minneapolis proposed to delete all requirements for local match from the program while at the same time highlighting a proposed new category of grant for "community/utility partnerships." This approach was supported by Dale Sullivan of the cities of Hastings and Spring Lake Park. Following the comments of Sheldon Strom of Minneapolis and Dale Sullivan on the subject of local match, Quentin Crouch of Rochester commented that Rochester might have difficulty with local match. It was apparent at the St. Paul meeting where these comments were made that each of these speakers believes that the program requires that local match be a direct contribution of an applicant from its local government treasury. If this were the only source of local match allowable under the program the department would share the speakers' concerns. The speakers are mistaken, however, for in fact the program allows applicants to count as local match any cash or in-kind commitments they can secure for their proposed activities. This feature of the program was designed in part to encourage communities to seek involvement in just the kind of community/utility partnerships that the city of Minneapolis also wants the program to encourage. The department has previously pointed out that a review of projects funded to date demonstrates that community/utility partnerships have flourished under the existing rules. In addition communities have secured local match from many other sources. Examples include school districts, universities, chambers of commerce, community action agencies,

fuel oil jobbers, regional development commissions, nonprofit and community organizations, the Minnesota Housing Finance Agency, the Minnesota Department of Transportation, and Area Vocational Technical Institutes. The excerpt below from the program's application form illustrates that the department provides space in the application for applicants to include more than one source of local match. Given that the current local match feature of the program already accommodates the concerns expressed, the department believes deleting it is not needed.

APPLICATION FOR COMMUNITY ENERGY COUNCIL GRANT
FY 87 - Cycle 1

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1.7 Proposed Funding:

- a. Community Energy Council Grant Funds Request _____
- b. Local Match

<u>Source</u>	<u>Indicate whether Cash or In-Kind</u>	<u>Amount</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Local match total _____

TOTAL PROPOSED FUNDING _____

The city of Minneapolis proposes that applications include an estimate of energy saved per Exxon dollar spent, and that a review criteria be added so that proposed activities are evaluated on the basis of an estimate of energy savings calculated on the basis of good engineering practice. The

department believes that this change is not necessary because the current review criteria (part 4160.5500, subpart 1, item A) already include indicators of an application's potential to reduce energy use and cost. The department also believes it would be unreasonable to expect smaller communities to perform energy engineering calculations in the application phase of this grant program. It has been the department's experience that smaller communities do not have energy engineering staff available, and that these communities have often sought grant funds to hire professional energy conservation technicians. The department believes that Minneapolis's proposal would be unfair to smaller communities.

The City of Minneapolis made several suggestions it said would streamline the grant review and monitoring process. The department has proposed as amendments several of Minneapolis' suggestions, as discussed earlier in this statement. The department does not believe other of the city's suggestions to be needed or reasonable. Minneapolis states its desire to minimize the need for department staff time for review and monitoring of grants, yet the city has proposed that department staff, rather than a commissioner - appointed review committee, be allowed to review applications. The department has found that the use of a review committee contributes greatly to the quality and efficiency of the review process, and believes the addition of a staff - only review option would increase staff time required for application review. For this reason, the department believes the city's proposal is not needed or reasonable.

Minneapolis also proposes to revise the review process in part 4160.5300, subpart 2 so that the commissioner shall approve "applications meeting all the requirements of sections 4160.5100 - 4160.5900. If applications do not meet all requirements or if the total of funds requested in a grant cycle exceeds the total funds available the commissioner may return applications for amendment and subsequent resubmission." In addition to referencing the entire rules rather than only those parts germane to the application and review process, Minneapolis has retained the point scoring system and added a requirement that applications meet all its criteria. Under the scoring system applications can receive between zero and 100 points, yet the city has proposed no point total that applications must attain in order to "meet all requirements." Neither has Minneapolis provided any other definition of "meets all requirements." The department believes the city's proposal is unworkable. The city also proposed to replace the provisions under which the department returns applications to applicants for further consideration with similar language that the department believes is not needed.

Minneapolis proposes that the department establish application deadlines on a three month cycle. The department does not know and cannot assure that funds will be available every three months throughout the life of the program and therefore believes this proposal unreasonable.

Minneapolis commented that Exxon Community Initiatives programs should complement other programs and leverage other funds. The department agrees, and believes that the program rules and the information in this statement of need and reasonableness demonstrate that the program's design already accomplishes these purposes.

Minneapolis proposed to delete energy - related land use planning and alternative energy activities from the rules, stating that these activities did not save much energy and were not action oriented. Both of these activities can save large amounts of energy, and the application scoring system would likely weed out any of an applicant's proposed activities that did not save energy. Both activities are often action oriented. These activities can be an important part of a community's energy program, and the department believes their deletion would be unreasonable.

The city made a number of wording changes on its redraft of the rules to which the department has not responded. These are proposals about which the city provided no information or discussion, and which seem minor and unnecessary to the department.

The department received several recommendations from John Cornelison of the Minnesota Coalition of Bicyclists that were not received from other commenters. Mr. Cornelison suggested that several bicycling activities be specified as eligible activities. The department believes this change is not necessary

because "promotion of energy efficient transportation modes" is already an eligible activity and covers bicycling activities. Mr. Cornelison suggested that the application scoring system be changed to reduce the points available for community energy council composition and past experience and adding a category for long range cost effectiveness. The department believes these changes are not needed because the current scoring system contains a reasonable balance between the importance of community involvement in local energy programs and the importance of activities with energy conservation potential, while recognizing the experience of applicants without unduly restricting the ability of inexperienced applicants to receive a grant. To date the program has funded a mixture of experienced and inexperienced applicants. Mr. Cornelison's proposed use of the phrase "cost effectiveness of the proposed plan for reducing community energy usage over the long run." The department believes this phrase is similar enough to the rules' criteria on energy saving potential that no change is needed. Finally, Mr. Cornelison suggested that the department allow construction as an eligible activity. At least part of the construction process is likely to be ineligible under the rules' prohibitions against the purchase of equipment or real property, and the department does not believe it reasonable to provide blanket eligibility for construction as Mr. Cornelison has proposed.

Lt. Merle Heatwole of the Salvation Army submitted a written statement describing the Salvation Army's Heatshare program. Lt. Heatwole requested that Exxon Community Energy Initiatives Funds

give priority to conservation programs and utilize the private sector, that is the Salvation Army. The department believes that the application scoring system does give priority to conservation programs. The department also believes that part 4160.5500, subpart 1, item B, subitem 2, which is the application review criteria regarding applicant coordination with other energy service providers, provides a clear message to applicants that they may include private sector energy service providers such as the Salvation Army in their applications and work plans. The department believes no changes are needed in response to the Salvation Army's comments.

The city of Spring Lake Park requested that the grant program allow for funding of both new and existing community energy programs, and requested that funds be distributed in time to support fall energy programs. The department notes that the rules do not distinguish between new and existing programs. Both can be eligible for funding and no rule change is needed to meet Spring Lake Park's request. Regarding the timing of application cycles and fund distribution, the department believes no rule change is needed to allow the department to announce a grant cycle as soon as rulemaking is completed and federal approval is secured.

The city of New Ulm and the New Ulm Public Utilities Commission also requested that funds be available for existing programs, and the department believes that the rules already permit this. (This issue was also raised by the city of Lancaster) New Ulm also suggests a number of project types for inclusion as

eligible activities. Each type of project already falls within the categories of eligible activities in the rules, thus no rule changes are needed.

Ann Schaffer and Gloria Vande Brake of the Southwest Regional Development Commission recommend that funds be made available for recycling programs and for programs directed to agricultural and related businesses in Southwest Minnesota. The department notes that both recycling and business energy programs are currently eligible activities and believes no rule changes are needed to allow these types of activities.

The city of Richfield commented that "outreach and coordination activities are not specifically allowed as eligible grantee activities under section 4160.5600" and requested that they be added. The department notes that subpart 1 of part 4160.5600 begins with the introductory phrase "Planning, promotion, coordination, and implementation of the following activities are eligible for community energy council grants:" and proceeds to itemize the categories of eligible activities. The department notes that coordination is specifically included. The department believes that the term "outreach" as used by Richfield in its comment is already eligible as part of the "... promotion, coordination, and implementation" rule language noted above. The department further believes that the residential "outreach" activities described by Richfield are comparable to the information distribution activities already permitted in part 4160.5600, subpart 1, item A. The department believes no rule changes are needed to allow this type of activity.

VI. CONCLUSION

For the reasons stated above, the Department of Energy and Economic Development believes that each of the proposed amendments is reasonable to improve the administration of the financial assistance program provided in Minnesota Statutes section 116J.381 and Minnesota Rules parts 4160.5100 to 4160.5900 so that funds from the Exxon oil overcharge case can be effectively provided to Minnesota communities. It is further believed that the proposed rules are necessary to effectuate the purpose and intent of the statutory authorization.

Dated: October 21, 1986 

Mark B. Dayton
Commissioner of Energy
and
Economic Development