

DEPARTMENT OF HUMAN SERVICES

**IN THE MATTER OF THE PROPOSED
AMENDMENT OF RULES OF THE
DEPARTMENT OF HUMAN SERVICES
GOVERNING COMMUNITY ACTION
AGENCIES AND COMMUNITY ACTION
PROGRAMS, MINNESOTA RULES,
PARTS 3350.0010-3350.0200.**

**STATEMENT OF NEED
AND REASONABLENESS**

INTRODUCTION

This Statement of Need and Reasonableness is prepared pursuant to Minnesota Statutes, sections 14.131 and 14.23 (2004). It summarizes the arguments supporting the amendments of the rules governing community action agencies and the community action program.

ALTERNATIVE FORMAT

Upon request, this statement of need and reasonableness can be made available in other forms to people with disabilities by contacting us at (651) 431-3600 (voice) or toll free at (800) 657-3510. TDD/TTY users can call (651) 296-7385 or the Minnesota Relay at 711 or (800) 627-3529. For the Speech-to-Speech Relay, call (877) 627-3848.

BACKGROUND

The proposed amendments to Minnesota Rules, parts 3350.0010-3350.0200 affect community action programs. In 1964, Lyndon Johnson declared a “War on Poverty” which subsequently led to the passage of the federal Economic Opportunity Act. Community action programs were developed after the passage of this act to implement Johnson’s Great Society Programs at a local level. Community action programs were often implemented by community action agencies which were nonprofit organizations whose mission was to reduce the causes and conditions of poverty in a geographical area. (Currently, there are 28 community action agencies in Minnesota that were either recognized by the federal government in the 1960s or by the state in the 1980s.) In 1981, the Economic Opportunity Act was rescinded and replaced by the Community Services Block Grant (CSBG) which marked the end of federal administration of the community action program and the beginning of state responsibility for administration.

In 1986, the Minnesota community action statute (Minnesota Statutes, sections 256E.30 to 256E.32) was passed which authorizes funding for community action agencies, Indian reservation governments, and migrant and seasonal farmworker

organizations. These funds are administered by the Minnesota Office of Economic Opportunity through grant contracts to these organizations. The Minnesota community action statute provides for the local designation and state recognition of new community action agencies. It also defines the administrative structure for community action agencies and the powers and functions of all local grantee agencies administering community action programs.

In 1991, Minnesota Rules, parts 3350.0010-3350.0200 were promulgated to govern Minnesota's community action program. These rules define procedures for the local designation and state recognition of community action agencies, termination of any grantee for cause, withholding of cash reimbursements for cause, program evaluation, reporting requirements, and standards for state monitoring. The Minnesota Office of Economic Opportunity, an office of the Minnesota Department of Human Services, is responsible for administering the community action program. These rules have not been revised since their inception in 1991 when the Minnesota Office of Economic Opportunity was located in the Minnesota Department of Economic Security.

These rules are being amended for three primary reasons. First, the department needs less prescriptive rule language to ensure that the department operates in compliance with federal and state laws since the government frequently changes their reporting and contract requirements. Since many of the state and federal requirements in the rule are stated in the grant contract, the department proposes to include language that refers to the grant contract because this allows requirements to change in the grant contract without the need to change the rule periodically. The department has added the term "grant contract" to the rule because since the grant contract states the legal obligations of both the grantee and the department and contains many contract clauses which are required by federal or state law.

Secondly, the department needs to change substantive procedures to reduce costs for the department and the grantee and to ensure that services to clients are less likely to be interrupted. For example, the amendments add an expedited hearing process so that contested case hearings will be resolved quickly with reduced costs. Additionally, the amendments create a process for the merger of designated and recognized community action agencies to expedite the formation of new community action agencies and to ensure there is a continuation of services for their clients.

Thirdly, technical changes need to be made to the rules such as updating federal and state citations, correcting the rule numbering scheme, replacing "CAA" with "grantee" when the rule applies to all three types of eligible grantees, and eliminating abbreviations from the rule so it is easier to read.

The department began to revise the rules and write a Statement of Need and Reasonableness in July 2005. The draft version of the rules and a Statement of Need and

Reasonableness were submitted to the Minnesota Community Action Partnership¹ for feedback in 2006. The executive director of the Minnesota Community Action Partnership submitted feedback to the department in November 2006. The department published a Request for Comment notice in the State Register on Monday, November 5, 2007 (32 SR 812). No comments were received during the comment period.

The Minnesota Department of Finance reviewed the rules and the statement of need and reasonableness in April 2008 and determined that there would be no fiscal impact to local governments from the proposed rule change.

In accordance with Minnesota Statutes, section 14.127, the department also determined that the cost of complying with the proposed rule changes in the first year after the rule takes effect would not exceed \$25,000 for businesses. Nothing in the proposed rule changes would shift or create additional expenses for community action agencies or Indian tribal governments affected by the rule changes.

A Dual Notice was published in the Monday, July 28, 2008 issue of the State Register announcing that a hearing is scheduled for Friday, September 12, 2008 if 25 or more requests for a hearing are received. If 25 or more requests for a hearing are received and a hearing is held, the department does not intend to have any nonagency witnesses testify. A draft statement of need and reasonableness (SONAR) for these rules was made available for these rules since January 2008 via the department's public website or by notifying the department's contact person for these rules. The final version of the SONAR was made available on July 23, 2008 via the department's public website or by notifying the department's contact person.

STATUTORY AUTHORITY

The Commissioner of Human Services is authorized by Minnesota Statutes, section 256.01, subdivision 4 (2) to promulgate rules. Additionally, Reorganization Order No. 186 transferred the rulemaking authority from the Department of Children, Family, and Learning to the Department of Human Services.²

REGULATORY ANALYSIS

The department is required to exert reasonable efforts to ascertain who is likely to be affected by these rules; the department must also describe its efforts. Accordingly, the department must provide the following information in this Statement of Need and

¹ Minnesota Community Action Partnership is an association for the Community Action Program grantees in the state. All of the grantees, including 28 community action agencies and 11 Indian tribal governments, received information on the rule.

² Community action programs were under the authority of the Department of Children, Family, and Learning from 1998 to 2002.

Reasonableness pursuant to Minnesota Statutes, sections 14.131 and 14.23 and Minnesota Rules, part 1400.2070:

1.) a description of the classes of persons who probably will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule

The classes of persons affected by the rule are current grantees eligible to receive community action grants from the Department of Human Services. These grantees are twenty-eight (28) community action agencies and eleven (11) Indian tribal governments. (Currently, no migrant and seasonal farmworker organizations are grantees.)

The proposed amendments will benefit all grantees that provide services through community action programs. The proposed amendments will also affect recipients of services indirectly by ensuring the continuation of services through the new merger process and a new expedited hearing process for recognized community action agencies. There are no expected cost increases related to amending the rule language pertaining to the grant application process and contested case hearings.

2.) the probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues;

The proposed amendments simplify grant procedures for grantees and the state and should not result in increased costs. There are no expected costs increases related to the grant application process and contested case hearings. During the normal course of sustained implementation of community action programs, the proposed amendments will be of no cost to grantees. The proposed amendments will not affect state revenues.

3.) a determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule;

The Department of Human Services determined that amending the existing rule was the least costly and intrusive method to change, update, and maintain procedures for the designation and recognition of community action agencies and for granting and administering community action program funds. The amendments also increase the use of grant contracts to specify the reporting requirements.

4.) a description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule;

The Department of Human Services considered the alternative to be:

- 1.) Amend the rules under the Good Cause Exemption under Minnesota Statutes, section 14.388 which would allow the department to only make technical changes to the rule such as updating federal and state citations, correcting the rule numbering scheme, replacing “CAA” with “grantee” when the rule applies to all three types of eligible grantees, and eliminating abbreviations from the rule so it is easier to read.

The department rejected this option for the following reasons:

- 1.) The department needs more flexible rule language because federal and state laws frequently change the reporting and contract requirements.
- 2.) The department needs to change substantive procedures to reduce costs for the state and the grantees, increase flexibility for grantees, and to ensure that services to clients are less likely to be interrupted.

5.) the probable costs of complying with the proposed rule, including the portion of the total costs that will be borne by identifiable categories of affected parties, such as separate classes of governmental units, businesses, or individuals;

The proposed amendments will not result in additional cost to grantees. The existing rule states that the grant applications will be made annually which would be more costly to the grantee and the department. However, the department’s current practice is that all grant contracts are made biennially. Rewriting the rule to state the current department practice would place no additional cost on the grantee. Furthermore, the proposed amendments eliminate several fixed procedures or “steps” in the local planning process and allows more flexibility in the development of community action programs to meet outcomes defined by federal law.

6.) the probable costs or consequences of not adopting the proposed rule, including those costs or consequences borne by identifiable categories of affected parties, such as separate classes of government units, businesses, or individuals;

The consequences of not adopting the proposed amendments are:

- 1.) The current rules are unclear as to which procedures apply to community action agencies, Indian tribal governments, or migrant and seasonal farmworker organizations. The existing rule describes only “community action agencies”. Community action agencies, Indian tribal governments, and migrant and seasonal farmworker organizations are different types of entities subject to different procedures. Because the rules only use the term “community

action,” it creates a legal ambiguity as to which procedures apply to which entities.

2.) The current rules only offer one procedural option for resolving disputes and this option is the most costly and demanding for the department and a grantee. Both the department and the grantee could save money if an expedited hearing process were offered to resolve disputes since disputes could be resolved expeditiously. Additionally, an expedited hearing process would ensure that services to low income people would not be severely interrupted.

3.) The current rule language requires that grant contracts be submitted annually which is more costly and cumbersome than the biennial contract process which is the standard contracting process in the department. A biennial contract process would save both the department and the grantee money since less staff time would be dedicated to the administrative costs of the community action program such as reviewing grant applications or filling out the paperwork for the grant application. Moreover, grantees could devote more time to direct services than on administrative costs.

7.) an assessment of any differences between the proposed rule and existing federal regulations and a specific analysis of the need for and reasonableness of each difference.

There are no differences between the proposed amendments and existing federal regulations. The rules were drafted in an attempt to incorporate the federal statutes and regulations.

8.) describe how the agency, in developing the rules, considered and implemented the legislative policy supporting performance-based regulatory systems set forth in section 14.002.

The proposed rule amendments are designed to eliminate some rigid procedures in the rules and maintain or reduce the cost to the grantee and the department. For example, to save or maintain costs for the department and the grantee, the amendments create a process for the merger of 2 or more designated and recognized community action agencies to expedite the formation of new community action agencies and to ensure the continuation of services for their clients. Also, the existing rule provides only one procedural option for resolving disputes which is a lengthy and costly process for the state and a grantee. The amendments add an expedited hearing process which allows contested case hearings to be resolved more expeditiously.

9.) a description of the department’s efforts to provide additional notification under section 14.14, subdivision 1a, to persons or classes of persons who may be affected by the proposed rule or must explain why these efforts were not made.

The department's additional notice plan seeks to notify all persons and organizations who may be interested in the proposed rules that the department is able to identify through reasonable means. The department will notify those who have registered with the department to receive rulemaking notices. The department also intends to notify:

- 1.) All current grantees receiving funds for the community action program including community action agencies and Indian tribal governments.
- 2.) Minnesota Community Action Partnership
- 3.) Minnesota Council on Nonprofits
- 4.) Minnesota Migrant Services Consortium
- 5.) All others who request notification

The department will also send a copy of all Notices to be published in the State Register to all persons on the mailing list we compile. Along with the Notice of Hearing, the department will include a statement that a copy of the proposed rules will be sent to anyone who contacts the department for that purpose. Notice of the proposed rules and the SONAR will also be published on the department's Internet web site.

PROPOSED RULE CHANGES

General Rule Amendments

Some changes were made throughout the rule and rather justify them each time, the necessity and reasonableness of those changes are given below:

1. It is reasonable and necessary to eliminate the use of abbreviations in the rule to provide more clarity and make the rule is easier to read. In the rule, federal funds are referred to as "CSBG" for "Community Services Bock Grant" and state funds are referred to as "MEOG" for "Minnesota economic opportunity grant". Also, the abbreviation "CAA" is used for "community action agency". The Minnesota Rules: Drafting Manual with Styles and Forms published by the Office of the Revisor of Statutes states that rulewriters should avoid strings of initials because they, "...are hard to read because they force a lay reader to go back to the definitions and to make repeated mental substitutions."³
2. The abbreviation "MEOG" or the term "Minnesota economic opportunity grant" is replaced by the term "Minnesota community action grant" because this term

³ (<http://www.revisor.leg.state.mn.us/arule/Section3.htm#16>)

more accurately articulates the purpose of this grant- to fund community action programs. The name of this grant was originally developed to reference the community action program's statutory authority in Minnesota Statutes and to differentiate state sources of funding from federal Community Services Block Grant sources. However, public officials and others have been confused by the term "Minnesota economic opportunity grant." They do not recognize that it is synonymous with the community action program. Due to the confusion about the purpose of the grant, the department proposes a new name for the grant that more closely links the name of the grant to the community action program. The following parts were edited to replace "MEOG" or "Minnesota economic opportunity grant" with "Minnesota community action grant": part 3350.0020, subpart 15; part 3350.0020, subpart 16; part 3350.0020, subpart 18.

3. Some parts of the rule apply to all entities (community action agencies, Indian tribal governments, and migrant and seasonal farmworker organizations) that are eligible to receive community action funding. The department proposes to delete "CAA" and substitute "grantees" in this and several subsequent locations in the rule when a rule statement applies to all three entities. The following rule parts have been edited to replace "CAA" with "Grantee": part 3350.0020, subpart 9; part 3350.0020, subpart 23; part 3350.0020, subpart 24; part 3350.0060, subpart 1, item C; part 3350.0060, subpart 5; part 3350.0060, subpart 6; part 3350.0100, subpart 1; part 3350.0100, subpart 2; part 3350.0120; part 3350.0130; part 3350.0140; part 3350.0170, subpart 1.
4. The Revisor of Statutes Office has changed the term "Indian reservation government" to "Indian tribal government" because the term is now commonly used in state and federal statutes and regulations. The following rule parts have been edited to replace "Indian reservation government" with "Indian tribal government": part 3350.0020, subpart 3; part 3350.0020, subpart 16; part 3350.0020, subpart 17.
5. The community action program was transferred from the Department of Economic Security to the Department of Children, Families, and Learning in 1997 and subsequently to the Department of Human Services in 2003. Therefore, the rules need to be renumbered to reflect the rule numbers of the Department of Human Services. The rule parts 3350.0010 to 3500.0200 are changed to 9571.0010 to 9571.0180 to reflect the change in the rule numbering scheme. Also, original parts 3350.0080 and 3350.0150 are proposed to be deleted so there would be two less parts in the rule and the rule would need to be numbered accordingly.
6. The Revisor of Statutes has replaced the word "which" with "that". This change does not change the meaning of the definition and the department considers this

change reasonable since it does not change the meaning of the rules substantially. The following rule parts have been edited to replace the word “which” with “that”: part 3350.0020, subpart 4; part 3350.0020, subpart 7; part 3350.0020, subpart 19; part 3350.0020, subpart 22; part 3350.0020, subpart 23; part 3350.01600.

Changes Made to Individual Rule Parts

Part 3350.0010. Purpose. The purpose of the rules is rewritten since the rules establish procedures that go beyond the designation and recognition of community action agencies and the granting of funds. The rules also establish requirements that the grantee must meet in order to keep receiving community action funds such as maintaining a written local planning process and evaluation process, submitting applications for funding, and keeping certain records. Additionally, other eligible entities may operate community action programs including Indian tribal governments and migrant and seasonal farmworker organizations according to Minnesota Statute, section 256E.30 and 42 U.S.C. §9902 (1)(A)(1). Therefore the changes include these other eligible entities.

Part 3350.0020 Definitions.

Part 3350.0020, subpart 1. Part 3350.0020, subpart 1 defines the scope of the rules. The Revisor of Statutes has replaced the phrase “As used in parts 3350.0010 to 3350.0200, the following terms” with “The terms used in this chapter” and added the words, “in this part” to the end of the sentence. This change rewrites the sentence in the “active voice” rather than the “passive voice” making the sentence easier to understand.⁴

Part 3350.0020, subpart 3. Applicant. Part 3350.0020, subpart 3 specifies the meaning of the word “applicant”. The organization name “Midwest Farmworker Employment and Training” is eliminated and replaced with “migrant and seasonal farmworker organizations” to conform to Minnesota Statutes, section 256E.30. In 1998, the Minnesota Legislature revised Minnesota Statutes, section 268.52, subdivision 1 and removed the language, “and the statewide migrant and seasonal farmworker organization known as the Minnesota migrant council” and replaced it with, “and migrant and seasonal farmworker organizations”⁵. The word “annually” is deleted to correspond to the department’s preferred practice which is to award contracts biennially.

⁴ The Minnesota Rules: Drafting Manual with Styles and Forms published by the Office of the Revisor of Statutes states that rule writers should write in the “active voice” which means that the sentences follow a noun + verb format. See: <http://www.revisor.leg.state.mn.us/arule/Section3.htm#22>

⁵ Minnesota Statutes, section 268.52 was also renumbered to Minnesota Statutes, section 119A.374 in 1998 and subsequently changed in 2005 to Minnesota Statutes, section 256E.30.

Part 3350.0020, subpart 5. Commissioner. Part 3350.0020, subpart 5 defines the word “commissioner”. Part 3350.0020, subpart 5 is changed because the commissioner of human services now has the power to oversee community action programs. In 2003, the Department of Children, Families and Learning was reorganized and the community action program was transferred to the Department of Human Services in accordance with the State of Minnesota Department of Administration Reorganization Order No. 186.

Part 3350.0020, subpart 6. Community. Part 3350.0020, subpart 6 defines the meaning of “community”. The terms “Indian tribal governments” and “migrant and seasonal farmworker organizations” are added to the definition of “community” to clarify that both are identified as grantees in Minnesota Statute, section 256E.30 and 42 U.S.C. §9902 (1)(A)(1).

Part 3350.0020, subpart 8. Community action program. Part 3350.0020, subpart 8 defines the meaning of “community action program”. The Revisor of Statutes has removed the words “the objectives of” from this subpart to cut needless words.⁶ This change does not change the meaning of the definition and the department considers this change reasonable.

Part 3350.0020, subpart 9. Community services block grant. This definition of “community services block grant” is edited to update the federal law citation.

Part 3350.0020, subpart 11. Department. Part 3350.0020, subpart 11 defines the term “department” and is amended to reflect the current administrative placement within Minnesota state government of the community action agency program. As discussed in part 3350.0020, subpart 5, the community action program for Minnesota is now the responsibility of the Department of Human Services.

Part 3350.0020, subpart 15. Grant. The department added the term “grant” in front of the word “contract” for clarity and consistency since the definition “grant contract” is being added to the rule.

New Part 3350.0020, subpart 15a. Grant contract. New part 3350.0020, subpart 15a defines the term “grant contract”. Before the department awards state or federal grant monies to grantees, the department enters into a grant contract with the grantee. The department enters into grant contracts with all grantees, not just grantees who receive community action grant funds or community services block grant funds. The definition

⁶ The Minnesota Rules: Drafting Manual with Styles and Forms published by the Office of the Revisor of Statutes states that rule writers should cut down on needless words. See: <http://www.revisor.leg.state.mn.us/arule/Section3.htm#25>

of a grant contract was based on the definition of a grant agreement in Minnesota Statutes, section 16B.97, subdivision 1. The majority of contract clauses contained in the grant contract are either required by federal or state statute or regulation or are standard contract language. The definition of a grant contract is reasonable and necessary since the term “grant contract” is referenced in the rule.

New Part 3350.0020, subpart 15a. item A. Grant contract. New part 3350.0020, subpart 16a, item A states that the grant contract must contain information about how often the grantee must submit client and fiscal performance reports and financial status reports. The department requires that all grantees submit invoices for their services performed throughout the grant. It is reasonable and necessary to add this requirement to the rule since the submission of reports is referenced in part 3350.0090, Due Dates for Monthly, Periodic and Final Reports

New Part 3350.0020, subpart 15a. item B. Grant contract. New part 3350.0020, subpart 16a, item B states that the grant contract must contain a clause about audit requirements that are specified by state and federal law. Item B is reasonable and necessary since Minnesota Statute, section 16B.98, subdivision 8 states that grant agreements made by executive agencies must include an audit clause. Also, Minnesota Statutes, section 16C.05, subdivision 5 requires that any grant contract must include an audit clause that provides that the books, records, documents, and accounting procedures and practices of the grantee that are relevant to the grant contract are subject to examination by the contracting agency and either the legislative auditor or the state auditor, as appropriate, for a minimum of six years. Additionally, grantees who have received more than \$500,000 in federal funds are required under the federal Single Audit Act (United States Code, title 31, subtitle V, chapter 75) and Office of Management and Budget (OMB) Circular A-133 to have a financial and compliance audit. Community action programs are funded with the federal monies and the Single Audit Act is applicable to grantees.

New Part 3350.0020, subpart 15a. item C. Grant contract. New part 3350.0020, subpart 16a, item C says that the grant contract must include a contract clause that states that any alteration to the grant contract and its attachments must be made in writing and executed by the same parties who executed the original grant contract, or their successors in office. This is standard contract language in every type of department contract. It is reasonable and necessary to include this as a requirement since the parties to a contract should agree upon contract changes in writing so that both parties are clear about what changes have been made.

New Part 3350.0020, subpart 15a. item D. Grant contract. New part 3350.0020, subpart 16a, item D states that the grant contract must contain information about how long records must be kept by the grantee according to state and federal law. Minnesota Statutes, section 16C.05, subdivision 5 requires that any grant contract must include an audit clause that provides that the books, records, documents, and accounting procedures

and practices of the grantee that are relevant to the grant contract are subject to examination by the contracting agency and either the legislative auditor or the state auditor, as appropriate, for a minimum of six years. Since this is a requirement under state statute, it is reasonable and necessary to include it as a required clause in a grant contract with a grantee. Additionally, if the federal or state statutes change regarding record retention periods, the department will always be obligated to put the record retention requirements in the grant contract.

Part 3350.0020, subpart 16. Grantee. Part 3350.0020, subpart 16 defines the term “grantee”. The organizational name “Midwest Farmworker Employment and Training” is deleted and replaced with “migrant seasonal farmworker organizations” as explained in part 3350.0020, subpart 3 above.

Part 3350.0020, subpart 18. Minnesota economic opportunity grant (MEOG). Part 3350.0020, subpart 18 defines the term “Minnesota economic opportunity grant”. The term MEOG or Minnesota economic opportunity grant was changed to “Minnesota community action grant as explained in the General Rule Amendments Section on page 7 under number 2.

Part 3350.0020, subpart 20, items A and B. Recognition. Part 3350.0020, subpart 20 defines the term “recognition”. The Revisor of Statutes has removed the words “as provided” from items A and B to cut needless words.⁷ This change does not change the meaning of the definition and the department considers this change reasonable.

Part 3350.0020, subpart 23. Termination. Part 3350.0020, subpart 23 defines the term “termination”. The abbreviation “CAA” is replaced with “grantee” to indicate that Indian tribal governments and migrant seasonal farmworker organizations, along with community action agencies, are subject to having their grant funds reduced or eliminated.

Part 3350.0020, subpart 24. Withholding. Part 3350.0020, subpart 24 defines the term “withholding”. The term “approved application” is replaced by the term “grant” for clarity. This is a more appropriate term to use because when an application is approved, it is embodied in a grant. Funds are made available to the grantee through the grant and this would be the source of the withholding. The abbreviation “CAA” is replaced with

⁷ The Minnesota Rules: Drafting Manual with Styles and Forms published by the Office of the Revisor of Statutes states that rule writers should cut down on needless words. See: <http://www.revisor.leg.state.mn.us/arule/Section3.htm#25>

“grantee” to indicate that Indian tribal governments and migrant seasonal farmworker organizations are eligible entities according to 42 U.S.C. §9902 (1)(A)(i) and, along with community action agencies, can have their funds withheld by the department until corrective action occurs.

Part 3350.0030 Designation of Community Action Agencies

Part 3350.0030, subpart 1. Authority to designate. Part 3350.0030, subpart 1 authorizes the governing body of a political subdivision to designate a community action agency. The department proposes to add the words “must be” to emphasize that only a governing body of a political subdivision can perform the designation function. The Minnesota Rules: Drafting Manual with Styles and Form published by the Office of the Revisor of Statutes states that rulewriters should use “must” to express requirements.⁸ The use of the word “must” makes it clear to the reader that this is a required action.

Part 3350.0030, subpart 2, item D. Notice and Documents. Part 3350.0030, subpart 2, item D states that the designee must provide a map of all geographic areas which the designee will or will not serve to the governing body before it can be designated a community action agency. The department proposes to delete the requirement that the designee provide a map because all geographic service areas have been defined in Minnesota for several years. Most community action agencies were recognized by the federal government in the 1960s. The remaining four geographic areas were recognized by the state in the 1980s. Therefore, the department proposes to replace the map requirement with a statement that describes the area to be served.

Part 3350.0030, subpart 3. Notice of public hearing. Part 3350.0030, subpart 3 states how the governing body must give notice of a hearing on the proposed designation of a community action agency. The language “Notice of the hearing must be given according to items A to D:” is added to this subpart since dividing this subpart into items will make it easier to read and therefore promote compliance. The department has left most of the language of this subpart in tact but has rearranged and revised some of the sentences for clarity.

Part 3350.0030, subpart 3, item A. Notice of public hearing. Item A was actually part of original subpart 3, but rearranged to its separate item for clarity.

Part 3350.0030, subpart 3, item B. Notice of public hearing. Item B was actually part of original subpart 3, but rearranged to its separate item for clarity.

⁸ <http://www.revisor.leg.state.mn.us/arule/Section3.htm#11>

Part 3350.0030, subpart 3, item C. Notice of public hearing. Item C was actually part of original subpart 3, but rearranged to its separate item for clarity. The department proposes to replace the word “will” with “must” in this items to emphasize requirements as stated in part 3350.0030, subpart 1.

Part 3350.0030, subpart 3, item D. Notice of a public hearing. This item’s language was based on the original language of subpart 3 but rewritten to clarify that the department is responsible for mailing the notice of the public hearing to low-income households. In the original 1991 SONAR, it is clear that the department is responsible for mailing the notice to low-income households due to data privacy issues. However, currently, it is unclear whether the governing body or the department is responsible for mailing the notice due to the placement of one of the sentences in the subpart. This new language clarifies who is responsible for mailing the notice of the public hearing.

Part 3350.0030, subpart 4. Public hearing. The Revisor of Statutes has removed the words “the procedures of” from this subpart to cut needless words.⁹ This change does not change the meaning of the definition and the department considers this change reasonable.

Part 3350.0030, subpart 6. Official record. Part 3350.0030, subpart 6 states what the official record of the hearing must contain and how long the record should remain open. The department proposes to replace the word “will” with “must” in this subpart to emphasize that these are required actions as discussed in part 3350.0030, subpart 1.

Part 3350.0030, subpart 7. Summary of hearing. Part 3350.0030, subpart 7 states that the presiding officer must prepare a summary of the testimony and written comments presented during the course of the hearing. The department proposes to eliminate part 3350.0030, subpart 7. The department finds that the summary of the hearing contains information that is redundant of the information collected in the official record (part 3350.0030, subpart 6).

Part 3350.0030, subpart 8. Official resolution. Part 3350.0030, subpart 8 states when the governing body may act to designate the designee as a community action agency. With the elimination of part 3350.0030, subpart 7, the department proposes to modify this subpart to read, “official record” and eliminate the word “summary” since subpart 7 is modified to eliminate the summary of a hearing.

⁹ The Minnesota Rules: Drafting Manual with Styles and Forms published by the Office of the Revisor of Statutes states that rule writers should cut down on needless words. See: <http://www.revisor.leg.state.mn.us/arule/Section3.htm#25>

Part 3350.0030, subpart 9, item F. Review by the department. Part 3350.0030, subpart 9, item F states that the governing body must submit the official hearing record and summary of the hearing before the department can recognize a community action agency. However, since the department proposes to delete the summary requirement from the rule, this subpart is modified to refer only to the official record.

Part 3350.0030, subpart 10. Costs. The Revisor of Statutes has removed the word “all” from this subpart to cut needless words.¹⁰ This change does not change the meaning of the definition and the department considers this change reasonable.

Part 3350.0040 Recognition of Community Action Agencies

Part 3350.0040, subpart 1. Provisional recognition. The department proposes to replace the word “will” with “must” in this subpart to emphasize that these are required actions as discussed in part 3350.0030, subpart 1.

Part 3350.0040, subpart 1, item C. Provisional recognition. Part 3350.0040, subpart 1, item C states that before the department may recognize a designee, the designee must provide a list of the board of directors. The department proposes to add language to item C so that “addresses and phone numbers” of the board of directors are required to be submitted to the department. The contact information is necessary to enable the department to be compliant with Minnesota Statutes, section 256E.31, subdivision 3 and federal statute 42 U.S.C. §9910 which require that the community action board be a tripartite board of members that consists of public officials, representatives of the poor in the area served, and other members of business, industry, labor, religious, welfare, education, or other major groups and interests in the community. The department proposes to replace the word “will” with “must” in this subpart to emphasize that these are required actions as discussed in part 3350.0030, subpart 1.

Part 3350.0040, subpart 2. Governor’s recognition. The Revisor of Statutes has removed the word “applicable” from this subpart to cut needless words.¹¹ This change does not change the meaning of the definition and the department considers this change reasonable.

¹⁰ The Minnesota Rules: Drafting Manual with Styles and Forms published by the Office of the Revisor of Statutes states that rule writers should cut down on needless words. See: <http://www.revisor.leg.state.mn.us/arule/Section3.htm#25>

¹¹ The Minnesota Rules: Drafting Manual with Styles and Forms published by the Office of the Revisor of Statutes states that rule writers should cut down on needless words. See: <http://www.revisor.leg.state.mn.us/arule/Section3.htm#25>

Part 3350.0040, subpart 3. Maintenance of recognition. Part 3350.0040, subpart 3 identifies the documents a community action agency must submit to the department in order to maintain recognition. The department proposes to eliminate the language that specifies that community action agencies have to submit these documents annually since these documents are reviewed by the department annually during the department's on-site monitoring process. The department proposes to insert language that says that community action agencies must maintain these records and make current copies available to the department since this is less cumbersome for the grantee than having the grantees submit their documentation to the department annually. Additionally, the Revisor of Statutes has added the word "records" to the title of this subpart. Since this subpart mainly deals with records that the community action agency must keep in order to maintain their recognition, the department considers this change reasonable.

Part 3350.0040, subpart 3, item F. Maintenance of recognition. The words "narratives of" are struck from this item because the department is no longer requiring that the planning process and evaluation process be written in a narrative form. The existing rule language is needlessly prescriptive. The planning process and the evaluation process can be written in any form that accurately articulates the grantee's planning process and evaluation process. The word "process" is made plural since it describes two separate processes, the planning process and the evaluation process. The Revisor of Statutes has removed the word "respectively" from this subpart to cut needless words.¹² This change does not change the meaning of the definition and the department considers this change reasonable.

Part 3350.0040, subpart 4. Failure to maintain recognition. Part 3350.0040, subpart 4 states that a community action agency may lose its recognition if it does not submit the documents listed in subpart 3 to the department. The department proposes to delete this subpart since it is duplicative of another provision in the rule and some of the language would more suitably be placed elsewhere in the rule. Subpart 4 states that the department may withhold funds under part 3350.0100 if it fails to maintain recognition but this is already stated in part 9571.0090, subpart 1, item D. Additionally, it would be more suitable to put the language that refers to funding termination under part 9571.0060, subpart 1 since that part specifically states what actions would amount to cause for termination.

New Part 3350.0040, subpart 5, items A-C. Merging of designated and recognized community action agencies. The department proposes to add a new subpart 5 to

¹² The Minnesota Rules: Drafting Manual with Styles and Forms published by the Office of the Revisor of Statutes states that rule writers should cut down on needless words. See: <http://www.revisor.leg.state.mn.us/arule/Section3.htm#25>

govern the mergers of community action agencies. All geographic areas of the state, except Indian reservations, have been locally designated and received state recognition. However, the only process provided in these rules for the merger of community action agencies is to duplicate the original complicated designation and recognition process. The process outlined in the new subpart is reasonable because it ensures that consideration has been given to the continuation of uninterrupted services to clients and to the operating structure of the newly merged entity. The process also ensures local community support by requiring documentation showing board of directors support. It is reasonable to assume that the interests of local jurisdictions in the potential merger of community actions agencies can be adequately represented by the elected officials or their representatives who, by law, comprise one-third of the community action agency's boards of directors. It is necessary to specify the requirements for merger so that agencies interested in merger understand the process to follow.

New Part 3350.0040, subpart 6. Review and approval of a merger transition plan.

The department proposes to add subpart 6 that explains how the department will review and approve a merger transition plan. It is reasonable and necessary to require department oversight of the merger process to ensure that the newly created entity has met the requirements established under subpart 5 and will be a viable agency. The 60 day time frame for approval of the merger balances the need to allow for adequate review of the merger plan and the need to expedite the merger of a community action agency to ensure continuation of services to clients. It is also reasonable and necessary to establish procedures for the department to request additional information and seek remedial measures if the plan is not approved so that the potential for service interruption is minimized.

Part 3350.0050 Cessation and Change of Designation

Part 3350.0050, subpart 2, items B and C. Priority among possible designees. Part 3350.0050, subpart 2 describes how a governing body may choose a designee. In items B and C, the Revisor of Statutes has rearranged the phrases in these items so they are less wordy. These changes do not affect the meaning of the rule provisions and the department considers this change reasonable.

Part 3350.0050, subpart 3. Procedure. The Revisor of Statutes has removed the word "provided" from this subpart to cut needless words.¹³ This change does not change the meaning of the definition and the department considers this change reasonable.

¹³ The Minnesota Rules: Drafting Manual with Styles and Forms published by the Office of the Revisor of Statutes states that rule writers should cut down on needless words. See: <http://www.revisor.leg.state.mn.us/arule/Section3.htm#25>

Part 3350.0060 Termination for Cause

Part 3350.0060, subpart 1. Cause. Part 3350.0060, subpart 1 states that a community action agency's funding, designation or recognition may be terminated for cause and lists the factors that may justify termination. The sentence, "An Indian tribal government's or a migrant seasonal farmworker organization's funding will be terminated for cause." is added because the subpart currently only addresses the termination of funding and designation of community action agencies. But, the funding for Indian tribal governments and migrant and seasonal farmworker organizations may also be terminated by the department according to federal statute 42 U.S.C. §9915. However, since Indian tribal governments and migrant and seasonal farmworker organizations are not subject to the designation and recognition process of community action agencies, it is reasonable to distinguish between the various groups of grantees in the language of the rule.

Part 3350.0060, subpart 1, item B. Cause. Part 3350.0060, subpart 1, item B is the second factor in which the grantee may be terminated for cause which would be if the community action agency is unresponsive to the service needs of low-income people or if the community action agency is hindering the participation of low-income people. The department proposes eliminating the language of this item and adding, "failure to involve low income people in planning, oversight and evaluation of programs and services". This language more specifically defines the nature of the involvement of low income people in a community action program and creates a clearer compliance standard.

Part 3350.0060, subpart 1, item C. Cause. Part 3350.0060, subpart 1, item C sets out the third factor for which the grantee may be terminated for cause which would be if the community action agency willfully violates the grant contract. The department added the term "grant" in front of the word "contract" for clarity and consistency since the definition "grant contract" is being added to the rule. The word "willful" is struck from this item because the actions of the grantee do not need to be intentional or voluntary in order to violate a grant contract and any grant contract violation may be cause for terminating the grant contract.

New Part 3350.0060, subpart 1, item C, subitem 1. Cause. This new subitem states that a grantee may be terminated for cause if it fails to maintain financial procedures, reports, and audits in accordance with part 3350.0160, subparts 1 and 2. This subitem is added to emphasize that grantees must follow financial procedures, report, and audit requirements outlined in part 3350.0160, subparts 1 and 2 and in their grant contract to be eligible to receive funding.

New Part 3350.0060, subpart 1, item C, subitem 2. Cause. This new subitem states that a grantee may be terminated for cause if it fails to maintain recognition in accordance with part 3350.0040, subpart 3. The language for this new subpart was taken from part 3350.0040, subpart 4 which the department proposes to be deleted. The language is put in this item since subpart 1 specifically states what actions would amount to cause for termination. The need and reasonableness of this requirement was established in the initial rulemaking process.

New Part 3350.0060, subpart 1, item C, subitem 3. Cause. This new subitem states that a grantee may be terminated for “cause” if it fails to follow the requirements of federal laws and state laws and rules. It is necessary and reasonable to add this item to the list of causes for termination because grantees must follow federal laws and state laws rules that are outlined in the contract in order to receive funding.

Part 3350.0060, subpart 1, items D and E. Cause. Part 3350.0060, subpart 1, item D is the fourth factor in which the grantee may be terminated for cause which would be if the grantee fails to remedy a short-term defect after a withholding. Part 3350.0060, subpart 1, item E is the fifth factor in which the grantee may be terminated for cause which would be if the grantee fails to remedy a long term defect after a withholding. The department proposes to eliminate the words “short-term” and “long-term” in these items and combine items D and E for simplification of the rule since these terms are not clearly defined in the rule and they are not useful. The need and reasonableness of terminating grantees for uncorrected defects was established in the initial rulemaking process.

Part 3350.0060, subpart 2. Termination by governing body. Part 3350.0060, subpart 2 states how a governing body may terminate a community action agency’s designation. The department proposes to add the words “of community action agency designation” to the title of the subpart in order to specify that designation by a governing board applies only community action agencies. The department proposes to revise and divide this subpart into items and subitems to provide clarity to this subpart. The department has left most of the language of this subpart in tact but has rearranged and revised some of the sentences for clarity. These changes do not alter the meaning and intent of this subpart.

Part 3350.0060, subpart 3. Termination by the department. Part 3350.0060, subpart 3 states when the department may terminate for cause a community action agency’s funding or recognition or both. The department proposes to revise and divide this subpart into subparts 3 and 4 for clarity. Currently, part 3350.0060, subpart 3 only addresses community action agencies but funding for Indian tribal governments and migrant and seasonal farmworker organization may also be terminated by the department according to federal statute 42 U.S.C. §9915. However, Indian tribal governments and migrant and seasonal farmworker organizations are not subject to the designation and

recognition process of community action agencies discussed in the original part 3350.0060, subpart 3. The department has determined that it would provide clarity to the reader if the termination process for these different grantees were separated into separate subparts.

The new subpart 3 describes how the department may terminate the recognition and funding of a community action agency when there is cause. The department proposes to revise and divide this subpart into items and subitems to provide clarity to this subpart. The department has left most of the language of this subpart in tact but has rearranged and revised some of the sentences for clarity. The department has removed the second sentence in the original part 3350.0060, subpart 3 since part 3350.0060, subpart 1, item B has been modified and part 3350.0060, subpart 4 is proposed to be eliminated. The department has also removed the third sentence in the original part 3350.0060, subpart 3 that refers to withholding as an option when appropriate and moved this language to part 3350.0100, subpart 1 for clarity.

Part 3350.0060, subpart 4. Petition for termination. Part 3350.0060, subpart 4 states that when a governing body receives a petition from the community containing at least 1,000 names and addresses requesting a community action agency's termination, the governing body must hold a public hearing to consider the termination of the community action agency's designation. The department proposes that part 3350.0060, subpart 4 be eliminated entirely since the procedure is burdensome and was never used by a governing body. Members of the community that are being served by the community action agency can contact the department's Office for Economic Opportunity directly regarding a community action agency's failure to meet the needs of low income people. This option is a more reasonable alternative to subpart 4 because dissatisfied members of the community can contact the department directly rather than going through the cumbersome process of collecting 1,000 names on a petition. The department's Office of Economic Opportunity investigates complaints from members of the community if a community action agency is acting improperly and tries to work with the community action agency to remedy the complaint.

New Part 3350.0060, subpart 4a. Termination by the department. This new subpart discusses how the department can terminate funding to an Indian tribal government or a migrant and seasonal farmworker organization when the circumstances warrant. The language in this item is virtually identical to the new part 3350.0060, subpart 3 except that the parts referring to the recognition process are deleted because Indian tribal governments and migrant and seasonal farmworker organizations are not subject to the recognition or designation process. Also, "CAA" is replaced by "Indian tribal governments" and "migrant and seasonal farmworker organizations" because this section refers to those two grantees specifically.

Part 3350.0060, subpart 5. Appeal procedure. Part 3350.0060, subpart 5 states when a community action agency may request a hearing and outlines what hearing procedures will be used. In the past, the department was involved in a lengthy contested case hearing with a previous grantee. This contested case process lasted five years and the legal costs were significant. Furthermore, during this process, services were suspended. These problems can be avoided by adding an expedited hearing process as an option and defining the scope of the hearing. The department proposes to add language to this subpart that states that the contested case hearing will be conducted in accordance with the expedited hearing process established in Minnesota Rules, parts 1400.8505 to 1400.8612 unless the grantee objects within 10 business days. Minnesota Rules, part 1400.8505 states that the hearing procedure described in Minnesota Rules, parts 1400.8505 to 1400.8612 can be used if all parties to a particular hearing and the administrative law judge agree to use them.

It is necessary and reasonable to have an expedited hearing procedure for this process because a lengthy appeals process would result in a delay in naming a successor to the grantee and a potential loss of services to the low-income individuals that live in the community. Additionally, a lengthy hearing would be more costly to both the department and the grantee. An expedited process helps to preserve limited resources while ensuring a grantee's right to challenge agency action. If the grantee objects to the expedited hearing process, their contested case hearing can be heard by using the procedures established in Minnesota Rules, parts 1400.5100 to 1400.8500.

Part 3350.0060, subpart 6. Federal appeal rights. The federal law citation is updated for this subpart to enable grantees to identify their rights under federal law.

Part 3350.0060, subpart 8. Costs. Part 3350.0060, subpart 8 discusses who bears the cost of a contested case hearing or the costs associated with the procedure for termination and also clarifies that the department is not responsible for federal appeal costs. The last sentence of this subpart is deleted because it refers to who bears the cost associated with the procedure for termination under part 3350.0060, subpart 4. However, since part 3350.0060, subpart 4 is proposed to be deleted, this sentence is no longer needed.

Part 3350.0080 Monthly, Periodic, and Financial Reports

Part 3350.0080 Monthly, Periodic, and Financial Reports. Part 3350.0080 states that the grantee must submit a periodic client and fiscal performance report and monthly and final financial status reports. The department proposes to eliminate this part because the requirements to submit these reports are now included in the language of the grant contract. Describing the reports in the contract allows the department to comply with federal statutory requirements since the format and timing of the reports is subject to frequent change.

Part. 3350.0090. Due Dates for Monthly, Periodic, and Final Reports

Part. 3350.0090. Due Dates for Monthly, Periodic, and Final Reports Part 3350.0090 discusses the due dates for submission of monthly, periodic, and final reports. The department proposes that the existing language in section 3350.0090 be deleted and replaced by this language: “Monthly, periodic and annual reports are due on the dates specified in the grant contract. If reports are delinquent, incomplete or inaccurate, the department must proceed to withhold funds from a grantee under part 3350.0090.” The original language was drafted with a rigid schedule for submitting reports and did not take into account changes the federal government makes to its reporting requirements and forms. Eliminating the rigid scheduling requirements allows for compliance with these federal changes. Therefore, the department proposes that the schedule for these reports should be incorporated into the department’s grant contracts to allow for flexibility.

Part 3350.0100 Withholding of Cash Disbursements.

Part 3350.0100, subpart 1. Circumstances for withholding. Part 3350.0100, subpart 1 provides the circumstances in which the department may withhold payment from a grantee. The term “approved application” is replaced by the term “grant” for clarity and because it is a more appropriate term to use as discussed in part 3350.0020, subpart 24. Also, the language, “...wherever appropriate, in lieu of termination under part 3350.0060...” is added to this subpart since this language was originally in part 3350.0060, subpart 3, but the department has determined that this is a more appropriate place for that language.

Part 3350.0100, subpart 1, item A. Circumstances for withholding. Part 3350.0100, subpart 1, item A states the first circumstance in which the department may withhold payment from a grantee. The department added the term “grant” in front of the word “contract” for clarity and consistency since the definition “grant contract” is being added to the rule. The language after “department” in this subpart is deleted because it is redundant since the requests for these reports are specified in the department’s grant contracts. Furthermore, the deleted language in this subpart refers to other parts of the rule that are being amended to refer to requirements specified in the grant contract.

Part 3350.0100, subpart 1, item C. Circumstances for withholding. The department added the term “grant” in front of the word “contract” for clarity and consistency since the definition “grant contract” is being added to the rule.

Part 3350.0100, subpart 2. Notice, conversion option, and termination. Part 3350.0100, subpart 2 states that the department must notify a community action agency before it withholds funding and that a community action agency may choose to turn a withholding into a termination. The department proposes to revise and divide part 3350.0100, subpart 2 into 3 separate subparts: Notice of withholding; Conversion option; and Notice and termination. The department has left most of the language of the original part 3350.0100, subpart 2 in tact but has replace the word “will” with “must” in this subpart to emphasize that these are required actions as discussed in part 3350.0030, subpart 1. Additionally, the last sentence of the original subpart is deleted because it discusses the community action agency’s failure to maintain recognition according to part 3350.0040, subpart 4 and this subpart is proposed to be deleted.

New Part 3350.0100, subpart 2. Notice of withholding. The language for this new subpart is the first three sentences of the original part 3350.0090, subpart 2 taken verbatim. The department has added the last sentence, “Upon remedying the defect, the department will reimburse the grantee for the time period between the date of the withholding in the notice to the date the defect was remedied if the grantee submits a cash request, with documentation, that clearly substantiates that expenses were used by the grantee to perform services according to the grant contract.” It is reasonable to compensate the grantee for services preformed according to the grant contract during the withholding period as long as the grantee submits adequate documentation of their expenses. This practice will encourage grantees to continue providing services, even if reimbursement is withheld.

New Part 3350.0100, subpart 3. Conversion option. The language for this subpart is based on language in the original part 3350.0090, subpart 2. The original rule language stated that the department must initiate a contested case proceeding provided in Minnesota Statutes, sections 14.57 to 14.62 if a community action agency requests a conversion from a withholding to a termination. The citation to Minnesota Statutes, section 14.57 to 14.62 is replaced with a citation to part 3350.0060, subpart 5 because the department proposes that the grantee may opt to have the contested case heard under an expedited hearing procedure.

New Part 3350.0100, subpart 4. Notice and termination. The language for this subpart is based on language in the original part 3350.0090, subpart 2. The original language in the rule that referred to “...(2) the time remaining before the subsequent June 30.” has been changed to “...B. the time remaining before the grant expires” since grants are now issued biennially instead of every year. Additionally, the department updated the original language to remove the references to long term defects since the department determined that the terms “short term defect” and “long term defect” were not useful.

Part 3350.0110 Program Guidelines and Eligible Activities

Part 3350.0110, subpart 3. Federal prohibitions. Part 3350.0110, subpart 3 states that the community services block grant state plan lists which activities are ineligible for funding and that the plan is available from the Department of Employment and Economic Development. The department proposes to eliminate “annual” from the rule since the community services block grant state plan is issued every two years and not every year. Also, the language in the rule is changed to indicate that the community service block grant state plan is available upon request from the Department of Human Services since the community action agency program is currently administered by the Department of Human Services.

Part 3350.0120. Participation by Low-Income Persons

Part 3350.0120. Participation by Low-Income Persons. Part 3350.0120 states that the grantee must consider the participation of low-income people in the local planning process, the annual work plan, the evaluation process, and the annual evaluation report. The department proposes to amend this subpart to emphasize that both federal and state statutes require a higher standard of participation by low-income people in a community action program. Minnesota Statutes, section 256E.31, subdivision 6 (d) states that a community action agency shall, “Establish effective procedures by which the poor and area residents concerned will be enabled to influence the character of programs affecting their interests, provide for *their regular participation in the implementation of those programs*, and provide technical and other support needed to enable the poor and neighborhood groups to secure on their own behalf available assistance from public and private sources.” Minnesota Statute, section 256.32, subdivision 2 states, “The components of a community action program shall be designed to assist participants, including homeless individuals and families, migrant and seasonal farmworkers, and the elderly poor to achieve increased self-sufficiency and *greater participation in the affairs of the community* by providing services and programs not sufficiently provided in the community by any governmental unit, any public institution, or any other publicly funded agency or corporation.” Additionally, 42 U.S.C. §9901(2)(D) uses the words “maximum participation” and 42 U.S.C. §9908(b)(1)(A)(vii) uses the words “greater participation” with regard to low income individuals’ participation in developing community action programs. The reference to the annual evaluation report of part 3350.0150 is removed because this part is proposed to be eliminated.

Part 3350.0130. Local Planning Process. Part 3350.0130 states that the community action agency must submit a plan in order to maintain recognition. The department proposes to replace the word “will” with “must” in this subpart to emphasize that the actions are required as discussed in part 3350.0030, subpart 3.

The department proposes to delete, “...as a requirement for maintenance of recognition under part 3350.0040, subpart 3.” from the first sentence and substitute,

“...as part of their grant application”. This is because the plan must currently be submitted to the department as part of the biennial grant application rather than “maintenance of recognition,” which applies to community action agencies only.

The department also proposes to delete the word “narrative” from the second sentence because this requirement is unnecessarily prescriptive. The planning process can be written in any form that accurately articulates the grantee’s planning process.

The department proposes to revise the last sentence of this part and items A-I so that grantees have more flexibility to design their local planning process. The proposed language maintains the essential components of the local planning process, however it removes prescriptive language related to how grantees incorporated the components into their local planning process. The new language also recognizes that generally these grantees are established agencies that have an existing relationship with both their local communities and the department.

Part 3350.0140. Evaluation Process. Part 3350.0140 states that each community action agency must develop and maintain a narrative written process for the evaluation of its own community action program. The department proposes to remove language in this part that states that the evaluation process should be in a narrative form to provide the grantees with more flexibility to write their evaluation process. Since the required evaluation process is part of the required locally developed planning process, the evaluation process does not necessarily need to be written in a narrative form but in any form that accurately articulates the grantee’s evaluation process. The department also proposes to add “tribal council” to the sentence that states who in the community action program must approve the written evaluation since Indian tribal governments have a tribal council and not a board of directors. “Grantee” is substituted for “CAA” in this subpart to indicate that the statement applies to all three eligible organizations. (The term “grantee” is not used in the last sentence since the recognition process applies only to community action agencies.) The word “written” is added to the last two sentences in this subpart to clarify that the evaluation process must be in writing. The last sentence of the subpart is modified to conform to the new requirements of part 3350.0040, subpart 3 which state that a community action agency must maintain the evaluation process and make current copies available to the department as requested.

Part 3350.0150. Annual Evaluation Report. Part 3350.0150 states when the annual evaluation report is due, the information the report must contain, and the consequences for not submitting an appropriate report. The department proposes to eliminate this part because it is duplicative. Information contained in an annual evaluation report is already contained in the annual community action report which grantees are required to submit under the terms of the grant contract. Any need to withhold cash disbursements because of late, incomplete or noncomplying reporting is accomplished through part 3350.0100.

Part 3350.0160 Administration of Grants

Part 3350.0160, subpart 1. Grantee financial control system. Part 3350.0160, subpart 1 states that the grantee must have a financial control system in place that complies with federal and state reporting and fiscal procedures which are contained in the Department of Jobs and Training Subgrantee Administrative Requirements No. 1 which is available at the State Library. The department proposes to remove the last sentence of this part since the federal and state reporting and fiscal procedures are no longer contained in the reference document. The department proposes to add the words, “and grant contract” to subpart 1 because current financial and control requirements and grant management requirements are now contained in the Department of Human Services grant contract.

Part 3350.0160, subpart 2. Grantee audit. Part 3350.0160, subpart 2 states that the grantee must follow the audit requirements contained in the attachment to its contract with the department and states the due date for the audit. The department proposes to alter the language in the first sentence of the subpart and to delete the last two sentences of this subpart to reflect current procedures. The audit requirements are stated in the grant contract that the grantee signs. Additionally, the last two sentences were drafted with a rigid schedule for submitting reports and did not take into account the changes the federal government makes to its audit requirements. Specifying the audit requirements in the grant contract allows the department to conform to changing federal government audit requirements.

Part 3350.0160, subpart 3. Alterations. Part 3350.0160, subpart 3 states that a grantee must obtain prior written approval from the department before changing a work plan or a budget. The term “approved application” is replaced by the term “grant contract” because the Department of Human Service’s grant contract states that amendments to the grant contract, which include the workplan and budget, must be in writing.

Part 3350.0170 Grant Applications.

Part 3350.0170, subpart 1. Forms and documents. Part 3350.0170, subpart 1 states that grant applications and their accompanying forms and documents are available from the department and that a workplan and a budget must be submitted to the department as part of the application process. The word “annual” is deleted from this subpart because grant applications are now completed biennially instead of annually. The Revisor of Statutes has removed the words “all” and “each” from this subpart to cut needless

words.¹⁴ This change does not alter the meaning of the definition and the department considers this change reasonable.

Part 3350.0170, subpart 1, items A-D. Forms and documents. Part 3350.0170, subpart 1, items A-D discuss the information a work plan must contain. The department proposes to eliminate these steps since instructions for completing the work plan are specified in the grant application.

Part 3350.0170, subpart 2. Grant application deadlines. Part 3350.0170, subpart 2 states the grant application deadline. The department proposes to eliminate this subpart. Grant applications instructions, referenced in part 3350.0170, subpart 1, address grant application deadlines and thus make this subpart unnecessary.

Part 3350.0170, subpart 3 and items A and B. Waiver of application deadline. Part 3350.0170, subpart 3 states the circumstances in which the department may waive the application deadline. The language “or chair of the tribal council” is added to this subpart since tribal governments do not have a board of directors. Additionally, the language “the original application deadline” is added instead of “June 30” since applications are completed biannually instead of every year. The department proposes to revise the language in this subpart and delete items A and B so that an application deadline may be granted if the grantee shows good cause for missing the application date. The language change will enable the department to address the needs of grantees for a waiver of time lines beyond the limited circumstances listed in items A and B.

Part 3350.0170, subpart 4. Approval of application. Part 3350.0170, subpart 4 states the process the department will use to approve a submitted application. The department proposes to remove the last sentence of this subpart since the department’s current procedures do not include having the Minnesota Department of Finance sign the contract. The department added the term “grant” in front of the word “contract” for clarity and consistency since the definition “grant contract” is being added to the rule.

Part 3350.0170, subpart 5. Late, incomplete, or noncomplying application. Part 3350.0170, subpart 5 states when the department can deny an application under part 3350.0150, subpart 6. The department has deleted the language, “...waiver in subpart 3 or within 45 days of the deadline provided in subpart 2 where a waiver is not granted...” and replaced it with “application or waiver” to eliminate wordiness and provide clarity.

¹⁴ The Minnesota Rules: Drafting Manual with Styles and Forms published by the Office of the Revisor of Statutes states that rule writers should cut down on needless words. See: <http://www.revisor.leg.state.mn.us/arule/Section3.htm#25>

Part 3350.0170, subpart 6, item D. Denial of application. The word “long-term” is struck from this item because is not clearly defined in the rule and is not useful as stated in part 3350.0060, subpart 1, items D and E.

Part 3350.0170, subpart 6. Denial of application. The last paragraph of subpart 6 states that if the department denies an application based on items A, B, or C the department may terminate funds for two years. The words “an entire program” is deleted and replaced with “two years” because grantees apply for funds every two years. The last few words of this paragraph, “or all future funding under part 3350.0040, subpart 4” is deleted since the department proposes to delete part 3350.0040, subpart 4.

Part 3350.0190. Record Keeping

Part 3350.0190. Record Keeping. Part 3350.0190 states how long records must be kept by the grantee. The department proposes to delete all references in this part that specify a specific number of years that the grant records must be retained because state and federal requirements for record keeping change periodically. For example, Minnesota Statutes, section 16.05, subdivision 5 states that books, records, documents, and accounting procedures of a grantee are subject to examination by the department, legislative auditor, or state auditor for a minimum of six years. Currently, part 3350.0190 states that records should be kept for a three year period. The department proposes to include the language “the time period specified in the grant contract” because this allows the record retention requirements to change in the contract without the need to amend the rule periodically.

Part 3350.0200. Monitoring

Part 3350.0200. Monitoring. Part 3350.0020 describes how the department will monitor grantees. The U.S. Department of Health and Human Services’ application for community service block grant funds requires the department to describe its plans for conducting onsite review of eligible grantees. Therefore, the department proposes to add the word “on-site” to the first sentence of this part to more accurately describe the department’s obligation for monitoring.

Part 3350.0200, item A. Monitoring. Part 3350.0020, item A states that the monitoring process will include a performance of a pre-award review. The department proposes to delete this item because the department continuously monitors the administrative functions of grantees which provides the department information beyond the scope of a “pre-award review”.

Part 3350.0200, item B. Monitoring. Part 3350.0020, item B states that the monitoring process will include an annual monitoring plan to conduct on-site visits of grantees awarded certain dollar amounts. The department proposes to delete this item because the department is obligated to monitor all grantees annually and on-site, regardless of the grant amount.