

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

DEPARTMENT: Office of the Attorney General

STATE OF MINNESOTA

OFFICE MEMORANDUM

DATE: March 25, 1992

TO: CONNIE GREER
Economic Opportunity Office
670 American Center Building
St. Paul

FROM: MARTHA J. CASSERLY
Special Assistant
Attorney General

PHONE: 296-6839

SUBJECT: In the Matter of the Adopted Rule Relating to Designation and Recognition of Community Action Agencies and Granting of Funds for Community Action Programs

The above-referenced rule has been approved as to its legality by the Attorney General on March 25, 1992.

Enclosed is your copy of the approved rule. This office has already filed two copies with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submissions or comments along with any extra copies of documents which you submitted to the Attorney General.

Your next step is to arrange for publication of the Notice of Adoption in the State Register. In a day or two, you should receive from the Revisor's Office three copies of the notice of adoption of your rule. You should submit two copies of the Notice of Adoption to the State Register for publication. A permanent rule without a hearing does not become effective until five days after a notice of adoption is published in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

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

MJC:jj

cc: Donald E. Notvik
William Brown, Chief Judge
MaryAnn Hruby

STATE OF MINNESOTA
DEPARTMENT OF JOBS AND TRAINING

In the Matter of the Adoption of Rule of the Minnesota Department of Jobs and Training Governing Designation and Recongnition of Community Action Agencies and Granting of Funds for Community Action Programs

ORDER WITHDRAWING RULES

IT IS ORDERED that the above referenced rule is withdrawn from review by the Attorney General effective October 16, 1991.

October 16, 1991

R. Jane Brown

R. Jane Brown
Commissioner of Department
of Jobs and Training

ATTY GENERAL-

17 91 2:38

J- need not bring to revisor office

RULE REVIEW CHECKLIST
RESUBMITTED RULE

File No. 1858

Docket No. 05-0009-0400

RESUBMISSION DATE 3-13-92
DATE DUE 3-27-92

ADOPTED W/O HEARING X
EMERGENCY RULE

APPROVED 3-25-92 mjc
DISAPPROVED
WITHDRAWM

REVISOR APPROVED yes-already done
REVISOR DISAPPROVED
FILED W/SEC. STATE 3-25-92
RETURNED TO AGENCY 3-25-92

(no) **Does the revision raise significant new legal issues?** 1. Check the Notices cuz re-noticed

3-4-92 Review date

___ Rule as adopted (4 copies) - previous

✓ Supplemental Findings of Fact, Conclusions & Order Adopting

___ Board's ~~Supplemental~~ Resolution Adopting

NA Notice of submission to Attorney General

NA Affidavit of Mailing Notice to Attorney General

Rejected

end of comment period Jan 9, 1992 (Statement of Notice & Intent)

affadavit of mailing - December 23, 1991

no 30 days only 17 days

not a signed Notice of Intent.

See cover letter - amended Notice by extending deadline

Department of Jobs and Training

Adopted Permanent Rules Governing Designation and Recognition of Community Action Agencies and Granting of Funds for Community Action Programs

Rules as Adopted

3350.0010 PURPOSE.

Parts 3350.0010 to 3350.0200 establish procedures for the designation and recognition of community action agencies, and for the granting of CSBG and MEOG funds for community action programs. Programs eligible for funding are those operated by agencies which receive and maintain both designation and recognition.

3350.0020 DEFINITIONS.

Subpart 1. **Scope.** As used in parts 3350.0010 to 3350.0200, the following terms have the meanings given them.

Subp. 2. **Act.** "Act" means Minnesota Statutes, sections 268.52 to 268.54, as amended.

Subp. 3. **Applicant.** "Applicant" means a community action agency, including an Indian reservation government or the ~~Minnesota Migrant Council~~ Midwest Farmworker Employment and Training, Inc., which applies annually for a grant under the act from the department to fund a community action program.

Subp. 4. **Cessation.** "Cessation" means a voluntary end to the performance of all community action program services by a community action agency in a service area as provided for in part 3350.0050 and the removal of the agency's designation for the entire area which does not create the right of appeal.

Subp. 5. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Jobs and Training.

Subp. 6. **Community.** "Community" means the people to be served by the community action agency in its service area.

Subp. 7. **Community action agency (CAA).** "Community action agency" or "CAA" means an entity which:

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A. has the authority to receive funds under Minnesota Statutes, section 268.52, to support community action programs as described in Minnesota Statutes, section 268.54;

B. has previously been determined eligible under federal law and regulations or is eligible under federal law and regulations; and

C. has previously been designated and recognized or is designated as provided under part 3350.0030 and recognized as provided under part 3350.0040.

Subp. 8. **Community action program.** "Community action program" means activities consistent with the objectives of Minnesota Statutes, section 268.54.

Subp. 9. **Community services block grant (CSBG).** "Community services block grant" or "CSBG" means federal funds authorized by Public Law Number 97-35, title 6, subtitle B, as amended, and disbursed to CAAs by the formula in the act.

Subp. 10. **Denial.** "Denial" means the department's rejection of a proposed application for grant funds due to the applicant's failure to meet the requirements of part 3350.0170, subpart 6.

Subp. 11. **Department.** "Department" means the Minnesota Department of Jobs and Training.

Subp. 12. **Designation.** "Designation" means selection of an entity as a service area's exclusive CAA by a governing body after a public hearing has been held.

Subp. 13. **Designee.** "Designee" means an entity nominated by a governing body to become a CAA.

Subp. 14. **Governing body.** "Governing body" means the elected governmental authority of a political subdivision, as defined at subpart 18, which has the power to designate a CAA.

Subp. 15. **Grant.** "Grant" means an allocation of Minnesota economic opportunity grant or CSBG funds or both to an applicant in support of a community action program described in the application, approved by the department, and embodied in a contract.

Subp. 16. **Grantee.** "Grantee" means any CAA, including an

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Indian reservation government or the ~~Minnesota Migrant Council~~ Midwest Farmworker Employment and Training, Inc., whose application to receive Minnesota economic opportunity grant money or CSBG money or both has been approved by the department.

Subp. 17. **Local unit of government.** "Local unit of government" means counties, Indian reservation governments, cities, and townships.

Subp. 18. **Minnesota economic opportunity grant (MEOG).** "Minnesota economic opportunity grant" or "MEOG" means state appropriated funds disbursed to grantees by the formula in the act.

Subp. 19. **Political subdivision.** "Political subdivision" means a local unit of government which has jurisdiction over the entire area served by a CAA. Under no circumstances will the governmental unit be smaller than a county unless the service area of the CAA coincides with the jurisdictional boundaries of the local unit of government.

Subp. 20. **Recognition.** "Recognition" means a process of:

A. review by the department to assure compliance with applicable state and federal law and the designation procedures as provided at part 3350.0040, subpart 1;

B. referral to the governor of the department's request for recognition as provided at part 3350.0040, subpart 3; and

C. approval by the governor of the request for recognition.

Subp. 21. **Service area.** "Service area" means the geographic boundaries in which a community action agency is designated to operate.

Subp. 22. **Subgrantee.** "Subgrantee" means any entity with which a grantee contracts to perform some or all of the community action program services authorized under a grant.

Subp. 23. **Termination.** "Termination" means the involuntary and permanent elimination of or reduction in available grant money to a CAA which gives rise to a CAA's right of appeal under part 3350.0060, subpart 5, and which may also

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coincide with the removal of a CAA's designation or recognition.

Subp. 24. **Withholding.** "Withholding" means the department's reservation of funds available under an approved application as provided in part 3350.0100 until corrective action by a CAA has successfully remedied a defect identified by the department.

3350.0030 DESIGNATION OF COMMUNITY ACTION AGENCIES.

Subpart 1. **Authority to designate.** The designation of a CAA is made by the political subdivision or combination of political subdivisions having jurisdiction over the entire area to be served. A designation must be made by the governing body of a political subdivision whose boundaries are at least coextensive with the proposed service area. The power to designate may not be delegated.

Subp. 2. **Notice and documents.** Before a designee may be designated as a CAA by a political subdivision, the governing body of the political subdivision having the requisite authority must prepare and file with the department a notice of intent to designate and eligibility documents applicable to the designee. The notice of intent to designate must state how the designee meets the requirements for an eligible entity established under the CSBG act. Eligibility documents are the following:

A. evidence of designee's incorporation or proposed efforts toward incorporation, if applicable;

B. evidence of tax exempt status or proposed efforts toward achieving tax exempt status, if applicable;

C. assurance of compliance with the act, including requirements for the composition of the designee's existing or proposed board of directors;

D. a detailed map of all geographic areas and political subdivisions in the proposed service area as well as all immediately adjacent areas and subdivisions in the same county or counties which are excluded from the proposed area to be served; and

E. a proposed mission statement.

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Subp. 3. **Notice of public hearing.** After the notice of intent to designate and the eligibility documents have been filed with the department, the governing body must hold a public hearing on the proposed designation. At least 30 calendar days before the hearing date, the governing body must send a copy of the notice of intent to designate and information on the date, time, location, and subject matter of the public hearing to all local units of government within the designee's intended service area. During the 30 days before the hearing, the affected local units of government will have an opportunity to respond in writing to the proposed designation. All comments received will be included in the official record of the hearing. During the 30-day period and at least ten calendar days before the hearing, the governing body must also publish a notice of public hearing in a daily newspaper of general circulation at the county seat of each county in the designee's proposed service area. The published notice must describe the time, date, location, and subject matter of the public hearing. Furthermore, within the 30-day period and at least ten calendar days before the public hearing, low income households identified in the proposed service area must be mailed information on the date, time, location, and subject matter of the public hearing. The governing body will inform the department of the public hearing at least 30 calendar days before the hearing date. The department will notify low income households identified in the proposed service area of the public hearing. Identified low income households are those specified on the previous CAA's list or lists of clients.

Subp. 4. **Public hearing.** A public hearing must be held 30 calendar days before designation may occur. If the area to be served by the designee includes more than one county, a public hearing in conformity with the procedures of this part must be held in each county to be served.

Subp. 5. **Hearing procedure.** The governing body will appoint a presiding officer to conduct the public hearing. The governing body, however, may not appoint one of its current

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members as the presiding officer. The presiding officer will not have a vested interest in the outcome of the proposed designation and will ensure that all persons involved in the hearing are treated fairly and impartially. At the public hearing the representative of the designee and a representative of the governing body will make an affirmative presentation of facts establishing the designee's qualifications, expertise, and experience in providing community action program services to low income people. Furthermore, the designee's representative will describe the mission of the community action program, the focus and direction of proposed services, and the goals for outreach to and participation by low income people. The designee may rely upon facts presented by others on the record during the hearing to support its proposed designation. At the hearing, any interested person will be given the opportunity to present testimony and to ask questions of the designee's representative and of the governing body's representative. Furthermore, any interested party may submit written comments or exhibits.

Subp. 6. **Official record.** An official record of the hearing consisting of electronic recording and minutes of the proceedings will be kept. The official record will also include all testimony, written comments, and exhibits received pertaining to the proposed designation. The hearing record will remain open to receive written comments and exhibits for 20 calendar days following the date of hearing.

Subp. 7. **Summary of hearing.** The presiding officer will prepare a summary of the testimony and written comments presented before, during, and after the public hearing. At a minimum, the summary will include a list of all persons who participated, including persons identified as representatives of organizations, and whether each person supported or opposed the proposed designation. The summary together with the entire official record must be submitted to the governing body for its review.

Subp. 8. **Official resolution.** Once the summary of the public hearing is received and 30 calendar days have passed from

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the date of the hearing the governing body may act to designate the designee as a CAA. The governing body will pass a resolution designating the designee as a CAA if after review of the summary and official record the governing body finds that:

A. the opinion of the community was fairly and impartially expressed;

B. the opinion of low income people in particular was actively encouraged, representatively sampled, and fairly expressed during the whole process;

C. the designee established the qualifications, expertise, and experience necessary to be an effective CAA; and

D. the designee's proposed mission, services, and goals were supported by testimony and written comments received as a result of the public hearing process.

Subp. 9. **Review by department.** Before provisional recognition ~~can~~ may occur in part 3350.0040, subpart 1, the governing body must have submitted to the department for review copies of the following documents:

A. eligibility documents required in ~~part 3350.0030,~~ subpart 2;

B. official resolution of the governing body designating the designee;

C. notices of public hearing and a list of all publications and dates of publication of notices of hearing;

D. list of all local units of government sent copies of the notice of intent to designate and the notice of public hearing, including any responses received;

E. affidavit of service of the notice of public hearing upon low income households identified in the service area; and

F. official hearing record and summary of the hearing.

Subp. 10. **Costs.** All costs attributable to the designation process, including all costs associated with public hearings other than contested case hearings, are the responsibility of the governing body.

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3350.0040 RECOGNITION OF COMMUNITY ACTION AGENCIES.

Subpart 1. **Provisional recognition.** The department will provisionally recognize a designation if the department establishes compliance with applicable state law, federal law, all the designation requirements of part 3350.0030, and, where applicable, with the change of designation requirements of part 3350.0050. Provisional recognition ~~can~~ may occur within 60 calendar days of the department's receipt of the documents required in part 3350.0030, subpart ~~8~~ 9, an approved transition plan, where applicable, as specified in part 3350.0050, subpart 4, and the most current copies of the following:

A. articles of incorporation and bylaws;

B. Internal Revenue Service certificate of 501(c)(3) tax exempt status and Minnesota Department of Revenue certificate of tax exempt status where applicable to nonprofit CAAs; and

C. list of board of directors which indicates officers and committee memberships, tenure on the board, and the sector each director represents as required by the act.

If the department finds noncompliance it will inform both the governing body and the designee within the 60-day period and, if possible, offer remedies for achieving compliance.

Subp. 2. **Governor's recognition.** After the applicable requirements in subpart 1 have been met and the department has provisionally recognized a designation ~~and where applicable requirements in subpart 1 have been met~~, the department will request recognition by the governor.

Subp. 3. **Maintenance of recognition.** To maintain recognition, a CAA must ~~by June 30 of each year~~ annually ensure that the department has the most current copies of the following:

A. articles of incorporation with any amendments and bylaws with any amendments;

B. Internal Revenue Service certificate of 501(c)(3) tax exempt status and Minnesota Department of Revenue certificate of tax exempt status where applicable to nonprofit CAAs;

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C. list of board of directors which indicates officers and committee memberships, tenure on the board, and the sector each director represents as required by the act;

D. board minutes of the past year and latest annual corporate report;

E. organizational chart, personnel policies, data privacy policies, affirmative action plan, voter registration plan, and client service appeals policy; and

F. narratives of the planning process and evaluation process described in parts 3350.0130 and 3350.0140, respectively.

Subp. 4. **Failure to maintain recognition.** The department may proceed to withhold available funds under part 3350.0100, subpart 1, item D, where a CAA fails to maintain its recognition under this part. If, following periods of both withholding and funding termination under part 3350.0100, subpart 2, the CAA has still not successfully complied with all of the requirements in subpart 3, the department will terminate the CAA's recognition and all future funding under part 3350.0060, subpart ~~3~~ 1, item C or F.

3350.0050 CESSATION AND CHANGE OF DESIGNATION.

Subpart 1. **Circumstances for cessation.** A governing body may change its designation of a CAA to serve the area under its jurisdiction after a request to cease all community action program operation in the entire area has been received from the designated CAA.

Subp. 2. **Priority among possible designees.** A governing body may choose a designee under this part, in descending order of priority, by:

A. requesting an existing CAA which is located and is providing services in a contiguous area to expand its program operations into the service area;

B. if no existing CAA in a contiguous area agrees to expand its operations, requesting an existing CAA closest to the service area or an existing CAA within reasonable proximity to the service area to expand its program operations into the

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service area; and

C. where no CAA accepts the request to operate in the service area nominating any entity eligible or potentially eligible to be designated under federal law and regulations and to be recognized under part 3350.0040.

Subp. 3. **Procedure.** The governing body must follow the procedure provided in part 3350.0030 in order to change designation and must also prepare a transition plan for continuation of community action program services. The governing body must submit the transition plan to the department simultaneously with the notice of intent to designate. In addition to the notice requirements in part 3350.0030, subpart 3, the governing body must also serve copies of the notice of intent to designate and the notice of public hearing upon any existing CAA concurrently operating in the same political subdivision and all subgrantees ~~directly-affected-by-cessation and-change-of-designation,~~ in the service area. Upon request, copies of the designee's eligibility documents and the transition plan must be made available by the governing body to any interested party.

Subp. 4. **Additional review by the department.** In addition to the review requirements in part 3350.0030, subpart ~~8~~ 9, the department must also review the transition plan for service delivery in the interim before the governor's recognition as provided in part 3350.0040, subpart 2. The department has 30 calendar days from the date of receipt of the transition plan to either approve or disapprove of the plan. If the transition plan is not approved, the governing body may not proceed to designate a CAA under the procedure of part 3350.0030. Without an approved transition plan in operation, the department will not forward to the governor a request for recognition as provided in part 3350.0040. If the transition plan is not approved, the governing body may submit a subsequent transition plan consistent with the department's comments. Along with the transition plan the department must also receive evidence of service of additional notice on interested parties as required

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in subpart 3.

3350.0060 TERMINATION FOR CAUSE.

Subpart 1. **Cause.** A CAA's funding, as well as its designation or recognition, will be terminated for cause. There may be multiple causes which apply. Termination for cause includes the following:

A. actions threatening imminent danger to health or safety of members of the community;

B. unresponsiveness to service needs of low income people or hindrance of participation by low income people as provided in subpart 4;

C. willful violation of contract by the CAA;

D. failure to remedy a short-term defect after withholding as provided in part 3350.0100, subpart 2;

E. failure to remedy a long-term defect after funding termination as provided in part 3350.0100, subpart 2; or

F. denial of an application as provided in part 3350.0170, subpart 6.

Subp. 2. **Termination by governing body.** After notification to the department, a governing body may terminate for cause a CAA's designation. However, a governing body may only terminate a CAA's designation under subpart 1, item A or B. If a CAA's designation is terminated and the CAA's appeal rights have also been exhausted, funding must be terminated by the department. Where the department intervenes as a party in a contested case concerning termination of designation, funding by the department may be immediately terminated. After adopting termination as official action, the governing body must serve the notice of termination upon the CAA to be terminated. The notice must specifically explain the cause for the termination of designation and how funding may be affected. Included with the notice of termination must be a description of the CAA's appeal rights as provided for in subpart 5. The governing body must also send to the department a copy of the notice of termination. Upon request from the department, the CAA must

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provide its current list or lists of identified low income households to the department. Identified low income households are those specified on the CAA's list or lists of clients. The department will notify identified low income households of the termination. With the copy of the notice of termination the governing body may also submit to the department a transition plan for phasing out currently provided services and for substituting services in the interim until a successor CAA is recognized. The department must approve the plan as well as the interim agency providing community action program services. If the governing body has not submitted a transition plan with the copy of the notice of termination, it must do so by the close of any contested case hearing that may be held. If no contested case hearing is held, the governing body must submit the transition plan to the department at least simultaneously with the notice of intent to designate a successor CAA.

Subp. 3. **Termination by the department.** The department may terminate for cause a CAA's funding or recognition or both. However, the department may not terminate a CAA's recognition or funding under subpart 1, item B. Wherever appropriate, the department will proceed to withholding under part 3350.0100 before acting to terminate the funding or recognition of a CAA. However, where withholding is not an option, the department may proceed directly to termination under this part. Where termination concerns a CAA's funding the department may terminate all or part of current or future funding. If the department terminates all future funding, it must also terminate a CAA's recognition. Similarly, if the department terminates a CAA's recognition it must also terminate funding. The department must serve the notice of termination upon the CAA to be terminated. The notice of termination must specifically explain the cause for the termination and specify the type and degree of termination, including the effect on funding. Included with the notice of termination must be a description of the CAA's appeal rights as provided for in subpart 5. The department must also send to the governing body a copy of the

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notice of termination. Upon request from the department, the CAA must provide its current list or lists of identified low income households to the department. Identified low income households are those specified on the CAA's list or lists of clients. The department will notify identified low income households of the termination.

Subp. 4. **Petition for termination.** If a petition requesting termination is received from the community containing at least 1,000 names with addresses, the governing body must hold a public hearing to consider termination of a CAA's designation. The persons signing the petition must reside both within the CAA's service area and within the jurisdictional boundaries of the governing body's political subdivision. The following are the causes for termination under this subpart:

A. the CAA's community action program is incompetent and ineffective in meeting the service needs of the low income people in the service area; or

B. the CAA is discouraging the participation of low income people by:

(1) preventing adequate representation by low income people on the CAA's board of directors;

(2) refusing consistently to consider the funding of activities proposed by low income people; or

(3) obstructing systematically the ability of low income people to influence the character of program activities.

The purpose of the public hearing is to receive testimony and evidence concerning the CAA's purported incompetence and ineffectiveness or the CAA's alleged hindrance of low income people's participation. At least 30 calendar days before the hearing date, the governing body must inform all local units of government within the CAA's service area of the date, time, location, and subject matter of the public hearing. During the 30 days before the hearing, the affected local units of government will have an opportunity to respond in writing. All comments received will be available for the governing body's review. During the 30-day period and at least ten calendar days

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before the hearing, the governing body must also publish a notice of public hearing in a daily newspaper of general circulation of the county seat in the CAA's service area. The published notice must describe the time, date, location, and subject matter of the public hearing. Furthermore, within the 30-day period and at least ten calendar days before the public hearing, low income households identified in the CAA's service area must be mailed information on the date, time, location, and subject matter of the public hearing. The governing body will inform the department of the public hearing at least 30 calendar days before the hearing date. Upon request from the department, the CAA must provide its current list or lists of identified low income households to the department. Identified low income households are those specified on the CAA's list or lists of clients. The department will notify identified low income households of the date, time, location, and subject matter of the public hearing at least ten calendar days before the hearing date. If, following the public hearing, the governing body is persuaded that sufficient cause exists, as supported by convincing evidence, it may take official action to terminate the CAA's designation under subpart 2.

Subp. 5. **Appeal procedure.** If, after receipt of the notice of termination, a CAA is aggrieved, the CAA may request a contested case hearing from the department within 30 calendar days of the receipt of the notice. If the CAA's request for a contested case hearing is not received by the department during the 30-day period the CAA loses its right of appeal under this subpart. The request for a contested case hearing before an administrative law judge as provided in Minnesota Statutes, sections 14.57 to 14.62, must be in writing. The contested case hearing will be initiated and conducted according to parts 1400.5100 to 1400.8500. As provided for in part 1400.6200, the department will have the right to intervene as a party in a contested case hearing on termination of designation by a governing body.

Subp. 6. **Federal appeal rights.** Federal appeal rights may

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also exist for an aggrieved CAA under the CSBG act, Public Law Number 97-35.

Subp. 7. **Successor.** If a CAA's designation or recognition is terminated, the governing body will follow the priority guidelines in part 3350.0050, subpart 2, and the procedure in part 3350.0030 to designate a successor.

Subp. 8. **Costs.** Only costs directly attributable to the contested case hearing process in subpart 5 are the responsibility of the department. The costs associated with the procedure for termination provided for in subpart 4 are the responsibility of the governing body.

3350.0070 ALLOCATION OF FUNDS.

Subpart 1. **Formula.** The department will allocate funds under the act according to the formula in Minnesota Statutes, section 268.52, subdivision 2.

Subp. 2. **Poverty level population.** For purposes of the formula in subpart 1, the poverty level population will be based on Department of Commerce, Bureau of the Census, statistics, as revised.

3350.0080 MONTHLY, PERIODIC, AND FINAL REPORTS.

Each grantee receiving grant funds under the act will submit in a complete and accurate form the following:

A. periodic client and fiscal performance report to document both CSBG and MEOG funded activities;

B. monthly financial status report to substantiate cash requests; and

C. final financial status report to close-out the program year.

3350.0090 DUE DATES FOR MONTHLY, PERIODIC, AND FINAL REPORTS.

Each monthly report specified in part 3350.0080 is due ten calendar days after the end of the month. Each final status report specified in part 3350.0080 is due no later than 30 calendar days after the end of the program year. Each periodic report under part 3350.0080 is due 30 calendar days after the

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date specified in the CAA's contract. If monthly, periodic, or final reports are delinquent more than five calendar days from their due dates or, though submitted, remain incomplete or inaccurate more than five calendar days from their due dates, the department may proceed to withhold available funds from a CAA under part 3350.0100, subpart 1, item A.

3350.0100 WITHHOLDING OF CASH DISBURSEMENTS.

Subpart 1. **Circumstances for withholding.** The department will withhold cash disbursements available for drawdown under an approved application if a CAA is not:

A. complying with the reporting requirements of the grant as required by its contract with the department, including the timely submission of complete and accurate monthly, periodic, and final reports as required in part 3350.0080, of complete and accurate annual audits as required in part 3350.0160, subpart 2, and of complete and accurate annual evaluation reports as required in part 3350.0150;

B. following its submitted and approved work plan or budget or both;

C. fulfilling the terms of its contract; or

D. maintaining recognition as provided in part 3350.0040, subpart 3.

Subp. 2. **Notice, conversion option, and termination.** Before withholding cash disbursements, the department will notify the CAA of its defective action or omission, inform the CAA of potential withholding and specify a reasonable date by which corrective action should occur. The specified date must be at least ten working days from the date of the CAA's receipt of the notice of withholding. If the defect is not remedied satisfactorily by the date specified in the notice, the department will begin to withhold available funds after that date. During any time within 90 calendar days following the department's actual withholding of funds, the CAA may, at its option, convert the withholding to a termination under part 3350.0060, subpart 1, item D, with right to a contested case

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hearing. A CAA must request in writing both a conversion to termination and a contested case hearing. After receipt of a CAA's request for conversion to termination and contested case hearing, the department will initiate contested case proceedings as provided in Minnesota Statutes, sections 14.57 to 14.62. The department will also send the CAA a notice of termination and comply with the other procedural requirements of part 3350.0060, subpart 3. The department will terminate funding for the period of time between the date identified in the notice of withholding and the date on which the short-term defect is actually remedied. If the CAA has not exercised its right of conversion during 90 days of withholding and if the defect has not been remedied during 90 days of withholding, the department will proceed under part 3350.0060, subpart 1, item E, to terminate the CAA's available funding for a period covering the total of (1) the time during which funds have been withheld and (2) the time remaining before the subsequent June 30. The department will first issue a final notice ten calendar days before proceeding to termination under part 3350.0060. If following a period of funding termination for failure to remedy a long-term defect the CAA has still not successfully remedied the identified defect, the department will deny subsequent applications by the CAA under part 3350.0170, subpart 6, item D, until corrective action has occurred. However, if the defect constitutes failure to maintain recognition under subpart 1, item D, the department will proceed according to part 3350.0040, subpart 4.

3350.0110 PROGRAM GUIDELINES AND ELIGIBLE ACTIVITIES.

Subpart 1. **Program guidelines.** Each community action program must:

A. be of benefit to low income persons;

B. represent progress toward the elimination of poverty;

C. utilize resources from other programs operating in the service area; and

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D. be of sufficient scope and size for maximum effectiveness and efficiency.

Subp. 2. **Eligible grant activities.** A variety of activities as determined by the local planning process may be included in a community action program funded by a grant. Eligible activities are those designed to help low income persons to:

A. secure and retain meaningful employment;

B. attain an adequate education;

C. obtain and maintain adequate housing and a suitable living environment;

D. make better use of available income;

E. obtain emergency assistance through loans or grants;

F. meet immediate and urgent individual and family needs, including the need for health services, nutritious food, housing, and employment-related assistance;

G. remove obstacles and solve problems which block the achievement of self-sufficiency;

H. achieve greater participation in the affairs of the community; and

I. make more effective use of other programs related to the purposes of the CSBG act.

Subp. 3. **Federal prohibitions.** Activities ineligible for funding with CSBG money are those listed in the annual CSBG state plan. A copy of the annual CSBG state plan is available by request from the ~~Economic Opportunity Office,~~ Department of Jobs and Training, ~~670~~ 690 American Center Building, 150 East Kellogg Boulevard, Saint Paul, Minnesota 55101.

3350.0120 PARTICIPATION BY LOW INCOME PERSONS.

Grantees must consider the participation of low income people in the local planning process of part 3350.0130, the annual work plan of part 3350.0170, subpart 1, the evaluation process of part 3350.0140 and the annual evaluation report of part 3350.0150. Each CAA must devise specific opportunities for

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involvement of low income people in proposing, planning, approving, and evaluating the activities of community action programs.

3350.0130 LOCAL PLANNING PROCESS.

Each CAA will develop a plan for submission to the department as a requirement for maintenance of recognition under part 3350.0040, subpart 3. The plan's narrative will include a description of how the local planning process will be implemented, how the CAA will publicize major planning activities to encourage community participation, and how the CAA will involve low income people in the planning process. Each annual work plan submitted as part of a grant application under part 3350.0170, subpart 1, must be consistent with, and complementary to, this local planning process. The local planning process of a CAA will include the following steps:

A. develop a mission statement which defines the overall CAA purposes and which represents the views and opinions of the CAA's board of directors, low income groups, and representatives of the community;

B. assess short and long range community needs in order to respond to the poverty in the community and its causes;

C. catalog the resources from both the public and private sectors which are available to solve the causes of poverty;

D. establish priorities after analyzing the extent and causes of poverty and after evaluating the capability of the CAA and other available resources to ameliorate the causes of poverty;

E. set realistic goals as a basis for action which are consistent with established priorities;

F. develop innovative strategies, including, but not limited to, service strategies, which encompass community acceptance, funding availability, direct benefits to low income people, high impact on problems of poverty, and organizational capability;

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G. develop clear and concise objectives that describe how to attain the CAA's goals;

H. list sequential activities under each objective to describe the efforts at community coordination and identification of resource needs including assignment of CAA staff and training or technical assistance in the community; and

I. select performance indicators to measure progress toward achieving the established objectives and to form the basis for community action program reporting and evaluation.

3350.0140 EVALUATION PROCESS.

Each CAA will develop a standardized written process for evaluating its own community action program and describe the process in a narrative form. The narrative description must show how the results of the evaluation will influence the CAA's future planning and how the CAA will involve low income persons in the evaluation process. The evaluation process as embodied in the narrative must be approved by the CAA's board of directors. The evaluation process narrative must be submitted to and approved by the department in order to maintain CAA recognition under part 3350.0040, subpart 3.

3350.0150 ANNUAL EVALUATION REPORT.

The annual evaluation report is due no later than December 30 of each year. The evaluation report will summarize the extent and type of the previous year's program services and assess their effectiveness using the evaluation elements under part 3350.0140 and the performance indicators under part 3350.0130. If annual reports are delinquent more than five calendar days from their due dates or, though submitted, remain incomplete or noncomplying more than five calendar days from their due dates, the department will proceed to withhold available funds from a CAA under part 3350.0100, subpart 1, item A.

3350.0160 ADMINISTRATION OF GRANTS.

Subpart 1. **Grantee financial control system.** Grantees

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must establish and use a financial control system which complies with federal and state reporting and fiscal procedures. The federal and state requirements are contained in Department of Jobs and Training Subgrantee Administrative Requirements No. 1, as revised or superseded. This ~~publication~~ document is incorporated by reference, and is not subject to frequent change. It is available from the State Law Library.

Subp. 2. Grantee **audit.** Each grantee must follow the audit requirements contained in the attachment to its contract with the department. Audits must be completed and the required reports submitted no later than six calendar months after the end of the grantee's fiscal year. If audits are delinquent more than five calendar days from their due dates or, though submitted, remain incomplete, noncomplying, or inaccurate more than five calendar days from their due dates, the department may proceed to withhold available funds from a CAA under part 3350.0100, subpart 1, item A.

Subp. 3. **Alterations.** A grantee must obtain prior written approval from the ~~Economic Opportunity Office~~ department before changing its work plan and budget as described in its approved application.

3350.0170 GRANT APPLICATIONS.

Subpart 1. **Forms and documents.** All forms necessary for completion of the application will accompany the annual guidelines mailed to all grantees. Assistance in completing the forms may be requested directly from the ~~Economic Opportunity Office~~ department at its central office. Each CAA will submit to the department an annual work plan and budget on forms supplied by the department as part of the grant application process. Each work plan for the subsequent year will include a narrative comprised of the following:

A. prioritized list of community needs;

B. design for accomplishing identified goals, objectives, and activities;

C. coordination strategy showing the establishment of

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working relationships with other providers in the service area; and

D. description of any delegated activity, including copies of subgrantee contracts.

Subp. 2. **Grant application deadlines.** Applications for a program year must be received by the ~~Economic Opportunity Office~~ department no later than June 30 immediately preceding the program year.

Subp. 3. **Waiver of application deadline.** Upon written request, the ~~Economic Opportunity Office~~ department may waive the application deadline provided in subpart 2 and allow an applicant to submit its grant application after that date. A request for a waiver must be signed by the chair of the applicant's board of directors and contain justification of the local need for a waiver. The request for a waiver must be received by the ~~Economic Opportunity Office~~ department on or before June 30. The ~~Economic Opportunity Office~~ department will respond to the request in writing. If the ~~Economic Opportunity Office~~ department is persuaded by the local need, it will grant a waiver and establish another deadline for receipt of the application. Local need is demonstrated if a CAA, through no fault of its own, cannot meet the application deadline because of the following:

A. key staff responsible for the submission of the application are on medical leave or other leave, have retired or are no longer employed, and replacement staff cannot reasonably complete the application in the time remaining; or

B. a natural disaster such as a tornado, fire, or flood or a material change in circumstances such as a labor strike or the loss of a building lease has adversely affected or completely halted program operations.

Subp. 4. **Approval of application.** The department will review all submitted applications. When the department approves an application for a grant, it will provide written notification of approval to the applicant. Requests for cash cannot be processed until an application has been approved. After

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applications have been approved, the department and the applicant will enter into a contract. The grant contract is effective on the date when the Minnesota Department of Finance signature is affixed to the contract.

Subp. 5. **Late, incomplete, or noncomplying application.** If a previously funded grantee has not submitted an application within 45 calendar days of the deadline established by waiver in subpart 3 or within 45 calendar days of the deadline provided in subpart 2 where a waiver was not granted, the department will deny the application under subpart 6. If a submitted application remains incomplete or noncomplying for 30 calendar days after the department's request for a revision of the application, supplementary information, or other required documents or 45 calendar days from an applicable deadline, whichever period is greater, the department will deny the application under subpart 6.

Subp. 6. **Denial of application.** Before the department denies an application, it will, as soon as possible, provide written notification of the deficiency leading to a possible denial and, where appropriate, request a revision of the application, supplementary information or other required documents. An application will be denied if any of the following occur:

A. application is submitted after the deadlines in subpart 5;

B. applicant submits an incomplete application;

C. applicant submits a noncomplying application where:

(1) applicant's annual work plan activities are:

(a) inconsistent with community action program activity as defined in the act and part 3350.0110;

(b) not demonstrative of participation by low income persons as required by part 3350.0120; or

(c) inconsistent with the local planning process in part 3350.0130;

(2) applicant cannot demonstrate adequate fiscal management capabilities as required in part ~~3350.0170~~ 3350.0160;

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or

(3) applicant's budget does not support, or is inconsistent with, the work plan activities; or

D. applicant, after a period of funding termination, has not remedied a long-term defect that first led to withholding under part 3350.0100, subpart 2.

The department's denial of an application based on items A, B, and C is cause for termination of available funds for an entire program year under part 3350.0060, subpart 1, item F. Depending on the circumstances, the department's denial of an application based on item D is cause for termination of available funds for an entire program year under part 3350.0060, subpart 1, item F, or all future funding under part 3350.0040, subpart 4.

3350.0180 SUBGRANTEES.

All grantees will obtain written approval from the department before delegating any part of their service delivery to a subgrantee. Grantees must enter into contracts with subgrantees outlining which community action program services the subgrantees will provide. Subgrantees must meet the same reporting and fiscal requirements as grantees. Grantees are responsible for acts or omissions of their subgrantees.

3350.0190 RECORD KEEPING.

All records and books of account related to grants must be kept by the grantee for three years from the date of submission of the final invoice. Records must be retained beyond the three-year period if audit exceptions, claims, or litigation concerning the records or any accounting transactions are still unresolved or pending. After any disposition of nonexpendable property acquired with grant funds, records of the disposition must also be retained for three years.

3350.0200 MONITORING.

The department will perform monitoring activities to ensure that grantees are in compliance with parts 3350.0010 to 3350.0200, the act, and other federal and state requirements.

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The monitoring functions will include the following:

A. performance of a pre-award review; and

B. preparation and execution of an annual monitoring plan which includes at least one annual on-site visit to all grantees with annual dollar volume over $100,000 and to 25 percent of all grantees with annual dollar volume between $10,000 and $100,000.

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by Revisor _____

APPROVED AS TO FORM AND LEGALITY
March 25 19 92
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY MJ Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

RECEIVED
MAR 13 1992
Office of the Attorney General
Government Services Section
Capitol Office Bldg., Suite 500
525 Park Street
St. Paul, MN 55103

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
MAR 25 1992
Joan Anderson Growe
Secretary of State

10:26a
RE

cancel out #-correct log + cases + indicate #1858 is being resubmitted

RULE REVIEW CHECKLIST

File No. ~~1858~~

Docket No. 65:0009, 0400

DATE RECEIVED 3-13-92

REVIEW DATE ~~3-23-92~~ 3-25-92

DUE DATE 3-27-92

(DIS)APPROVED

WITHDRAWN

ADOPTED W/O HEARING

EMERGENCY RULE

TO REVISOR ON

REVISOR (DIS)APPROVED

FILED W/SEC. OF STATE

RETURNED TO AGENCY

---

prior Rule as adopted (4 copies)

N/A Notice to Solicit Outside Information/Opinion (if applicable)

____ Date published in State Register

____ Comments

N/A Petition for Adoption of a Rule

N/A Board's Authorizing Resolution

____ Date adopted

prior Proposed Rule

____ Revisor's Certificate

____ Notice of Intent to Adopt Rule — not signed notice of intent - call

____ Statutory Authority

____ Small Business Statement

____ Expenditure of public money statement

____ Signature

prior Statement of Need and Reasonableness (if applicable)

____ Small Business Statement

____ Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule not 30 days

December 23, 1991 Dated 30/25 days before adoption

✓ Notice attached indicates it is attached

✓ Copy of rule or summary attached

✓ Publication in State Register

12-9-91 Date 30/25 days before adoption ~~not 30 days~~

3-4-91 old one

✓ 180-day deadline from:

✓ Effective date of law requiring rule (14.12) (both rules) amendments don't apply

✓ ~~end of comment period (§ 14.26)~~ (rules without hearing)

____ effective date of statutory authority (§ 14.29) (emergency rules)

N/A Resolution Adopting

____ Date adopted

✓ Findings of Fact, Conclusions & Order Adopting

February 13, 1992 Date

NA Written Requests, Submissions or Comments

✓ Declaration of Attorney - yes

Donald Notvik Name of SAAG representing agency

____ Notice of Submission to Attorney General (if applicable)

____ Affidavit of Mailing Notice to Attorney General (if applicable)

Rules acl

MINNESOTA DEPARTMENT OF
Jobs and Training

Community Based Services Division
690 American Center Building • 150 East Kellogg Boulevard
St. Paul, MN 55101
Telephone: (612) 296-8004 FAX: (612) 296-5745

December 23, 1991

To: Interested Persons on DJT's Mailing List

From: Connie Greer, Acting Director
Self-Sufficiency

Subject: Proposed Permanent Rules Governing Community Action Programs

Please be advised that this memo and the enclosures will serve as notice of the proposed permanent rules governing community action agencies and granting of funds for community action programs.

Due to the timing of the mailing and the upcoming holidays, the comment period for persons on DJT's mailing list has been extended from the January 9th deadline listed in the State Register notice to January 30, 1992. Consequently, the deadline of January 10th for verifying whether a hearing will be held has been extended to January 31, 1992.

The remainder of the instructions and information set out in the enclosed notice are unchanged.

CG:bb
Enclosures

DESCRIPTION OF PROPOSED PERMANENT RULES GOVERNING

COMMUNITY ACTION PROGRAMS

The proposed rules were drawn from previous guidance documents for community action programs in existence prior to block granting funds for these grantees. Standard state practices are also identified in the proposed rules.

The rules address:

1. designation of community action agencies at the local level;

2. the annual application process for funding;

3. reporting and planning requirements;

4. voluntary cessation of program operations;

5. low income participation;

6. withholding and termination of funds; and

7. procedures for appealing the termination of funds.

DEPARTMENT OF JOBS AND TRAINING

Proposed Permanent Rules Governing Designation and Recognition of Community Action Agencies and Granting of Funds for Community Action Programs

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the State Department of Jobs and Training (DJT) proposes to adopt the above-entitled rules without a public hearing following the procedures set forth in Minnesota Statutes, section 14.22 to 14.28.

This notice applies to the proposed rules for which the DJT previously published a **Notice of Intent to Adopt Rules Without a Public Hearing** in the State Register on March 4, 1991 (15 SR 1902). All comments received during the comment period after the March 4, 1991 notice will be made a part of this rulemaking proceeding.

The proposed rules interpret those parts of Minnesota Statutes, sections 268.52 through 268.54 which designate and recognize community action agencies and define the activities and projects funded as community action programs. These rules have been developed as authorized by Minnesota Statutes, sections 268.021 and 268.0122, subdivision 5, which permit the Commissioner of the Department of Jobs and Training to adopt rules governing programs the Commissioner administers under Minnesota Statutes, chapter 268.

Persons interested in these rules will have 30 days in which to submit comment in support of or in opposition to the proposed rules or any part or subpart of the rules and comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20. To verify whether a hearing will be held, please call the Department of Jobs and Training on or after January 10, 1992 at (612) 297-1094.

Persons who wish to submit comments or a written request for a public hearing must submit such comments or requests to:

Connie Greer
Community Based Services
670 American Center Building
St. Paul, MN 55101

Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on January 9, 1992.

The proposed rules may be modified if the modifications are supported by data and views and do not result in a substantial change in the proposed rules as noticed.

In 1981, the Minnesota Legislature passed Minnesota Statutes, sections 268.52 through 268.54, which authorized the department to financially assist community action agencies in the implementation of community action programs.

The proposed rules at Minnesota Rules, parts 3350.0010 to 3350.0200 are all new material.

The proposed rules embody existing departmental policy and practice and interpret state and federal law. In promulgating portions of the rules, the department has drawn on the past and present national experience in administering community action programs. The major portions of these rules address (1) the process of selecting community action agencies through designation on the local level and recognition on the state level; (2) the annual application process for funding community action programs; (3) reporting and planning requirements for receipt of funds; (4) voluntary cessation of program operations; (5) participation of low income people; (6) withholding and termination of funds under specialized circumstances; and (7) procedures for appealing the termination of funding, as well as designation of recognition.

A copy of these rules if available for your review from Connie Greer at the above address or can be found at 15 State Register 1902-1923 (March 4, 1991).

A fiscal note will not be prepared. The authority for these proposed rules, Minnesota Statutes, sections 268.52 through 268.54, was enacted before July 1, 1985. Therefore, these proposed rules need not include a fiscal note under exceptions provided by Minnesota Statutes, section 3.983, subdivision 3. Pursuant to Minnesota Statutes, section 14.11, subdivision 1, the agency estimates that there will be no cost to any local public bodies for the two years immediately following adoption. The estimate is based on no anticipated designation hearings or other hearings in the foreseeable future.

If no hearing is required upon adoption of the rules, the rules and the required supporting documents will be delivered to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General.

Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rules, must submit the written requests to Connie Greer.

R. Jane Brown, Commissioner
Department of Jobs and Training

STATE OF MINNESOTA
DEPARTMENT OF JOBS AND TRAINING

In the Matter of the Proposed Adoption of Rules Relating to Community Action Agencies and Community Action Programs

AFFIDAVIT OF MAILING THE NOTICE OF HEARING AND CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA
COUNTY OF RAMSEY

I hereby certify that the list of persons and associations who have requested, pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 or 14.30, that their names be placed on the rulemaking mailing list for Community Action Agencies and Programs is accurate, complete, and current as of this 26th day of December, 1991.

That on the 23rd day of December, 1991, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt Rules Without a Public Hearing by depositing in the State of Minnesota Central Mail System for the United States mail system at said City of St. Paul, a copy thereof, along with a description of the proposed rules, properly enveloped, with postage prepaid, on all persons and associations who have requested that their names be placed on file with the Department for the purpose of receiving notice of rulemaking by the Department. That on this same day, I did also send to said persons on the mailing list a memo stating that they have until January 27, 1992 to comment to the Department of the rules.

Colleen Gunderson
Community Based Services
Department of Jobs and Training

Subscribed and sworn to me before
this 26th day of December, 1991.

Jodi Marie Swenson
Notary Public
Ramsey County

JODI MARIE SWENSON
NOTARY PUBLIC-MINNESOTA
DAKOTA COUNTY
MY COMMISSION EXPIRES MAY 10, 1995

- Mr. Gordon Adams, Jr.
Bois Forte RBC
P. O. Box 16
Nett Lake, MN 55772

- Mr. Patrick McFarland
Executive Director
Anoka County CAP, Inc.
1201 89th Ave. N.E.
Suite #~~345~~ 435
Blaine, MN 55434

- Ms. Lynn M. Starkovich
Orbovich, Fletcher & LaFond Limited
8500 Normandale Lake Blvd., #1510
Minneapolis, MN 55437

- Mr. Harlan Tardy, Executive Director
Arrowhead Econ. Opportunity Agency
702 - Third Avenue South
Virginia, MN 55792-2797

- Mr. Roger E. Corbin
Lakes & Pines CAC, Inc.
129 W. Forest Avenue
Mora, MN 55051

Ms. Jean Dawson
Pressroom
B-12 Capitol
INTER-OFFICE

- Ms. Paula S. Erdmann
Tri-CAP
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St. Cloud, MN 56301

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Dakota County HRA
2496 - 145th Street, W.
Rosemount, MN 55068

Executive Director
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St. Paul, MN 55101

Mr. Michael Fisher
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Executive Director
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Nichols Office Center, 3rd Fl.
410 Jackson
Mankato, MN 56001

Ms. Julie Blaufuss
Western Community Action Council
P. O. Box 246
Marshall, MN 56258

Mr. Miller A. Friesen
Range Mental Health Center
P. O. Box 1188
Virginia, MN 55792

Government Relations Dept.
United Way of Minneapolis
414 South 8th Street
Minneapolis, MN 55404

Mr. Bob Hamper
DHS Rulemaking Unit
444 Lafayette, 3816
INTER-OFFICE

Mr. Dennis R. Heitkamp
Clay-Wilkin Opportunity Council
Box 919
2700 12th Avenue South
Moorhead, MN 56561-0919

Paul J. Huber, Ltd.
Griggs Midway Office, Room 391
1821 University Avenue
St. Paul, MN 55104

Mr. Thomas Jensen
Ottertail Social Services
505 South Court
Fergus Falls, MN 56537

Mr. David Lundon
Tri-Valley Opportunity Council
P. O. Box 607
Crookston, MN 56716

Mr. James McGill
Bi-County CAC, Inc.
P. O. Box 579
Bemidji, MN 56601

Mr. Jeffrey L. Olson
Deputy Commissioner
Dept. of Veterans Affairs
Veterans Service Bldg.
INTER-OFFICE

Phillips Legislative Service
459 Rice Street
St. Paul, MN 55103

Mr. Abe Rosenthal
MN Transport Services Association
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Minneapolis Community Action Agency
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Duluth Community Action Program
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Duluth, MN 55805

R. Jane Brown
Commissioner, DJT
390 North Robert, 5th Fl.
INTER-OFFICE

Senator Donald Samuelson
124 "D" State Capitol
INTER-OFFICE

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West Central MN CAP, Inc.
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Tri-County Community Action
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Little Falls, MN 56345

State & Federal Assoc., Inc.
Regulatory Department
1101 King Street, #600
Alexandria, VA 22314

Mr. Vernon Vick
Roseville Area Schools
1251 W. County Road B2
Roseville, MN 55113

Mr. Brian G. Walker
NW Community Action, Inc.
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Badger, MN 56714

~~Mr. Kevin Wilkins~~ Mr. Steve Lund
~~Employ~~ers Association
1295 Bandana Blvd. North #135
St. Paul, MN 55108

Ms. Patricia Winchell-Dahl
Grand Portage Reservation
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Grand Portage, MN 55605

Paul Bore...
Mr. ~~Byron Zuidema~~
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St. Paul, MN 55155

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Grand Portage, MN 55605

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~~Executive Director~~
~~Anoka County Community Action Program Inc.~~
~~8008 Northeast Highway 65~~
~~Spring Lake Park, MN 55432~~

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~~Acting~~ Executive Director
Community Action for Suburban
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Cloquet, MN 55720

Ms. Collette Turcotte
Executive Director
Freeborn County Community
Action Agency
Courthouse
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Zumbrota, MN 55992

Mr. Bob Melby
Executive Director
Inter County Community Council
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Mr. John Garland
Executive Director
Koochiching Itasca Action Council
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413 13th St. S.E.
Grand Rapids, MN 55744

- Mr. Roger T. Aitken
Executive Director
Leech Lake Tribal Council
Route 3, Box 100
Cass Lake, MN 56633

a Mr. Allen Kolb
~~Ms. Laura O'Brien~~
Executive Director
Lower Sioux Community Council
Route 1, Box 308
Morton, MN 56270

- Mr. Don McGillis
Executive Director
Mahube Community Council, Inc.
P.O. Box 747
Highway 59 South
Detroit Lakes, MN 56502

- Ms. Melanie Benjamin
Commissioner of Administration
Mille Lacs Tribal Govt. Center
HCR 67, Box 194
Onamia, MN 56539

- Efren Tovar Leon
Executive Director
~~Minnesota Migrant Council~~ Midwest Farmworker Employment and Training, Inc
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St. Cloud, MN 56302

- Mr. Michael Gerber
Executive Director
Olmsted Community Action Program
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Rochester, MN 55904

- Mr. Roy Isaacson
Executive Director
Otter Tail Wadena Community
Action Council
P.O. Box L
New York Mills, MN 56567

Mr. John Hubred
Executive Director
Prairie Five Comm. Action Council
P.O. Box 695
7th and Washington St.
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Montevideo, MN 56265-0695

Mr. Gene McDonald
Executive Director
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Executive Director
Red Lake Community Action Agency
Red Lake, MN 56671

Ms. Mary Sullivan
Executive Director
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~~Ms. Sally Milroy~~
Executive Director
Shakopee-Mdewakanton Sioux
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Prior Lake, MN 55372

Mr. Matt Vetter
Interim Director
Semcac, Inc.
P.O. Box 549
Rushford, MN 55971-0549

Mr. Martin Rickers
Executive Director
Southwestern MN Opportunity Council
P.O. Box 787
515 10th St.
Worthington, MN 56187

Mr. Dean Blue
~~Executive Director~~ Chairperson
Upper Sioux Community
P.O. Box 147
Granite Falls, MN 56241

Mr. James Foster
Executive Director
White Earth Reservation Tribal
Council
P.O. Box 418
White Earth, MN 56591

Mr. Mark Sexton
Executive Director
Wright County Community Action,
Inc.
P.O. Box 620
130 West Division St.
Maple Lake, MN 55358

In the Matter of the Adoption of Rule of the Minnesota Department of Jobs and Training Governing Designation and Recognition of Community Action Agencies and Granting of Funds for Community Action Programs

DECLARATION OF COUNSEL

I, Donald E. Notvik, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rule, and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules, chapter 2010 have been followed. Any exceptions are listed below. For Attorney General billing purposes, the four-digit client code is 0400.

The Notice of Intent to Adopt Rules published December 9, 1991 does not contain the statement required by Rule 2010.0300E.(12). However, the Notice of Intent to Adopt Rules published March 4, 1991 pertaining to these same rules did contain that statement was cited in the new notice.

Dated: March 12, 1992.

Donald E. Notvik
Special Assistant Attorney General

.gq9

RECEIVED
MAR 13 1992
Office of the Attorney General
Government Services Section
Capitol Office Bldg., Suite 500
525 Park Street
St. Paul, MN 55103

STATE OF MINNESOTA
DEPARTMENT OF JOBS AND TRAINING

In the Matter of the Proposed Adoption of Rules of the State of Minnesota Governing the Designation and Recognition of Community Action Agencies and Granting of Funds for Community Action Programs

FINDINGS OF FACT, CONCLUSIONS AND ORDER ADOPTING RULES WITHOUT PUBLIC HEARING

1 Notice of the Commissioner's intent to adopt the above entitled rules was first published in the State Register on March 4, 1991, and was sent on March 1, 1991, along with a copy of the proposed rules, by United States mail to all persons on the mail list maintained by the department of Jobs and Training pursuant to Minnesota Statutes, sections 14.14, subdivision 1a, and 14.22.

2 The Statement of Need and Reasonableness was prepared before the Notice of Intent to Adopt Rules was mailed to all persons on the rulemaking mailing list and published in the State Register and was available to the public.

The Attorney General's Office determined the file on the subject rule did not reach its office within the required 180 days and rejected the rule.

Subsequently, a Notice of Intent to adopt the above stated rules was published in the State Register on December 9, 1991 and was sent on December 23, 1991, by United States Mail to all persons on the mail list maintained by the department of Jobs and Training pursuant to Minnesota Statutes, sections 14.14, subdivision 1a, and 14.22.

4 All persons were given the opportunity to submit comments on the rules for at least 30 days after notice of the proposed rulemaking.

5 No request for a public hearing on the rules was received by the department of Jobs and Training. Therefore, the department did not receive requests from 25 or more persons which were not subsequently withdrawn.

7 No comments on the rules were received by the department. No requests for notice of submission to the attorney general were received by the department.

Based on the comments and evidence in the record before the department, I find the Following:

6 Page 1, line 22 and Page 3, line 1 (Revisor's Draft): This unsubstantial change replaces an old name, "Minnesota Migrant Council" for the new name "Midwest Farmworker Employment and Training, Inc."

Page 7, line 16, Page 8, line 7: These changes between the rule as proposed and the rule as adopted are not substantial. The changes are grammatical/semantic ones which substitute a "may" for a "can".

Page 7, line 19: This unsubstantial change removes a redundancy.

Page 8, lines 23 through 26: This change re-arranges text but does not substantially change the subpart's meaning.

Page 8, line 9, Page 9, line 17, Page 10, line 21 and Page 23, line 33: These changes correct typographic errors and therefore are not substantial.

Page 10, line 15 through 16: This change clarifies that all subgrantees in a service area will receive notice of a grantee's cessation since all such subgrantees are assumed to be directly affected by cessation and change of designation. This change does not introduce a new subject matter and is necessary.

Page 18, line 27: This change updates the address of the Economic Opportunity Office.

Page 24, line 8: This change identifies internal references to help the reader in finding rule parts.

The rules identified above are needed and reasonable. (8)

NOW THEREFORE, IT IS ORDERED that the rules identified as the Community Action Agencies and Community Action Programs, as proposed are adopted this 13th day of February, 1992 pursuant to authority vested in me by Minnesota Statutes, section 268.0122, subdivision 5, and 268.33, Subdivision 1. (9)

R. Jane Brown

R. Jane Brown
Commissioner

RECEIVED

MAR 13 1992

Office of the Attorney General
Government Services Section
Capitol Office Bldg., Suite 500
525 Park Street
St. Paul, MN 55101

STATE OF MINNESOTA
Office Memorandum

Department of Jobs and Training

TO : Don Notvik
Special Assistant
Attorney General

DATE: February 14, 1992

FROM : Michael J. Fratto
Rules Coordinator

PHONE: 296-3574

SUBJECT: **Rule Review and Statement of Compliance MN Rules**

I have enclosed documents for your review for the adoption of the non-controversial rules regarding: Community Action Agencies and Community Action Programs. If the rules are in compliance please complete the Statement of Compliance with Rulemaking procedures and submit the rules and accompanying documents to the Administration Division Attorney General within 30 days.

These rules are those that were not approved by the Attorney General's office due to timeliness. Documents for the first effort are on file with this office. Therefore, I have not enclosed most of the documents from that first effort. Those that are included are identified as such.

If you notice problems or have any questions please call me at 296-3574 so they may be resolved. Please note that the required number of some documents are not included since the original file is already at the Attorney General's office.

Please find the following documents for your review:

1. Copy of the Notice of Intent to Adopt Rules without a Public Hearing as mailed.

2. Copy of the Affidavit of Mailing and Certificate of Mailing List regarding the proper mailing of the Notice of Intent to Adopt Rules without a Public Hearing.

3. Copy of the Notice of Intent to Adopt Rules without a Public Hearing as published in the December 9, 1991 State Register (16 S.R. 1429).

4. Copy of the original Notice of Intent to Adopt Rules without a Public Hearing as published in the March 4, 1991 State Register (15 S.R. 1902).

5. Copy of the Statement of Need and Reasonableness.

6. Copy of the adopted rules approved by the Revisor of Statute's Office with changes (AR1782).

7. Copy of the Findings of Fact, Conclusions, and Order to Adopting Rules.

A. An urgent need to sell the residence based on a special circumstance, including the following:

(1) loss of household income;

(2) owner's job relocation;

(3) catastrophic medical expenses for which the owner is responsible; or

(4) owner's physical disability.

B. An urgent need to sell a property due to a commitment to purchase a new residence, if the claimant:

(1) committed in writing to the purchase of the new residence and publicly listed or advertised to sell the property before the date of discovery of contamination; and

(2) the discovery of contamination occurred during the time the property was on the market.

7190.2010 ELIGIBLE LOSSES ASSOCIATED WITH THE NEED TO MAINTAIN TWO RESIDENCES.

Subpart 1. **Eligible losses.** Losses eligible for reimbursement under *Minnesota Statutes*, section 115B.34, subdivision 2, paragraph (a), clause (3), include all essential utilities, property tax, necessary homeowner's insurance, mortgage interest expenses, and other property maintenance expenses. The claimant must have incurred the expenses on the principal residence after it had been on the market for a time equal to the average days on the market for comparable home sales outside the area of contamination. Average days on the market shall be determined from the multiple listing service data of the local real estate association for the listing year and locale.

Subp. 2. **Additional expenses.** Additional property maintenance expenses are compensable to the extent that they are determined by the board to be necessary to maintain the property value and marketability.

Department of Jobs and Training

Proposed Permanent Rules Governing Designation and Recognition of Community Action Agencies and Granting of Funds for Community Action Programs

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the State Department of Jobs and Training (DJT) proposes to adopt the above-entitled rules without a public hearing following the procedures set forth in *Minnesota Statutes*, section 14.22 to 14.28.

This notice applies to the proposed rules for which the DJT previously published a **Notice of Intent to Adopt Rules Without a Public Hearing** in the *State Register* on March 4, 1991 (15 SR 1902). All comments received during the comment period after the March 4, 1991 notice will be made a part of this rulemaking proceeding.

The proposed rules interpret those parts of *Minnesota Statutes*, sections 268.52 through 268.54 which designate and recognize community action agencies and define the activities and projects funded as community action programs. These rules have been developed as authorized by *Minnesota Statutes*, sections 268.021 and 268.0122, subdivision 5, which permit the Commissioner of the Department of Jobs and Training to adopt rules governing programs the Commissioner administers under *Minnesota Statutes*, chapter 268.

Persons interested in these rules will have 30 days in which to submit comment in support of or in opposition to the proposed rules or any part or subpart of the rules and comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20. To verify whether a hearing will be held, please call the Department of Jobs and Training on or after January 10, 1992 at (612) 297-1094.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Persons who wish to submit comments or a written request for a public hearing must submit such comments or requests to:

Connie Greer
Community Based Services
670 American Center Building
St. Paul, MN 55101

Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on January 9, 1992.

The proposed rules may be modified if the modifications are supported by data and views and do not result in a substantial change in the proposed rules as noticed.

In 1981, the Minnesota Legislature passed *Minnesota Statutes*, sections 268.52 through 268.54, which authorized the department to financially assist community action agencies in the implementation of community action programs.

The proposed rules at *Minnesota Rules*, parts 3350.0010 to 3350.0200 are all new material.

The proposed rules embody existing departmental policy and practice and interpret state and federal law. In promulgating portions of the rules, the department has drawn on the past and present national experience in administering community action programs. The major portions of these rules address (1) the process of selecting community action agencies through designation on the local level and recognition on the state level; (2) the annual application process for funding community action programs; (3) reporting and planning requirements for receipt of funds; (4) voluntary cessation of program operations; (5) participation of low income people; (6) withholding and termination of funds under specialized circumstances; and (7) procedures for appealing the termination of funding, as well as designation of recognition.

A copy of these rules is available for your review from Connie Greer at the above address or can be found at 15 *State Register* 1902-1923 (March 4, 1991).

A fiscal note will not be prepared. The authority for these proposed rules, *Minnesota Statutes*, sections 268.52 through 268.54, was enacted before July 1, 1985. Therefore, these proposed rules need not include a fiscal note under exceptions provided by *Minnesota Statutes*, section 3.983, subdivision 3. Pursuant to *Minnesota Statutes*, section 14.11, subdivision 1, the agency estimates that there will be no cost to any local public bodies for the two years immediately following adoption. The estimate is based on no anticipated designation hearings or other hearings in the foreseeable future.

If no hearing is required upon adoption of the rules, the rules and the required supporting documents will be delivered to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General.

Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rules, must submit the written requests to Connie Greer.

R. Jane Brown, Commissioner
Department of Jobs and Training

Department of Public Service

Proposed Permanent Rules Relating to Thermal Insulation Standards

Notice of Intent to Amend Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Department of Public Service intends to adopt amendments to *Minnesota Rules* Chapter 7640, without a public hearing. The Commissioner has determined that the proposed amendment of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in the *Minnesota Statutes*, sections 14.22 to 14.28. Authority for the adoption of these rules is contained in *Minnesota Statutes*, sections 325F.20, subd. 1 and 325F.21, subd. 1 and 2.

Minnesota Rules Chapter 7640 apply to manufacturers, sellers and installers of residential thermal insulation products sold or installed in Minnesota.

All persons have 30 days in which to submit comment in support of or in opposition to any part or subpart of the proposed amendments. Comment is encouraged. Each comment should identify the proposed amendment addressed, the reason for the comment, and any change proposed.

All persons may make a written request for a public hearing on the proposed amendments within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their requests in writing. Any person requesting a public hearing must state his or her name and address and is encouraged to identify the portion of the proposed amendment addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20.

9505.2160-.2245 (proposed) 1579
9505.1750-.2150 (proposed repealer) 1579
9530.6605; .6640; .6650; .7000; .7031 (adopted emergency) .. 627
9560.6650 s.3 (emergency repealer) 627
9530.6605; .6640; .6650; .7000; .7031 (emergency extended) . 1543
9530.6650 s.3 (emergency repealer extended) 1543
9530.6655; .7000; .7012; .7015; .7020; .7022; .7024 (adopted) 1540
9530.7020 s.3,4 (repealed) 1540
9530.6655 (proposed rule withdrawn) 1540
9560.0410; .0420; .0430; .0440; .0450; .0460; .0470; .0475; .0480; .0485 (proposed) 1535
9575.1500 (adopted) 1697

Proposed Rules

Pursuant to Minn. Stat. §§ 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless 25 or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules; and
4. that the rule may be modified if the modifications are supported by the data and views submitted.

If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Jobs and Training

Proposed Permanent Rules Governing Designation and Recognition of Community Action Agencies and Granting of Funds for Community Action Programs

Notice of Intent to Adopt Rules Without a Public Hearing and Notice of Intent to Adopt Rules With a Public Hearing if Twenty-Five or More Persons Request a Hearing

NOTICE IS HEREBY GIVEN that the State Department of Jobs and Training proposes to adopt the above-entitled rules without a public hearing following the procedures set forth in *Minnesota Statutes*, sections 14.22 to 14.28.

The proposed rules interpret those parts of *Minnesota Statutes*, sections 268.52 through 268.54 which designate and recognize community action agencies and define the activities and projects funded as community action programs. These rules have been developed as authorized by *Minnesota Statutes*, sections 268.021 and 268.0122, subdivision 5, which permit the Commissioner of the Department of Jobs and Training to adopt rules governing programs the Commissioner administers under *Minnesota Statutes*, chapter 268.

Persons interested in these rules will have 30 days in which to submit comment in support of or in opposition to the proposed rules or any part or subpart of the rules and comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rules within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20. **PLEASE NOTE that if twenty-five or more persons submit written requests for a public hearing within the 30-day comment period, a hearing will be held in accordance with the Notice of Public Hearing on these same rules published in this *State Register* and mailed to persons registered with the Department of Jobs and Training.** To verify whether a hearing will be held, please call the Department of Jobs and Training on or after April 4, 1991, at (612) 297-1094.

Persons who wish to submit comments or a written request for a public hearing must submit such comments or requests to:

Connie Greer
Economic Opportunity Office
670 American Center Building
St. Paul, MN 55101

Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on April 3, 1991.

The proposed rules may be modified if the modifications are supported by data and views and do not result in a substantial change in the proposed rules as noticed.

In 1981, the Minnesota Legislature passed *Minnesota Statutes*, sections 268.52 through 268.54, which authorized the department to financially assist community action agencies in the implementation of community action programs.

The proposed rules at *Minnesota Rules*, parts 3350.0010 to 3350.0200 are all new material.

The proposed rules embody existing departmental policy and practice and interpret state and federal law. In promulgating portions of the rules, the department has drawn on the past and present national experience in administering community action programs. The major portions of these rules address (1) the process of selecting community action agencies through designation on the local level and recognition on the state level; (2) the annual application process for funding community action programs; (3) reporting and planning requirements for receipt of funds; (4) voluntary cessation of program operations; (5) participation of low income people; (6) withholding and termination of funds under specialized circumstances; and (7) procedures for appealing the termination of funding, as well as designation or recognition.

A copy of these rules is available for your review from:

Roger Sorbel
Policy Development Office
2nd Floor, 390 North Robert Street
St. Paul, MN 55101
Telephone: (612) 296-6874

A fiscal note will not be prepared. The authority for these proposed rules, *Minnesota Statutes*, sections 268.52 through 268.54, was enacted before July 1, 1985. Therefore, these proposed rules need not include a fiscal note under exceptions provided by *Minnesota Statutes*, section 3.983, subdivision 3. Pursuant to *Minnesota Statutes*, section 14.11, subdivision 1, the agency estimates that there will be no cost to any local public bodies for the two years immediately following adoption. This estimate is based on no anticipated designation hearings or other hearings in the foreseeable future.

If no hearing is required upon adoption of the rules, the rules and the required supporting documents will be delivered to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General.

Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rules, must submit the written request to Roger Sorbel.

R. Jane Brown, Commissioner
Department of Jobs and Training

Notice of Hearing and Notice of Intent to Cancel Hearing If Fewer Than Twenty-Five Persons Request a Hearing in Response to Notice of Intent to Adopt Rules Without a Public Hearing

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held at Centennial Office Building, 658 Cedar Street, Room 49, St. Paul, MN 55155 on April 10, 1991, commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rules hearing process.

PLEASE NOTE, however, that the hearing will be canceled if fewer than twenty-five persons request a hearing in response to the Notice of Intent to Adopt these Same Rules Without a Public Hearing published in this *State Register* and mailed to persons registered with the Department of Jobs and Training. To verify whether a hearing will be held, please call the Department of Jobs and Training on or after April 4, 1991, at (612) 297-1094.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to: Jon L. Lunde, Administrative Law Judge, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, telephone (612) 341-7645, either before the hearing or within five days after the public hearing ends. The Administrative Law Judge may, at the hearing, order the record kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period, the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the three-day period. The written responses shall be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in *Minnesota Statutes*, sections 14.15 and 14.50. The rules hearing is governed by *Minnesota Statutes*, section 14.14 to 14.20 and by *Minnesota Rules*, parts 14100.0200 to 1400.1200. Questions about the procedures governing this proceeding may be directed to the Administrative Law Judge.

In 1981, the Minnesota Legislature passed *Minnesota Statutes*, section 268.52 through 268.54, which authorized the department to financially assist community action agencies in the implementation of community action programs.

The proposed rules at *Minnesota Rules*, parts 3350.0010 to 3350.0200 are all new material.

The proposed rules embody existing departmental policy and practice and interpret state and federal law. In promulgating portions of the rules, the department has drawn on the past and present national experience in administering community action programs. The major portions of these rules address (1) the process of selecting community action agencies through designation on the local level and recognition on the state level; (2) the annual application process for funding community action programs; (3) reporting and planning requirements for receipt of funds; (4) voluntary cessation of program operations; (5) participation of low income people; (6) withholding and termination of funds under specialized circumstances; and (7) procedures for appealing the termination of funding, as well as designation or recognition.

A COPY OF THESE RULES ARE AVAILABLE FOR YOUR REVIEW FROM:

Roger Sorbel
Policy Development Office
2nd Floor, 390 North Robert Street
St. Paul, MN 55101
Telephone: (612) 296-6874

A fiscal note will not be prepared. The authority for these proposed rules, *Minnesota Statutes*, sections 268.52 through 268.54, was enacted before July 1, 1985. Therefore, these proposed rules need not include a fiscal note under exceptions provided by *Minnesota Statutes*, section 3.983, subdivision 3. Pursuant to *Minnesota Statutes*, section 14.11, subdivision 1, the agency estimates that there will be no cost to any local public bodies for the two years immediately following adoption. This estimate is based on no anticipated designation hearings or other hearings in the foreseeable future.

Copies of the proposed rules are now available and at least one free copy may be obtained by contacting: Roger Sorbel, Policy Development Office, 2nd Floor, 390 North Robert Street, St. Paul, Minnesota 55101, (612) 296-6874.

Additional copies will be available at the hearing. If you have any questions on the content of the rules, contact Roger Sorbel.

NOTICE: Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. If you desire to be notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were filed. If you want to be notified, you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the secretary of state.

NOTICE IS HEREBY GIVEN THAT A STATEMENT OF NEED AND REASONABLENESS is now available for review at

the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the agency or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Minnesota Statutes, chapter 10A, requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes*, section 10A.01 subdivision 11, as any individual:

(a) engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communication or urging others to communicate with public officials; or

(b) who spend more than $250, not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communication or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101-2520, telephone (612) 296-5148.

The proposed rules may affect small businesses as defined in *Minnesota Statutes*, section 14.115, subdivision 1. Pursuant to *Minnesota Statutes*, section 14.115, subdivision 2, five methods were considered by the department to reduce the impact of the proposed rules on small businesses. A discussion of these methods can be found in the Statement of Need and Reasonableness.

R. Jane Brown, Commissioner
Department of Jobs and Training

Rules as Proposed (all new material)

3350.0010 PURPOSE.

Parts 3350.0010 to 3350.0200 establish procedures for the designation and recognition of community action agencies, and for the granting of CSBG and MEOG funds for community action programs. Programs eligible for funding are those operated by agencies which receive and maintain both designation and recognition.

3350.0020 DEFINITIONS.

Subpart 1. **Scope.** As used in parts 3350.0010 to 3350.0200, the following terms have the meanings given them.

Subp. 2. **Act.** "Act" means *Minnesota Statutes*, sections 268.52 to 268.54, as amended.

Subp. 3. **Applicant.** "Applicant" means a community action agency, including an Indian reservation government or the Minnesota Migrant Council, which applies annually for a grant under the act from the department to fund a community action program.

Subp. 4. **Cessation.** "Cessation" means a voluntary end to the performance of all community action program services by a community action agency in a service area as provided for in part 3350.0050 and the removal of the agency's designation for the entire area which does not create the right of appeal.

Subp. 5. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Jobs and Training.

Subp. 6. **Community.** "Community" means the people to be served by the community action agency in its service area.

Subp. 7. **Community action agency (CAA).** "Community action agency" or "CAA" means an entity which:

A. has the authority to receive funds under *Minnesota Statutes*, section 268.52, to support community action programs as described in *Minnesota Statutes*, section 268.54;

B. has previously been determined eligible under federal law and regulations or is eligible under federal law and regulations; and

C. has previously been designated and recognized or is designated as provided under part 3350.0030 and recognized as provided under part 3350.0040.

Subp. 8. **Community action program.** "Community action program" means activities consistent with the objectives of *Minnesota Statutes*, section 268.54.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Subp. 9. **Community services block grant (CSBG).** "Community services block grant" or "CSBG" means federal funds authorized by Public Law Number 97-35, title 6, subtitle B, as amended, and disbursed to CAAs by the formula in the act.

Subp. 10. **Denial.** "Denial" means the department's rejection of a proposed application for grant funds due to the applicant's failure to meet the requirements of part 3350.0170, subpart 6.

Subp. 11. **Department.** "Department" means the Minnesota Department of Jobs and Training.

Subp. 12. **Designation.** "Designation" means selection of an entity as a service area's exclusive CAA by a governing body after a public hearing has been held.

Subp. 13. **Designee.** "Designee" means an entity nominated by a governing body to become a CAA.

Subp. 14. **Governing body.** "Governing body" means the elected governmental authority of a political subdivision, as defined at subpart 18, which has the power to designate a CAA.

Subp. 15. **Grant.** "Grant" means an allocation of Minnesota economic opportunity grant or CSBG funds or both to an applicant in support of a community action program described in the application, approved by the department, and embodied in a contract.

Subp. 16. **Grantee.** "Grantee" means any CAA, including an Indian reservation government or the Minnesota Migrant Council, whose application to receive Minnesota economic opportunity grant money or CSBG money or both has been approved by the department.

Subp. 17. **Local unit of government.** "Local unit of government" means counties, Indian reservation governments, cities, and townships.

Subp. 18. **Minnesota economic opportunity grant (MEOG).** "Minnesota economic opportunity grant" or "MEOG" means state appropriated funds disbursed to grantees by the formula in the act.

Subp. 19. **Political subdivision.** "Political subdivision" means a local unit of government which has jurisdiction over the entire area served by a CAA. Under no circumstances will the governmental unit be smaller than a county unless the service area of the CAA coincides with the jurisdictional boundaries of the local unit of government.

Subp. 20. **Recognition.** "Recognition" means a process of:

A. review by the department to assure compliance with applicable state and federal law and the designation procedures as provided at part 3350.0040, subpart 1;

B. referral to the governor of the department's request for recognition as provided at part 3350.0040, subpart 3; and

C. approval by the governor of the request for recognition.

Subp. 21. **Service area.** "Service area" means the geographic boundaries in which a community action agency is designated to operate.

Subp. 22. **Subgrantee.** "Subgrantee" means any entity with which a grantee contracts to perform some or all of the community action program services authorized under a grant.

Subp. 23. **Termination.** "Termination" means the involuntary and permanent elimination of or reduction in available grant money to a CAA which gives rise to a CAA's right of appeal under part 3350.0060, subpart 5, and which may also coincide with the removal of a CAA's designation or recognition.

Subp. 24. **Withholding.** "Withholding" means the department's reservation of funds available under an approved application as provided in part 3350.0100 until corrective action by a CAA has successfully remedied a defect identified by the department.

3350.0030 DESIGNATION OF COMMUNITY ACTION AGENCIES.

Subpart 1. **Authority to designate.** The designation of a CAA is made by the political subdivision or combination of political subdivisions having jurisdiction over the entire area to be served. A designation must be made by the governing body of a political subdivision whose boundaries are at least coextensive with the proposed service area. The power to designate may not be delegated.

Subp. 2. **Notice and documents.** Before a designee may be designated as a CAA by a political subdivision, the governing body of the political subdivision having the requisite authority must prepare and file with the department a notice of intent to designate and eligibility documents applicable to the designee. The notice of intent to designate must state how the designee meets the requirements for an eligible entity established under the CSBG act. Eligibility documents are the following:

A. evidence of designee's incorporation or proposed efforts toward incorporation, if applicable;

B. evidence of tax exempt status or proposed efforts toward achieving tax exempt status, if applicable;

C. assurance of compliance with the act, including requirements for the composition of the designee's existing or proposed board of directors;

D. a detailed map of all geographic areas and political subdivisions in the proposed service area as well as all immediately adjacent areas and subdivisions in the same county or counties which are excluded from the proposed area to be served; and

E. a proposed mission statement.

Subp. 3. **Notice of public hearing.** After the notice of intent to designate and the eligibility documents have been filed with the department, the governing body must hold a public hearing on the proposed designation. At least 30 calendar days before the hearing date, the governing body must send a copy of the notice of intent to designate and information on the date, time, location, and subject matter of the public hearing to all local units of government within the designee's intended service area. During the 30 days before the hearing, the affected local units of government will have an opportunity to respond in writing to the proposed designation. All comments received will be included in the official record of the hearing. During the 30-day period and at least ten calendar days before the hearing, the governing body must also publish a notice of public hearing in a daily newspaper of general circulation at the county seat of each county in the designee's proposed service area. The published notice must describe the time, date, location, and subject matter of the public hearing. Furthermore, within the 30-day period and at least ten calendar days before the public hearing, low income households identified in the proposed service area must be mailed information on the date, time, location, and subject matter of the public hearing. The governing body will inform the department of the public hearing at least 30 calendar days before the hearing date. The department will notify low income households identified in the proposed service area of the public hearing. Identified low income households are those specified on the previous CAA's list or lists of clients.

Subp. 4. **Public hearing.** A public hearing must be held 30 calendar days before designation may occur. If the area to be served by the designee includes more than one county, a public hearing in conformity with the procedures of this part must be held in each county to be served.

Subp. 5. **Hearing procedure.** The governing body will appoint a presiding officer to conduct the public hearing. The governing body, however, may not appoint one of its current members as the presiding officer. The presiding officer will not have a vested interest in the outcome of the proposed designation and will ensure that all persons involved in the hearing are treated fairly and impartially. At the public hearing the representative of the designee and a representative of the governing body will make an affirmative presentation of facts establishing the designee's qualifications, expertise, and experience in providing community action program services to low income people. Furthermore, the designee's representative will describe the mission of the community action program, the focus and direction of proposed services, and the goals for outreach to and participation by low income people. The designee may rely upon facts presented by others on the record during the hearing to support its proposed designation. At the hearing, any interested person will be given the opportunity to present testimony and to ask questions of the designee's representative and of the governing body's representative. Furthermore, any interested party may submit written comments or exhibits.

Subp. 6. **Official record.** An official record of the hearing consisting of electronic recording and minutes of the proceedings will be kept. The official record will also include all testimony, written comments, and exhibits received pertaining to the proposed designation. The hearing record will remain open to receive written comments and exhibits for 20 calendar days following the date of hearing.

Subp. 7. **Summary of hearing.** The presiding officer will prepare a summary of the testimony and written comments presented before, during, and after the public hearing. At a minimum, the summary will include a list of all persons who participated, including persons identified as representatives of organizations, and whether each person supported or opposed the proposed designation. The summary together with the entire official record must be submitted to the governing body for its review.

Subp. 8. **Official resolution.** Once the summary of the public hearing is received and 30 calendar days have passed from the date of the hearing the governing body may act to designate the designee as a CAA. The governing body will pass a resolution designating the designee as a CAA if after review of the summary and official record the governing body finds that:

A. the opinion of the community was fairly and impartially expressed;

B. the opinion of low income people in particular was actively encouraged, representatively sampled, and fairly expressed during the whole process;

C. the designee established the qualifications, expertise, and experience necessary to be an effective CAA; and

D. the designee's proposed mission, services, and goals were supported by testimony and written comments received as a result of the public hearing process.

Subp. 9. **Review by department.** Before provisional recognition can occur in part 3350.0040, subpart 1, the governing body must have submitted to the department for review copies of the following documents:

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A. eligibility documents required in part 3350.0030, subpart 2;

B. official resolution of the governing body designating the designee;

C. notices of public hearing and a list of all publications and dates of publication of notices of hearing;

D. list of all local units of government sent copies of the notice of intent to designate and the notice of public hearing, including any responses received;

E. affidavit of service of the notice of public hearing upon low income households identified in the service area; and

F. official hearing record and summary of the hearing.

Subp. 10. **Costs.** All costs attributable to the designation process, including all costs associated with public hearings other than contested case hearings, are the responsibility of the governing body.

3350.0040 RECOGNITION OF COMMUNITY ACTION AGENCIES.

Subpart 1. **Provisional recognition.** The department will provisionally recognize a designation if the department establishes compliance with applicable state law, federal law, all the designation requirements of part 3350.0030, and, where applicable, with the change of designation requirements of part 3350.0050. Provisional recognition can occur within 60 calendar days of the department's receipt of the documents required in part 3350.0030, subpart 8, an approved transition plan, where applicable, as specified in part 3350.0050, subpart 4, and the most current copies of the following:

A. articles of incorporation and bylaws;

B. Internal Revenue Service certificate of 501(c)(3) tax exempt status and Minnesota Department of Revenue certificate of tax exempt status where applicable to nonprofit CAAs; and

C. list of board of directors which indicates officers and committee memberships, tenure on the board, and the sector each director represents as required by the act. If the department finds noncompliance it will inform both the governing body and the designee within the 60-day period and, if possible, offer remedies for achieving compliance.

Subp. 2. **Governor's recognition.** After the department has provisionally recognized a designation and where applicable requirements in subpart 1 have been met, the department will request recognition by the governor.

Subp. 3. **Maintenance of recognition.** To maintain recognition, a CAA must by June 30 of each year ensure that the department has the most current copies of the following:

A. articles of incorporation with any amendments and bylaws with any amendments;

B. Internal Revenue Service certificate of 501(c)(3) tax exempt status and Minnesota Department of Revenue certificate of tax exempt status where applicable to nonprofit CAAs;

C. list of board of directors which indicates officers and committee memberships, tenure on the board, and the sector each director represents as required by the act;

D. board minutes of the past year and latest annual corporate report;

E. organizational chart, personnel policies, data privacy policies, affirmative action plan, voter registration plan, and client service appeals policy; and

F. narratives of the planning process and evaluation process described in parts 3350.0130 and 3350.0140, respectively.

Subp. 4. **Failure to maintain recognition.** The department may proceed to withhold available funds under part 3350.0100, subpart 1, item D, where a CAA fails to maintain its recognition under this part. If, following periods of both withholding and funding termination under part 3350.0100, subpart 2, the CAA has still not successfully complied with all of the requirements in subpart 3, the department will terminate the CAA's recognition and all future funding under part 3350.0060, subpart 3, item C or F.

3350.0050 CESSATION AND CHANGE OF DESIGNATION.

Subpart 1. **Circumstances for cessation.** A governing body may change its designation of a CAA to serve the area under its jurisdiction after a request to cease all community action program operation in the entire area has been received from the designated CAA.

Subp. 2. **Priority among possible designees.** A governing body may choose a designee under this part, in descending order of priority, by:

A. requesting an existing CAA which is located and is providing services in a contiguous area to expand its program operations into the service area;

B. if no existing CAA in a contiguous area agrees to expand its operations, requesting an existing CAA closest to the service area or an existing CAA within reasonable proximity to the service area to expand its program operations into the service area; and

C. where no CAA accepts the request to operate in the service area nominating any entity eligible or potentially eligible to be designated under federal law and regulations and to be recognized under part 3350.0040.

Subp. 3. **Procedure.** The governing body must follow the procedure provided in part 3350.0030 in order to change designation and must also prepare a transition plan for continuation of community action program services. The governing body must submit the transition plan to the department simultaneously with the notice of intent to designate. In addition to the notice requirements in part 3350.0030, subpart 3, the governing body must also serve copies of the notice of intent to designate and the notice of public hearing upon any existing CAA concurrently operating in the same political subdivision and all subgrantees directly affected by cessation and change of designation, in the service area. Upon request, copies of the designee's eligibility documents and the transition plan must be made available by the governing body to any interested party.

Subp. 4. **Additional review by the department.** In addition to the review requirements in part 3350.0030, subpart 8, the department must also review the transition plan for service delivery in the interim before the governor's recognition as provided in part 3350.0040, subpart 2. The department has 30 calendar days from the date of receipt of the transition plan to either approve or disapprove of the plan. If the transition plan is not approved, the governing body may not proceed to designate a CAA under the procedure of part 3350.0030. Without an approved transition plan in operation, the department will not forward to the governor a request for recognition as provided in part 3350.0040. If the transition plan is not approved, the governing body may submit a subsequent transition plan consistent with the department's comments. Along with the transition plan the department must also receive evidence of service of additional notice on interested parties as required in subpart 3.

3350.0060 TERMINATION FOR CAUSE.

Subpart 1. **Cause.** A CAA's funding, as well as its designation or recognition, will be terminated for cause. There may be multiple causes which apply. Termination for cause includes the following:

A. actions threatening imminent danger to health or safety of members of the community;

B. unresponsiveness to service needs of low income people or hindrance of participation by low income people as provided in subpart 4;

C. willful violation of contract by the CAA;

D. failure to remedy a short-term defect after withholding as provided in part 3350.0100, subpart 2;

E. failure to remedy a long-term defect after funding termination as provided in part 3350.0100, subpart 2; or

F. denial of an application as provided in part 3350.0170, subpart 6.

Subp. 2. **Termination by governing body.** After notification to the department, a governing body may terminate for cause a CAA's designation. However, a governing body may only terminate a CAA's designation under subpart 1, item A or B. If a CAA's designation is terminated and the CAA's appeal rights have also been exhausted, funding must be terminated by the department. Where the department intervenes as a party in a contested case concerning termination of designation, funding by the department may be immediately terminated. After adopting termination as official action, the governing body must serve the notice of termination upon the CAA to be terminated. The notice must specifically explain the cause for the termination of designation and how funding may be affected. Included with the notice of termination must be a description of the CAA's appeal rights as provided for in subpart 5. The governing body must also send to the department a copy of the notice of termination. Upon request from the department, the CAA must provide its current list or lists of identified low income households to the department. Identified low income households are those specified on the CAA's list or lists of clients. The department will notify identified low income households of the termination. With the copy of the notice of termination the governing body may also submit to the department a transition plan for phasing out currently provided services and for substituting services in the interim until a successor CAA is recognized. The department must approve the plan as well as the interim agency providing community action program services. If the governing body has not submitted a transition plan with the copy of the notice of termination, it must do so by the close of any contested case hearing that may be held. If no contested case hearing is held, the governing body must submit the transition plan to the department at least simultaneously with the notice of intent to designate a successor CAA.

Subp. 3. **Termination by the department.** The department may terminate for cause a CAA's funding or recognition or both. However, the department may not terminate a CAA's recognition or funding under subpart 1, item B. Wherever appropriate, the department will proceed to withholding under part 3350.0100 before acting to terminate the funding or recognition of a CAA. However, where withholding is not an option, the department may proceed directly to termination under this part. Where termination concerns

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a CAA's funding the department may terminate all or part of current or future funding. If the department terminates all future funding, it must also terminate a CAA's recognition. Similarly, if the department terminates a CAA's recognition it must also terminate funding. The department must serve the notice of termination upon the CAA to be terminated. The notice of termination must specifically explain the cause for the termination and specify the type and degree of termination, including the effect on funding. Included with the notice of termination must be a description of the CAA's appeal rights as provided for in subpart 5. The department must also send to the governing body a copy of the notice of termination. Upon request from the department, the CAA must provide its current list or lists of identified low income households to the department. Identified low income households are those specified on the CAA's list or lists of clients. The department will notify identified low income households of the termination.

Subp. 4. **Petition for termination.** If a petition requesting termination is received from the community containing at least 1,000 names with addresses, the governing body must hold a public hearing to consider termination of a CAA's designation. The persons signing the petition must reside both within the CAA's service area and within the jurisdictional boundaries of the governing body's political subdivision. The following are the causes for termination under this subpart:

A. the CAA's community action program is incompetent and ineffective in meeting the service needs of the low income people in the service area; or

B. the CAA is discouraging the participation of low income people by:

(1) preventing adequate representation by low income people on the CAA's board of directors;

(2) refusing consistently to consider the funding of activities proposed by low income people; or

(3) obstructing systematically the ability of low income people to influence the character of program activities.

The purpose of the public hearing is to receive testimony and evidence concerning the CAA's purported incompetence and ineffectiveness or the CAA's alleged hindrance of low income people's participation. At least 30 calendar days before the hearing date, the governing body must inform all local units of government within the CAA's service area of the date, time, location, and subject matter of the public hearing. During the 30 days before the hearing, the affected local units of government will have an opportunity to respond in writing. All comments received will be available for the governing body's review. During the 30-day period and at least ten calendar days before the hearing, the governing body must also publish a notice of public hearing in a daily newspaper of general circulation of the county seat in the CAA's service area. The published notice must describe the time, date, location, and subject matter of the public hearing. Furthermore, within the 30-day period and at least ten calendar days before the public hearing, low income households identified in the CAA's service area must be mailed information on the date, time, location, and subject matter of the public hearing. The governing body will inform the department of the public hearing at least 30 calendar days before the hearing date. Upon request from the department, the CAA must provide its current list or lists of identified low income households to the department. Identified low income households are those specified on the CAA's list or lists of clients. The department will notify identified low income households of the date, time, location, and subject matter of the public hearing at least ten calendar days before the hearing date. If, following the public hearing, the governing body is persuaded that sufficient cause exists, as supported by convincing evidence, it may take official action to terminate the CAA's designation under subpart 2.

Subp. 5. **Appeal procedure.** If, after receipt of the notice of termination, a CAA is aggrieved, the CAA may request a contested case hearing from the department within 30 calendar days of the receipt of the notice. If the CAA's request for a contested case hearing is not received by the department during the 30-day period the CAA loses its right of appeal under this subpart. The request for a contested case hearing before an administrative law judge as provided in *Minnesota Statutes*, sections 14.57 to 14.62, must be in writing. The contested case hearing will be initiated and conducted according to parts 1400.5100 to 1400.8500. As provided for in part 1400.6200, the department will have the right to intervene as a party in a contested case hearing on termination of designation by a governing body.

Subp. 6. **Federal appeal rights.** Federal appeal rights may also exist for an aggrieved CAA under the CSBG act, Public Law Number 97-35.

Subp. 7. **Successor.** If a CAA's designation or recognition is terminated, the governing body will follow the priority guidelines in part 3350.0050, subpart 2, and the procedure in part 3350.0030 to designate a successor.

Subp. 8. **Costs.** Only costs directly attributable to the contested case hearing process in subpart 5 are the responsibility of the department. The costs associated with the procedure for termination provided for in subpart 4 are the responsibility of the governing body.

3350.0070 ALLOCATION OF FUNDS.

Subpart 1. **Formula.** The department will allocate funds under the act according to the formula in *Minnesota Statutes*, section 268.52, subdivision 2.

Subp. 2. **Poverty level population.** For purposes of the formula in subpart 1, the poverty level population will be based on Department of Commerce, Bureau of the Census, statistics, as revised.

3350.0080 MONTHLY, PERIODIC, AND FINAL REPORTS.

Each grantee receiving grant funds under the act will submit in a complete and accurate form the following:

A. periodic client and fiscal performance report to document both CSBG and MEOG funded activities;

B. monthly financial status report to substantiate cash requests; and

C. final financial status report to close-out the program year.

3350.0090 DUE DATES FOR MONTHLY, PERIODIC, AND FINAL REPORTS.

Each monthly report specified in part 3350.0080 is due ten calendar days after the end of the month. Each final status report specified in part 3350.0080 is due no later than 30 calendar days after the end of the program year. Each periodic report under part 3350.0080 is due 30 calendar days after the date specified in the CAA's contract. If monthly, periodic, or final reports are delinquent more than five calendar days from their due dates or, though submitted, remain incomplete or inaccurate more than five calendar days from their due dates, the department may proceed to withhold available funds from a CAA under part 3350.0100, subpart 1, item A.

3350.0100 WITHHOLDING OF CASH DISBURSEMENTS.

Subpart 1. **Circumstances for withholding.** The department will withhold cash disbursements available for drawdown under an approved application if a CAA is not:

A. complying with the reporting requirements of the grant as required by its contract with the department, including the timely submission of complete and accurate monthly, periodic, and final reports as required in part 3350.0080, of complete and accurate annual audits as required in part 3350.0160, subpart 2, and of complete and accurate annual evaluation reports as required in part 3350.0150;

B. following its submitted and approved work plan or budget or both;

C. fulfilling the terms of its contract; or

D. maintaining recognition as provided in part 3350.0040, subpart 3.

Subp. 2. **Notice, conversion option, and termination.** Before withholding cash disbursements, the department will notify the CAA of its defective action or omission, inform the CAA of potential withholding and specify a reasonable date by which corrective action should occur. The specified date must be at least ten working days from the date of the CAA's receipt of the notice of withholding. If the defect is not remedied satisfactorily by the date specified in the notice, the department will begin to withhold available funds after that date. During any time within 90 calendar days following the department's actual withholding of funds, the CAA may, at its option, convert the withholding to a termination under part 3350.0060, subpart 1, item D, with right to a contested case hearing. A CAA must request in writing both a conversion to termination and a contested case hearing. After receipt of a CAA's request for conversion to termination and contested case hearing, the department will initiate contested case proceedings as provided in *Minnesota Statutes*, sections 14.57 to 14.62. The department will also send the CAA a notice of termination and comply with the other procedural requirements of part 3350.0060, subpart 3. The department will terminate funding for the period of time between the date identified in the notice of withholding and the date on which the short-term defect is actually remedied. If the CAA has not exercised its right of conversion during 90 days of withholding and if the defect has not been remedied during 90 days of withholding, the department will proceed under part 3350.0060, subpart 1, item E, to terminate the CAA's available funding for a period covering the total of (1) the time during which funds have been withheld and (2) the time remaining before the subsequent June 30. The department will first issue a final notice ten calendar days before proceeding to termination under part 3350.0060. If following a period of funding termination for failure to remedy a long-term defect the CAA has still not successfully remedied the identified defect, the department will deny subsequent applications by the CAA under part 3350.0170, subpart 6, item D, until corrective action has occurred. However, if the defect constitutes failure to maintain recognition under subpart 1, item D, the department will proceed according to part 3350.0040, subpart 4.

3350.0110 PROGRAM GUIDELINES AND ELIGIBLE ACTIVITIES.

Subpart 1. **Program guidelines.** Each community action program must:

A. be of benefit to low income persons;

B. represent progress toward the elimination of poverty;

C. utilize resources from other programs operating in the service area; and

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D. be of sufficient scope and size for maximum effectiveness and efficiency.

Subp. 2. **Eligible grant activities.** A variety of activities as determined by the local planning process may be included in a community action program funded by a grant. Eligible activities are those designed to help low income persons to:

A. secure and retain meaningful employment;

B. attain an adequate education;

C. obtain and maintain adequate housing and a suitable living environment;

D. make better use of available income;

E. obtain emergency assistance through loans or grants;

F. meet immediate and urgent individual and family needs, including the need for health services, nutritious food, housing, and employment-related assistance;

G. remove obstacles and solve problems which block the achievement of self-sufficiency;

H. achieve greater participation in the affairs of the community; and

I. make more effective use of other programs related to the purposes of the CSBG act.

Subp. 3. **Federal prohibitions.** Activities ineligible for funding with CSBG money are those listed in the annual CSBG state plan. A copy of the annual CSBG state plan is available by request from the Economic Opportunity Office, Department of Jobs and Training, 670 American Center Building, 150 East Kellogg Boulevard, Saint Paul, Minnesota 55101.

3350.0120 PARTICIPATION BY LOW INCOME PERSONS.

Grantees must consider the participation of low income people in the local planning process of part 3350.0130, the annual work plan of part 3350.0170, subpart 1, the evaluation process of part 3350.0140 and the annual evaluation report of part 3350.0150. Each CAA must devise specific opportunities for involvement of low income people in proposing, planning, approving, and evaluating the activities of community action programs.

3350.0130 LOCAL PLANNING PROCESS.

Each CAA will develop a plan for submission to the department as a requirement for maintenance of recognition under part 3350.0040, subpart 3. The plan's narrative will include a description of how the local planning process will be implemented, how the CAA will publicize major planning activities to encourage community participation, and how the CAA will involve low income people in the planning process. Each annual work plan submitted as part of a grant application under part 3350.0170, subpart 1, must be consistent with, and complementary to, this local planning process. The local planning process of a CAA will include the following steps:

A. develop a mission statement which defines the overall CAA purposes and which represents the views and opinions of the CAA's board of directors, low income groups, and representatives of the community;

B. assess short and long range community needs in order to respond to the poverty in the community and its causes;

C. catalog the resources from both the public and private sectors which are available to solve the causes of poverty;

D. establish priorities after analyzing the extent and causes of poverty and after evaluating the capability of the CAA and other available resources to ameliorate the causes of poverty;

E. set realistic goals as a basis for action which are consistent with established priorities;

F. develop innovative strategies, including, but not limited to, service strategies, which encompass community acceptance, funding availability, direct benefits to low income people, high impact on problems of poverty, and organizational capability;

G. develop clear and concise objectives that describe how to attain the CAA's goals;

H. list sequential activities under each objective to describe the efforts at community coordination and identification of resource needs including assignment of CAA staff and training or technical assistance in the community; and

I. select performance indicators to measure progress toward achieving the established objectives and to form the basis for community action program reporting and evaluation.

3350.0140 EVALUATION PROCESS.

Each CAA will develop a standardized written process for evaluating its own community action program and describe the process in a narrative form. The narrative description must show how the results of the evaluation will influence the CAA's future planning and how the CAA will involve low income persons in the evaluation process. The evaluation process as embodied in the narrative must be approved by the CAA's board of directors. The evaluation process narrative must be submitted to and approved by the department in order to maintain CAA recognition under part 3350.0040, subpart 3.

3350.0150 ANNUAL EVALUATION REPORT.

The annual evaluation report is due no later than December 30 of each year. The evaluation report will summarize the extent and type of the previous year's program services and assess their effectiveness using the evaluation elements under part 3350.0140 and the performance indicators under part 3350.0130. If annual reports are delinquent more than five calendar days from their due dates or, though submitted, remain incomplete or noncomplying more than five calendar days from their due dates, the department will proceed to withhold available funds from a CAA under part 3350.0100, subpart 1, item A.

3350.0160 ADMINISTRATION OF GRANTS.

Subpart 1. **Grantee financial control system.** Grantees must establish and use a financial control system which complies with federal and state reporting and fiscal procedures. The federal and state requirements are contained in Department of Jobs and Training Subgrantee Administrative Requirements No. 1, as revised or superseded. This publication is incorporated by reference, and is not subject to frequent change. It is available from the State Law Library.

Subp. 2. **Grantee audit.** Each grantee must follow the audit requirements contained in the attachment to its contract with the department. Audits must be completed and the required reports submitted no later than six calendar months after the end of the grantee's fiscal year. If audits are delinquent more than five calendar days from their due dates or, though submitted, remain incomplete, noncomplying, or inaccurate more than five calendar days from their due dates, the department may proceed to withhold available funds from a CAA under part 3350.0100, subpart 1, item A.

Subp. 3. **Alterations.** A grantee must obtain prior written approval from the Economic Opportunity Office before changing its work plan and budget as described in its approved application.

3350.0170 GRANT APPLICATIONS.

Subpart 1. **Forms and documents.** All forms necessary for completion of the application will accompany the annual guidelines mailed to all grantees. Assistance in completing the forms may be requested directly from the Economic Opportunity Office at its central office. Each CAA will submit to the department an annual work plan and budget on forms supplied by the department as part of the grant application process. Each work plan for the subsequent year will include a narrative comprised of the following:

A. prioritized list of community needs;

B. design for accomplishing identified goals, objectives, and activities;

C. coordination strategy showing the establishment of working relationships with other providers in the service area; and

D. description of any delegated activity, including copies of subgrantee contracts.

Subp. 2. **Grant application deadlines.** Applications for a program year must be received by the Economic Opportunity Office no later than June 30 immediately preceding the program year.

Subp. 3. **Waiver of application deadline.** Upon written request, the Economic Opportunity Office may waive the application deadline provided in subpart 2 and allow an applicant to submit its grant application after that date. A request for a waiver must be signed by the chair of the applicant's board of directors and contain justification of the local need for a waiver. The request for a waiver must be received by the Economic Opportunity Office on or before June 30. The Economic Opportunity Office will respond to the request in writing. If the Economic Opportunity Office is persuaded by the local need, it will grant a waiver and establish another deadline for receipt of the application. Local need is demonstrated if a CAA, through no fault of its own, cannot meet the application deadline because of the following:

A. key staff responsible for the submission of the application are on medical leave or other leave, have retired or are no longer employed, and replacement staff cannot reasonably complete the application in the time remaining; or

B. a natural disaster such as a tornado, fire, or flood or a material change in circumstances such as a labor strike or the loss of a building lease has adversely affected or completely halted program operations.

Subp. 4. **Approval of application.** The department will review all submitted applications. When the department approves an application for a grant, it will provide written notification of approval to the applicant. Requests for cash cannot be processed until an application has been approved. After applications have been approved, the department and the applicant will enter into a contract. The grant contract is effective on the date when the Minnesota Department of Finance signature is affixed to the contract.

Subp. 5. **Late, incomplete, or noncomplying application.** If a previously funded grantee has not submitted an application within

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

45 calendar days of the deadline established by waiver in subpart 3 or within 45 calendar days of the deadline provided in subpart 2 where a waiver was not granted, the department will deny the application under subpart 6. If a submitted application remains incomplete or noncomplying for 30 calendar days after the department's request for a revision of the application, supplementary information, or other required documents or 45 calendar days from an applicable deadline, whichever period is greater, the department will deny the application under subpart 6.

Subp. 6. **Denial of application.** Before the department denies an application, it will, as soon as possible, provide written notification of the deficiency leading to a possible denial and, where appropriate, request a revision of the application, supplementary information or other required documents. An application will be denied if any of the following occur:

A. application is submitted after the deadlines in subpart 5;

B. applicant submits an incomplete application;

C. applicant submits a noncomplying application where:

(1) applicant's annual work plan activities are:

(a) inconsistent with community action program activity as defined in the act and part 3350.0110;

(b) not demonstrative of participation by low income persons as required by part 3350.0120; or

(c) inconsistent with the local planning process in part 3350.0130;

(2) applicant cannot demonstrate adequate fiscal management capabilities as required in part 3350.0170; or

(3) applicant's budget does not support, or is inconsistent with, the work plan activities; or

D. applicant, after a period of funding termination, has not remedied a long-term defect that first led to withholding under part 3350.0100, subpart 2.

The department's denial of an application based on items A, B, and C is cause for termination of available funds for an entire program year under part 3350.0060, subpart 1, item F. Depending on the circumstances, the department's denial of an application based on item D is cause for termination of available funds for an entire program year or all future funding.

3350.0180 SUBGRANTEES.

All grantees will obtain written approval from the department before delegating any part of their service delivery to a subgrantee. Grantees must enter into contracts with subgrantees outlining which community action program services the subgrantees will provide. Subgrantees must meet the same reporting and fiscal requirements as grantees. Grantees are responsible for acts or omissions of their subgrantees.

3350.0190 RECORD KEEPING.

All records and books of account related to grants must be kept by the grantee for three years from the date of submission of the final invoice. Records must be retained beyond the three-year period if audit exceptions, claims, or litigation concerning the records or any accounting transactions are still unresolved or pending. After any disposition of nonexpendable property acquired with grant funds, records of the disposition must also be retained for three years.

3350.0200 MONITORING.

The department will perform monitoring activities to ensure that grantees are in compliance with parts 3350.0010 to 3350.0200, the act, and other federal and state requirements. The monitoring functions will include the following:

A. performance of a pre-award review; and

B. preparation and execution of an annual monitoring plan which includes at least one annual on-site visit to all grantees with annual dollar volume over $100,000 and to 25 percent of all grantees with annual dollar volume between $10,000 and $100,000.

Department of Natural Resources

Proposed Permanent Rules Relating to Boat and Water Safety

Notice of Intent to Amend a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Department of Natural Resources intends to adopt an amendment to the above-referenced rule without public hearing following the procedures set forth in the Administrative Procedures Act for adopting rules without a public hearing in *Minnesota Statutes*, section 14.22-14.28. Authority for the amendment of these rules is contained in *Minnesota Statutes*, § 86B.211.

RECEIVED
FEB 26 1991
E.O.O.

STATE OF MINNESOTA
DEPARTMENT OF JOBS AND TRAINING

In the Matter of Proposed Rules Relating to Community Action Agencies and Community Action Programs

Statement of Need and Reasonableness

INTRODUCTION

These proposed rules are presented by the Department of Jobs and Training in accordance with the Administrative Procedure Act, Minnesota Statutes, sections 14.22 to 14.28. These rules interpret Minnesota Statutes, sections 268.52 through 268.54, which designate and recognize community action agencies and define the activities and projects funded as community action programs. These rules have been developed as authorized by Minnesota Statutes, sections 268.0122, subdivision 5, and 268.021 which permit the Commissioner to adopt rules governing programs the Commissioner administers under Minnesota Statutes, Chapter 268.

The proposed rules are all new rules to be codified as Minnesota Rules, Parts 3350.0010 through 3350.0200.

The department began drafting these rules in March, 1989. After a notice to solicit outside opinion was published in the State Register an advisory group was formed in March, 1989. The advisory group was composed of the Rules and Regulations Subcommittee of the Minnesota Community Action Program Directors' Association and staff members of the Economic Opportunity Office in the Department of Jobs and Training. The group last met in November, 1989.

These proposed rules embody existing departmental policy and practice and represent the input of the advisory group convened to review and draft rule language. The rules are consistent with state and federal law. In promulgating portions of the rules, the department has drawn on the past and present national experience in administering community action programs. The major portions of these rules address (1) the process of selecting community action agencies through designation on the local level and recognition on the state level; (2) the annual application process for funding community action programs; (3) reporting and planning requirements for receipt of funds; (4) voluntary cessation of program operations; (5) participation of low income people; (6) withholding and termination of funds under specialized circumstances; and (7) procedures for appealing the termination of funding, as well as designation or recognition.

DISCUSSION

3350.0010 PURPOSE

This proposed part is necessary and reasonable because it describes the intent of the proposed rules. This part clarifies that community action agencies become eligible to receive funding for their programs and activities after both designation and recognition occur. This part also makes clear that the sources of funding are both the state and federal governments.

3350.0020 DEFINITIONS

Subpart 1. Scope. This proposed subpart is necessary and reasonable because it introduces the subject matter of this part.

Subpart 2. Act. A definition of "act" is necessary and reasonable in order to reference the Minnesota statutory authority for operating community action programs as distinguished from federal sources of authority. The use of the term "act" is reasonable to abbreviate the Minnesota statutes referenced throughout these rules.

Subpart 3. Applicant. A definition of "applicant" is necessary because the term is used in the application procedure of part 3350.0170. This definition is reasonable because it clarifies that qualified entities must apply annually for grant monies. The term "applicant" is distinguished from the term "grantee" in subpart 16 in that a grantee is an applicant whose application has been approved. The definition reasonably refers to Indian reservation governments and the Minnesota Migrant Council as types of community action agencies eligible for annual grants because they are specifically mentioned in the act.

Subpart 4. Cessation. A definition is necessary to differentiate the term "cessation" from the broader term "termination" as defined in subpart 22. Cessation is a procedure a community action agency may voluntarily utilize in order to end its program operations in a service area. It is reasonable to provide for such a voluntary halt to service delivery when circumstances change. Community action agencies should be permitted to cease program operations for whatever reason as long as there is no resulting disruption in program services for low income people.

Subpart 5. Commissioner. A definition of "commissioner" is necessary and reasonable because the term is used in the act and throughout these proposed rules. It is reasonable to abbreviate the commissioner of the Minnesota Department of Jobs and Training for purposes of concise internal referencing.

Subpart 6. Community. The term "community" needs to be defined

because it is used in the act. The term is also used in part 3350.0060, subpart 4, where it is crucial for determining who may petition a governing body to terminate a community action agency for cause. The term "community" reasonably refers to the people in the boundaries of a service area who, by the fact of their presence, may potentially be served by a community action program.

Subpart 7. Community action agency (CAA). A definition of "community action agency (CAA)" is necessary because such entities are the subject matter of these rules. Item A of the definition is reasonable because it summarizes the language of Minnesota Statutes, section 268.54, subdivision 1. Item B is reasonable because it refers to the eligibility requirements under federal law and regulations. Item C is reasonable because it specifies that to become a CAA an entity must be both designated and recognized. In general, the definition permits "grandfathering" in CAAs which have already been designated and recognized. Relying on previous procedures takes administrative notice of the validity of those procedures and is consistent with section 673 (1) of the CSBG Act and section 268.54, subdivision 1 of the act. The use of the acronym of "CAA" is reasonable in order to abbreviate the term throughout the rules.

Subpart 8. Community action program. A definition of this term is necessary and reasonable in order to reference the statutory language in Minnesota Statutes, section 268.54. This definition is needed to distinguish community action agencies from the activities they pursue through their programs.

Subpart 9. Community services block grant (CSBG). The definition of the term "community services block grant" is necessary and reasonable in order to reference the federal statutory authority for operating community action programs as distinguished from state statutory authority. The use of the acronym of "CSBG" is reasonable to abbreviate the federal laws referenced throughout the rules.

Subpart 10. Denial. A definition of "denial" is necessary because the term is used in part 3350.0170. This term reasonably provides that there are circumstances where an application for grant funds may be rejected. This definition of the term reasonably refers to the requirements of an annual application process. Annual applications are needed so that the department may periodically exercise its oversight function and may assure compliance with requirements for annual work plans, fiscal management and budgets.

Subpart 11. Department. This term is necessary and reasonable in order to abbreviate "Minnesota Department of Jobs and Training" throughout these rules and identify it as the administrative entity with statutory authority over CAAs.

Subpart 12. Designation. A definition of this term is necessary

because it is statutorily provided for under Minnesota Statutes, section 268.53, subdivision 1a, and under part 3350.0030 of these proposed rules. This definition specifies that designation is the portion of the CAA selection process which is conducted at the local level. This definition is reasonable because it provides for the interaction of the local governing body and the public in the selection of a CAA as statutorily mandated. Designation is distinct from recognition which is the other part of the process and which occurs at the state level.

Subpart 13. Designee. A definition of "designee" is necessary to indicate that an entity is nominated by a governing body to become designated. This term is reasonable in order to identify the status of a nominee before official designation occurs.

Subpart 14. Governing body. A definition of "governing body" is necessary and reasonable in order to establish the entity with the authority to designate CAAs. The act gives political subdivisions authority over designation and, in a representative democracy, the exercise of a political subdivision's authority rests with the elected governing body. Therefore, it is reasonable to specify governing bodies as the locus of designation authority in political subdivisions. "Governing body" is a general term chosen because it can encompass the city councils, Indian government boards and county boards of political subdivisions.

Subpart 15. Grant. A definition of "grant" is necessary and reasonable because CAAs receive funding on a conditional basis year-to-year. Therefore, the term highlights the fact that CAAs must meet certain prerequisites as a condition of their funding under the act.

Subpart 16. Grantee. A definition of "grantee" is necessary and reasonable to indicate a recipient of funds as distinguished from an applicant for funds. An applicant becomes a grantee once conditions for receipt of funds have been met.

Subpart 17. Local unit of government. A definition of "local unit of government" is necessary and reasonable in order to distinguish the term from "political subdivision" in subpart 19. "Local unit of government" is the broader term while "political subdivision" has a more specialized meaning. Furthermore, the definition of "local unit of government" is needed to ensure that the widest possible notice is given under part 3350.0030, subpart 3, part 3300.0050, subpart 3, and part 3350.0060, subpart 4.

Subpart 18. Minnesota economic opportunity grant (MEOG). A definition of this term is necessary and reasonable to reference the program's statutory authority at Minnesota Statutes, sections 268.52 through 268.54 and to differentiate state sources of funding from CSBG sources. The use of the acronym of "MEOG" is reasonable to abbreviate the term throughout the rules.

Subpart 19. Political subdivision. A definition of "political subdivision" is necessary because the term is statutorily provided for and needs interpretation by rule. Minnesota Statutes, section 268.53, subdivision 1a, requires that a political subdivision must be as large as the entire area served by the CAA. This definition interprets the statute as permitting local units of government to designate CAAs but reasonably makes counties the expected level at which designation occurs. This expectation is based on twenty five years of experience. Since 1964 only two CAAs have been designated by cities in Minnesota.

Subpart 20. Recognition. A definition of "recognition" is necessary because the term is used in Minnesota Statues, section 268.53, subdivision 1a, and in part 3350.0040 of these proposed rules. This definition of the term outlines the procedures to be followed as a sequence of steps. Item A is reasonable because it notifies designees of applicable state and federal law and appropriate designation procedures which must be observed. Item B reasonably establishes the department's review for compliance as a prerequisite to submitting a request to the governor. Item C clarifies that the governor may choose to recognize a designee after receiving assurances of compliance from the department.

Subpart 21. Service area. A definition of "service area" is necessary and reasonable in order to delineate the boundaries in which a CAA operates. The community and a CAA must be made aware of the physical extent of the CAA's responsibility for operations. Furthermore, establishing operational boundaries is integral to the designation procedures of part 3300.0030.

Subpart 22. Subgrantee. A definition of "subgrantee" is necessary because the term is used in part 3350.0180. The definition of the term reasonably interprets Minnesota Statutes, section 268.54, as permitting delegation of a CAA's service responsibilities to other service providers who are under contract to the CAA.

Subpart 23. Termination. A definition of "termination" is necessary and reasonable because the term is used in part 3350.0060. A permanent withdrawal of funds from a CAA is the key element in this definition. The definition reasonably provides for appeal by a CAA since the withdrawal of funds triggers both a contested case hearing under the Administrative Procedure Act and federal review under the CSBG Act.

Subpart 24. Withholding. A definition of "withholding" is necessary because the term is used in part 3350.0100. This definition of the term is reasonable because it provides a mechanism to temporarily reserve funds from a CAA for minor infractions. The definition allows a CAA to retrieve these reserved funds by correcting the defect. Therefore, withholding gives the department some administrative flexibility before resorting to the drastic remedy of termination of funds.

3350.0030 DESIGNATION OF COMMUNITY ACTION AGENCIES

Subpart 1. Authority to designate. This subpart is necessary and reasonable because it informs interested parties and the general public that the designation process is the statutory responsibility of political subdivisions. This subpart reasonably provides that two or more political subdivisions may jointly designate a single CAA to provide services in their jurisdictions. Joint designation provides maximum flexibility and fiscal efficiency without necessarily compromising program effectiveness. This subpart makes clear that the power to designate may not be delegated by political subdivisions since there is no statutory authority to do so.

Subpart 2. Notice and documents. This subpart is necessary because of the requirements in Minnesota Statutes, section 268.53, subdivision 1a. Section 268.53, subdivision 1a, requires designees to submit a notice of intent to designate and eligibility documents. It is necessary to define the statutory term "eligibility documents." The eligibility documents listed in Items A through E are reasonable because they have been required by the department in the past, have proved their utility and are widely and generally known. Item A is evidence of a designee's operating structure as a "private nonprofit agency", which is a requirement of Minnesota Statutes, section 268. 53, subdivision 1. Item B is evidence of a designee's nonprofit status for income tax purposes. Item C is a statement by the designee of compliance with the act in general and the composition requirements of its board of directors in particular as specified in Minnesota Statutes, section 268.53, subdivision 2. Item D is necessary to inform the department of the precise location and dimensions of the designee's proposed service area. Item E is necessary to advise the department of the designee's overall purposes so the department may be assured they are congruent with the aims of community action programs provided in Minnesota Statutes, section 268.54 and the guidelines provided in part 3350.0110, subpart 1.

Subpart 3. Notice of public hearing. This subpart is necessary because of the requirement in Minnesota Statutes section 268.53, subdivision 1a, for a public hearing before designation may occur. The procedures leading to the public hearing are reasonably calculated to give the widest possible notification of the reason for the hearing as well as its date, time and location. Notifying local units of government 30 days before the hearing permits them a reasonable time to respond and promotes inter-governmental communication and cooperation. Publication of a hearing notice in a newspaper of general circulation during the 30 day period attempts to reach members of the community who may be interested in the proceedings. The department's direct mailing of the hearing notice to low-income households targets members of the community who are most affected. The department is responsible for mailing notice to low-income households because of data privacy considerations.

Subpart 4. Public hearing. This subpart is necessary and reasonable in order to clarify that a political subdivision may not designate a designee until at least 30 days have passed from the hearing date. Thirty days is a reasonably sufficient time for the presiding officer to collect and organize the hearing record and summarize the range of opinion expressed at the hearing. Since joint designation may occur, it is reasonable to hold public hearings in all counties which may be affected by the potential designation so that the widest possible local opinion may be presented and heard.

Subpart 5. Hearing procedure. This subpart is necessary in order to clarify how the hearing will be conducted and what testimony and comments may be presented at the hearing. It is reasonable to stipulate that a presiding officer will be appointed in order to conduct the hearing and move the proceedings forward. The presiding officer should be a neutral and disinterested party so that wide ranging opinion may be presented in an impartial manner. To guard against even the appearance of partiality, it is reasonable to proscribe members of the governing body from serving as a presiding officer. Because a designee is attempting to show why it should become a CAA the burden of proving its qualifications and expertise at the hearing rests with the CAA. Likewise, since the governing body is nominating the designee the governing body's representative must also meet a similar burden of proof at the hearing.

Subpart 6. Official record. This subpart necessarily provides that documentation of the proceedings be made and preserved. A record is necessary and reasonable as an aid to the presiding officer in the preparation of a hearing summary and to the governing body in its decision-making. The requirement of electronic recording is reasonable because such a method is permanent, all-inclusive and readily accessible. Also, electronic recording is part of routine operations for hearings conducted pursuant to the Administrative Procedure Act and should be used in this context as well.

Subpart 7. Summary of hearing. This subpart is necessary and reasonable in order to synthesize the hearing proceedings into a quick reference for the governing body. The official record will generally be lengthy and a digest of the testimony and written comments will be useful in guiding the decision-making of members of the governing body.

Subpart 8. Official resolution. This subpart is necessary because an official resolution is required by Minnesota Statutes, 268.53, subdivision 1a. It is reasonable to require that 30 days pass after the hearing date before a designation resolution can be entertained by a governing body. Thirty days is a reasonable amount of time in order for the governing body to review the official record and summary. In arriving at its decision to

designate or not, the governing body must have time to determine if the hearing record complies with items A through D. Item A is reasonable because the governing body should hear and be influenced by the opinion of the whole community potentially served by the designee as shown by the record. Item B is reasonable because the governing body should be particularly concerned with how the record reflected the opinion of low income people who are the potential consumers of the designee's services. Item C is reasonable because the governing body should be convinced of the designee's qualifications on the record before conferring designation. Item D is reasonable because the record should show how the designee intends to provide services and indicate the community's level of support for the designee's service delivery model.

Subpart 9. Review by department. This subpart is necessary because such a review is required by Minnesota Statutes, section 268.53, subdivision 1a. This subpart reasonably interprets the review to mean compliance with hearing procedures, and evidence of eligibility for designation.

Subpart 10. Costs. This subpart is necessary and reasonable to inform local governing bodies of the costs they will incur during the designation process. Minnesota Statutes, sections 3.981 to 3.983, 14.11 and 14.131 require state agencies to assess the financial impact of proposed rules on local government. It is reasonable for counties to assume the financial obligation for exercising their right of designation. The fiscal impact on local government should be minimal for several reasons. First, the entire state is already covered by designated CAAs so there will be no immediate designation costs. Second, even when designation occurs in the future, the costs involved concern only those associated with announcing and holding public meetings. Third, the State of Minnesota has assumed the greater cost burden under the rules by paying for contested case hearings under part 3350.0060.

3350.0040 RECOGNITION OF COMMUNITY ACTION AGENCIES

Subpart 1. Provisional recognition. This subpart is necessary and reasonable in order to ensure that a designation complies with threshold legal requirements. Such legal compliance is a prerequisite of the governor's recognition. The governor must be assured by the department that minimum legal requirements have been met before deciding whether or not to extend recognition.

Subpart 2. Governor's recognition. This subpart is necessary because the authority for recognition is vested with the governor by Minnesota Statutes, section 268.53, subdivision 1a. This subpart reasonably informs designees, political subdivisions and the general public of the governor's authority in this area.

Subpart 3. Maintenance of recognition. This subpart is necessary to inform CAAs that meeting recognition requirements is on-going

and continuous in order to preserve CAA status. Since these requirements do not go away after recognition is achieved, CAAs should be made aware of their continuing responsibilities. Furthermore, additional requirements beyond threshold legalities are included in this subpart because they address the vitality and business regularity of a CAA and indicate its organizational health, direction and operations. These additional requirements are contained in items D, E and F and can only be addressed after a CAA has been active and operational.

Subpart 4. Failure to maintain recognition. This subpart is necessary to establish sanctions for not observing the requirements of recognition. This subpart notifies CAAs that efforts must be taken to preserve recognition once it is achieved. This subpart reasonably provides for a period of withholding so that a CAA may take corrective action prior to termination of recognition. However, if a CAA has not complied with recognition requirements after both withholding and termination of funding this subpart provides for the withdrawal of recognition and all future funding. The requirements for recognition are of such special significance and are so integral to a CAA's structure and operations that failure to maintain these requirements justifies extreme sanctions.

3350.0050 CESSATION AND CHANGE OF DESIGNATION

Subpart 1. Circumstances for cessation. This proposed subpart recognizes that a CAA may need to voluntarily suspend all the services it delivers. This subpart also establishes that there can be no partial cessation. If partial cessation were permissible, a CAA could pick and choose where to operate in a service area and perform its services only where it saw fit. Service delivery for a community would then become arbitrary and uneven.

Subpart 2. Priority among possible designees. This subpart is necessary in order to achieve an orderly transition after cessation has occurred. This subpart reasonably adopts the priority criteria for nominating designees which were formerly established in section 673, subsection (1) of the CSBG Act. These federal regulations no longer govern the selection of new CAAs but have history, experience and acceptance to recommend them.

Subpart 3. Procedure. This subpart reasonably adopts the regular designation procedure as the one to be followed after a CAA's cessation. Adoption of the existing procedure promotes uniformity and minimizes confusion. Requiring a transition plan for interim service delivery is necessary to ensure that there is no disruption of program services. In the normal course of events, the CAA will continue to provide services until a designee is recognized and designated although circumstances may permit a designee or an agency other than the designee to operate if the approved transition plan so specifies. This subpart reasonably requires that more organizations be notified of the cessation than is

required in the regular designation procedure. This additional notice to other CAAs and to subgrantees is justified because of the large vested interest such organizations would have in the transition from one CAA to another.

Subpart 4. Additional review by the department. This subpart is necessary because cessation cannot be allowed if it means a disruption of services to the community. A CAA should have the option of ceasing program operations but, having become designated and recognized a CAA owes continuity of service to the community it has served until it is replaced by a successor. The people in the community should not be inconvenienced or harmed by the voluntary choice of a CAA. Therefore, this subpart reasonably provides that an approved transition plan is a prerequisite for proceeding to designation and to recognition by the governor.

3350.0060 TERMINATION FOR CAUSE

Subpart 1. Cause. This subpart is necessary in order to specify the grounds for termination. The grounds include generally recognized infractions such as harm of clients and willful contract violation. The grounds also include reasons specific to this program such as unresponsiveness to low income people, failure to remedy short and long term defects, and noncompliance with application requirements. Exhibit A is a chart showing what violations constitute cause, who may initiate termination proceedings, what step, if any, precedes imposition of complete sanctions and which sanctions correspond with particular types of violations. See Exhibit A.

Subpart 2. Termination by governing body. This subpart is necessary in order to provide a governing body with a mechanism for terminating the designation of a dangerous or unresponsive CAA. Authority over designation belongs to a governing body. Therefore, this subpart reasonably limits the grounds for termination of designation to those areas within the governing body's control and purview. This subpart specifies a due process procedure for CAAs aggrieved by a termination of designation. Due to data privacy considerations, the department is responsible for notifying low income households in the service area of the governing body's termination. Provision for a transition plan is reasonably included in the procedure to forestall disruption of program services.

Subpart 3. Termination by the department. This subpart is necessary in order to provide a mechanism for terminating the recognition and funding of a CAA where the circumstances warrant. Responsibility for recognition and funding resides with the department. The department, therefore, should have flexibility in exercising its responsibility according to the situation. This subpart gives the department options concerning termination. One option is for the department to terminate funding and recognition

immediately if the cause is extreme; this option is only available where the CAA is imminently endangering the community or willfully violating its contract with the department. Another option is for the department to first withhold and then terminate funding for a specific period; this option is required for those elements which are specific to this program such as failing to submit reports, failing to maintain recognition, etc. This subpart reasonably gives the department more grounds for terminating a CAA than a governing body because the department's areas of responsibility are broader. However, this subpart reasonably prohibits the department from acting on a petition for termination because a preliminary determination of unresponsiveness should be a local rather than a state matter. This subpart specifies a due process procedure for CAAs aggrieved by a termination of recognition or funding or both. The department is responsible for notifying low income households in the service area of the termination in order to increase their awareness of and participation in the termination process.

Subpart 4. Petition for termination. This subpart is necessary in order to provide low income people with a means to redress grievances and to initiate the removal of an unresponsive CAA. This subpart reasonably adopts, in a modified version, the former procedure at Title 45, Code of Federal Regulations, Part 1060.1-3 (b), for addressing client complaints against a CAA for unresponsiveness. It is reasonable to provide low income people with a means of removing unresponsive CAAs given the purpose and legislative history of the community action program. The community action program was intended to empower low income people and remove the barriers to self-sufficiency. Therefore, if the CAA itself has become a barrier low income people should have an available mechanism for initiating its termination.

Subpart 5. Appeal procedure. This subpart is necessary in order to inform the department that a CAA intends to appeal a notice of termination. A 30-day period in which to exercise the right of appeal is reasonable since that is ample time for a CAA to organize and compile facts and issues relevant to an appeal. A deadline for exercising the right of appeal is necessary so that contested case issues may be addressed in a timely fashion. It is reasonable that the request for a contested case hearing be in writing so that a record may be retained. This subpart conforms the appeal procedure to the Administrative Procedures Act and its adopted rules. This subpart clarifies that the department is potentially an interested party in any termination action commenced by a governing body. Therefore, the department should specifically have the right to present relevant evidence during the proceedings to terminate designation. By permitting this option to intervene the department may immediately terminate funding as well as recognition if it is persuaded that termination is warranted. Otherwise, the department would not normally terminate a CAA's funding until a governing body prevailed against a CAA in the contested case hearing.

Subpart 6. Federal appeal rights. This subpart is necessary and reasonable in order to inform CAAs of their rights to a federal review of a termination of funding under Section 676A of the CSBG Act. This section of the CSBG Act permits funding termination of a CAA if "after notice and opportunity for hearing on the record, the State determines that cause existed for such termination subject to review by the Secretary [of Health and Human Services]."

Subpart 7. Successor. This subpart is necessary and reasonable in order to make clear that once termination occurs an interim agency must be appointed to continue community action program services. The successor may or may not also be the ultimate designee. This subpart establishes that the priority guidelines for choosing among designees after cessation are also applicable after a termination. Furthermore, this subpart establishes that a successor which is also the designee must follow the regular designation procedures in order to become a CAA.

Subpart 8. Costs. This subpart is necessary in order to assign responsibility for the costs of the hearings described in this part. This subpart splits these costs between the department and governing bodies depending on the type of hearing involved. As the final authority for the functioning of the community action program it is reasonable that the department pay for contested case hearings. Contested case hearings are the forum for determining the validity of alleged CAA infractions. Through the contested case procedures the department can monitor the program on a case-by-case basis. As the entities at the local level it is reasonable that governing bodies are in a better position to determine if a CAA is or is not responsive to low income people. Thus, governing bodies should pay the costs associated with the type of public hearing resulting from a petition for termination.

3350.0070 ALLOCATION OF FUNDS

Subpart 1. Formula. This subpart is necessary and reasonable in order to refer to the statutory allocation process at Minnesota Statutes, section 268.52, subdivision 2.

Subpart 2. Poverty level population. This subpart is necessary and reasonable to refer to the provision at Minnesota Statutes, section 268.52, subdivision 4. It is reasonable to use for purposes of defining this term the numbers contained in the U.S. Bureau of the Census' Current Population Reports since they are routinely collected every five years.

3350.0080 MONTHLY, PERIODIC AND FINAL REPORTS

This part is necessary in order to document levels of activity and expenditure by CAAs. As a function of its oversight responsibility the department must be assured that programs are operating smoothly and competently and must be made aware of a CAA's financial

circumstances. Furthermore, the department is required to report to the U.S. Department of Health and Human Services concerning the overall activities of federally funded community action programs in Minnesota and must have current and accurate information from CAAs in order to meet federal reporting mandates. The reports required in this part are those required in the past and which have proven their effectiveness and are used as the basis for generating federal reports.

3350.0090 DUE DATES FOR MONTHLY, PERIODIC AND FINAL REPORTS

This part is necessary in order to fix deadlines for submission by CAAs of the three types of reports to the department. The department must have CAA data and documentation in a timely fashion to meet federal reporting deadlines. The 30 day deadline for periodic reports allows CAAs a reasonable time to collect and tabulate extensive client and fiscal data from a three month period. The 30 day deadline for final reports is a reasonable time for CAAs to distill from the periodic reports the data summarizing the program year and also permits the department to meet its reporting deadlines at the federal level. The ten day deadline is reasonable for monthly reports because the amount of data to be generated is less than periodic or final reports. A five day grace period after deadlines for the three reports reasonably allows CAAs some additional time as a cushion before the department may proceed to withhold funds.

3350.0100 WITHHOLDING OF CASH DISBURSEMENTS

Subpart 1. Circumstances for withholding. This subpart is necessary and reasonable because it introduces the subject matter of this part and lists the defects by a CAA which may trigger the reservation of funds by the department. This mechanism for reserving funds is necessary so that the department has the ability to compel compliance with administrative requirements without resorting to the drastic and permanent remedy of termination. Administrative flexibility is necessary in this area or otherwise the department would be forced to terminate funding for minor, short term infractions. Item A is reasonable as a basis for withholding funds because the department needs financial reports submitted in a timely manner in order to satisfy federal reporting requirements. Item B is reasonable because approval of annual applications is conditioned on CAAs following submitted budgets and work plans. Item C is a reasonable basis for withholding because CAAs are bound to follow the terms of their contracts and where they do not violate their contracts willfully there should nonetheless be a means of compelling contract performance. Item D is reasonable because maintenance of recognition is a prerequisite for continued funding by the department and withholding is a way of compelling compliance with recognition requirements without resorting to termination.

Subpart 2. Notice, conversion option and termination. This part is necessary to inform CAAs of the procedures involved in the withholding of cash disbursements. This part reasonably provides that the department must notify a CAA of a pending withholding of cash. The notice is structured in such a way as to give a CAA the opportunity to remedy the identified defect before actual withholding occurs. Ten working days have been allotted for this purpose, which is a sufficient time for correcting most defects. Withholding can occur for up to 90 days before becoming a funding termination. This short term period of 90 days allows ample time for a CAA to correct even major defects without suffering permanent de-funding. During the 90 days a CAA may choose to convert the withholding into a termination so it may exercise its appeal rights and receive a hearing before an administrative law judge. If a CAA does not convert the withholding to a termination or cure the defect during the 90 days the department will terminate funding. In this way the allegations will be settled and the issues rescued from administrative limbo. The CAA may cure the defect, acquiesce to the validity of the allegations or request a hearing be held on the department's allegations. After a period of funding termination the sanctions for ignoring a defect escalate, depending on the nature of the defect, to denial of the CAA's subsequent applications or termination of its recognition. The escalating sanctions are designed to compel compliance and if compliance is not forthcoming the department will not fund the miscreant.

3350.0110 PROGRAM GUIDELINES AND ELIGIBLE ACTIVITIES

Subpart 1. Program guidelines. This subpart is necessary to interpret the intent of Minnesota Statutes, section 268.54. The four items in this subpart can reasonably be inferred from section 268.54.

Subpart 2. Eligible grant activities. This subpart is necessary and reasonable because it re-states the criteria of Section 675, subsection (c), clause 1, of the CSBG Act. For consistency, this subpart reasonably adopts the federal criteria for both MEOG and CSBG funded activities.

Subpart 3. Federal prohibitions. This subpart is necessary and reasonable because they are referenced in Section 675, subsection (c), clause 2, of the CSBG Act as being a part of the State Plan submitted to the Secretary of Health and Human Services. CAAs should be reminded in these rules of the existence of federal prohibitions to guard against using CSBG funds for prohibited activities.

3350.0120 PARTICIPATION BY LOW INCOME PERSONS

This part is necessary because Minnesota Statutes, section 268.53, subdivision 5, paragraph (d), mandates that each CAA establish ways for low income people to shape the character of community action

programs and the means for carrying out the programs. This part reasonably interprets the statutory mandate to mean that low income people should have input into the generalized planning and evaluating of community action programs and the annual work plan and evaluation report. Input into planning and evaluation are the two most effective ways for low income people to influence community action programs and therefore, to fully participate in the direction and operation of the programs.

3350.0130 LOCAL PLANNING PROCESS

This part is necessary and reasonable because Minnesota Statutes, section 268.53, subdivision 5, paragraph (a), mandates that each CAA plan its community action programs to enhance their maximum effectiveness. Furthermore, the narrative describing a CAA's planning process is necessary in order to guide each year's work plan, which is submitted as part of the application process in part 3350.0170, subpart 1. The planning process is so important to the viability of CAAs that the process has been included as a requirement for maintaining recognition in part 3350.0040, subpart 3, item F. The planning process contemplated in this part is a structure for shaping each CAA's vision of its service delivery system. The structure outlined in items A through H proceeds from the general to the specific. The planning process will help a CAA to map out a strategy of action based on the needs and goals identified in the service area. The planning process is open-ended enough to accommodate the local situation in which each CAA operates. Also, the sequential nature of the process should produce very tangible and practical results if the process is followed to its conclusion.

3350.0140 EVALUATION PROCESS

This part is necessary and reasonable as a self-correcting mechanism incorporated into the planning process to assess actual programmatic results. Once planning has occurred it is reasonable to assess if the planning has achieved the desired effects and, if not, what changes should be made in the planning process as well as in its implementation. The evaluation process has been included as a requirement for maintaining recognition in part 3350.0040, subpart 3, item F, because of its central importance in improving a CAA's performance. It is reasonable to require that a narrative describing the evaluation process be written by each CAA with the active involvement of the CAA's board of directors. A definite written narrative can be readily available as a guide for enhancing CAA performance. A written narrative needs the support of the board of directors in order to become and remain a vital document.

3350.0150 ANNUAL EVALUATION REPORT

This part is necessary and reasonable in order to assess annually the impact and results of program services. The annual report can

be useful in influencing the work plan for the subsequent year. It is reasonable to allow a CAA until December 30 following the close of the state fiscal year to submit the report. This allows a CAA the reasonable time of six months to perform a thorough evaluation. By December 30 of each year a CAA will have submitted its annual application and its monthly, periodic and final reports so there should be ample time to complete an evaluation report. While the audit is also due December 30 its focus on assessing past financial performance is very compatible with the aims of a program evaluation. A grace period of five days is reasonable considering that ample time for completing the report is provided after the close of the state fiscal year. In this situation, withholding is a reasonable sanction because the CAA can correct the situation by submitting a complete and complying report.

3350.0160 ADMINISTRATION OF GRANTS

Subpart 1. Grantee financial control system. This subpart is necessary because the federal Office of Management and Budget (OMB) in its Circular A-102 requires states who receive federal funds as grantees to submit Financial Status Reports. It is reasonable, in turn, to require state grantees to submit such reports to the department. Without these reports from its grantees, the department cannot comply with federal requirements. The federal requirements have been summarized in the DJT Subgrantee Administrative Requirements No. 1, as revised.

Subpart 2. Grantee audit. This subpart is necessary because OMB Circular A-110, Attachment F, requires states who receive federal funds as grantees to perform financial audits. It is reasonable, in turn, to require state grantees to perform and submit their own audits to the department. Without these audits from its grantees, the department cannot comply with federal requirements. Furthermore, OMB Circular A-102 requires state agencies granting federal assistance of $25,000 or more in a fiscal year to a state grantee to require the state grantee to perform audits in accordance with the Single Audit Act of 1984 and the OMB Circular A-128, "Audits of State and Local Governments."

Subpart 3. Alterations. This subpart is necessary in order to accommodate mid-course changes in a CAA's submitted work plan and budget. This subpart reasonably provides that these changes must first be approved by the department before implementation. Once an application has been approved, a CAA should not be permitted to make unilateral changes to a work plan and budget. Work plans and budgets are the product of mutual agreement and should only be altered where both a CAA and the department agree to the changes.

3350.0170 GRANT APPLICATIONS

Subpart 1. Forms and documents. This subpart is necessary so that CAAs are aware of their responsibilities in the annual

application process. It is reasonable to require CAAs to submit their annual work plans and budgets as part of the application process since both documents give a clear indication of program direction in the forthcoming year.

Subpart 2. Grant application deadlines. This subpart is necessary and reasonable in order for the department to anticipate and plan subsequent funding cycles. The department must be informed of which CAAs are applying for funding and which ones are eligible for funding in order to reserve allocations. Deadlines also provide the department with the opportunity to annually review CAAs on their work plans, the relationship of their work plans to their budgets and their fiscal management capabilities.

Subpart 3. Waiver of application deadline. This subpart necessarily gives some administrative flexibility to meeting application deadlines. However, the circumstances for granting a waiver because of local need are very limited under this subpart. Local need means the occurrence of a catastrophe or a loss of a CAA's key staff. The circumstances for granting a deadline waiver are very limited given the generous 45 day grace period provided in subpart 5. Should the department deny the request for a deadline extension the CAA still has up to 45 days to submit an application before the department would deny the application for the coming program year. It is reasonable to require that the request for waiver be received by the department at least by the year-end deadline so that the department has timely notice of the CAA's intentions.

Subpart 4. Approval of application. This subpart is necessary and reasonable because it adds certainty to the application process by requiring the department's written response to a CAA. This subpart informs CAAs that cash requests under an approved application cannot be processed until a contract between the department and a CAA has been validated by the Department of Finance.

Subpart 5. Late, incomplete or noncomplying application. This subpart is necessary and reasonable because it establishes "grace periods" for the submission of annual applications. While there is an administrative necessity for prompt submission of applications it is also reasonable to allow CAAs a time limited immunity from penalty. Forty five days from the deadline is a reasonable time to allow before denying an application. Forty five days will reasonably accommodate an applicant's difficulties in applying and will also fix an absolute time limit for applying. Incomplete or noncomplying applications are a more complicated situation and require more flexibility. Since applicants must first be notified by the department that their applications are incomplete or noncomplying the grace period should be able to extend beyond 45 days if the department's notification is not timely. Therefore, this subpart reasonably ties the length of the grace period to 30

days beyond the date of department notification or 45 days whichever is most favorable to the applicant.

Subpart 6. Denial of application. This subpart is necessary and reasonable in order to describe the circumstances under which an application may be denied. There are four items under this subpart. Item A concerns late applications which have not been submitted by CAAs who are eligible for funding. Item B concerns submitted applications which need supplementation or correction before they may be approved. Item C contains subitems which describe some examples of noncompliance. These subitems focus on the adequacy of the work plan and its relation to the budget and on the applicant's fiscal management capability because these crucial elements need examination by the department annually. Item D addresses situations where an applicant has not corrected a previously identified and on-going defect. Failure to correct such a defect results in the rejection of a proposed application. If the continuing defect concerns matters relating to recognition an application will be rejected and all future funding and recognition itself will be terminated.

3350.0180 SUBGRANTEES

This part is necessary and reasonable because Minnesota Statutes, section 268.54, subdivision 3, permits a CAA to delegate its service duties to other entities. However, this part highlights reasonable limits on a CAA's power to delegate. First, the CAA must have the department's written permission before delegating its duties so that the department has notice of which entity has responsibility for which service. Second, the CAA must have a contract with the subgrantee so that each party knows the extent of the subgrantee's responsibilities and the subgrantee is legally bound to perform them. Third, the CAA must be made aware of its liability for the acts and omissions of its subgrantees under the law of agency.

3350.0190 RECORD KEEPING

This part is necessary and reasonable in order for the department to comply with federal requirements for the retention of records associated with CSBG grants.

3350.0200 MONITORING

This part is necessary and reasonable in order to inform CAAs of the department's oversight function. This monitoring schedule conforms to the department's policies and procedures manual applicable to all departmental grantees for all programs.

SMALL BUSINESS CONSIDERATIONS IN RULEMAKING

When proposing rules, an agency must consider methods for reducing the impact of the proposed rules on small businesses potentially affected. The vast majority of CAAs are small business as defined in Minnesota Statutes, section 645.445. The department has considered each of the five methods listed in section 14.115, subdivision 2, clauses (a) to (e).

The first method at clause (a) refers to establishing less stringent compliance or reporting requirements for small businesses. The compliance requirements as regards CAAs are unavoidable given the statutory objectives of determining eligible entities to be designated and recognized as CAAs and maintaining the eligibility of designated and recognized CAAs. Furthermore, the proposed rules must necessarily impose reporting requirements on CAAs as small businesses in order to monitor budgets and work plans,and to meet federal mandates.

The second method is contained in clause (b). The department is required to assess the possibility of establishing less stringent schedules or deadlines for compliance or reporting requirements for small businesses. The proposed rules will, in general, retain the same deadlines as is the current practice, although "grace periods" beyond the deadlines are a new feature of these rules. The deadlines are necessary to meet the statutory mandates for reporting and to promote timely administration of the program. There is no compelling basis for exempting CAAs as small businesses from deadlines that will ensure these statutory and programmatic objectives.

The third method at clause (c) requires consideration of a consolidation or simplification of compliance or reporting requirements for small businesses. The compliance requirements are already familiar to most CAAs and CAAs are aware of the need for these requirements. Compliance is necessary for uniform administration of the program and there is no compelling reason to simplify or consolidate just because the vast majority of CAAs are small businesses.

The fourth method at clause (d) is the establishment of performance standards for small businesses to replace design or operational standards. Since there are no design or operational standards contemplated by these rules, this method does not apply.

The fifth method at clause (e) requires the department to consider exempting CAAs as small businesses from any or all requirements of these proposed rules. For all the reasons previously discussed, this is not feasible.

CONCLUSION

The Department of Jobs and Training recommends the adoption of these proposed rules.

2-27-91

Date

Frank Schneider

Frank Schneider
Acting Director
Economic Opportunity Office
Department of Jobs and
Training

Exhibit A

TERMINATION FOR CAUSE
(PART 3350.0060, SUBPART 1)

INFRACTION	INITIATOR		PREREQUISITE FOR COMPLETE SANCTION	COMPLETE SANCTION
	STATE	GOV. BODY		
Imminent Danger (Item A),	X	X	None	Termination of Recognition or Designation and All Funding
Unresponsiveness to Low-Income People (Item B)		X	Petition Followed By Public Hearing (Part 3350.0060, Subpart 4)	Termination of Designation and All Funding
Willful Contract Violation (Item C)	X		None	Termination of Recognition and All Funding
Short-Term Non-Remedied Defect (Item D)	X		Withholding of Funds (Part 3350.0100, Subpart 2)	Termination of Funding for Specific Period
Long-Term Non-Remedied Defect (Item E)	X		Termination of Funding for Specific Period (Part 3350.0100, (Subpart 2)	If Concerning Recognition, Termination of Recognition and All Funding (Part 3350.0040, Subpart 4); If Not Concerning Recognition, Denial of Subsequent Application and Termination of Funding for Year (Part 3350.0170, Subpart 6)
Late, Incomplete or Non-Complying Application (Item F)	X		Grace period of up to 45 Days From Deadline	Denial of Current Application and Termination of Funding for Year (Part 3350.0170, Subpart 6)

Commi 7-1094
MSC
10/9/91

RULE REVIEW CHECKLIST

File No. 1858
DATE RECEIVED 10-2-91
REVIEW DATE 10/9/91
DUE DATE 10/16/91
(DIS)APPROVED
WITHDRAWN 10-16-91

Docket No. 05.0009.0400
ADOPTED W/O HEARING
EMERGENCY RULE
TO REVISOR ON 10-4-91
REVISOR (DIS)APPROVED 10-8-91
FILED W/SEC. OF STATE
RETURNED TO AGENCY

✓ Rule as adopted (4 copies)

Notice to Solicit Outside Information/Opinion (if applicable)
- Date published in State Register
- Comments

Petition for Adoption of a Rule

Board's Authorizing Resolution
- Date adopted

✓ Proposed Rule
- Revisor's Certificate

✓ Notice of Intent to Adopt Rule
- ✓ 268.50 - 268.54 Statutory Authority 268.021 and 268.0122
- ✓ Small Business Statement
- Expenditure of public money statement
- Signed but undated Signature

✓ Statement of Need and Reasonableness (if applicable)
- ✓ Small Business Statement
- N/A Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
- March 1, 1991 Dated 30/25 days before adoption
- ✓ Notice attached indicates it is attached
- Copy of rule or summary attached

✓ Publication in State Register
- March 4, 1991 Date 30/25 days before adoption

✓ 180-day deadline from:
- Effective date of law requiring rule (14.12) (both rules) amendments don't apply not mandatory
- ✓ master end of comment period (§ 14.26) (rules without hearing)
- effective date of statutory authority (§ 14.29) (emergency rules)

Resolution Adopting
- Date adopted

✓ Findings of Fact, Conclusions & Order Adopting
- September 19, 1991 Date

Written Requests, Submissions or Comments

✓ Declaration of Attorney
- Don Nottingham Name of SAAG representing agency

Notice of Submission to Attorney General (if applicable)

Affidavit of Mailing Notice to Attorney General (if applicable)

Rules ac1

MINNESOTA DEPARTMENT OF
Jobs and Training

Economic Opportunity Office
670 American Center Building • 150 East Kellogg Boulevard
St. Paul, MN 55101
TTY 612/297-3944
612/296-0928

Date: September 27, 1991

To: Patricia Nolte
Office of the Attorney General

From: Connie Greer
Community Based Services Division
CSBG Program Coordinator

Connie Greer

Subject: **COMMUNITY SERVICES BLOCK GRANT/MINNESOTA ECONOMIC GRANT RULE**

Enclosed please find materials and documents to adopt a rule. Please contact me at 297-1094, if you I can be of assistance to you.

CG:mj

ATTY GENERAL

2 OCT 91 1: 32

Stat. Auth.:

The commissioner of the department of jobs and training is authorized to adopt rules, including emergency rules, in accordance with chapter 14. . . .

End of comment period - April 3, 1991

STATE OF MINNESOTA
DEPARTMENT OF JOBS AND TRAINING

In the Matter of Proposed Rules Relating to Community Action Agencies and Community Action Programs

Statement of Need and Reasonableness

INTRODUCTION

These proposed rules are presented by the Department of Jobs and Training in accordance with the Administrative Procedure Act, Minnesota Statutes, sections 14.22 to 14.28. These rules interpret Minnesota Statutes, sections 268.52 through 268.54, which designate and recognize community action agencies and define the activities and projects funded as community action programs. These rules have been developed as authorized by Minnesota Statutes, sections 268.0122, subdivision 5, and 268.021 which permit the Commissioner to adopt rules governing programs the Commissioner administers under Minnesota Statutes, Chapter 268.

The proposed rules are all new rules to be codified as Minnesota Rules, Parts 3350.0010 through 3350.0200.

The department began drafting these rules in March, 1989. After a notice to solicit outside opinion was published in the State Register an advisory group was formed in March, 1989. The advisory group was composed of the Rules and Regulations Subcommittee of the Minnesota Community Action Program Directors' Association and staff members of the Economic Opportunity Office in the Department of Jobs and Training. The group last met in November, 1989.

These proposed rules embody existing departmental policy and practice and represent the input of the advisory group convened to review and draft rule language. The rules are consistent with state and federal law. In promulgating portions of the rules, the department has drawn on the past and present national experience in administering community action programs. The major portions of these rules address (1) the process of selecting community action agencies through designation on the local level and recognition on the state level; (2) the annual application process for funding community action programs; (3) reporting and planning requirements for receipt of funds; (4) voluntary cessation of program operations; (5) participation of low income people; (6) withholding and termination of funds under specialized circumstances; and (7) procedures for appealing the termination of funding, as well as designation or recognition.

DISCUSSION

3350.0010 PURPOSE

This proposed part is necessary and reasonable because it describes the intent of the proposed rules. This part clarifies that community action agencies become eligible to receive funding for their programs and activities after both designation and recognition occur. This part also makes clear that the sources of funding are both the state and federal governments.

3350.0020 DEFINITIONS

Subpart 1. Scope. This proposed subpart is necessary and reasonable because it introduces the subject matter of this part.

Subpart 2. Act. A definition of "act" is necessary and reasonable in order to reference the Minnesota statutory authority for operating community action programs as distinguished from federal sources of authority. The use of the term "act" is reasonable to abbreviate the Minnesota statutes referenced throughout these rules.

Subpart 3. Applicant. A definition of "applicant" is necessary because the term is used in the application procedure of part 3350.0170. This definition is reasonable because it clarifies that qualified entities must apply annually for grant monies. The term "applicant" is distinguished from the term "grantee" in subpart 16 in that a grantee is an applicant whose application has been approved. The definition reasonably refers to Indian reservation governments and the Minnesota Migrant Council as types of community action agencies eligible for annual grants because they are specifically mentioned in the act.

Subpart 4. Cessation. A definition is necessary to differentiate the term "cessation" from the broader term "termination" as defined in subpart 22. Cessation is a procedure a community action agency may voluntarily utilize in order to end its program operations in a service area. It is reasonable to provide for such a voluntary halt to service delivery when circumstances change. Community action agencies should be permitted to cease program operations for whatever reason as long as there is no resulting disruption in program services for low income people.

Subpart 5. Commissioner. A definition of "commissioner" is necessary and reasonable because the term is used in the act and throughout these proposed rules. It is reasonable to abbreviate the commissioner of the Minnesota Department of Jobs and Training for purposes of concise internal referencing.

Subpart 6. Community. The term "community" needs to be defined

because it is used in the act. The term is also used in part 3350.0060, subpart 4, where it is crucial for determining who may petition a governing body to terminate a community action agency for cause. The term "community" reasonably refers to the people in the boundaries of a service area who, by the fact of their presence, may potentially be served by a community action program.

Subpart 7. Community action agency (CAA). A definition of "community action agency (CAA)" is necessary because such entities are the subject matter of these rules. Item A of the definition is reasonable because it summarizes the language of Minnesota Statutes, section 268.54, subdivision 1. Item B is reasonable because it refers to the eligibility requirements under federal law and regulations. Item C is reasonable because it specifies that to become a CAA an entity must be both designated and recognized. In general, the definition permits "grandfathering" in CAAs which have already been designated and recognized. Relying on previous procedures takes administrative notice of the validity of those procedures and is consistent with section 673 (1) of the CSBG Act and section 268.54, subdivision 1 of the act. The use of the acronym of "CAA" is reasonable in order to abbreviate the term throughout the rules.

Subpart 8. Community action program. A definition of this term is necessary and reasonable in order to reference the statutory language in Minnesota Statutes, section 268.54. This definition is needed to distinguish community action agencies from the activities they pursue through their programs.

Subpart 9. Community services block grant (CSBG). The definition of the term "community services block grant" is necessary and reasonable in order to reference the federal statutory authority for operating community action programs as distinguished from state statutory authority. The use of the acronym of "CSBG" is reasonable to abbreviate the federal laws referenced throughout the rules.

Subpart 10. Denial. A definition of "denial" is necessary because the term is used in part 3350.0170. This term reasonably provides that there are circumstances where an application for grant funds may be rejected. This definition of the term reasonably refers to the requirements of an annual application process. Annual applications are needed so that the department may periodically exercise its oversight function and may assure compliance with requirements for annual work plans, fiscal management and budgets.

Subpart 11. Department. This term is necessary and reasonable in order to abbreviate "Minnesota Department of Jobs and Training" throughout these rules and identify it as the administrative entity with statutory authority over CAAs.

Subpart 12. Designation. A definition of this term is necessary

because it is statutorily provided for under Minnesota Statutes, section 268.53, subdivision 1a, and under part 3350.0030 of these proposed rules. This definition specifies that designation is the portion of the CAA selection process which is conducted at the local level. This definition is reasonable because it provides for the interaction of the local governing body and the public in the selection of a CAA as statutorily mandated. Designation is distinct from recognition which is the other part of the process and which occurs at the state level.

Subpart 13. Designee. A definition of "designee" is necessary to indicate that an entity is nominated by a governing body to become designated. This term is reasonable in order to identify the status of a nominee before official designation occurs.

Subpart 14. Governing body. A definition of "governing body" is necessary and reasonable in order to establish the entity with the authority to designate CAAs. The act gives political subdivisions authority over designation and, in a representative democracy, the exercise of a political subdivision's authority rests with the elected governing body. Therefore, it is reasonable to specify governing bodies as the locus of designation authority in political subdivisions. "Governing body" is a general term chosen because it can encompass the city councils, Indian government boards and county boards of political subdivisions.

Subpart 15. Grant. A definition of "grant" is necessary and reasonable because CAAs receive funding on a conditional basis year-to-year. Therefore, the term highlights the fact that CAAs must meet certain prerequisites as a condition of their funding under the act.

Subpart 16. Grantee. A definition of "grantee" is necessary and reasonable to indicate a recipient of funds as distinguished from an applicant for funds. An applicant becomes a grantee once conditions for receipt of funds have been met.

Subpart 17. Local unit of government. A definition of "local unit of government" is necessary and reasonable in order to distinguish the term from "political subdivision" in subpart 19. "Local unit of government" is the broader term while "political subdivision" has a more specialized meaning. Furthermore, the definition of "local unit of government" is needed to ensure that the widest possible notice is given under part 3350.0030, subpart 3, part 3300.0050, subpart 3, and part 3350.0060, subpart 4.

Subpart 18. Minnesota economic opportunity grant (MEOG). A definition of this term is necessary and reasonable to reference the program's statutory authority at Minnesota Statutes, sections 268.52 through 268.54 and to differentiate state sources of funding from CSBG sources. The use of the acronym of "MEOG" is reasonable to abbreviate the term throughout the rules.

Subpart 19. Political subdivision. A definition of "political subdivision" is necessary because the term is statutorily provided for and needs interpretation by rule. Minnesota Statutes, section 268.53, subdivision 1a, requires that a political subdivision must be as large as the entire area served by the CAA. This definition interprets the statute as permitting local units of government to designate CAAs but reasonably makes counties the expected level at which designation occurs. This expectation is based on twenty five years of experience. Since 1964 only two CAAs have been designated by cities in Minnesota.

Subpart 20. Recognition. A definition of "recognition" is necessary because the term is used in Minnesota Statues, section 268.53, subdivision 1a, and in part 3350.0040 of these proposed rules. This definition of the term outlines the procedures to be followed as a sequence of steps. Item A is reasonable because it notifies designees of applicable state and federal law and appropriate designation procedures which must be observed. Item B reasonably establishes the department's review for compliance as a prerequisite to submitting a request to the governor. Item C clarifies that the governor may choose to recognize a designee after receiving assurances of compliance from the department.

Subpart 21. Service area. A definition of "service area" is necessary and reasonable in order to delineate the boundaries in which a CAA operates. The community and a CAA must be made aware of the physical extent of the CAA's responsibility for operations. Furthermore, establishing operational boundaries is integral to the designation procedures of part 3300.0030.

Subpart 22. Subgrantee. A definition of "subgrantee" is necessary because the term is used in part 3350.0180. The definition of the term reasonably interprets Minnesota Statutes, section 268.54, as permitting delegation of a CAA's service responsibilities to other service providers who are under contract to the CAA.

Subpart 23. Termination. A definition of "termination" is necessary and reasonable because the term is used in part 3350.0060. A permanent withdrawal of funds from a CAA is the key element in this definition. The definition reasonably provides for appeal by a CAA since the withdrawal of funds triggers both a contested case hearing under the Administrative Procedure Act and federal review under the CSBG Act.

Subpart 24. Withholding. A definition of "withholding" is necessary because the term is used in part 3350.0100. This definition of the term is reasonable because it provides a mechanism to temporarily reserve funds from a CAA for minor infractions. The definition allows a CAA to retrieve these reserved funds by correcting the defect. Therefore, withholding gives the department some administrative flexibility before resorting to the drastic remedy of termination of funds.

3350.0030 DESIGNATION OF COMMUNITY ACTION AGENCIES

Subpart 1. Authority to designate. This subpart is necessary and reasonable because it informs interested parties and the general public that the designation process is the statutory responsibility of political subdivisions. This subpart reasonably provides that two or more political subdivisions may jointly designate a single CAA to provide services in their jurisdictions. Joint designation provides maximum flexibility and fiscal efficiency without necessarily compromising program effectiveness. This subpart makes clear that the power to designate may not be delegated by political subdivisions since there is no statutory authority to do so.

Subpart 2. Notice and documents. This subpart is necessary because of the requirements in Minnesota Statutes, section 268.53, subdivision 1a. Section 268.53, subdivision 1a, requires designees to submit a notice of intent to designate and eligibility documents. It is necessary to define the statutory term "eligibility documents." The eligibility documents listed in Items A through E are reasonable because they have been required by the department in the past, have proved their utility and are widely and generally known. Item A is evidence of a designee's operating structure as a "private nonprofit agency", which is a requirement of Minnesota Statutes, section 268. 53, subdivision 1. Item B is evidence of a designee's nonprofit status for income tax purposes. Item C is a statement by the designee of compliance with the act in general and the composition requirements of its board of directors in particular as specified in Minnesota Statutes, section 268.53, subdivision 2. Item D is necessary to inform the department of the precise location and dimensions of the designee's proposed service area. Item E is necessary to advise the department of the designee's overall purposes so the department may be assured they are congruent with the aims of community action programs provided in Minnesota Statutes, section 268.54 and the guidelines provided in part 3350.0110, subpart 1.

Subpart 3. Notice of public hearing. This subpart is necessary because of the requirement in Minnesota Statutes section 268.53, subdivision 1a, for a public hearing before designation may occur. The procedures leading to the public hearing are reasonably calculated to give the widest possible notification of the reason for the hearing as well as its date, time and location. Notifying local units of government 30 days before the hearing permits them a reasonable time to respond and promotes inter-governmental communication and cooperation. Publication of a hearing notice in a newspaper of general circulation during the 30 day period attempts to reach members of the community who may be interested in the proceedings. The department's direct mailing of the hearing notice to low-income households targets members of the community who are most affected. The department is responsible for mailing notice to low-income households because of data privacy considerations.

Subpart 4. Public hearing. This subpart is necessary and reasonable in order to clarify that a political subdivision may not designate a designee until at least 30 days have passed from the hearing date. Thirty days is a reasonably sufficient time for the presiding officer to collect and organize the hearing record and summarize the range of opinion expressed at the hearing. Since joint designation may occur, it is reasonable to hold public hearings in all counties which may be affected by the potential designation so that the widest possible local opinion may be presented and heard.

Subpart 5. Hearing procedure. This subpart is necessary in order to clarify how the hearing will be conducted and what testimony and comments may be presented at the hearing. It is reasonable to stipulate that a presiding officer will be appointed in order to conduct the hearing and move the proceedings forward. The presiding officer should be a neutral and disinterested party so that wide ranging opinion may be presented in an impartial manner. To guard against even the appearance of partiality, it is reasonable to proscribe members of the governing body from serving as a presiding officer. Because a designee is attempting to show why it should become a CAA the burden of proving its qualifications and expertise at the hearing rests with the CAA. Likewise, since the governing body is nominating the designee the governing body's representative must also meet a similar burden of proof at the hearing.

Subpart 6. Official record. This subpart necessarily provides that documentation of the proceedings be made and preserved. A record is necessary and reasonable as an aid to the presiding officer in the preparation of a hearing summary and to the governing body in its decision-making. The requirement of electronic recording is reasonable because such a method is permanent, all-inclusive and readily accessible. Also, electronic recording is part of routine operations for hearings conducted pursuant to the Administrative Procedure Act and should be used in this context as well.

Subpart 7. Summary of hearing. This subpart is necessary and reasonable in order to synthesize the hearing proceedings into a quick reference for the governing body. The official record will generally be lengthy and a digest of the testimony and written comments will be useful in guiding the decision-making of members of the governing body.

Subpart 8. Official resolution. This subpart is necessary because an official resolution is required by Minnesota Statutes, 268.53, subdivision 1a. It is reasonable to require that 30 days pass after the hearing date before a designation resolution can be entertained by a governing body. Thirty days is a reasonable amount of time in order for the governing body to review the official record and summary. In arriving at its decision to

designate or not, the governing body must have time to determine if the hearing record complies with items A through D. Item A is reasonable because the governing body should hear and be influenced by the opinion of the whole community potentially served by the designee as shown by the record. Item B is reasonable because the governing body should be particularly concerned with how the record reflected the opinion of low income people who are the potential consumers of the designee's services. Item C is reasonable because the governing body should be convinced of the designee's qualifications on the record before conferring designation. Item D is reasonable because the record should show how the designee intends to provide services and indicate the community's level of support for the designee's service delivery model.

Subpart 9. Review by department. This subpart is necessary because such a review is required by Minnesota Statutes, section 268.53, subdivision 1a. This subpart reasonably interprets the review to mean compliance with hearing procedures, and evidence of eligibility for designation.

Subpart 10. Costs. This subpart is necessary and reasonable to inform local governing bodies of the costs they will incur during the designation process. Minnesota Statutes, sections 3.981 to 3.983, 14.11 and 14.131 require state agencies to assess the financial impact of proposed rules on local government. It is reasonable for counties to assume the financial obligation for exercising their right of designation. The fiscal impact on local government should be minimal for several reasons. First, the entire state is already covered by designated CAAs so there will be no immediate designation costs. Second, even when designation occurs in the future, the costs involved concern only those associated with announcing and holding public meetings. Third, the State of Minnesota has assumed the greater cost burden under the rules by paying for contested case hearings under part 3350.0060.

3350.0040 RECOGNITION OF COMMUNITY ACTION AGENCIES

Subpart 1. Provisional recognition. This subpart is necessary and reasonable in order to ensure that a designation complies with threshold legal requirements. Such legal compliance is a prerequisite of the governor's recognition. The governor must be assured by the department that minimum legal requirements have been met before deciding whether or not to extend recognition.

Subpart 2. Governor's recognition. This subpart is necessary because the authority for recognition is vested with the governor by Minnesota Statutes, section 268.53, subdivision 1a. This subpart reasonably informs designees, political subdivisions and the general public of the governor's authority in this area.

Subpart 3. Maintenance of recognition. This subpart is necessary to inform CAAs that meeting recognition requirements is on-going

and continuous in order to preserve CAA status. Since these requirements do not go away after recognition is achieved, CAAs should be made aware of their continuing responsibilities. Furthermore, additional requirements beyond threshold legalities are included in this subpart because they address the vitality and business regularity of a CAA and indicate its organizational health, direction and operations. These additional requirements are contained in items D, E and F and can only be addressed after a CAA has been active and operational.

Subpart 4. Failure to maintain recognition. This subpart is necessary to establish sanctions for not observing the requirements of recognition. This subpart notifies CAAs that efforts must be taken to preserve recognition once it is achieved. This subpart reasonably provides for a period of withholding so that a CAA may take corrective action prior to termination of recognition. However, if a CAA has not complied with recognition requirements after both withholding and termination of funding this subpart provides for the withdrawal of recognition and all future funding. The requirements for recognition are of such special significance and are so integral to a CAA's structure and operations that failure to maintain these requirements justifies extreme sanctions.

3350.0050 CESSATION AND CHANGE OF DESIGNATION

Subpart 1. Circumstances for cessation. This proposed subpart recognizes that a CAA may need to voluntarily suspend all the services it delivers. This subpart also establishes that there can be no partial cessation. If partial cessation were permissible, a CAA could pick and choose where to operate in a service area and perform its services only where it saw fit. Service delivery for a community would then become arbitrary and uneven.

Subpart 2. Priority among possible designees. This subpart is necessary in order to achieve an orderly transition after cessation has occurred. This subpart reasonably adopts the priority criteria for nominating designees which were formerly established in section 673, subsection (1) of the CSBG Act. These federal regulations no longer govern the selection of new CAAs but have history, experience and acceptance to recommend them.

Subpart 3. Procedure. This subpart reasonably adopts the regular designation procedure as the one to be followed after a CAA's cessation. Adoption of the existing procedure promotes uniformity and minimizes confusion. Requiring a transition plan for interim service delivery is necessary to ensure that there is no disruption of program services. In the normal course of events, the CAA will continue to provide services until a designee is recognized and designated although circumstances may permit a designee or an agency other than the designee to operate if the approved transition plan so specifies. This subpart reasonably requires that more organizations be notified of the cessation than is

required in the regular designation procedure. This additional notice to other CAAs and to subgrantees is justified because of the large vested interest such organizations would have in the transition from one CAA to another.

Subpart 4. Additional review by the department. This subpart is necessary because cessation cannot be allowed if it means a disruption of services to the community. A CAA should have the option of ceasing program operations but, having become designated and recognized a CAA owes continuity of service to the community it has served until it is replaced by a successor. The people in the community should not be inconvenienced or harmed by the voluntary choice of a CAA. Therefore, this subpart reasonably provides that an approved transition plan is a prerequisite for proceeding to designation and to recognition by the governor.

3350.0060 TERMINATION FOR CAUSE

Subpart 1. Cause. This subpart is necessary in order to specify the grounds for termination. The grounds include generally recognized infractions such as harm of clients and willful contract violation. The grounds also include reasons specific to this program such as unresponsiveness to low income people, failure to remedy short and long term defects, and noncompliance with application requirements. Exhibit A is a chart showing what violations constitute cause, who may initiate termination proceedings, what step, if any, precedes imposition of complete sanctions and which sanctions correspond with particular types of violations. See Exhibit A.

Subpart 2. Termination by governing body. This subpart is necessary in order to provide a governing body with a mechanism for terminating the designation of a dangerous or unresponsive CAA. Authority over designation belongs to a governing body. Therefore, this subpart reasonably limits the grounds for termination of designation to those areas within the governing body's control and purview. This subpart specifies a due process procedure for CAAs aggrieved by a termination of designation. Due to data privacy considerations, the department is responsible for notifying low income households in the service area of the governing body's termination. Provision for a transition plan is reasonably included in the procedure to forestall disruption of program services.

Subpart 3. Termination by the department. This subpart is necessary in order to provide a mechanism for terminating the recognition and funding of a CAA where the circumstances warrant. Responsibility for recognition and funding resides with the department. The department, therefore, should have flexibility in exercising its responsibility according to the situation. This subpart gives the department options concerning termination. One option is for the department to terminate funding and recognition

immediately if the cause is extreme; this option is only available where the CAA is imminently endangering the community or willfully violating its contract with the department. Another option is for the department to first withhold and then terminate funding for a specific period; this option is required for those elements which are specific to this program such as failing to submit reports, failing to maintain recognition, etc. This subpart reasonably gives the department more grounds for terminating a CAA than a governing body because the department's areas of responsibility are broader. However, this subpart reasonably prohibits the department from acting on a petition for termination because a preliminary determination of unresponsiveness should be a local rather than a state matter. This subpart specifies a due process procedure for CAAs aggrieved by a termination of recognition or funding or both. The department is responsible for notifying low income households in the service area of the termination in order to increase their awareness of and participation in the termination process.

Subpart 4. Petition for termination. This subpart is necessary in order to provide low income people with a means to redress grievances and to initiate the removal of an unresponsive CAA. This subpart reasonably adopts, in a modified version, the former procedure at Title 45, Code of Federal Regulations, Part 1060.1-3 (b), for addressing client complaints against a CAA for unresponsiveness. It is reasonable to provide low income people with a means of removing unresponsive CAAs given the purpose and legislative history of the community action program. The community action program was intended to empower low income people and remove the barriers to self-sufficiency. Therefore, if the CAA itself has become a barrier low income people should have an available mechanism for initiating its termination.

Subpart 5. Appeal procedure. This subpart is necessary in order to inform the department that a CAA intends to appeal a notice of termination. A 30-day period in which to exercise the right of appeal is reasonable since that is ample time for a CAA to organize and compile facts and issues relevant to an appeal. A deadline for exercising the right of appeal is necessary so that contested case issues may be addressed in a timely fashion. It is reasonable that the request for a contested case hearing be in writing so that a record may be retained. This subpart conforms the appeal procedure to the Administrative Procedures Act and its adopted rules. This subpart clarifies that the department is potentially an interested party in any termination action commenced by a governing body. Therefore, the department should specifically have the right to present relevant evidence during the proceedings to terminate designation. By permitting this option to intervene the department may immediately terminate funding as well as recognition if it is persuaded that termination is warranted. Otherwise, the department would not normally terminate a CAA's funding until a governing body prevailed against a CAA in the contested case hearing.

Subpart 6. Federal appeal rights. This subpart is necessary and reasonable in order to inform CAAs of their rights to a federal review of a termination of funding under Section 676A of the CSBG Act. This section of the CSBG Act permits funding termination of a CAA if "after notice and opportunity for hearing on the record, the State determines that cause existed for such termination subject to review by the Secretary [of Health and Human Services]."

Subpart 7. Successor. This subpart is necessary and reasonable in order to make clear that once termination occurs an interim agency must be appointed to continue community action program services. The successor may or may not also be the ultimate designee. This subpart establishes that the priority guidelines for choosing among designees after cessation are also applicable after a termination. Furthermore, this subpart establishes that a successor which is also the designee must follow the regular designation procedures in order to become a CAA.

Subpart 8. Costs. This subpart is necessary in order to assign responsibility for the costs of the hearings described in this part. This subpart splits these costs between the department and governing bodies depending on the type of hearing involved. As the final authority for the functioning of the community action program it is reasonable that the department pay for contested case hearings. Contested case hearings are the forum for determining the validity of alleged CAA infractions. Through the contested case procedures the department can monitor the program on a case-by-case basis. As the entities at the local level it is reasonable that governing bodies are in a better position to determine if a CAA is or is not responsive to low income people. Thus, governing bodies should pay the costs associated with the type of public hearing resulting from a petition for termination.

3350.0070 ALLOCATION OF FUNDS

Subpart 1. Formula. This subpart is necessary and reasonable in order to refer to the statutory allocation process at Minnesota Statutes, section 268.52, subdivision 2.

Subpart 2. Poverty level population. This subpart is necessary and reasonable to refer to the provision at Minnesota Statutes, section 268.52, subdivision 4. It is reasonable to use for purposes of defining this term the numbers contained in the U.S. Bureau of the Census' Current Population Reports since they are routinely collected every five years.

3350.0080 MONTHLY, PERIODIC AND FINAL REPORTS

This part is necessary in order to document levels of activity and expenditure by CAAs. As a function of its oversight responsibility the department must be assured that programs are operating smoothly and competently and must be made aware of a CAA's financial

circumstances. Furthermore, the department is required to report to the U.S. Department of Health and Human Services concerning the overall activities of federally funded community action programs in Minnesota and must have current and accurate information from CAAs in order to meet federal reporting mandates. The reports required in this part are those required in the past and which have proven their effectiveness and are used as the basis for generating federal reports.

3350.0090 DUE DATES FOR MONTHLY, PERIODIC AND FINAL REPORTS

This part is necessary in order to fix deadlines for submission by CAAs of the three types of reports to the department. The department must have CAA data and documentation in a timely fashion to meet federal reporting deadlines. The 30 day deadline for periodic reports allows CAAs a reasonable time to collect and tabulate extensive client and fiscal data from a three month period. The 30 day deadline for final reports is a reasonable time for CAAs to distill from the periodic reports the data summarizing the program year and also permits the department to meet its reporting deadlines at the federal level. The ten day deadline is reasonable for monthly reports because the amount of data to be generated is less than periodic or final reports. A five day grace period after deadlines for the three reports reasonably allows CAAs some additional time as a cushion before the department may proceed to withhold funds.

3350.0100 WITHHOLDING OF CASH DISBURSEMENTS

Subpart 1. Circumstances for withholding. This subpart is necessary and reasonable because it introduces the subject matter of this part and lists the defects by a CAA which may trigger the reservation of funds by the department. This mechanism for reserving funds is necessary so that the department has the ability to compel compliance with administrative requirements without resorting to the drastic and permanent remedy of termination. Administrative flexibility is necessary in this area or otherwise the department would be forced to terminate funding for minor, short term infractions. Item A is reasonable as a basis for withholding funds because the department needs financial reports submitted in a timely manner in order to satisfy federal reporting requirements. Item B is reasonable because approval of annual applications is conditioned on CAAs following submitted budgets and work plans. Item C is a reasonable basis for withholding because CAAs are bound to follow the terms of their contracts and where they do not violate their contracts willfully there should nonetheless be a means of compelling contract performance. Item D is reasonable because maintenance of recognition is a prerequisite for continued funding by the department and withholding is a way of compelling compliance with recognition requirements without resorting to termination.

Subpart 2. Notice, conversion option and termination. This part is necessary to inform CAAs of the procedures involved in the withholding of cash disbursements. This part reasonably provides that the department must notify a CAA of a pending withholding of cash. The notice is structured in such a way as to give a CAA the opportunity to remedy the identified defect before actual withholding occurs. Ten working days have been allotted for this purpose, which is a sufficient time for correcting most defects. Withholding can occur for up to 90 days before becoming a funding termination. This short term period of 90 days allows ample time for a CAA to correct even major defects without suffering permanent de-funding. During the 90 days a CAA may choose to convert the withholding into a termination so it may exercise its appeal rights and receive a hearing before an administrative law judge. If a CAA does not convert the withholding to a termination or cure the defect during the 90 days the department will terminate funding. In this way the allegations will be settled and the issues rescued from administrative limbo. The CAA may cure the defect, acquiesce to the validity of the allegations or request a hearing be held on the department's allegations. After a period of funding termination the sanctions for ignoring a defect escalate, depending on the nature of the defect, to denial of the CAA's subsequent applications or termination of its recognition. The escalating sanctions are designed to compel compliance and if compliance is not forthcoming the department will not fund the miscreant.

3350.0110 PROGRAM GUIDELINES AND ELIGIBLE ACTIVITIES

Subpart 1. Program guidelines. This subpart is necessary to interpret the intent of Minnesota Statutes, section 268.54. The four items in this subpart can reasonably be inferred from section 268.54.

Subpart 2. Eligible grant activities. This subpart is necessary and reasonable because it re-states the criteria of Section 675, subsection (c), clause 1, of the CSBG Act. For consistency, this subpart reasonably adopts the federal criteria for both MEOG and CSBG funded activities.

Subpart 3. Federal prohibitions. This subpart is necessary and reasonable because they are referenced in Section 675, subsection (c), clause 2, of the CSBG Act as being a part of the State Plan submitted to the Secretary of Health and Human Services. CAAs should be reminded in these rules of the existence of federal prohibitions to guard against using CSBG funds for prohibited activities.

3350.0120 PARTICIPATION BY LOW INCOME PERSONS

This part is necessary because Minnesota Statutes, section 268.53, subdivision 5, paragraph (d), mandates that each CAA establish ways for low income people to shape the character of community action

programs and the means for carrying out the programs. This part reasonably interprets the statutory mandate to mean that low income people should have input into the generalized planning and evaluating of community action programs and the annual work plan and evaluation report. Input into planning and evaluation are the two most effective ways for low income people to influence community action programs and therefore, to fully participate in the direction and operation of the programs.

3350.0130 LOCAL PLANNING PROCESS

This part is necessary and reasonable because Minnesota Statutes, section 268.53, subdivision 5, paragraph (a), mandates that each CAA plan its community action programs to enhance their maximum effectiveness. Furthermore, the narrative describing a CAA's planning process is necessary in order to guide each year's work plan, which is submitted as part of the application process in part 3350.0170, subpart 1. The planning process is so important to the viability of CAAs that the process has been included as a requirement for maintaining recognition in part 3350.0040, subpart 3, item F. The planning process contemplated in this part is a structure for shaping each CAA's vision of its service delivery system. The structure outlined in items A through H proceeds from the general to the specific. The planning process will help a CAA to map out a strategy of action based on the needs and goals identified in the service area. The planning process is open-ended enough to accommodate the local situation in which each CAA operates. Also, the sequential nature of the process should produce very tangible and practical results if the process is followed to its conclusion.

3350.0140 EVALUATION PROCESS

This part is necessary and reasonable as a self-correcting mechanism incorporated into the planning process to assess actual programmatic results. Once planning has occurred it is reasonable to assess if the planning has achieved the desired effects and, if not, what changes should be made in the planning process as well as in its implementation. The evaluation process has been included as a requirement for maintaining recognition in part 3350.0040, subpart 3, item F, because of its central importance in improving a CAA's performance. It is reasonable to require that a narrative describing the evaluation process be written by each CAA with the active involvement of the CAA's board of directors. A definite written narrative can be readily available as a guide for enhancing CAA performance. A written narrative needs the support of the board of directors in order to become and remain a vital document.

3350.0150 ANNUAL EVALUATION REPORT

This part is necessary and reasonable in order to assess annually the impact and results of program services. The annual report can

be useful in influencing the work plan for the subsequent year. It is reasonable to allow a CAA until December 30 following the close of the state fiscal year to submit the report. This allows a CAA the reasonable time of six months to perform a thorough evaluation. By December 30 of each year a CAA will have submitted its annual application and its monthly, periodic and final reports so there should be ample time to complete an evaluation report. While the audit is also due December 30 its focus on assessing past financial performance is very compatible with the aims of a program evaluation. A grace period of five days is reasonable considering that ample time for completing the report is provided after the close of the state fiscal year. In this situation, withholding is a reasonable sanction because the CAA can correct the situation by submitting a complete and complying report.

3350.0160 ADMINISTRATION OF GRANTS

Subpart 1. Grantee financial control system. This subpart is necessary because the federal Office of Management and Budget (OMB) in its Circular A-102 requires states who receive federal funds as grantees to submit Financial Status Reports. It is reasonable, in turn, to require state grantees to submit such reports to the department. Without these reports from its grantees, the department cannot comply with federal requirements. The federal requirements have been summarized in the DJT Subgrantee Administrative Requirements No. 1, as revised.

Subpart 2. Grantee audit. This subpart is necessary because OMB Circular A-110, Attachment F, requires states who receive federal funds as grantees to perform financial audits. It is reasonable, in turn, to require state grantees to perform and submit their own audits to the department. Without these audits from its grantees, the department cannot comply with federal requirements. Furthermore, OMB Circular A-102 requires state agencies granting federal assistance of $25,000 or more in a fiscal year to a state grantee to require the state grantee to perform audits in accordance with the Single Audit Act of 1984 and the OMB Circular A-128, "Audits of State and Local Governments."

Subpart 3. Alterations. This subpart is necessary in order to accommodate mid-course changes in a CAA's submitted work plan and budget. This subpart reasonably provides that these changes must first be approved by the department before implementation. Once an application has been approved, a CAA should not be permitted to make unilateral changes to a work plan and budget. Work plans and budgets are the product of mutual agreement and should only be altered where both a CAA and the department agree to the changes.

3350.0170 GRANT APPLICATIONS

Subpart 1. Forms and documents. This subpart is necessary so that CAAs are aware of their responsibilities in the annual

application process. It is reasonable to require CAAs to submit their annual work plans and budgets as part of the application process since both documents give a clear indication of program direction in the forthcoming year.

Subpart 2. Grant application deadlines. This subpart is necessary and reasonable in order for the department to anticipate and plan subsequent funding cycles. The department must be informed of which CAAs are applying for funding and which ones are eligible for funding in order to reserve allocations. Deadlines also provide the department with the opportunity to annually review CAAs on their work plans, the relationship of their work plans to their budgets and their fiscal management capabilities.

Subpart 3. Waiver of application deadline. This subpart necessarily gives some administrative flexibility to meeting application deadlines. However, the circumstances for granting a waiver because of local need are very limited under this subpart. Local need means the occurrence of a catastrophe or a loss of a CAA's key staff. The circumstances for granting a deadline waiver are very limited given the generous 45 day grace period provided in subpart 5. Should the department deny the request for a deadline extension the CAA still has up to 45 days to submit an application before the department would deny the application for the coming program year. It is reasonable to require that the request for waiver be received by the department at least by the year-end deadline so that the department has timely notice of the CAA's intentions.

Subpart 4. Approval of application. This subpart is necessary and reasonable because it adds certainty to the application process by requiring the department's written response to a CAA. This subpart informs CAAs that cash requests under an approved application cannot be processed until a contract between the department and a CAA has been validated by the Department of Finance.

Subpart 5. Late, incomplete or noncomplying application. This subpart is necessary and reasonable because it establishes "grace periods" for the submission of annual applications. While there is an administrative necessity for prompt submission of applications it is also reasonable to allow CAAs a time limited immunity from penalty. Forty five days from the deadline is a reasonable time to allow before denying an application. Forty five days will reasonably accommodate an applicant's difficulties in applying and will also fix an absolute time limit for applying. Incomplete or noncomplying applications are a more complicated situation and require more flexibility. Since applicants must first be notified by the department that their applications are incomplete or noncomplying the grace period should be able to extend beyond 45 days if the department's notification is not timely. Therefore, this subpart reasonably ties the length of the grace period to 30

days beyond the date of department notification or 45 days whichever is most favorable to the applicant.

Subpart 6. Denial of application. This subpart is necessary and reasonable in order to describe the circumstances under which an application may be denied. There are four items under this subpart. Item A concerns late applications which have not been submitted by CAAs who are eligible for funding. Item B concerns submitted applications which need supplementation or correction before they may be approved. Item C contains subitems which describe some examples of noncompliance. These subitems focus on the adequacy of the work plan and its relation to the budget and on the applicant's fiscal management capability because these crucial elements need examination by the department annually. Item D addresses situations where an applicant has not corrected a previously identified and on-going defect. Failure to correct such a defect results in the rejection of a proposed application. If the continuing defect concerns matters relating to recognition an application will be rejected and all future funding and recognition itself will be terminated.

3350.0180 SUBGRANTEES

This part is necessary and reasonable because Minnesota Statutes, section 268.54, subdivision 3, permits a CAA to delegate its service duties to other entities. However, this part highlights reasonable limits on a CAA's power to delegate. First, the CAA must have the department's written permission before delegating its duties so that the department has notice of which entity has responsibility for which service. Second, the CAA must have a contract with the subgrantee so that each party knows the extent of the subgrantee's responsibilities and the subgrantee is legally bound to perform them. Third, the CAA must be made aware of its liability for the acts and omissions of its subgrantees under the law of agency.

3350.0190 RECORD KEEPING

This part is necessary and reasonable in order for the department to comply with federal requirements for the retention of records associated with CSBG grants.

3350.0200 MONITORING

This part is necessary and reasonable in order to inform CAAs of the department's oversight function. This monitoring schedule conforms to the department's policies and procedures manual applicable to all departmental grantees for all programs.

SMALL BUSINESS CONSIDERATIONS IN RULEMAKING

When proposing rules, an agency must consider methods for reducing the impact of the proposed rules on small businesses potentially affected. The vast majority of CAAs are small business as defined in Minnesota Statutes, section 645.445. The department has considered each of the five methods listed in section 14.115, subdivision 2, clauses (a) to (e).

The first method at clause (a) refers to establishing less stringent compliance or reporting requirements for small businesses. The compliance requirements as regards CAAs are unavoidable given the statutory objectives of determining eligible entities to be designated and recognized as CAAs and maintaining the eligibility of designated and recognized CAAs. Furthermore, the proposed rules must necessarily impose reporting requirements on CAAs as small businesses in order to monitor budgets and work plans,and to meet federal mandates.

The second method is contained in clause (b). The department is required to assess the possibility of establishing less stringent schedules or deadlines for compliance or reporting requirements for small businesses. The proposed rules will, in general, retain the same deadlines as is the current practice, although "grace periods" beyond the deadlines are a new feature of these rules. The deadlines are necessary to meet the statutory mandates for reporting and to promote timely administration of the program. There is no compelling basis for exempting CAAs as small businesses from deadlines that will ensure these statutory and programmatic objectives.

The third method at clause (c) requires consideration of a consolidation or simplification of compliance or reporting requirements for small businesses. The compliance requirements are already familiar to most CAAs and CAAs are aware of the need for these requirements. Compliance is necessary for uniform administration of the program and there is no compelling reason to simplify or consolidate just because the vast majority of CAAs are small businesses.

The fourth method at clause (d) is the establishment of performance standards for small businesses to replace design or operational standards. Since there are no design or operational standards contemplated by these rules, this method does not apply.

The fifth method at clause (e) requires the department to consider exempting CAAs as small businesses from any or all requirements of these proposed rules. For all the reasons previously discussed, this is not feasible.

CONCLUSION

The Department of Jobs and Training recommends the adoption of these proposed rules.

1-27-91

Date

Frank Schneider

Frank Schneider
Acting Director
Economic Opportunity Office
Department of Jobs and
Training

Department of Jobs and Training

Proposed Permanent Rules Governing Designation and Recognition of Community Action Agencies and Granting of Funds for Community Action Programs

Rules as Proposed (all new material)

3350.0010 PURPOSE.

Parts 3350.0010 to 3350.0200 establish procedures for the designation and recognition of community action agencies, and for the granting of CSBG and MEOG funds for community action programs. Programs eligible for funding are those operated by agencies which receive and maintain both designation and recognition.

3350.0020 DEFINITIONS.

Subpart 1. **Scope.** As used in parts 3350.0010 to 3350.0200, the following terms have the meanings given them.

Subp. 2. **Act.** "Act" means Minnesota Statutes, sections 268.52 to 268.54, as amended.

Subp. 3. **Applicant.** "Applicant" means a community action agency, including an Indian reservation government or the Minnesota Migrant Council, which applies annually for a grant under the act from the department to fund a community action program.

Subp. 4. **Cessation.** "Cessation" means a voluntary end to the performance of all community action program services by a community action agency in a service area as provided for in part 3350.0050 and the removal of the agency's designation for the entire area which does not create the right of appeal.

Subp. 5. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Jobs and Training.

Subp. 6. **Community.** "Community" means the people to be served by the community action agency in its service area.

Subp. 7. **Community action agency (CAA).** "Community action agency" or "CAA" means an entity which:

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A. has the authority to receive funds under Minnesota Statutes, section 268.52, to support community action programs as described in Minnesota Statutes, section 268.54;

B. has previously been determined eligible under federal law and regulations or is eligible under federal law and regulations; and

C. has previously been designated and recognized or is designated as provided under part 3350.0030 and recognized as provided under part 3350.0040.

Subp. 8. **Community action program.** "Community action program" means activities consistent with the objectives of Minnesota Statutes, section 268.54.

Subp. 9. **Community services block grant (CSBG).** "Community services block grant" or "CSBG" means federal funds authorized by Public Law Number 97-35, title 6, subtitle B, as amended, and disbursed to CAAs by the formula in the act.

Subp. 10. **Denial.** "Denial" means the department's rejection of a proposed application for grant funds due to the applicant's failure to meet the requirements of part 3350.0170, subpart 6.

Subp. 11. **Department.** "Department" means the Minnesota Department of Jobs and Training.

Subp. 12. **Designation.** "Designation" means selection of an entity as a service area's exclusive CAA by a governing body after a public hearing has been held.

Subp. 13. **Designee.** "Designee" means an entity nominated by a governing body to become a CAA.

Subp. 14. **Governing body.** "Governing body" means the elected governmental authority of a political subdivision, as defined at subpart 18, which has the power to designate a CAA.

Subp. 15. **Grant.** "Grant" means an allocation of Minnesota economic opportunity grant or CSBG funds or both to an applicant in support of a community action program described in the application, approved by the department, and embodied in a contract.

Subp. 16. **Grantee.** "Grantee" means any CAA, including an

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Indian reservation government or the Minnesota Migrant Council, whose application to receive Minnesota economic opportunity grant money or CSBG money or both has been approved by the department.

Subp. 17. **Local unit of government.** "Local unit of government" means counties, Indian reservation governments, cities, and townships.

Subp. 18. **Minnesota economic opportunity grant (MEOG).** "Minnesota economic opportunity grant" or "MEOG" means state appropriated funds disbursed to grantees by the formula in the act.

Subp. 19. **Political subdivision.** "Political subdivision" means a local unit of government which has jurisdiction over the entire area served by a CAA. Under no circumstances will the governmental unit be smaller than a county unless the service area of the CAA coincides with the jurisdictional boundaries of the local unit of government.

Subp. 20. **Recognition.** "Recognition" means a process of:

A. review by the department to assure compliance with applicable state and federal law and the designation procedures as provided at part 3350.0040, subpart 1;

B. referral to the governor of the department's request for recognition as provided at part 3350.0040, subpart 3; and

C. approval by the governor of the request for recognition.

Subp. 21. **Service area.** "Service area" means the geographic boundaries in which a community action agency is designated to operate.

Subp. 22. **Subgrantee.** "Subgrantee" means any entity with which a grantee contracts to perform some or all of the community action program services authorized under a grant.

Subp. 23. **Termination.** "Termination" means the involuntary and permanent elimination of or reduction in available grant money to a CAA which gives rise to a CAA's right of appeal under part 3350.0060, subpart 5, and which may also

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coincide with the removal of a CAA's designation or recognition.

Subp. 24. **Withholding.** "Withholding" means the department's reservation of funds available under an approved application as provided in part 3350.0100 until corrective action by a CAA has successfully remedied a defect identified by the department.

3350.0030 DESIGNATION OF COMMUNITY ACTION AGENCIES.

Subpart 1. **Authority to designate.** The designation of a CAA is made by the political subdivision or combination of political subdivisions having jurisdiction over the entire area to be served. A designation must be made by the governing body of a political subdivision whose boundaries are at least coextensive with the proposed service area. The power to designate may not be delegated.

Subp. 2. **Notice and documents.** Before a designee may be designated as a CAA by a political subdivision, the governing body of the political subdivision having the requisite authority must prepare and file with the department a notice of intent to designate and eligibility documents applicable to the designee. The notice of intent to designate must state how the designee meets the requirements for an eligible entity established under the CSBG act. Eligibility documents are the following:

A. evidence of designee's incorporation or proposed efforts toward incorporation, if applicable;

B. evidence of tax exempt status or proposed efforts toward achieving tax exempt status, if applicable;

C. assurance of compliance with the act, including requirements for the composition of the designee's existing or proposed board of directors;

D. a detailed map of all geographic areas and political subdivisions in the proposed service area as well as all immediately adjacent areas and subdivisions in the same county or counties which are excluded from the proposed area to be served; and

E. a proposed mission statement.

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Subp. 3. **Notice of public hearing.** After the notice of intent to designate and the eligibility documents have been filed with the department, the governing body must hold a public hearing on the proposed designation. At least 30 calendar days before the hearing date, the governing body must send a copy of the notice of intent to designate and information on the date, time, location, and subject matter of the public hearing to all local units of government within the designee's intended service area. During the 30 days before the hearing, the affected local units of government will have an opportunity to respond in writing to the proposed designation. All comments received will be included in the official record of the hearing. During the 30-day period and at least ten calendar days before the hearing, the governing body must also publish a notice of public hearing in a daily newspaper of general circulation at the county seat of each county in the designee's proposed service area. The published notice must describe the time, date, location, and subject matter of the public hearing. Furthermore, within the 30-day period and at least ten calendar days before the public hearing, low income households identified in the proposed service area must be mailed information on the date, time, location, and subject matter of the public hearing. The governing body will inform the department of the public hearing at least 30 calendar days before the hearing date. The department will notify low income households identified in the proposed service area of the public hearing. Identified low income households are those specified on the previous CAA's list or lists of clients.

Subp. 4. **Public hearing.** A public hearing must be held 30 calendar days before designation may occur. If the area to be served by the designee includes more than one county, a public hearing in conformity with the procedures of this part must be held in each county to be served.

Subp. 5. **Hearing procedure.** The governing body will appoint a presiding officer to conduct the public hearing. The governing body, however, may not appoint one of its current

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members as the presiding officer. The presiding officer will not have a vested interest in the outcome of the proposed designation and will ensure that all persons involved in the hearing are treated fairly and impartially. At the public hearing the representative of the designee and a representative of the governing body will make an affirmative presentation of facts establishing the designee's qualifications, expertise, and experience in providing community action program services to low income people. Furthermore, the designee's representative will describe the mission of the community action program, the focus and direction of proposed services, and the goals for outreach to and participation by low income people. The designee may rely upon facts presented by others on the record during the hearing to support its proposed designation. At the hearing, any interested person will be given the opportunity to present testimony and to ask questions of the designee's representative and of the governing body's representative. Furthermore, any interested party may submit written comments or exhibits.

Subp. 6. **Official record.** An official record of the hearing consisting of electronic recording and minutes of the proceedings will be kept. The official record will also include all testimony, written comments, and exhibits received pertaining to the proposed designation. The hearing record will remain open to receive written comments and exhibits for 20 calendar days following the date of hearing.

Subp. 7. **Summary of hearing.** The presiding officer will prepare a summary of the testimony and written comments presented before, during, and after the public hearing. At a minimum, the summary will include a list of all persons who participated, including persons identified as representatives of organizations, and whether each person supported or opposed the proposed designation. The summary together with the entire official record must be submitted to the governing body for its review.

Subp. 8. **Official resolution.** Once the summary of the public hearing is received and 30 calendar days have passed from

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the date of the hearing the governing body may act to designate the designee as a CAA. The governing body will pass a resolution designating the designee as a CAA if after review of the summary and official record the governing body finds that:

A. the opinion of the community was fairly and impartially expressed;

B. the opinion of low income people in particular was actively encouraged, representatively sampled, and fairly expressed during the whole process;

C. the designee established the qualifications, expertise, and experience necessary to be an effective CAA; and

D. the designee's proposed mission, services, and goals were supported by testimony and written comments received as a result of the public hearing process.

Subp. 9. **Review by department.** Before provisional recognition can occur in part 3350.0040, subpart 1, the governing body must have submitted to the department for review copies of the following documents:

A. eligibility documents required in part 3350.0030, subpart 2;

B. official resolution of the governing body designating the designee;

C. notices of public hearing and a list of all publications and dates of publication of notices of hearing;

D. list of all local units of government sent copies of the notice of intent to designate and the notice of public hearing, including any responses received;

E. affidavit of service of the notice of public hearing upon low income households identified in the service area; and

F. official hearing record and summary of the hearing.

Subp. 10. **Costs.** All costs attributable to the designation process, including all costs associated with public hearings other than contested case hearings, are the responsibility of the governing body.

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3350.0040 RECOGNITION OF COMMUNITY ACTION AGENCIES.

Subpart 1. **Provisional recognition.** The department will provisionally recognize a designation if the department establishes compliance with applicable state law, federal law, all the designation requirements of part 3350.0030, and, where applicable, with the change of designation requirements of part 3350.0050. Provisional recognition can occur within 60 calendar days of the department's receipt of the documents required in part 3350.0030, subpart 8, an approved transition plan, where applicable, as specified in part 3350.0050, subpart 4, and the most current copies of the following:

A. articles of incorporation and bylaws;

B. Internal Revenue Service certificate of 501(c)(3) tax exempt status and Minnesota Department of Revenue certificate of tax exempt status where applicable to nonprofit CAAs; and

C. list of board of directors which indicates officers and committee memberships, tenure on the board, and the sector each director represents as required by the act.

If the department finds noncompliance it will inform both the governing body and the designee within the 60-day period and, if possible, offer remedies for achieving compliance.

Subp. 2. **Governor's recognition.** After the department has provisionally recognized a designation and where applicable requirements in subpart 1 have been met, the department will request recognition by the governor.

Subp. 3. **Maintenance of recognition.** To maintain recognition, a CAA must by June 30 of each year ensure that the department has the most current copies of the following:

A. articles of incorporation with any amendments and bylaws with any amendments;

B. Internal Revenue Service certificate of 501(c)(3) tax exempt status and Minnesota Department of Revenue certificate of tax exempt status where applicable to nonprofit CAAs;

C. list of board of directors which indicates

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officers and committee memberships, tenure on the board, and the sector each director represents as required by the act;

D. board minutes of the past year and latest annual corporate report;

E. organizational chart, personnel policies, data privacy policies, affirmative action plan, voter registration plan, and client service appeals policy; and

F. narratives of the planning process and evaluation process described in parts 3350.0130 and 3350.0140, respectively.

Subp. 4. **Failure to maintain recognition.** The department may proceed to withhold available funds under part 3350.0100, subpart 1, item D, where a CAA fails to maintain its recognition under this part. If, following periods of both withholding and funding termination under part 3350.0100, subpart 2, the CAA has still not successfully complied with all of the requirements in subpart 3, the department will terminate the CAA's recognition and all future funding under part 3350.0060, subpart 3, item C or F.

3350.0050 CESSATION AND CHANGE OF DESIGNATION.

Subpart 1. **Circumstances for cessation.** A governing body may change its designation of a CAA to serve the area under its jurisdiction after a request to cease all community action program operation in the entire area has been received from the designated CAA.

Subp. 2. **Priority among possible designees.** A governing body may choose a designee under this part, in descending order of priority, by:

A. requesting an existing CAA which is located and is providing services in a contiguous area to expand its program operations into the service area;

B. if no existing CAA in a contiguous area agrees to expand its operations, requesting an existing CAA closest to the service area or an existing CAA within reasonable proximity to the service area to expand its program operations into the service area; and

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C. where no CAA accepts the request to operate in the service area nominating any entity eligible or potentially eligible to be designated under federal law and regulations and to be recognized under part 3350.0040.

Subp. 3. **Procedure.** The governing body must follow the procedure provided in part 3350.0030 in order to change designation and must also prepare a transition plan for continuation of community action program services. The governing body must submit the transition plan to the department simultaneously with the notice of intent to designate. In addition to the notice requirements in part 3350.0030, subpart 3, the governing body must also serve copies of the notice of intent to designate and the notice of public hearing upon any existing CAA concurrently operating in the same political subdivision and all subgrantees directly affected by cessation and change of designation, in the service area. Upon request, copies of the designee's eligibility documents and the transition plan must be made available by the governing body to any interested party.

Subp. 4. **Additional review by the department.** In addition to the review requirements in part 3350.0030, subpart 8, the department must also review the transition plan for service delivery in the interim before the governor's recognition as provided in part 3350.0040, subpart 2. The department has 30 calendar days from the date of receipt of the transition plan to either approve or disapprove of the plan. If the transition plan is not approved, the governing body may not proceed to designate a CAA under the procedure of part 3350.0030. Without an approved transition plan in operation, the department will not forward to the governor a request for recognition as provided in part 3350.0040. If the transition plan is not approved, the governing body may submit a subsequent transition plan consistent with the department's comments. Along with the transition plan the department must also receive evidence of service of additional notice on interested parties as required in subpart 3.

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3350.0060 TERMINATION FOR CAUSE.

Subpart 1. **Cause.** A CAA's funding, as well as its designation or recognition, will be terminated for cause. There may be multiple causes which apply. Termination for cause includes the following:

A. actions threatening imminent danger to health or safety of members of the community;

B. unresponsiveness to service needs of low income people or hindrance of participation by low income people as provided in subpart 4;

C. willful violation of contract by the CAA;

D. failure to remedy a short-term defect after withholding as provided in part 3350.0100, subpart 2;

E. failure to remedy a long-term defect after funding termination as provided in part 3350.0100, subpart 2; or

F. denial of an application as provided in part 3350.0170, subpart 6.

Subp. 2. **Termination by governing body.** After notification to the department, a governing body may terminate for cause a CAA's designation. However, a governing body may only terminate a CAA's designation under subpart 1, item A or B. If a CAA's designation is terminated and the CAA's appeal rights have also been exhausted, funding must be terminated by the department. Where the department intervenes as a party in a contested case concerning termination of designation, funding by the department may be immediately terminated. After adopting termination as official action, the governing body must serve the notice of termination upon the CAA to be terminated. The notice must specifically explain the cause for the termination of designation and how funding may be affected. Included with the notice of termination must be a description of the CAA's appeal rights as provided for in subpart 5. The governing body must also send to the department a copy of the notice of termination. Upon request from the department, the CAA must provide its current list or lists of identified low income

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households to the department. Identified low income households are those specified on the CAA's list or lists of clients. The department will notify identified low income households of the termination. With the copy of the notice of termination the governing body may also submit to the department a transition plan for phasing out currently provided services and for substituting services in the interim until a successor CAA is recognized. The department must approve the plan as well as the interim agency providing community action program services. If the governing body has not submitted a transition plan with the copy of the notice of termination, it must do so by the close of any contested case hearing that may be held. If no contested case hearing is held, the governing body must submit the transition plan to the department at least simultaneously with the notice of intent to designate a successor CAA.

Subp. 3. **Termination by the department.** The department may terminate for cause a CAA's funding or recognition or both. However, the department may not terminate a CAA's recognition or funding under subpart 1, item B. Wherever appropriate, the department will proceed to withholding under part 3350.0100 before acting to terminate the funding or recognition of a CAA. However, where withholding is not an option, the department may proceed directly to termination under this part. Where termination concerns a CAA's funding the department may terminate all or part of current or future funding. If the department terminates all future funding, it must also terminate a CAA's recognition. Similarly, if the department terminates a CAA's recognition it must also terminate funding. The department must serve the notice of termination upon the CAA to be terminated. The notice of termination must specifically explain the cause for the termination and specify the type and degree of termination, including the effect on funding. Included with the notice of termination must be a description of the CAA's appeal rights as provided for in subpart 5. The department must also send to the governing body a copy of the notice of termination. Upon request from the department, the

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CAA must provide its current list or lists of identified low income households to the department. Identified low income households are those specified on the CAA's list or lists of clients. The department will notify identified low income households of the termination.

Subp. 4. **Petition for termination.** If a petition requesting termination is received from the community containing at least 1,000 names with addresses, the governing body must hold a public hearing to consider termination of a CAA's designation. The persons signing the petition must reside both within the CAA's service area and within the jurisdictional boundaries of the governing body's political subdivision. The following are the causes for termination under this subpart:

A. the CAA's community action program is incompetent and ineffective in meeting the service needs of the low income people in the service area; or

B. the CAA is discouraging the participation of low income people by:

(1) preventing adequate representation by low income people on the CAA's board of directors;

(2) refusing consistently to consider the funding of activities proposed by low income people; or

(3) obstructing systematically the ability of low income people to influence the character of program activities.

The purpose of the public hearing is to receive testimony and evidence concerning the CAA's purported incompetence and ineffectiveness or the CAA's alleged hindrance of low income people's participation. At least 30 calendar days before the hearing date, the governing body must inform all local units of government within the CAA's service area of the date, time, location, and subject matter of the public hearing. During the 30 days before the hearing, the affected local units of government will have an opportunity to respond in writing. All comments received will be available for the governing body's review. During the 30-day period and at least ten calendar days before the hearing, the governing body must also publish a

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notice of public hearing in a daily newspaper of general circulation of the county seat in the CAA's service area. The published notice must describe the time, date, location, and subject matter of the public hearing. Furthermore, within the 30-day period and at least ten calendar days before the public hearing, low income households identified in the CAA's service area must be mailed information on the date, time, location, and subject matter of the public hearing. The governing body will inform the department of the public hearing at least 30 calendar days before the hearing date. Upon request from the department, the CAA must provide its current list or lists of identified low income households to the department. Identified low income households are those specified on the CAA's list or lists of clients. The department will notify identified low income households of the date, time, location, and subject matter of the public hearing at least ten calendar days before the hearing date. If, following the public hearing, the governing body is persuaded that sufficient cause exists, as supported by convincing evidence, it may take official action to terminate the CAA's designation under subpart 2.

Subp. 5. **Appeal procedure.** If, after receipt of the notice of termination, a CAA is aggrieved, the CAA may request a contested case hearing from the department within 30 calendar days of the receipt of the notice. If the CAA's request for a contested case hearing is not received by the department during the 30-day period the CAA loses its right of appeal under this subpart. The request for a contested case hearing before an administrative law judge as provided in Minnesota Statutes, sections 14.57 to 14.62, must be in writing. The contested case hearing will be initiated and conducted according to parts 1400.5100 to 1400.8500. As provided for in part 1400.6200, the department will have the right to intervene as a party in a contested case hearing on termination of designation by a governing body.

Subp. 6. **Federal appeal rights.** Federal appeal rights may also exist for an aggrieved CAA under the CSBG act, Public Law

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Subp. 7. **Successor.** If a CAA's designation or recognition is terminated, the governing body will follow the priority guidelines in part 3350.0050, subpart 2, and the procedure in part 3350.0030 to designate a successor.

Subp. 8. **Costs.** Only costs directly attributable to the contested case hearing process in subpart 5 are the responsibility of the department. The costs associated with the procedure for termination provided for in subpart 4 are the responsibility of the governing body.

3350.0070 ALLOCATION OF FUNDS.

Subpart 1. **Formula.** The department will allocate funds under the act according to the formula in Minnesota Statutes, section 268.52, subdivision 2.

Subp. 2. **Poverty level population.** For purposes of the formula in subpart 1, the poverty level population will be based on Department of Commerce, Bureau of the Census, statistics, as revised.

3350.0080 MONTHLY, PERIODIC, AND FINAL REPORTS.

Each grantee receiving grant funds under the act will submit in a complete and accurate form the following:

A. periodic client and fiscal performance report to document both CSBG and MEOG funded activities;

B. monthly financial status report to substantiate cash requests; and

C. final financial status report to close-out the program year.

3350.0090 DUE DATES FOR MONTHLY, PERIODIC, AND FINAL REPORTS.

Each monthly report specified in part 3350.0080 is due ten calendar days after the end of the month. Each final status report specified in part 3350.0080 is due no later than 30 calendar days after the end of the program year. Each periodic report under part 3350.0080 is due 30 calendar days after the date specified in the CAA's contract. If monthly, periodic, or

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final reports are delinquent more than five calendar days from their due dates or, though submitted, remain incomplete or inaccurate more than five calendar days from their due dates, the department may proceed to withhold available funds from a CAA under part 3350.0100, subpart 1, item A.

3350.0100 WITHHOLDING OF CASH DISBURSEMENTS.

Subpart 1. **Circumstances for withholding.** The department will withhold cash disbursements available for drawdown under an approved application if a CAA is not:

A. complying with the reporting requirements of the grant as required by its contract with the department, including the timely submission of complete and accurate monthly, periodic, and final reports as required in part 3350.0080, of complete and accurate annual audits as required in part 3350.0160, subpart 2, and of complete and accurate annual evaluation reports as required in part 3350.0150;

B. following its submitted and approved work plan or budget or both;

C. fulfilling the terms of its contract; or

D. maintaining recognition as provided in part 3350.0040, subpart 3.

Subp. 2. **Notice, conversion option, and termination.** Before withholding cash disbursements, the department will notify the CAA of its defective action or omission, inform the CAA of potential withholding and specify a reasonable date by which corrective action should occur. The specified date must be at least ten working days from the date of the CAA's receipt of the notice of withholding. If the defect is not remedied satisfactorily by the date specified in the notice, the department will begin to withhold available funds after that date. During any time within 90 calendar days following the department's actual withholding of funds, the CAA may, at its option, convert the withholding to a termination under part 3350.0060, subpart 1, item D, with right to a contested case hearing. A CAA must request in writing both a conversion to

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termination and a contested case hearing. After receipt of a CAA's request for conversion to termination and contested case hearing, the department will initiate contested case proceedings as provided in Minnesota Statutes, sections 14.57 to 14.62. The department will also send the CAA a notice of termination and comply with the other procedural requirements of part 3350.0060, subpart 3. The department will terminate funding for the period of time between the date identified in the notice of withholding and the date on which the short-term defect is actually remedied. If the CAA has not exercised its right of conversion during 90 days of withholding and if the defect has not been remedied during 90 days of withholding, the department will proceed under part 3350.0060, subpart 1, item E, to terminate the CAA's available funding for a period covering the total of (1) the time during which funds have been withheld and (2) the time remaining before the subsequent June 30. The department will first issue a final notice ten calendar days before proceeding to termination under part 3350.0060. If following a period of funding termination for failure to remedy a long-term defect the CAA has still not successfully remedied the identified defect, the department will deny subsequent applications by the CAA under part 3350.0170, subpart 6, item D, until corrective action has occurred. However, if the defect constitutes failure to maintain recognition under subpart 1, item D, the department will proceed according to part 3350.0040, subpart 4.

3350.0110 PROGRAM GUIDELINES AND ELIGIBLE ACTIVITIES.

Subpart 1. **Program guidelines.** Each community action program must:

A. be of benefit to low income persons;

B. represent progress toward the elimination of poverty;

C. utilize resources from other programs operating in the service area; and

D. be of sufficient scope and size for maximum

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effectiveness and efficiency.

Subp. 2. **Eligible grant activities.** A variety of activities as determined by the local planning process may be included in a community action program funded by a grant. Eligible activities are those designed to help low income persons to:

A. secure and retain meaningful employment;

B. attain an adequate education;

C. obtain and maintain adequate housing and a suitable living environment;

D. make better use of available income;

E. obtain emergency assistance through loans or grants;

F. meet immediate and urgent individual and family needs, including the need for health services, nutritious food, housing, and employment-related assistance;

G. remove obstacles and solve problems which block the achievement of self-sufficiency;

H. achieve greater participation in the affairs of the community; and

I. make more effective use of other programs related to the purposes of the CSBG act.

Subp. 3. **Federal prohibitions.** Activities ineligible for funding with CSBG money are those listed in the annual CSBG state plan. A copy of the annual CSBG state plan is available by request from the Economic Opportunity Office, Department of Jobs and Training, 670 American Center Building, 150 East Kellogg Boulevard, Saint Paul, Minnesota 55101.

3350.0120 PARTICIPATION BY LOW INCOME PERSONS.

Grantees must consider the participation of low income people in the local planning process of part 3350.0130, the annual work plan of part 3350.0170, subpart 1, the evaluation process of part 3350.0140 and the annual evaluation report of part 3350.0150. Each CAA must devise specific opportunities for involvement of low income people in proposing, planning,

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approving, and evaluating the activities of community action programs.

3350.0130 LOCAL PLANNING PROCESS.

Each CAA will develop a plan for submission to the department as a requirement for maintenance of recognition under part 3350.0040, subpart 3. The plan's narrative will include a description of how the local planning process will be implemented, how the CAA will publicize major planning activities to encourage community participation, and how the CAA will involve low income people in the planning process. Each annual work plan submitted as part of a grant application under part 3350.0170, subpart 1, must be consistent with, and complementary to, this local planning process. The local planning process of a CAA will include the following steps:

A. develop a mission statement which defines the overall CAA purposes and which represents the views and opinions of the CAA's board of directors, low income groups, and representatives of the community;

B. assess short and long range community needs in order to respond to the poverty in the community and its causes;

C. catalog the resources from both the public and private sectors which are available to solve the causes of poverty;

D. establish priorities after analyzing the extent and causes of poverty and after evaluating the capability of the CAA and other available resources to ameliorate the causes of poverty;

E. set realistic goals as a basis for action which are consistent with established priorities;

F. develop innovative strategies, including, but not limited to, service strategies, which encompass community acceptance, funding availability, direct benefits to low income people, high impact on problems of poverty, and organizational capability;

G. develop clear and concise objectives that describe

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how to attain the CAA's goals;

H. list sequential activities under each objective to describe the efforts at community coordination and identification of resource needs including assignment of CAA staff and training or technical assistance in the community; and

I. select performance indicators to measure progress toward achieving the established objectives and to form the basis for community action program reporting and evaluation.

3350.0140 EVALUATION PROCESS.

Each CAA will develop a standardized written process for evaluating its own community action program and describe the process in a narrative form. The narrative description must show how the results of the evaluation will influence the CAA's future planning and how the CAA will involve low income persons in the evaluation process. The evaluation process as embodied in the narrative must be approved by the CAA's board of directors. The evaluation process narrative must be submitted to and approved by the department in order to maintain CAA recognition under part 3350.0040, subpart 3.

3350.0150 ANNUAL EVALUATION REPORT.

The annual evaluation report is due no later than December 30 of each year. The evaluation report will summarize the extent and type of the previous year's program services and assess their effectiveness using the evaluation elements under part 3350.0140 and the performance indicators under part 3350.0130. If annual reports are delinquent more than five calendar days from their due dates or, though submitted, remain incomplete or noncomplying more than five calendar days from their due dates, the department will proceed to withhold available funds from a CAA under part 3350.0100, subpart 1, item A.

3350.0160 ADMINISTRATION OF GRANTS.

Subpart 1. **Grantee financial control system.** Grantees must establish and use a financial control system which complies

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with federal and state reporting and fiscal procedures. The federal and state requirements are contained in Department of Jobs and Training Subgrantee Administrative Requirements No. 1, as revised or superseded. This publication is incorporated by reference, and is not subject to frequent change. It is available from the State Law Library.

Subp. 2. **Grantee audit.** Each grantee must follow the audit requirements contained in the attachment to its contract with the department. Audits must be completed and the required reports submitted no later than six calendar months after the end of the grantee's fiscal year. If audits are delinquent more than five calendar days from their due dates or, though submitted, remain incomplete, noncomplying, or inaccurate more than five calendar days from their due dates, the department may proceed to withhold available funds from a CAA under part 3350.0100, subpart 1, item A.

Subp. 3. **Alterations.** A grantee must obtain prior written approval from the Economic Opportunity Office before changing its work plan and budget as described in its approved application.

3350.0170 GRANT APPLICATIONS.

Subpart 1. **Forms and documents.** All forms necessary for completion of the application will accompany the annual guidelines mailed to all grantees. Assistance in completing the forms may be requested directly from the Economic Opportunity Office at its central office. Each CAA will submit to the department an annual work plan and budget on forms supplied by the department as part of the grant application process. Each work plan for the subsequent year will include a narrative comprised of the following:

A. prioritized list of community needs;

B. design for accomplishing identified goals, objectives, and activities;

C. coordination strategy showing the establishment of working relationships with other providers in the service area;

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and

D. description of any delegated activity, including copies of subgrantee contracts.

Subp. 2. **Grant application deadlines.** Applications for a program year must be received by the Economic Opportunity Office no later than June 30 immediately preceding the program year.

Subp. 3. **Waiver of application deadline.** Upon written request, the Economic Opportunity Office may waive the application deadline provided in subpart 2 and allow an applicant to submit its grant application after that date. A request for a waiver must be signed by the chair of the applicant's board of directors and contain justification of the local need for a waiver. The request for a waiver must be received by the Economic Opportunity Office on or before June 30. The Economic Opportunity Office will respond to the request in writing. If the Economic Opportunity Office is persuaded by the local need, it will grant a waiver and establish another deadline for receipt of the application. Local need is demonstrated if a CAA, through no fault of its own, cannot meet the application deadline because of the following:

A. key staff responsible for the submission of the application are on medical leave or other leave, have retired or are no longer employed, and replacement staff cannot reasonably complete the application in the time remaining; or

B. a natural disaster such as a tornado, fire, or flood or a material change in circumstances such as a labor strike or the loss of a building lease has adversely affected or completely halted program operations.

Subp. 4. **Approval of application.** The department will review all submitted applications. When the department approves an application for a grant, it will provide written notification of approval to the applicant. Requests for cash cannot be processed until an application has been approved. After applications have been approved, the department and the applicant will enter into a contract. The grant contract is effective on the date when the Minnesota Department of Finance

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signature is affixed to the contract.

Subp. 5. **Late, incomplete, or noncomplying application.** If a previously funded grantee has not submitted an application within 45 calendar days of the deadline established by waiver in subpart 3 or within 45 calendar days of the deadline provided in subpart 2 where a waiver was not granted, the department will deny the application under subpart 6. If a submitted application remains incomplete or noncomplying for 30 calendar days after the department's request for a revision of the application, supplementary information, or other required documents or 45 calendar days from an applicable deadline, whichever period is greater, the department will deny the application under subpart 6.

Subp. 6. **Denial of application.** Before the department denies an application, it will, as soon as possible, provide written notification of the deficiency leading to a possible denial and, where appropriate, request a revision of the application, supplementary information or other required documents. An application will be denied if any of the following occur:

A. application is submitted after the deadlines in subpart 5;

B. applicant submits an incomplete application;

C. applicant submits a noncomplying application where:

(1) applicant's annual work plan activities are:

(a) inconsistent with community action program activity as defined in the act and part 3350.0110;

(b) not demonstrative of participation by low income persons as required by part 3350.0120; or

(c) inconsistent with the local planning process in part 3350.0130;

(2) applicant cannot demonstrate adequate fiscal management capabilities as required in part 3350.0170; or

(3) applicant's budget does not support, or is inconsistent with, the work plan activities; or

D. applicant, after a period of funding termination,

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has not remedied a long-term defect that first led to withholding under part 3350.0100, subpart 2. The department's denial of an application based on items A, B, and C is cause for termination of available funds for an entire program year under part 3350.0060, subpart 1, item F. Depending on the circumstances, the department's denial of an application based on item D is cause for termination of available funds for an entire program year or all future funding.

3350.0180 SUBGRANTEES.

All grantees will obtain written approval from the department before delegating any part of their service delivery to a subgrantee. Grantees must enter into contracts with subgrantees outlining which community action program services the subgrantees will provide. Subgrantees must meet the same reporting and fiscal requirements as grantees. Grantees are responsible for acts or omissions of their subgrantees.

3350.0190 RECORD KEEPING.

All records and books of account related to grants must be kept by the grantee for three years from the date of submission of the final invoice. Records must be retained beyond the three-year period if audit exceptions, claims, or litigation concerning the records or any accounting transactions are still unresolved or pending. After any disposition of nonexpendable property acquired with grant funds, records of the disposition must also be retained for three years.

3350.0200 MONITORING.

The department will perform monitoring activities to ensure that grantees are in compliance with parts 3350.0010 to 3350.0200, the act, and other federal and state requirements. The monitoring functions will include the following:

A. performance of a pre-award review; and

B. preparation and execution of an annual monitoring plan which includes at least one annual on-site visit to all grantees with annual dollar volume over $100,000 and to 25

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percent of all grantees with annual dollar volume between $10,000 and $100,000.

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by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Governing Designation and Recognition of Community Action Agencies and Granting of Funds for Community Action Programs

AGENCY: Department of Jobs and Training

MINNESOTA RULES: Chapter 3350

INCORPORATIONS BY REFERENCE:

Part 3350.0160, subpart 1: Subgrantee Administrative Requirements No. 1. Available at State Law Library.

The attached rules are approved for publication in the State Register

Paul M. Marinac
Assistant Deputy Revisor

RAMSEY ACTION PROGRAMS, INC.

215 EAST SIXTH STREET, ST. PAUL, MINNESOTA 55101 • (612) 220-1820

Serving Ramsey and Washington Counties • An Affirmative Action/Equal Opportunity Employer

The mission of Ramsey Action Programs is to mobilize community resources to reduce poverty in Ramsey and Washington Counties.

R. Jane Brown, Commissioner
Department of Jobs & Training
390 North Robert Street
St. Paul, MN 55101

15 March, 1991

RE: Proposed Permanent Rules Relating to Community Action Agencies and Community Action Programs

Dear Commissioner Brown

Ramsey Action Programs, Inc., has reviewed the Proposed Rules (see above reference) and would like to submit the following comments:

A. Our overall reaction to the rules is favorable. We feel that they adequately describe and embody existing Departmental policy in most areas. With the exception, therefore, of the following areas, we would suggest that no changes be made in the proposed language.

B. In reference to section 3350.0060, Subpart 4. B (2), we would suggest that the rules be amended to clarify that such action will only provide cause if funds are <u>available</u> and the CAA consistently refuses to consider funding activities proposed by low income people.

C. In reference to sections 3350.0140 and 3350.0150, the relationship to existing policy and practice is unclear. Do these sections refer to the current Economic Opportunity Office Report, which is submitted twice per year? Or is the Department proposing new procedure? This should be clarified.

D. We are concerned about the timelines, in general, being rather short. Please review these again with the EOO's Acting Director, Frank Schneider, and EOO staff, to ensure that the proposed timelines are realistic based on current turnaround times for report submission, etc.

Thank you for the opportunity to comment upon these rules. Should it be possible to address Ramsey Action Programs' concerns without a public hearing, we would not see the neccessity for such a hearing. However, if our concerns can only be addressed through the public hearing process, this letter constitutes a request for such a hearing.

Sincerely

Dale Anderson

Dale Anderson
Executive Director

cc: Connie Greer
Frank Schneider

ATTY GENERAL

2 OCT 91 1:32

Department of Jobs and Training

Proposed Permanent Rules Relating to Community Action Agencies and Community Action Programs

Notice of Intent to Adopt Rules Without a Public Hearing and Notice of Intent to Adopt Rules With a Public Hearing if Twenty-Five or More Persons Request a Hearing

(1) Notice is hereby given that the State Department of Jobs and Training proposes to adopt the above-entitled rules without a public hearing following the procedures set forth in Minnesota Statutes, sections 14.22 to 14.28.

The proposed rules interpret those parts of Minnesota Statutes, sections 268.52 through 268.54 which designate and recognize community action agencies and define the activities and projects funded as community action programs. These rules have been developed as authorized by Minnesota Statutes, sections 268.021 and 268.0122, subdivision 5, which permit the Commissioner of the Department of Jobs and Training to adopt rules governing programs the Commissioner administers under Minnesota Statutes, chapter 268.

(2) Persons interested in these rules will have 30 days in which to submit comment in support of or in opposition to the proposed rules or any part or subpart of the rules and comment is encouraged. (3) Each comment should identify the portion of the proposed rules

addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rules within the 30-day comment period. (4) If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held. (5) Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed. (7) If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20. PLEASE NOTE THAT IF TWENTY-FIVE OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITHIN THE 30-DAY COMMENT PERIOD, A HEARING WILL BE HELD IN ACCORDANCE WITH THE NOTICE OF PUBLIC HEARING ON THESE SAME RULES PUBLISHED IN THIS STATE REGISTER AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF JOBS AND TRAINING. To verify whether a hearing will be held, please call the Department of Jobs and Training on or after April 4, 1991, at (612) 297-1094.

(6) Persons who wish to submit comments or a written request for a public hearing must submit such comments or requests to:

Connie Greer
Economic Opportunity Office
670 American Center Building
St. Paul, MN 55101

Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on April 3, 1991.

(8) The proposed rules may be modified if the modifications are supported by data and views and do not result in a substantial change in the proposed rules as noticed.

In 1981, the Minnesota Legislature passed Minnesota Statutes, sections 268.52 through 268.54, which authorized the department to financially assist community action agencies in the implementation of community action programs.

The proposed rules at Minnesota Rules, parts 3350.0010 to 3350.0200 are all new material.

(11) The proposed rules embody existing departmental policy and practice and interpret state and federal law. In promulgating portions of the rules, the department has drawn on the past and present national experience in administering community action programs. The major portions of these rules address (1) the process of selecting community action agencies through designation on the local level and recognition on the state level; (2) the annual application process for funding community action programs; (3) reporting and planning requirements for receipt of funds; (4) voluntary cessation of program operations; (5) participation of low income people; (6) withholding and termination of funds under specialized circumstances; and (7) procedures for appealing the

termination of funding, as well as designation or recognition.

(11) A copy of these rules is available for your review from:

Roger Sorbel
Policy Development Office
2nd Floor, 390 North Robert Street
St. Paul, MN 55101
Telephone: (612) 296-6874

(13) A fiscal note will not be prepared. The authority for these proposed rules, Minnesota Statutes, sections 268.52 through 268.54, was enacted before July 1, 1985. Therefore, these proposed rules need not include a fiscal note under exceptions provided by Minnesota Statutes, section 3.983, subdivision 3. Pursuant to Minnesota Statutes, section 14.11, subdivision 1, the agency estimates that there will be no cost to any local public bodies for the two years immediately following adoption. This estimate is based on no anticipated designation hearings or other hearings in the foreseeable future.

(9) If no hearing is required upon adoption of the rules, the rules and the required supporting documents will be delivered to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General.

Persons who wish to be advised of the submission of this material

to the Attorney General, or who wish to receive a copy of the adopted rules, must submit the written request to Roger Sorbel.

R. Jane Brown, Commissioner
Department of Jobs and Training

Notice of Hearing and Notice of Intent to Cancel Hearing If Fewer Than Twenty-Five Persons Request a Hearing in Response to Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held at Centennial Office Building, 658 Cedar Street, Room 49, St. Paul, MN 55155 on April 10, 1991, commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rules hearing process.

PLEASE NOTE, HOWEVER, THAT THE HEARING WILL BE CANCELED IF FEWER THAN TWENTY-FIVE PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE OF INTENT TO ADOPT THESE SAME RULES WITHOUT A PUBLIC HEARING PUBLISHED IN THIS STATE REGISTER AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF JOBS AND TRAINING. To verify whether a hearing will be held, please call the Department of Jobs and Training on or after April 4, 1991, at (612) 297-1094.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to: Jon L. Lunde, Administrative Law Judge, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, telephone (612) 341-7645, either before the hearing or within five days after the public hearing ends. The Administrative Law Judge may, at the hearing, order the record kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period, the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the three-day period. The written responses shall be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in Minnesota Statutes, sections 14.15 and 14.50. The rules hearing is governed by Minnesota Statutes, section 14.14 to 14.20 and by Minnesota Rules, parts 14100.0200 to 1400.1200.

Questions about the procedures governing this proceeding may be directed to the Administrative Law Judge.

In 1981, the Minnesota Legislature passed Minnesota Statutes, section 268.52 through 268.54, which authorized the department to financially assist community action agencies in the implementation of community action programs.

The proposed rules at Minnesota Rules, parts 3350.0010 to 3350.0200 are all new material.

The proposed rules embody existing departmental policy and practice and interpret state and federal law. In promulgating portions of the rules, the department has drawn on the past and present national experience in administering community action programs. The major portions of these rules address (1) the process of selecting community action agencies through designation on the local level and recognition on the state level; (2) the annual application process for funding community action programs; (3) reporting and planning requirements for receipt of funds; (4) voluntary cessation of program operations; (5) participation of low income people; (6) withholding and termination of funds under specialized circumstances; and (7) procedures for appealing the termination of funding, as well as designation or recognition.

A copy of these rules are available for your review from:

Roger Sorbel

Policy Development Office
2nd Floor, 390 North Robert Street
St. Paul, MN 55101
Telephone: (612) 296-6874

A fiscal note will not be prepared. The authority for these proposed rules, Minnesota Statutes, sections 268.52 through 268.54, was enacted before July 1, 1985. Therefore, these proposed rules need not include a fiscal note under exceptions provided by Minnesota Statutes, section 3.983, subdivision 3. Pursuant to Minnesota Statutes, section 14.11, subdivision 1, the agency estimates that there will be no cost to any local public bodies for the two years immediately following adoption. This estimate is based on no anticipated designation hearings or other hearings in the foreseeable future.

Copies of the proposed rules are now available and at least one free copy may be obtained by contacting: Roger Sorbel, Policy Development Office, 2nd Floor, 390 North Robert Street, St. Paul, Minnesota 55101, (612) 296-6874.

Additional copies will be available at the hearing. If you have any questions on the content of the rules, contact Roger Sorbel.

NOTICE: Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the agency may not take any final action on the rules

for a period of five working days. If you desire to be notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were filed. If you want to be notified, you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the secretary of state.

(12) NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is now available for review at the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the agency or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Minnesota Statutes, chapter 10A, requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minnesota Statutes, section 10A.01 subdivision 11, as any individual:

(a) engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more

than five hours in any month or more than $250, not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communication or urging others to communicate with public officials; or

(b) who spend more than $250, not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communication or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101-2520, telephone (612) 296-5148.

(14) The proposed rules may affect small businesses as defined in Minnesota Statutes, section 14.115, subdivision 1. Pursuant to Minnesota Statutes, section 14.115, subdivision 2, five methods were considered by the department to reduce the impact of the proposed rules on small businesses. A discussion of these methods can be found in the Statement of Need and Reasonableness.

R. Jane Brown

R. Jane Brown, Commissioner
Department of Jobs and Training

STATE OF MINNESOTA
DEPARTMENT OF JOBS AND TRAINING

In the Matter of the Proposed Adoption of Rules Relating to Community Action Agencies and Community Action Programs

AFFIDAVIT OF MAILING THE NOTICE OF HEARING AND CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA
COUNTY OF RAMSEY

Roger Sorbel, Rules Coordinator, being duly sworn deposes and says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 or 14.30, that their names be placed on the rulemaking mailing list for Community Action Agencies and Programs is accurate, complete, and current as of this 1st day of March, 1991.

That on the 1st day of March, 1991, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Hearing by depositing in the State of Minnesota Central Mail System for the United States mail system at said City of St. Paul, a copy thereof, along with a copy of the proposed rules, properly enveloped, with postage prepaid, on all persons and associations who have requested that their names be placed on file with the Department for the purpose of receiving notice of rulemaking by the Department.

Roger Sorbel
Roger Sorbel
Rules Coordinator
Policy Development Office
Department of Jobs and Training

Subscribed and sworn to before me
this 1ST day of MARCH, 1991.

Dan W. Simpson
Notary Public
Ramsey County

DAN W. SIMPSON
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
MY COMMISSON EXPIRES MARCH 27, 1991

9505.2160-.2245 (proposed) 1579
9505.1750-.2150 (proposed repealer) 1579
9530.6605; .6640; .6650; .7000; .7031 (adopted emergency) .. 627
9560.6650 s.3 (emergency repealer) 627
9530.6605; .6640; .6650; .7000; .7031 (emergency extended) . 1543
9530.6650 s.3 (emergency repealer extended) 1543
9530.6655; .7000; .7012; .7015; .7020; .7022; .7024 (adopted) 1540
9530.7020 s.3,4 (repealed) 1540
9530.6655 (proposed rule withdrawn) 1540
9560.0410; .0420; .0430; .0440; .0450; .0460; .0470; .0475; .0480; .0485 (proposed) 1535
9575.1500 (adopted) 1697

Proposed Rules

Pursuant to Minn. Stat. §§ 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless 25 or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules; and
4. that the rule may be modified if the modifications are supported by the data and views submitted.

If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Jobs and Training

Proposed Permanent Rules Governing Designation and Recognition of Community Action Agencies and Granting of Funds for Community Action Programs

Notice of Intent to Adopt Rules Without a Public Hearing and Notice of Intent to Adopt Rules With a Public Hearing if Twenty-Five or More Persons Request a Hearing

NOTICE IS HEREBY GIVEN that the State Department of Jobs and Training proposes to adopt the above-entitled rules without a public hearing following the procedures set forth in *Minnesota Statutes*, sections 14.22 to 14.28.

The proposed rules interpret those parts of *Minnesota Statutes*, sections 268.52 through 268.54 which designate and recognize community action agencies and define the activities and projects funded as community action programs. These rules have been developed as authorized by *Minnesota Statutes*, sections 268.021 and 268.0122, subdivision 5, which permit the Commissioner of the Department of Jobs and Training to adopt rules governing programs the Commissioner administers under *Minnesota Statutes*, chapter 268.

Persons interested in these rules will have 30 days in which to submit comment in support of or in opposition to the proposed rules or any part or subpart of the rules and comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rules within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20. **PLEASE NOTE that if twenty-five or more persons submit written requests for a public hearing within the 30-day comment period, a hearing will be held in accordance with the Notice of Public Hearing on these same rules published in this *State Register* and mailed to persons registered with the Department of Jobs and Training.** To verify whether a hearing will be held, please call the Department of Jobs and Training on or after April 4, 1991, at (612) 297-1094.

Persons who wish to submit comments or a written request for a public hearing must submit such comments or requests to:

Connie Greer
Economic Opportunity Office
670 American Center Building
St. Paul, MN 55101

Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on April 3, 1991.

The proposed rules may be modified if the modifications are supported by data and views and do not result in a substantial change in the proposed rules as noticed.

In 1981, the Minnesota Legislature passed *Minnesota Statutes*, sections 268.52 through 268.54, which authorized the department to financially assist community action agencies in the implementation of community action programs.

The proposed rules at *Minnesota Rules*, parts 3350.0010 to 3350.0200 are all new material.

The proposed rules embody existing departmental policy and practice and interpret state and federal law. In promulgating portions of the rules, the department has drawn on the past and present national experience in administering community action programs. The major portions of these rules address (1) the process of selecting community action agencies through designation on the local level and recognition on the state level; (2) the annual application process for funding community action programs; (3) reporting and planning requirements for receipt of funds; (4) voluntary cessation of program operations; (5) participation of low income people; (6) withholding and termination of funds under specialized circumstances; and (7) procedures for appealing the termination of funding, as well as designation or recognition.

A copy of these rules is available for your review from:

Roger Sorbel
Policy Development Office
2nd Floor, 390 North Robert Street
St. Paul, MN 55101
Telephone: (612) 296-6874

A fiscal note will not be prepared. The authority for these proposed rules, *Minnesota Statutes*, sections 268.52 through 268.54, was enacted before July 1, 1985. Therefore, these proposed rules need not include a fiscal note under exceptions provided by *Minnesota Statutes*, section 3.983, subdivision 3. Pursuant to *Minnesota Statutes*, section 14.11, subdivision 1, the agency estimates that there will be no cost to any local public bodies for the two years immediately following adoption. This estimate is based on no anticipated designation hearings or other hearings in the foreseeable future.

If no hearing is required upon adoption of the rules, the rules and the required supporting documents will be delivered to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General.

Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rules, must submit the written request to Roger Sorbel.

R. Jane Brown, Commissioner
Department of Jobs and Training

Notice of Hearing and Notice of Intent to Cancel Hearing If Fewer Than Twenty-Five Persons Request a Hearing in Response to Notice of Intent to Adopt Rules Without a Public Hearing

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

In the Matter of the Adoption of Rule of the Minnesota Department of Jobs and Training Governing Designation and Recognition of Community Action Agencies and Granting of Funds for Community Action Programs

DECLARATION OF COUNSEL

I, Donald E. Notvik, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rule and the supporting rulemaking record and that, based on my examination, the Administrative Procedure Act and Minnesota Rules, chapter 2010 have been followed. Any exceptions are listed below. For Attorney General billing purposes, the four digit client code is 0400.

Dated September 26, 1991

Donald E. Notvik
Special Assistant
Attorney General

.GC1

STATE OF MINNESOTA
DEPARTMENT OF JOBS AND TRAINING

In the Matter of the Proposed Adoption of the Rules of the State of Minnesota Governing Designation and Recognition of Community Action Agencies and Granting of Funds for Community Action Programs	FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULES WITHOUT PUBLIC HEARING

(1) Notice of the Commissioner's intent to adopt the above-entitled rules was published in the State Register on March 4, 1991 and was sent on March 1, 1991, along with a copy of the proposed rules, by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes, sections 14.14, subdivision 1a, and 14.22. (2) The statement of need and reasonableness was prepared before the notice of intent to adopt rules without a public hearing was mailed to all persons on the rulemaking mailing list and published in the State Register and the statement of need and reasonableness was available to the public.

(4) All persons were given the opportunity to submit comment on the rules for 30 days after notice of proposed rulemaking. (5) One request for a public hearing on the rules was received by the agency. Therefore, the agency did not receive requests for a public hearing from 25 or more persons which were not subsequently withdrawn.

(7) No submissions or comments on the rules were received by the agency. No requests for notice of submission to the Attorney General were received by the agency.

Based on the comments and evidence in the record before the agency, I find the following:

Page 3, line 1 (Revisor's Draft): This unsubstantial change removes an old name, "Minnesota Migrant Council", and substitutes the new name "Midwest Farmworker Employment and Training, Inc.".

Page 7, line 16, Page 8, line 7: These changes between the rule as proposed and the rule as adopted are not substantial. The changes are grammatical/semantic ones which substitute a "may" for a "can".

Page 7, line 19: This unsubstantial change removes a redundancy.

Page 8, lines 23 through 26: This change rearranges text but does not substantially change the subpart's meaning.

Page 8, line 28: The change removes the June 30th deadline for maintenance of recognition.

Page 8, line 9, Page 9, line 17, Page 10, line 21, and Page 23, line 33: These changes correct typographic errors and, therefore, are not substantial.

Page 10, lines 15 through 16: This change clarifies that all subgrantees in a service area will receive notice of a grantee's cessation since all such subgrantees are assumed to be directly affected by cessation and change of designation. This changes does not introduce a new subject matter.

Page 18, line 27: This change updates the address of the Economic Opportunity Office.

Page 24, line 8: This change identifies internal references to help the reader in finding pertinent rule parts.

The above-captioned rules are needed and reasonable for the reasons set forth in the statement of need and reasonableness.

NOW, THEREFORE, IT IS ORDERED that the rules identified as the Community Action Agencies and Community Action Programs, as proposed, are adopted this 19th day of September, 1991, pursuant to authority vested in me by Minnesota Statutes, sections 268.0122, subdivision 5, and 268.021.

R. Jane Brown
Commissioner
Department of Jobs and Training