


# Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

**F. Disbursement of grants. The disbursement of grants for LCMR grant-in-aid lake improvement projects shall be as specified in SPA 302 E.**

**G. Amendments. Lake improvement projects shall be eligible for LCMR grant-in-aid amendments as specified in SPA 302 F.**

**H. Project completion. Upon completion, the project shall be subject to closing requirements as specified in SPA 302 G.**

APPROVED AS TO FORM AND LEGALITY

FEB 17 1977 19

WARREN SPANNAUS, ATTORNEY GENERAL

BY /s/ Michael B. Miller

SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
FEB 17 1977
5:00 P.M
Joan Anderson Growe
Secretary of State

291

Donald A. Kannas
Special Assistant
Attorney General
State Planning Agency

February 22, 1977

- SPA 300-304

CERTIFICATE OF COUNCIL'S

AUTHORIZING RESOLUTION

I, Mary Sullivan, do hereby certify that I am the Administrator of the Minnesota Environmental Quality Council, a council duly authorized under the laws of the State of Minnesota, and that the following is a true, complete and correct copy of a resolution adopted at a meeting of the Minnesota Environmental Quality Council duly and properly called and held on the 8th day of February, 1977; that a quorum was present at said meeting; that a majority of the members of the Council voted for the resolution; that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified. Ms. Lukermann moved:

WHEREAS, the Environmental Quality Council (EQC) ordered to public hearing the Rules for Assessing the Costs of Preparing the Environmental Impact Statement; and

WHEREAS, a public hearing was held on November 17, 1976 and the record remained open for 20 days thereafter for receipt of written comments on the proposed Rules;

NOW THEREFORE BE IT RESOLVED:

THAT the EQC adopt the findings of fact and conclusions of the Environmental Review Program staff, along with errata sheet, on the above Rules; and

THAT the EQC directs its staff to follow all necessary administrative procedures so that these Rules can become effective in a timely fashion.

Seconded by Mr. Magnuson, the motion carried unanimously with Vanderpoel, Brooks, Gardebring, Harrington, Lukermann, Magnuson, Millhone, Ohman and Schwartz voting aye, Herbst, Lawson and Wefald not present.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 15th day of February, 1977.

Mary Sullivan
Administrator

Subscribed and sworn to
before me this 15th
day of February, 1977.

Joanne Herbenson
Notary Public

JOANNE HERBENSON
RAMSEY COUNTY
NOTARY PUBLIC-MINNESOTA
MY COMMISSION EXPIRES NOV. 30, 1982

STATE OF MINNESOTA

COUNTY OF RAMSEY

STATE PLANNING AGENCY

In the Matter of the Proposed Adoption of Rules of the State Planning Agency Governing Land and Water Conservation Fund Act and Legislative Commission on Minnesota Resources Grants-In-Aid

STATEMENT OF COMPLIANCE WITH MANUAL OF RULE MAKING PROCEDURES

I, Special Assistant Attorney General Donald A. Kannas do hereby declare that I have examined the proposed rules and all related documents and that, based on them and my personal familiarity with the applicable procedures, the Manual of Rule Making Procedures has been followed.

Dated: 18 Jan 76

D A Kannas

Donald A. Kannas
Special Assistant
Attorney General

# RULES FOR ADMINISTERING FEDERAL AND STATE OUTDOOR RECREATION GRANTS

**SPA 300 Authority, definitions and general provisions.**

**A. Authority.** The rules contained herein are prescribed by the State Planning Agency, Office of Local and Urban Affairs, pursuant to authority granted in Minn. Stat. § 86.71 (1974) and Minn. Laws 1969, ch. 1139, § 48, subd. 7, paragraph g, as amended and Minn. Extra Session Laws 1971, ch. 3, § 48, subd. 7, paragraph h as amended (et seq.).

**B. Purpose of rules.** These rules are set forth to provide criteria, priorities, and procedures for evaluating outdoor recreation proposals of local government units under consideration for LAWCON and LCMR grants-in-aid.

**C. Definitions.** The following terms as used in these rules have the following meanings:

1. "Ad Hoc Lake Improvement Committee" means the committee composed of representatives of the State Planning Agency, Department of Natural Resources, University of Minnesota, Department of Health, Pollution Control Agency, Legislative Commission on Minnesota Resources, and Department of Agriculture, that reviews and evaluates lake improvement applications.

2. "BOR" means the Bureau of Outdoor Recreation of the United States Department of the Interior.

3. "BOR Guidelines" means those guidelines established by Bureau of Outdoor Recreation Grants-in-Aid Manual, effective as of May 6, 1976.

4. "Eligible Applicant" means units that are eligible to apply for an outdoor recreation grant under any of the programs provided for in these rules.

5. "Eligible Costs" means costs that are eligible for a grant from the LCMR grant-in-aid program or reimbursement from a LAWCON grant.

6. "Grant" means a specific sum of money made available by the Federal government or the State of Minnesota to an eligible applicant for the execution of outdoor recreation projects.

7. "LAWCON" means the program established by the Act of Congress entitled "The Land and Water Conservation Fund Act of 1965", as amended, (78 Stat. 897) which provides federal grants to the State of Minnesota for the acquisition and development of outdoor recreation projects.

8. "LAC" means the Legislative Advisory Commission established in Minn. Stat. § 3.30 (1974).

9. "LCMR" means the Legislative Commission on Minnesota Resources established in Minn. Stat. § 86.06 (1974).

10. "LCMR Grants-in-Aid Program" means the LCMR grants-in-aid for local and regional recreation and natural areas as established by Minn. Laws 1965, ch. 810, § 23, as amended and Minn. Extra Session Laws 1971, ch. 3, § 48, subd. 7, paragraph h as amended (et seq.).

11. "Local units of government" means counties, cities, and townships within the State of Minnesota.

12. "Metropolitan Council" means the areawide council created pursuant to Minn. Stat. § 473.123 (1975).

13. "OLUA" means the Office of Local and Urban Affairs established by Minn. Stat. § 4.11, subd. 7 (1974) within the State Planning Agency.

14. "Project" means a planned undertaking for outdoor recreation, proposed by an eligible applicant, having fixed commencement and termination dates and consisting of either of the following two types alone or together:

a. "Acquisition Project" means the acquisition of real property or an interest and rights thereto for a well-defined outdoor recreation area and/or purpose.

b. "Development Project" means the development of structures, utilities or facilities necessary for the purpose of outdoor recreation on publicly owned or controlled land.

15. "Project Agreement" means the contract executed between the BOR and the State, or the State and the eligible applicant that sets forth the mutual obligations with regard to a portion or all of a specific project.

16. "Public Agency" means a public entity established by state law with the authority to act in the acquisition interests in realty and in the development, maintenance, operation, and planning of outdoor recreation facilities. For the purposes of these regulations, state agencies, and the University of Minnesota shall not be considered as public agencies.

17. "Regional Development Commission" means any regional commission organized under the "Regional Development Act of 1969" Minn. Stat. § 462.381 to § 462.396 (1974).

18. "Regional Needs" means a park or open space project serving a region and consisting of the following:

a. A site that consists of outstanding natural resources or man-made features and that is capable of management to interpret and preserve the resources, and the project has been reviewed by the Metropolitan Council or the appropriate Regional Development Commission and found to be consistent with regional recreational facilities and related plan and priorities.

b. Is of sufficient size to provide a variety of recreational opportunities and attract a substantial number of users from outside the boundaries of the applicant's jurisdiction and has been reviewed by the Metropolitan Council or the appropriate Regional Development Commission and found to be consistent with regional recreational facilities and related plan and priorities.

19. For the purposes of these regulations, certain terms or words used herein shall be interpreted as follows: The word "shall" is mandatory, not permissive; the word "may" is permissive.

SPA 301 LAWCON grant program.

A. Application process.

1. Submission of preliminary applications.

a. Eligibility. Any local applicant which satisfies the guidelines for eligibility established by BOR, may apply for a LAWCON grant.

b. Notice. Annually, OLUA shall send notice of the period of time that preliminary applications for LAWCON grants shall be accepted by OLUA. The notice shall be sent at least 45 days before the period ends. Such notice shall be sent to the following:

(1) Mayors and clerks of all cities in Minnesota;

(2) County board chairmen and auditors of all counties in Minnesota;

(3) Chairpersons of county planning commissions and city planning commission of all cities over 5,000 population according to the last federal dicennial census in Minnesota;

(4) Chairmen of regional development commissions;

(5) Chairpersons of each county's Township Association;

(6) Statewide organizations representing Minnesota local governments;

(7) Persons requesting notice; and

(8) Upon request, to the Minnesota State Legislature.

c. Contents of Application. The contents of the preliminary application shall be consistent with the informational requirement of these rules and shall be prescribed by OLUA.

d. Submission. Preliminary applications shall be submitted in a completed form to OLUA and the Metropolitan Council or the appropriate regional development commission for a project review before the closing date for applications. The Metropolitan Council or the appropriate regional development commission at their option may recommend on an advisory basis to OLUA, a list of applications from the region arranged in order of priority.

2. Evaluation of preliminary applications. Preliminary project applications which satisfy the BOR's project eligibility guidelines and priorities for LAWCON grants shall be evaluated and ranked as follows: a) general criteria; b) acquisition priorities; and c) development priorities.

a. General criteria. Preliminary applications that meet one or more of the following criteria shall receive priority over similar projects that do not.

(1) Projects with outstanding irreplaceable resources or features that are in danger of commercial (non-recreational) development, subdivision, or other use that may be incompatible with outdoor recreation uses.

(2) Projects that have received a prior LAWCON grant or LCMR grant-in-aid for a preceeding phase of the proposed project.

(3) Projects that meet generally recognized national design standards for recreational facilities.

(4) Projects that reflect quality site planning; recognize and compliment existing land forms; provide for ease of maintenance and operation of the site and do not have major environmental instrusions which are detrimental to the intended use of the property.

(5) Projects that comply with the recreational facility priority needs as designated in the applicant's recreation plan.

b. Acquisition priorities. The following criteria shall be used in descending order to evaluate applications for acquisition projects and to determine priorities for projects:

(1) Project sites having outstanding examples of existing or potential natural, scientific, cultural, historical, educational, or recreational values for public enjoyment.

(2) Acquisitions of sites which protect or enhance aesthetics or land and water quality of existing park facilities.

(3) Project sites that provide to the general public, a broad range of outdoor recreational opportunities or that are particularly well suited for one or more heavily used and concentrated recreational activities. (e.g. swimming beach)

(4) Project sites providing for needed low intensity use recreation activities, such as trail systems, wildlife observation, and other activities providing open space enjoyment.

(5) Projects which are equivalent to commercial camping accommodations for recreational users.

c. Development priorities. The following criteria shall be used in descending order to evaluate applications for development projects and to determine priorities for projects:

(1) Projects designed to protect and enhance land and water quality of the site consistent with the estimated number of its potential users, make it accessible or designed to insure safety and health.

(2) Projects that provide to the general public a broad range of outdoor recreation opportunities or that are particularly well suited for one or more heavily used and concentrated recreational activities (e.g. swimming beach).

(3) Projects providing needed facilities associated with low intensity use recreational areas.

(4) Projects which are equivalent to commercial camping accommodations for recreational users.

3. Notice of disposition of preliminary applications. All applicants shall be notified by OLUA of the disposition of their preliminary applications within 120 days of the closing date for the submission of preliminary applications. Grants shall be distributed in order of ranking until LAWCON and LCMR funds are depleted. For those applicants who are recommended for a grant, this notice shall include the submission deadline and a scheduled meeting to explain the content requirements for a final application. For those applicants who are not recommended for a grant, this notice shall indicate the reasons.

4. Final application.

a. Eligibility. When a preliminary application has been given a high priority ranking by general criteria and project priorities (SPA 301 A. 2.), the eligible applicant who is recommended for a grant may submit a final application. OLUA will request a LAWCON grant if the eligible applicant submits a final application in adequate detail before the established deadline.

b. Content. The contents of the final application shall be consistent with the informational requirement of these rules and shall be prescribed by OLUA.

5. BOR approval. If the final application is satisfactory, OLUA shall request BOR approval of a LAWCON grant for the recommended project. OLUA shall notify the applicant of the action taken by BOR.

B. Project agreement. Upon approval by BOR, OLUA shall execute a project agreement with the applicant and the applicant shall comply with the terms of the project agreement.

C. Disbursement of grant. The applicant shall initially pay for the project costs as specified in the project agreement. The applicant shall submit to OLUA a billing request for work completed on the project, but not more than six billings per project. Upon receipt of a billing request, containing the documentation required in the project agreement, OLUA shall request from BOR the Federal share of the eligible costs represented by that billing. Upon receipt of the LAWCON grant for that billing, OLUA shall reimburse the applicant. The final billing shall reflect any cost adjustments due to project changes and shall be subject to a site inspection by State and BOR personnel and verification by federal and state audit.

D. Amendments. A request for an amendment in the project scope, costs or time period may be submitted to OLUA prior to project termination. If the request is eligible for a LAWCON amendment and OLUA considers the amendment request to be reasonable and justified and it does not substantially affect the project eligibility under SPA 301 A. 2, above, it may request BOR to approve the amendment.

SPA 302 LCMR grants-in-aid program.

A. Eligible applicant. Only the following shall be eligible to submit an application for a LCMR grant-in-aid:

1. Local units of government.

2. Public agencies.

B. Grant categories and financial assistance.

1. Regional project. A LCMR grant-in-aid may be available when the applicants can document that the project serves a regional need under the following circumstances:

a. Project with approved federal grant: Eligible applicants with an approved federal grant for a park, recreation or open space project within their jurisdiction, may apply for a LCMR grant-in-aid up to 100% of the local share of that acquisition or development project provided that the state share shall not exceed 75% of the total project costs.

b. Project without approved federal grant: Eligible applicants not receiving a federal recreation grant may apply for a LCMR grant-in-aid up to 75% of the total cost of the project application.

2. Other than regional projects. A LCMR grant-in-aid may be available to applicants for other than regional projects under the following circumstances:

a. Project with approved federal grant: Eligible applicants receiving a federal grant for a park, recreation or open space project may apply for a LCMR grant-in-aid up to 50% of the local share of the project.

b. Project without approved federal grant: Eligible applicants not receiving a federal recreation grant may apply for LCMR grant-in-aid up to 50% of the total cost of the project.

C. Evaluation considerations.

1. Criteria. The criteria that shall be used to evaluate an application and to establish priorities for applications for a LCMR grant-in-aid shall be the criteria specified for a LAWCON applicant in SPA 301A.2.a., b., c.

2. Priorities. Projects which have an approved federal recreational grant will generally be given a higher priority.

D. Application procedure.

1. Projects under consideration for a LAWCON grant.

a. A final application that has been submitted for a LAWCON grant may be sufficient to meet the requirements of a LCMR grant-in-aid; additional documentation may not be necessary.

b. Upon BOR approval of a LAWCON application, OLUA shall initiate the application procedure for applicants that have not received LCMR grants-in-aid exceeding the maximum legislative grant allowable for that project.

c. OLUA shall submit the application with its recommendations to the LCMR and the secretary of the LAC.

d. OLUA shall request the LCMR to review each application and make its recommendations to the LAC regarding such expenditures.

e. The secretary of the LAC shall review the application for completeness and present it to the Governor and the LAC for consideration. Applications shall be submitted to the secretary of the LAC and the LCMR within the deadline established by LAC. If an application is not submitted prior to the deadline, it shall be held for the next meeting.

2. Projects that have received a grant from another federal program.

a. Local units of government or public agencies that have received a federal grant (other than a LAWCON grant) for park or open space acquisition or development may apply for a LCMR grant-in-aid by submitting an application to OLUA. OLUA shall prescribe the form and content of the applications.

b. Upon receipt of a satisfactory and complete application, OLUA shall initiate the processing of the application in accordance with the procedure specified in SPA 302D.1.c.,d.,e.

3. Projects without any federal grant. Eligible projects which are given high priority but do not receive federal recreation grant assistance due to lack of federal funding or ineligibility, may be considered for LCMR grant-in-aid. When LCMR grant-in-aid funds are available, OLUA may process those applications of high ranking. The procedure shall be the same as outlined in SPA 302D.1.c.,d.,e.

E. Disbursement of grants procedure.

1. When the governor with the advice of LAC has approved an application for a LCMR grant-in-aid, a project agreement between the applicant and the State of Minnesota shall be executed; and, the applicant may then proceed with the project.

2. The State of Minnesota shall then pay the applicant the amount of the grant after the agreement has been executed. The applicant shall maintain a separate accounting of the project costs. The applicant shall submit documentation as specified by OLUA, unless it has already been submitted under the requirements for a federal grant to verify the costs and comply with the project agreement.

F. Amendments.

1. Request. An applicant may request an amendment of a project agreement to change the scope, boundaries, or time period of a project. Applicants shall not request an amendment for cost overruns. Applicants requesting an amendment shall submit documentation as specified by OLUA to explain and justify the project.

2. OLUA action. When satisfactory documentation is received and OLUA considers the amendment request to be justifiable, the following procedures shall apply:

a. OLUA may approve requests for changes in the time period of a project and requests for modifications of development items originally approved.

b. OLUA may approve requests for minor changes in the project scope or boundaries which shall not exceed 25% of the total project.

c. If the request is for a major change in project scope or boundaries exceeding 25% of the total project, OLUA shall request LCMR to consider the amendment.

G. Project completion. Upon completion, the project shall be subject to a site inspection by state personnel and verification by a state audit. If the total costs of the project when completed are less than the costs upon which the state grant was based, the applicant shall return that portion of the state grant not utilized for the project, which is consistent with the percentage of the state grant participation in the project.

H. Retention and use of project.

1. Property acquired or developed with a LCMR grant-in-aid shall be retained and used for public outdoor recreation on a non-discriminatory basis during its useful life. Any property so acquired or developed shall not be changed to a non-recreational use or another recreational use without prior approval of OLUA and LCMR. In the event that this occurs, the applicant shall return part or all of the state grant upon request by OLUA.

2. If approval is granted to change the property acquired or developed with LCMR grant-in-aid to a non-recreational use, the applicant shall return that portion of the state grant representing the non-recreational use to the State of Minnesota.

I. Responsibilities of recipient. A recipient of a LCMR grant-in-aid shall comply with all existing or subsequent state laws and regulations that apply to the project.

**SPA 303 LCMR grants-in-aid program for harbors of refuge.**

**A. Harbors of refuge program. Harbors of refuge grant program is hereby established for the development of harbors suitable for giving safe refuge to shallow draft craft from storms on Lake Superior. This grant program is an extension of the LCMR grants-in-aid program and is established by Minn. Laws 1969, ch. 1139, § 48, subd. 7, Paragraph g.**

**B. Eligible applicant. Any local unit of government or public agency which as received a grant from the U.S. Army Corps of Engineers for the acquisition or development of a harbor of refuge may apply for a LCMR grant-in-aid.**

**C. Eligible projects. An eligible applicant may receive a LCMR grant-in-aid for 50 percent of the eligible local costs provided it does not exceed the maximum legislative grant-in-aid allowable for that project. Grants from this program shall be available for acquisition and development only. Maintenance and operational costs shall be the responsibility of the applicant.**

**D. Application procedure.**

**1. Eligible applicants may apply for a LCMR grant-in-aid for harbors of refuge by submitting an application to OLUA** and the appropriate regional development commission for a project review. The regional development commission at their option may recommend on an advisory basis to OLUA, a list of applications from the region arranged in order of priority. **OLUA shall prescribe the form and content of the application.**

**2. Procedure.**

**a. Upon receipt of a harbor of refuge application, OLUA shall review the application for eligibility of the project, completeness of the application, and furthermore, evaluate it as to priority.**

**b. When the application is determined by OLUA to be satisfactory and of high priority, OLUA shall recommend a grant to the LCMR and the LAC in accordance with SPA 302D.1.c.,d.,e.**

**E. Disbursement of grants. The disbursement of grants for LCMR grants-in-aid to harbors of refuge shall be as specified in SPA 302 E.**

F. Amendments. Harbors of refuge projects that have been amended by the Corps of Engineer shall be eligible for LCMR grant-in-aid amendments as specified in SPA 302 F.

G. Project completion. Upon completion, the project shall be subject to closing requirements as specified in SPA 302 G.

SPA 304 LCMR grants-in-aid program for lake improvement projects.

A. Lake improvement program. A lake improvement grant program is hereby established for demonstrating or carrying out new techniques to improve the quality of lakes. This grant program is an extension of the LCMR grants-in-aid program and is established by Minn. Laws 1969, ch. 1139, § 48, subd. 7, paragraph g. Pursuant to said statute, the following shall be eligible to apply for such projects:

B. Eligible applicants.

1. Units of local government and public agencies that have the authority to undertake lake improvement projects;

2. Non-profit organizations and associations whose primary objective is the management of natural resources and the improvement of the environment.

C. Eligible projects. Eligible projects for lake improvement grants shall be pilot demonstration projects which are new or unique for that type of lake. Eligible projects and facilities may receive a LCMR grant-in-aid of 50 percent of the eligible costs but not to exceed the maximum legislative grant-in-aid allowable for that project. Grants from this program shall be available for acquisition, construction and testing costs. Maintenance and operational costs shall be the responsibility of the applicant.

D. Application process. Eligible applicants may apply for a LCMR grant-in-aid for lake improvement by submitting a preliminary application to OLUA and the Metropolitan Council or the appropriate regional development commission for a project review. The Metropolitan Council or appropriate regional development commission at their option may recommend on an advisory basis to OLUA, a list of applications from the region arranged in order of priority., OLUA shall prescribe the form and content of the application.

E. Evaluation of applications.

1. Priorities. The criteria that shall be used to evaluate and establish priorities for applications shall be based upon projects that:

a. Perpetuate the beneficial natural characteristics of the shoreline.

b. Consider upstream conditions and sound watershed management practices, as may be established in the comprehensive watershed plan.

c. Are located in areas that have and are enforcing effective zoning ordinances, building codes, health ordinances, and conservation rules that affect the project.

d. Have a majority of shoreline in public ownership. Only lakes that are accessible to the public shall be eligible for a grant.

e. Improve the quality of waterbased recreational activities and fish and game habitat.

f. Have received a federal grant.

2. Procedure. Upon receipt of a preliminary application for a lake improvement grant, OLUA shall follow the following procedure:

a. The application shall be reviewed for eligibility and completeness. If additional information is required, the applicant shall be notified and asked to provide the additional information.

b. A preliminary evaluation and priority ranking of the lake improvement project shall be conducted by OLUA, the Department of Natural Resources and the Pollution Control Agency.

c. Applicants that receive a high priority ranking in the preliminary project evaluation shall then be submitted to the "Ad Hoc Lake Improvement Committee" for review.

d. Applicants that receive a high ranking from the "Ad Hoc Lake Improvement Committee" evaluation shall be eligible to submit a final application.

e. Final applications shall be submitted to OLUA. OLUA shall prescribe the form and content of the application. Final applications that are acceptable shall be recommended to the LCMR and the LAC in accordance with SPA 302D.1.c.,d.,e.

STATE OF MINNESOTA

STATE PLANNING AGENCY

COUNTY OF RAMSEY

In the Matter of the Proposed Adoption of Rules of the State Planning Agency Governing Land and Water Conservation Fund Act and Legislative Commission on Minnesota Resources Grants-In-Aid.

ORDER ADOPTING RULES

The above-entitled matter came on for hearing before a Hearing Examiner from the Minnesota Office of Independent Hearing Examiners for the purposes of taking testimony relevant to the matters proposed, for the consideration of the Director of the State Planning Agency, on the 26th day of August, 1976, in Room 57 of the State Office Building, St. Paul, Minnesota, after proper notice required by Minn. Stat. § 15.0412 (1974) was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all of the testimony and proceedings herein, and applicable statutory standards or criteria, and having confirmed the need for the above-captioned rules.

NOW, THEREFORE, IT IS ORDERED that these rules identified as Rules For Administering Federal and State Outdoor Recreation Grants are adopted this 18 day of Jan, 1977, pursuant to authority vested in me by Minn. Stat. § 86.71 (1974) and Minn. Laws 1969, ch. 1139, § 48, subd. 7, paragraph g, as amended and Minn. Extra Session Laws 1971, ch. 3, § 48, subd. 7, paragraph h as amended (et seq.).

Dated: 18 Jan 77

STATE OF MINNESOTA

STATE PLANNING AGENCY

Peter Vanderpoel

Peter Vanderpoel, Director

**STATE OF MINNESOTA**

**OFFICE OF HEARING EXAMINERS**

ROOM 300 - 1745 UNIVERSITY AVENUE
ST. PAUL, MINNESOTA 55104
(612) 296-6910

December 29, 1976

Mr. James J. Solem, Director
Office of Local and Urban Affairs
Minnesota State Planning Agency
Room 15
Capitol Square Building
St. Paul, Minnesota 55101

Re: IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE STATE PLANNING AGENCY GOVERNING LAND AND WATER CONSERVATION FUND ACT AND LEGISLATIVE COMMISSION ON MINNESOTA RESOURCES GRANTS-IN-AID. PLAN-77-001-HK

Dear Mr. Solem:

Enclosed please find the hearing record which you submitted to us for review on the issue of substantial change, together with the Report of the Chief Hearing Examiner, pursuant to Minn. Stat. §15.052, Subd. 3.

Yours very truly,

DUANE R. HARVES
Chief Hearing Examiner

DRH:sh
Encs.

AN EQUAL OPPORTUNITY EMPLOYER

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE STATE PLANNING AGENCY

IN THE MATTER OF THE PROPOSED )
ADOPTION OF RULES OF THE STATE )
PLANNING AGENCY GOVERNING LAND )
AND WATER CONSERVATION FUND ACT )
AND LEGISLATIVE COMMISSION ON )
MINNESOTA RESOURCES GRANTS-IN-AID)

REPORT OF THE
CHIEF HEARING EXAMINER

WHEREAS, a hearing was held on August 26, 1976, before Howard L. Kaibel, Jr., a Hearing Examiner of the State Office of Hearing Examiners, on the above-entitled matter in compliance with Minn. Stat. §15.0412, Subd. 4; and

WHEREAS, the Report of Hearing Examiner made pursuant to Minn. Stat. §15.052, Subd. 3, was issued to the State Planning Agency on November 19, 1976; and

WHEREAS, the State Planning Agency has now determined to adopt rules pursuant to Minn. Stat. §15.0412, Subd. 4; and

WHEREAS, the State Planning Agency has submitted said rules to the Chief Hearing Examiner for review pursuant to Minn. Stat. §15.052, Subd. 4, and Rule HE 107; and

WHEREAS, the Chief Hearing Examiner finds that the final proposed rules are not substantially different from those proposed at the public hearing and that the State Planning Agency has met all requirements of Minn. Stat. §15.0412, Subd. 4.

NOW, THEREFORE, upon receipt of this Report, the State Planning Agency has the responsibility of submitting the complete hearing record and the rules as adopted by the Agency to the Attorney General and to publish in the State Register, all pursuant to Minn. Stat. §15.0412, Subd. 4.

Dated this 30th day
of December, 1976.

Duane R. Harves

DUANE R. HARVES
Chief Hearing Examiner

STATE OF MINNESOTA

COUNTY OF RAMSEY

STATE PLANNING AGENCY

In the Matter of the Proposed Adoption of Rules of the State Planning Agency Governing Land and Water Conservation Fund Act and Legislative Commission on Minnesota Resources Grants-In-Aid

FINDINGS OF FACT

The above-entitled matter came on for hearing before a Hearing Examiner from the Minnesota Office of Independent Hearing Examiners for the purposes of taking testimony relevant to the matters proposed, for the consideration of the Director of the State Planning Agency, on the 26th day of August, 1976, in Room 57 of the State Office Building, St. Paul, Minnesota, after proper notice required by Minn. Stat. § 15.0412 (1974) was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all of the testimony, and proceedings herein, I hereby adopt the findings of fact and conclusions of the Hearing Examiner (a copy of which is attached hereto) as my own.

Dated: Dec. 23, 1976

STATE OF MINNESOTA

STATE PLANNING AGENCY

Peter Vanderpoel

Peter Vanderpoel
Director

**STATE OF MINNESOTA**
OFFICE OF HEARING EXAMINERS
ROOM 300 - 1745 UNIVERSITY AVENUE
ST. PAUL, MINNESOTA 55104
(612) 296-6910

November 19, 1976

TO ALL INTERESTED PARTIES:

RE: In the Matter of the Proposed Adoption of Rules of the State Planning Agency Governing Land and Water Conservation Fund Act and Legislative Commission on Minnesota Resources Grants-In-Aid. H.E. File No.: PLAN-77-001-HK

This letter is to advise you that the Report of the Hearing Examiner in the above-entitled matter has been submitted to the State Planning Agency, Office of Local and Urban Affairs. The Agency may not act on this Report until at least ten (10) days have expired. During that time, the Agency and the Office of Hearing Examiners will make a copy of the Report available for review by any interested individuals. Copies will be furnished by the Office of Hearing Examiners for $.70 ($.25 for pages one and two; $.15 for each page thereafter). Kindly make your checks payable to the State Treasurer - Hearing Examiners' Account.

Sincerely,

HOWARD L. KAIBEL, JR.
Hearing Examiner

HLK:sw

PLAN-77-001-HK

STATE OF MINNESOTA)
(ss.
COUNTY OF RAMSEY )

AFFIDAVIT OF SERVICE

SUSAN WOJCIK, being first duly sworn, deposes and says that on the 19th day of November 1976, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Report of Hearing Examiner and agency file

unstamped, by placing in the designated tray to be collected by messenger for delivery to the central mailing station as required by Minn. Stat., § 16.54 (1974), a true and correct copy thereof on all persons at the addresses shown on the attached mailing list.

Susan Wojcik

Subscribed and sworn to before me
this 19th day of November, 1976.

Sandra A. Haven

SANDRA A. HAVEN
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
My Comm. Expires July 29, 1983

James Solem, Director
Office of Local and Urban Affairs
State Planning Agency
Room 15, Capitol Square Building
Saint Paul, Minnesota 55101

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE STATE PLANNING AGENCY

In the Matter of the Proposed Adoption of Rules of the State Planning Agency Governing Land and Water Conservation Fund Act and Legislative Commission on Minnesota Resources Grants-In-Aid

REPORT OF HEARING EXAMINER

The above-entitled matter came on for hearing before Hearing Examiner Howard L. Kaibel, Jr., of the Office of Hearing Examiners on August 26, 1976 at 9:00 a.m. in Room 57 of the State Office Building, Saint Paul, Minnesota.

James Dehn, Special Assistant Attorney General, appeared as counsel for the State Planning Agency (hereinafter "Agency"). James Solem, Director of the Office of Local and Urban Affairs, testified on behalf of the Agency. The hearing continued until all interested groups or persons had an opportunity to be heard concerning the adoption of the proposed rules.

Pursuant to Minnesota Statutes Section 15.052, Subdivision 3 (1975 Supp.), this Report will include Findings of Fact, Conclusions and Recommendations. The Agency and the Office of Hearing Examiners will make a copy of this Report available for review to any interested person upon request. Copies of the Report will be furnished at a nominal cost. The Agency shall, if it proposes to adopt the rules as originally proposed or amended, submit the complete hearing record to the Chief Hearing Examiner, pursuant to Minn. Reg. HE 108, no earlier than ten (10) days subsequent to the receipt of this Report. It shall include the rules as originally proposed, and the rules as proposed for adoption in final form. The submission to the Chief Hearing Examiner shall precede review by the Attorney General. The Chief Hearing Examiner shall complete his review and submit his Report to the Agency on the issue of substantial changes in the rule within ten (10) calendar days. The Agency will be responsible for filing the rules with the Attorney General.

Based upon the proceedings herein, the Hearing Examiner makes the following:

FINDINGS OF FACT

1. That on July 2, 1976, the Agency filed the following documents with the Chief Hearing Examiner:

(a) a proposed Order for Hearing;

(b) a proposed Notice of Hearing with the proposed rules attached; and

(c) a statement of the number of persons expected to attend and estimated length of hearing.

2. That on July 12, 1976, the Agency mailed the Notice of Hearing to all persons and associations who had registered their names with the Secretary of State for the purpose of receiving such notice.

3. That on July 27, 1976, the Agency filed with the Office of Hearing Examiners the following documents:

(a) the Order for Hearing;

(b) the Notice of Hearing as mailed;

(c) the affidavit of receipt of the Secretary of State's list;

(d) the affidavit of mailing;

(e) the Statement of Need;

(f) the names of Agency personnel representing the Agency at the hearing;

(g) a summary of evidence.

On August 11, 1976, the Agency also filed an addendum to the justification and an addendum to the Statement of Evidence with the Hearing Examiner in response to his suggestion that further amplification would be necessary for informed public participation, which were mailed to all persons who requested copies of the Statement of Need or the Summary of the Evidence. All these documents were available for inspection at the Office of Hearing Examiners from the date of filing to the date of the hearing.

4. That the record was closed after allowing 20 days for submission of written comment at the end of the day on September 15, 1976.

5. That statutory authority to promulgate the proposed rules is found in Minnesota Statutes Section 86.71 (1974), and Minnesota Laws, 1969, chapter 1139, section 48, subdivision 7, paragraph G, as amended, and Minnesota Extra Session Laws, 1971, chapter 3, section 48, subdivision 7, paragraph H, as amended (et seq.).

6. That proposed rule 300 is needed to notify potential applicants of the authority and purpose of these proposed rules, and to provide definitions which will avoid unnecessary repetition and improve clarity. The proposed rule would accomplish this purpose in a reasonable way.

7. That proposed rule 301 is necessary to fully inform potential recipients of Land Water Conservation Act funds of application and disbursement procedures and to insure that those procedures will provide for equitable administration. These proposed procedures will insure the broadest practicable notice of potential eligibility, together with efficient evaluation and ranking of applications. The two-step application process will minimize inconvenience to the least qualified applicants, while insuring fullest consideration of their request wherever there is the slightest possibility of funding. The priorities established are dictated by, and are in accord with, the laws governing fund distributions. The disbursement and amendment provisions are necessary to insure efficient verified expenditure of funds and will reasonably accomplish those aims. The justification provided by the Agency contains adequate documentation (Ex. 8A, pages 17-33).

8. That proposed rule 302 is needed to fully inform potential applicants for Legislative Commission on Minnesota Resources funds of application and disbursement procedures and to insure that these procedures are equitably and uniformly administered. They are in accord with governing state and federal legislation and are reasonable for the same reasons elaborated in the immediately preceding Finding. Adequate Agency documentation is contained in the justification (Ex. 8A, pages 33-46).

9. That proposed Rule 303 is needed to specify the different treatment required to administer the "harbors of refuge" matching funds for these Army Corps of Engineer's projects. The proposed procedures for administering these funds are reasonable in that they are

simple, clear and uniform wherever possible by incorporating portions of previously discussed proposed rules. The justification provides adequate documentation (Ex. 8A, pages 46-50).

10. That proposed rule 304 is necessary to provide for special treatment for administration of funds for experimenting with new techniques for improving water qualify in state lakes as required by law. The proposed procedures are reasonable and consistent with the other previously discussed rules, maximizing incorporation of their provisions wherever possible. The provisions are reasonably aimed at conservation of limited funds concentrating them on new techniques.

11. That the only written comments received (Comment A submitted by Region 6) raises two significant objections which have been carefully considered and rejected. The suggestion that the Ad Hoc Lake Improvement Committee "may be more effective" if outstate officials were added, is not an adequate case for revision to provide this kind of local input. The justification makes it clear that this would be useless in that the purpose of this committee is technical review to determine whether a lake improvement project duplicates work already done. Similarly, the provision specifying that a majority of the shore line of improved lakes should be in public ownership is specifically found to be a reasonable way of insuring that maximum public benefit is a major consideration in the expenditure of these public funds. It is only one of six criteria to be used in establishing expenditure priorities and incorporates a reasonable midpoint between mere public access and total public ownership. The suggested alternative language of "substantial amount" or "substantial portion" would be so vague as to be little better than no rule at all, allowing virtually unfettered administrative discretion.

12. That the only suggestion for change at the hearing came from the Arrowhead Region, which proposed provision for permissive and non-binding regional ranking in three of the rules, two of which as proposed do not contain any reference to regional review. This proposal was supported by Agency staff and opposed by the Executive Director of the Legislative Commission on Minnesota Resources, who argued that it "confuses the issue". The Agency indicated that it

would be seeking such regional judgments in any case, and would not ignore input when it came in the form of a ranking of projects. Under such circumstances, it is necessary and reasonable to give applicants notice of this step in the process so that they can contact such potentially important influences. The revision of proposed rule 301 would unquestionably not be a substantial change as the rule already provides for submission for regional comment and the change would merely clarify that this could optionally be in the form of preferential ranking. A careful review of the other two proposed revisions in rules where regional review is not currently explicit, applying the definition of substantial change found in Minnesota Rule HE 108, the most important language appears to be whether the change "effects classes of persons not represented" (at the hearing) (i.e., the class of persons who might object to regional review) leads to the conclusion that this would also not be a substantial change in that it would not affect those classes adversely. As long as the Agency will be considering such regional input in any case, it is not a substantial change to give that class of persons notice of this fact.

## CONCLUSIONS

1. That the Agency duly acquired and now has jurisdiction over the within proceeding.

2. That the Agency has complied with all procedural and substantive requirements of law or rule.

3. That the rules should be revised and adopted as hereinafter recommended.

## RECOMMENDATIONS

IT IS HEREBY RECOMMENDED that the Agency adopt the rules as initially proposed after revising them as suggested at the hearing to make explicit its intention to consider regional ranking of proposed projects, clearly specifying in the revision that the rankings are optional (not required of any region with regard to any proposed projects) and advisory (not binding in any way on decision makers).

Dated: November 19, 1976.

HOWARD L. KAIBEL, JR.
Hearing Examiner

COMMENT A

# SIX EAST REGIONAL DEVELOPMENT COMMISSION

CITY AUDITORIUM 311 WEST 6TH STREET WILLMAR, MINNESOTA 56201 PHONE: 612-235-8504

COMMISSION CHAIRMAN
Ernie Bullert

EXECUTIVE DIRECTOR
H. Eugene Hippe, AIP

REGIONAL PLANNERS
Paul Borene
Dick Carlstrom
Cathy Petersen
Wayne Thompson

August 9, 1976

RECEIVED
AUG 13 1976
OFFICE OF HEARING EXAMINERS

Mr. Howard Kaible
Office of Hearing Examiners
1745 University Avenue
St. Paul, MN 55104

Dear Mr. Kaible:

Re: Rules for Outdoor Recreation Grants

Following are suggestions and observations on the "Proposed Rules for Administering Federal and State Outdoor Recreation Grants."

1. SPA 300, C., 1.,--The "Ad Hoc Lake Improvement Committee" may be more effective with a couple of out state non-agency members in the form of mayors and county commissioners who are involved in lake improvement.

2. SPA 301, A., 1., b.,--45 days is not adequate time to properly prepare an application, gain a city council or county board approval at a regular meeting and have the regional development commission review it at a regular meeting. Too many short cuts are being taken which may violate the "open meeting law."

3. SPA 304:
   -There should be a new item on "Lake Eligibility." This could include: (1) DNR classifications, (2) minimum acreage size of lakes or acre feet, and (3) the sentence from E., 1., d--"Only lakes that are accessible to the public shall be eligible for a grant."
   -C.--The sentence "Grants for this program shall be available for acquisition, construction and testing." seems to be limiting. Certain types of fish control or excavation may not fit within these guidelines. Perhaps a word like "improvements" or "project measures" will give more latitude.
   -E., 1., a.--The words "or improve" should be added to make this sentence read "perpetuate or improve the beneficial natural characteristics of shoreline (and/or lake ?)."
   -E., 1., d.,--The sentence "Only lakes that are accessible to the public shall be eligible for a grant." does not belong in this section. Also the word majority is extremely restrictive in the first sentence "Have a majority of shoreline in public

ownership." Only a few lakes in state parks can qualify for this section. Perhaps the words "substantial amount" or "major portion" can be substituted for the word majority which means 50% or more.

I hope these comments and suggestions are helpful.

Very truly yours,

H. Eugene Hippe, AIP
Executive Director

HEH:ss

cc: William Atkins
State Planning Agency

(E) #12

July 20, 1976

Mr. Rudy R. Esala
Executive Director
Arrowhead Regional Development Commission
200 Arrowhead Place
211 West Second St.
Duluth, Minnesota 55802

Dear Mr. Esala:

Enclosed is a revised copy of the LAWCON and State LCMR grants-in-aid proposed rules for which we requested comments by April 30, 1976.

The enclosed proposed rules have been approved by the LCMR and are scheduled for a public hearing at 9:00 a.m. on Thursday, August 26, 1976 in room 57, State Office Building in St. Paul, Minnesota.

We were not ablet to incorporate your recommendations as per our discussion in time to meet LCMR's deadline for approval action. As a result, we suggest you make a formal written recommendation into the public hearing record and be at the public hearing to present the statement.

The written material may be mailed to Howard Kaibel, Office of Hearing Examiner, 1745 University Ave., St. Paul, Minnesota 55104. We would suggest the following changes in accordance with our discussion.

1. Page 4, SPA 301 A. 1. d., add the following sentence to this paragraph: "The Metropolitan Council or the appropriate regional development commission may recommend to OLUA a list of applications from the region arranged in order of priority."

2. Page 12, SPA 303 D. 1., insert the following words after OLUA in the first sentence: "and the appropriate regional development commission for a project review. The regional development commission may recommend to OLUA a list of applications from the region arranged in order of priority."

3. Page 14, SPA 304 D., insert the following words after OLUA in the first sentence: "and the Metropolitan Council or the appropriate regional development commission for a project review. The Metropolitan Council or appropriate regional development commission may recommend to OLUA a list of applications from the region arranged in order of priority."

Sincerely,

James J. Solem, Director
Office of Local and Urban Affairs

/pkb
Enclosure

Ex HE

RULES HEARING AGENDA AND GUIDELINES

This hearing is being conducted by an objective Hearing Examiner appointed and employed by the State Office of Hearing Examiners. He is not an employee of the agency proposing to promulgate these rules and has not discussed the merits of any questions involved with either the agency or with any other interested parties. He will strive to conduct an impartial, even-handed hearing in a fair and expeditious fashion. After the hearing he will weigh the evidence and arguments without any predisposition to either accept or reject the proposed rules in preparing Findings of Fact, Conclusions and Recommendations to the agency. The agency will then make its decision as to whether to adopt, modify or reject the proposed rules after waiting at least ten days, during which time the Findings of Fact and Recommendations will be available to affected persons. If you desire to be notified when these Findings are available, please so indicate on the register and be sure to include your phone number.

I. AGENDA

1. Hearing Convened by Hearing Examiner

2. Introduction of Agency Panel

3. Explanation of Procedure by Hearing Examiner

4. Introduction of Jurisdictional Documents

5. Presentation by Agency

6. Questions and Statements from Attorneys

7. Questions and Statements from Other Interested Persons

8. Hearing Closed by Hearing Examiner

If any person is peculiarly inconvenienced by the above agenda, such as having to get back to his employment or whatever, he should indicate this to the Hearing Examiner who will consider suspending the agenda to accommodate such special circumstances.

II. GUIDELINES

1. Everyone attending the hearing is required to sign the register as you enter indicating your name, address, and the interest or group you represent. If you wish to be notified when the Hearing Examiner's Findings and Recommendations are submitted to the agency, please so indicate.

2. The purpose of this hearing is to consider whether the proposed rules should be adopted and given the force of law, as if adopted by the Legislature itself. The agency must: (a) document its specific statutory authority to take the proposed action, (b) show that it has fulfilled all relevant substantive and procedural requirements of law or rule, and (c) demonstrate the need for and reasonableness of its proposed action with an affirmative presentation of facts. All persons wishing to express their views will have an opportunity to do so.

3. When the Hearing Officer affords you an opportunity to testify, please step to the area designated for statements, spell your name for the benefit of the court reporter, identify your interest or firm, and speak clearly.

4. All witnesses testifying subject themselves to questioning by a representative of the agency, the Hearing Officer and others present. Non-agency interested persons may refuse to consent to questioning by other non-agency persons.

5. If a written statement or other matter reduced to writing is desired to be introduced in evidence, it should be presented to the court reporter to be marked as an exhibit and offered at the appropriate time. Written statements may be introduced at the time an individual offers an oral statement. The right of the agency or others to examine the individual presenting this written statement extends to the content of the statement offered in the written form.

6. This hearing will be recorded by a court reporter. Subsequently a transcript of the proceedings will be available. If you wish to have a copy of the transcript, for which there is a charge, kindly notify the reporter.

7. In order to aid the construction of a proper record, it is requested that witnesses observe the following rules:

a. Only one person shall be allowed to address the hearing at one time.

b. All answers must be verbalized. The court reporter cannot record gestures or the nodding of a head.

c. All technical terms and proper names should be spelled out for the benefit of the court reporter.

8. Attorneys unfamiliar with administrative practice should be aware that the emphasis will be on informality. Exclusionary rules of evidence will be interpreted liberally in the case of all presentations. Exceptions to any rulings are unnecessary and superfluous. The Hearing Examiner will determine what weight should be assigned to evidence and the Findings and Recommendations will be based only on substantial evidence.

9. It should be noted that anyone who desires to submit a written brief or other written comments bearing upon the proposed rules may do so within 20 days of the close of this hearing. Such materials should be submitted to:

Office of Hearing Examiners
Room 300
1745 University Avenue
St. Paul, Minnesota 55104

The materials must be <u>received</u> within the 20-day period to be considered.

10. You are advised that under Minnesota Statutes, Section 10A.01, Subdivision 11 (1974) any individual representing persons or associations attempting to influence administrative action, such as the promulgation of these rules, must register with the State Ethics Commission as a lobbyist within five days of the commencement of such activity by the individual.

| | NAME | ADDRESS | TELEPHONE | REPRESENTING | CHECK HERE IF YOU WISH TO BE NOTIFIED WHEN EXAMINER'S FINDINGS ARE SUBMITTED TO AGENCY |
|---|---|---|---|---|---|
| 1. | Randy LASky | 200 Arrowhead PLACE 211 West 2nd St, Duluth | 722-5545 | Arrowhead Regional Development Commission | X |
| 2. | Albert D. Wittman | Minneapolis Park & Recreation Bd ~~250~~ 250 S. 4th Street Mpls 55415 | (612) 866-6035 | | X |
| 3. | Clyde Ryberg | 545 - Indian Mound Wayzata Mn | 473-4224 | G. A. Hickok & Assoc. | X |
| 4. | J. Pawlak | 252 State Office Bldg | 296-2080 | House Appropriations Cmte | X |
| 5. | James Nolan | 15 Capitol Sq Bld | 296-2102 | State Planning Agency | |
| 6. | John R Uelen | B-46 Capitol Bldg | 296-2406 | LCMR | X |
| 7. | Robert C. Hanson | B-46 Capitol Bldg | 296-2406 | LCMR | X |
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| 4. | | | | | |

# STATE OF MINNESOTA

STATE PLANNING AGENCY
100 CAPITOL SQUARE BUILDING
550 CEDAR STREET
ST. PAUL, 55101

July 26, 1976

Mr. Jim Clancy
Office of the State Register
95 Sherburne, Suite 203
St. Paul, Minnesota 55103

Dear Jim:

Enclosed are two pieces of copy to be published in Issue 5 (August 9) of the State Register.

The first is an erratum which corrects an omission in the proposed LAWCON-LCMR rules we submitted for publication in issue 3 of the State Register. Please bill the cost for publishing this material to sequence number 06014.

The second item should be published in your "Official Notices" section. It is a statement from the Comprehensive Health Planning Division of the Planning Agency regarding their application for designation as the State Health Planning and Development Agency under P.L. 93-641. Please bill the cost for publishing this material to sequence 06021, cost code 6127.

Also note that for the first time, we have no material to publish as the EQC Monitor.

If you have any questions or changes in the short titles, please call.

Sincerely

Pamela G. Streed

Pamela G. Streed
SPA Liaison Officer

Enclosures

PGS/smj

"AN EQUAL OPPORTUNITY EMPLOYER"

Ex #3

STATE OF MINNESOTA

STATE PLANNING AGENCY

COUNTY OF RAMSEY

In the Matter of the Proposed Adoption of Rules of the State Planning Agency Governing Land and Water Conservation Fund Act and Legislative Commission on Minnesota Resources Grants-In-Aid.

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that a public hearing in the above-entitled matter will be held in the State Office Building, Room 57, St. Paul, Minnesota on August 26, commencing at 9:00 a.m. and continuing until all persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Howard Kaibel, Office of Hearing Examiners, 1745 University Ave., St. Paul, MN 55104, either before the hearing or within 20 days after the close of the hearing.

The proposed rules, if adopted, would set forth criteria, priorities, and procedures for evaluating outdoor recreation proposals of local government units under consideration for Federal LAWCON and State Legislative Commission on Minnesota Resources grants-in-aid. Copies of the proposed rules are now available and one free copy may be obtained by writing to the Office of Local and Urban Affairs, State Planning Agency, 101 Capitol Square Building, 550 Cedar Street, St. Paul, MN. Additional copies will be available at the door on the date of the hearing. The agency's authority to promulgate the proposed rules is contained in Minn. Stat. § 4.17. A "statement of need" explaining why the agency feels the proposed rules are necessary and a "statement of evidence" outlining the testimony they will be introducing will be filed with the Hearing Examiners Office at least 25 days prior to the hearing and will be available there for public inspection.

Please be advised that pursuant to Minn. Stat. § 10A.01, Subd. 11 (1974), any individual engaged for pay or other consideration for the purpose of representing persons or associations attempting to influence administrative action, such as the promulgation of these rules, must register with the State Ethics Commission as a lobbyist within five days of the commencement of such activity by the individual.

Dated: July 9, 1976.

STATE PLANNING AGENCY

Peter Vanderpoel, Director

By A. Edward Hunter

A. Edward Hunter
Deputy Director

SPA 300
AUTHORITY, DEFINITIONS, GENERAL PROVISIONS

A. AUTHORITY

The rules contained herein are prescribed by the State Planning Agency, Office of Local and Urban Affairs, pursuant to authority granted in Minn. Stat., Section 86.71 (1974) and Minnesota Laws, 1969, Chapter 1139, Section 48, Subdivision 7, Paragraph g, as amended and Minnesota Extra Session Laws 1971, Chapter 3, Section 48, Subdivision 7, Paragraph h as amended (et seq.).

B. PURPOSE OF RULES

These rules are set forth to provide criteria, priorities, and procedures for evaluating outdoor recreation proposals of local government units under consideration for LAWCON and LCMR grants-in-aid.

C. DEFINITIONS

The following terms as used in these rules shall have the following meanings:

1. "Ad Hoc Lake Improvement Committee" means the committee composed of representatives of the State Planning Agency, Department of Natural Resources, University of Minnesota, Department of Health, Pollution Control Agency, Legislative Commission on Minnesota Resources, and Department of Agriculture, that reviews and evaluates lake improvement applications.
2. "BOR" means the Bureau of Outdoor Recreation of the United States Department of the Interior.
3. "BOR Guidelines" means those guidelines established by Bureau of Outdoor Recreation Grants-in-Aid Manual, effective as of May 6, 1976.
4. "Eligible Applicant" means units that are eligible to apply for an outdoor recreation grant under any of the programs provided for in these rules.
5. "Eligible Costs" means costs that are eligible for a grant from the LCMR grant-in-aid program or reimbursement from a LAWCON grant.
6. "Grant" means a specific sum of money made available by the Federal government or the State of Minnesota to an eligible applicant for the execution of outdoor recreation projects.

7. "LAWCON" means the program established by the Act of Congress entitled "The Land and Water Conservation Fund Act of 1965", as amended, (78 Stat. 897) which provides federal grants to the State of Minnesota for the acquisition and development of outdoor recreation projects.

8. "LAC" means the Legislative Advisory Commission established in Minn. Stat., Sect. 3.30 (1974).

9. "LCMR" means the Legislative Commission on Minnesota Resources established in Minn. Stat., Sect. 86.06 (1974).

10. "LCMR Grants-in-Aid Program" means the LCMR grants-in-aid for local and regional recreation and natural areas as established by Minnesota Laws 1965, Chapter 810, Section 23, as amended and Minnesota Extra Session Laws 1971, Chapter 3, Section 48, Subdivision 7, Paragraph h as amended (et seq.).

11. "Local units of government" means counties, cities, and townships within the State of Minnesota.

12. "Metropolitan Council" means the areawide council created pursuant to Minn. Stat., Sect. 473.123 (1975).

13. "OLUA" means the Office of Local and Urban Affairs established by Minn. Stat. Sect. 4.11, Subd. 7 (1974) within the State Planning Agency.

14. "Project" means a planned undertaking for outdoor recreation, proposed by an eligible applicant, having fixed commencement and termination dates and consisting of either of the following two types alone or together:

    a. "Acquisition Project" means the acquisition of real property or an interest and rights thereto for a well-defined outdoor recreation area and/or purpose.

    b. "Development Project" means the development of structures, utilities or facilities necessary for the purpose of outdoor recreation on publicly owned or controlled land.

15. "Project Agreement" means the contract executed between the BOR and the State, or the State and the eligible applicant that sets forth the mutual obligations with regard to a portion or all of a specific project.

16. "Public Agency" means a public entity established by state law with the authority to act in the acquisition interests in realty and in the development, maintenance, operation, and planning of outdoor recreation facilities. For the purposes of these regulations, state agencies, and the University of Minnesota shall not be considered as public agencies.

17. "Regional Development Commission" means any regional commission organized under the "Regional Development Act of 1969" Minn. Stat., Section 462.381 to 462.396 (1974).

18. "Regional Needs" means a park or open space project serving a region and consisting of the following:

    a. A site that consists of outstanding natural resources or man-made features and that is capable of management to interpret and preserve the resources, and the project has been reviewed by the Metropolitan Council or the appropriate Regional Development Commission and found to be consistent with regional recreational facilities and related plan and priorities

    b. Is of sufficient size to provide a variety of recreational opportunities and attract a substantial number of users from outside the boundaries of the applicant's jurisdiction and has been reviewed by the Metropolitan Council or the appropriate Regional Development Commission and found to be consistent with regional recreational facilities and related plan and priorities.

19. For the purposes of these regulations, certain terms or workds used herein shall be interpreted as follows: The word "shall" is mandatory, not permissive; the word "may" is permissive.

A. APPLICATION PROCESS

1. Submission of preliminary applications.

a. Eligibility. Any local applicant which satisfies the guidelines for eligibility established by BOR, may apply for a LAWCON grant.

b. Notice. Annually, OLUA shall send notice of the period of time that preliminary applications for LAWCON grants shall be accepted by OLUA. The notice shall be sent a least 45 days before the period ends. Such notice shall be sent to the following:

(1) Mayors and clerks of all cities in Minnesota;

(2) County board chairmen and auditors of all counties in Minnesota;

(3) Chairpersons of county planning commissions and city planning commission of all cities over 5,000 population according to the last federal dicennial census in Minnesota;

(4) Chairmen of regional development commissions;

(5) Chairpersons of each county's Township Association;

(6) Statewide organizations representing Minnesota local governments;

(7) Persons requesting notice; and

(8) Upon request, to the Minnesota State Legislature.

c. Contents of Application. The contents of the preliminary application shall be consistent with the informational requirement of these rules and shall be prescribed by OLUA.

d. Submission. Preliminary applications shall be submitted in a completed form to OLUA and the Metropolitan Council or the appropriate regional development commission for a project review before the closing date for applications.

2. Evaluation of Preliminary Applications.

Preliminary project applications which satisfy the BOR's project eligibility guidelines and priorities for LAWCON grants shall be evaluated and ranked as follows: a) general criteria; b) acquisition priorities; and c) development priorities.

a. General Criteria. Preliminary applications that meet one or more of the following criteria shall receive priority over similar projects that do not.

(1) Projects with outstanding irreplaceable resources or features that are in danger of commercial (non-recreational) development, subdivision, or other use that may be incompatible with outdoor recreation uses.

(2) Projects that have received a prior LAWCON grant or LCMR grant-in-aid for a preceeding phase of the proposed project.

(3) Projects that meet generally recognized national design standards for recreational facilities.

(4) Projects that reflect quality site planning; recognize and compliment existing land forms; provide for ease of maintenance and operation of the site and do not have major environmental intrusions which are detrimental to the intended use of the property.

(5) Projects that comply with the recreational facility priority needs as designated in the applicant's recreation plan.

b. Acquisition Priorities. The following criteria shall be used in descending order to evaluate applications for acquisition projects and to determine priorities for projects:

(1) Project sites having outstanding examples of existing or potential natural, scientific, cultural, historical, educational, or recreational values for public enjoyment.

(2) Acquisitions of sites which protect or enhance aesthetics or land and water quality of existing park facilities.

(3) Project sites that provide to the general public, a broad range of outdoor recreational opportunities or that are particularly well suited for one or more heavily used and concentrated recreational activities. (e.g. swimming beach)

(4) Project sites providing for needed low intensity use recreation activities, such as trail systems, wildlife observation, and other activities providing open space enjoyment.

(5) Projects which are equivalent to commercial camping accommodations for recreational users.

c. Development Priorities. The following criteria shall be used in descending order to evaluate applications for development projects and to determine priorities for projects:

(1) Projects designed to protect and enhance land and water quality of the site consistent with the estimated number of its potential users, make it accessible or designed to insure safety and health.

(2) Projects that provide to the general public a broad range of outdoor recreation opportunities or that are particularly well suited for one or more heavily used and concentrated recreational activities. (e. g. swimming beach)

(3) Projects providing needed facilities associated with low intensity use recreational areas.

(4) Projects which are equivalent to commercial camping accommodations for recreational users.

3. Notice of Disposition of Preliminary Applications.

All applicants shall be notified by OLUA of the disposition of their preliminary applications within 120 days of the closing date for the submission of preliminary applications. Grants shall be distributed in order of ranking until LAWCON and LCMR funds are depleted. For those applicants who are recommended for a grant, this notice shall include the submission deadline and a scheduled meeting to explain the content requirements for a final application. For those applicants who are not recommended for a grant, this notice shall indicate the reasons.

4. Final Application.

a. Eligibility. When a preliminary application has been given a high priority ranking by general criteria and project priorities (SPA 301. A. 2.), the eligible applicant who is recommended for a grant may submit a final application. OLUA will request a LAWCON grant if the eligible applicant submits a final application in adequate detail before the established deadline.

b. Content. The contents of the final application shall be consistent with the informational requirement of these rules and shall be prescribed by OLUA.

5. BOR Approval.

If the final application is satisfactory, OLUA shall request BOR approval of a LAWCON grant for the recommended project. OLUA shall notify the applicant of the action taken by BOR.

B. PROJECT AGREEMENT.

Upon approval by BOR, OLUA shall execute a project agreement with the applicant and the applicant shall comply with the terms of the project agreement.

C. DISBURSEMENT OF GRANT.

The applicant shall initially pay for the project costs as specified in the project agreement. The applicant shall submit to OLUA a billing request for work completed on the project, but not more than six billings per project. Upon receipt of a billing request, containing the documentation required in the project agreement, OLUA shall request from BOR the Federal share of the eligible costs represented by that billing. Upon receipt of the LAWCON grant for that billing, OLUA shall reimburse the applicant. The final billing shall reflect any cost adjustments due to project changes and shall be subject to a site inspection by State and BOR personnel and verification by federal and state audit.

D. AMENDMENTS.

A request for an amendment in the project scope, costs or time period may be submitted to OLUA prior to project termination. If the request is eligible for a LAWCON amendment and OLUA considers the amendment request to be reasonable and justified and it does not substantially affect the project eligibility under SPA 301 A. 2. above, it may request BOR to approve the amendment.

A. ELIGIBLE APPLICANT.

Only the following shall be eligible to submit an application for a LCMR grant-in-aid:

1. Local units of government;

2. Public agencies.

B. GRANT CATEGORIES AND FINANCIAL ASSISTANCE.

1. Regional Project. A LCMR grant-in-aid may be available when the applicants can document that the project serves a regional need under the following circumstances:

   a. Project with approved federal grant: Eligible applicants with an approved federal grant for a park, recreation or open space project within their jurisdiction, may apply for a LCMR grant-in-aid up to 100% of the local share of that acquisition or development project provided that the state share shall not exceed 75% of the total project costs.

   b. Project without approved federal grant: Eligible applicants not receiving a federal recreation grant may apply for a LCMR grant-in-aid up to 75% of the total cost of the project application.

2. Other than regional projects. A LCMR grant-in-aid may be available to applicants for other than regional projects under the following circumstances:

   a. Project with approved federal grant: Eligible applicants receiving a federal grant for a park, recreation or open space project may apply for a LCMR grant-in-aid up to 50% of the local share of the project.

   b. Project without approved federal grant: Eligible applicants not receiving a federal recreation grant may apply for a LCMR grant-in-aid up to 50% of the total cost of the project.

C. EVALUATION CONSIDERATIONS.

1. Criteria.

The criteria that shall be used to evaluate an application and to establish priorities for applications for a LCMR grant-in-aid shall be the criteria specified for a LAWCON applicant in SPA 301 A.2.a.,b.,c.

2. Priorities.

Projects which have an approved federal recreational grant will generally be given a higher priority.

D. APPLICATION PROCEDURE.

1. Projects under consideration for a LAWCON grant.

a. A final application that has been submitted for a LAWCON grant may be sufficient to meet the requirements of a LCMR grant-in-aid; additional documentation may not be necessary.

b. Upon BOR approval of a LAWCON application, OLUA shall initiate the application procedure for applicants that have not received LCMR grants-in-aid exceeding the maximum legislative grant allowable for that project.

c. OLUA shall submit the application with its recommendations to the LCMR and the secretary of the LAC.

d. OLUA shall request the LCMR to review each application and make its recommendations to the LAC regarding such expenditures.

e. The secretary of the LAC shall review the application for completeness and present it to the Governor and the LAC for consideration. Applications shall be submitted to the secretary of the LAC and the LCMR within the deadline established by LAC. If an application is not submitted prior to the deadline, it shall be held for the next meeting.

2. Projects that have received a grant from another federal program.

a. Local units of government or public agencies that have received a federal grant (other than a LAWCON grant) for park or open space acquisition or development may apply for a LCMR grant-in-aid by submitting an application to OLUA. OLUA shall prescribe the form and content of the applications.

b. Upon receipt of a satisfactory and complete application, OLUA shall initiate the processing of the application in accordance with the procedure specified in SPA 302D.1.c.,d.,e.

3. Projects without any federal grant.

Eligible projects which are given high priority but do not receive federal recreation grant assistance due to lack of federal funding or ineligibility, may be considered for LCMR grant-in-aid. When LCMR grant-in-aid funds are available, OLUA may process those applications of high ranking. The procedure shall be the same as outlined in SPA 302 D.1.c.,d.,e.

E. DISBURSEMENT OF GRANTS PROCEDURE.

1. When the governor with the advice of LAC has approved an application for a LCMR grant-in-aid, a project agreement between the applicant and the State of Minnesota shall be executed; and, the applicant may then proceed with the project.
2. The State of Minnesota shall then pay the applicant the amount of the grant after the agreement has been executed. The applicant shall maintain a separate accounting of the project costs. The applicant shall submit documentation as specified by OLUA, unless it has already been submitted under the requirements for a federal grant to verify the costs and comply with the project agreement.

F. AMENDMENTS.

1. Request. An applicant may request an amendment of a project agreement to change the scope, boundaries, or time period of a project. Applicants shall not request an amendment for cost overruns. Applicants requesting an amendment shall submit documentation as specified by OLUA to explain and justify the project.
2. OLUA Action.

When satisfactory documentation is received and OLUA considers the amendment request to be justifiable, the following procedures shall apply:

a. OLUA may approve requests for changes in the time period of a project and requests for modifications of development items originally approved.

b. OLUA may approve requests for minor changes in the project scope or boundaries which shall not exceed 25% of the total project.

c. If the request is for a major change in project scope or boundaries exceeding 25% of the total project, OLUA shall request LCMR to consider the amendment.

G. PROJECT COMPLETION.

Upon completion, the project shall be subject to a site inspection by state personnel and verification by a state audit. If the total costs of the project when completed are less than the costs upon which the state grant was based, the applicant shall return that portion of the state grant not utilized for the project, which is consistent with the percentage of the state grant participation in the project.

H. RETENTION AND USE OF PROJECT.

1. Property acquired or developed with a LCMR grant-in-aid shall be retained and used for public outdoor recreation on a non-discriminatory basis during its useful life. Any property so acquired or developed shall not be changed to a non-recreational use or another recreational use without prior approval of OLUA and LCMR. In the event that this occurs, the applicant shall return part or all of the state grant upon request by OLUA.

2. If approval is granted to change the property acquired or developed with LCMR grant-in-aid to a non-recreational use, the applicant shall return that portion of the state grant representing the non-recreational use to the State of Minnesota.

I. RESPONSIBILITIES OF RECIPIENT.

A recipient of a LCMR grant-in-aid shall comply with all existing or subsequent state laws and regulations that apply to the project.

SPA 303
LCMR GRANTS-IN-AID PROGRAM
FOR HARBORS OF REFUGE

A. HARBORS OF REFUGE PROGRAM.

Harbors of refuge grant program is hereby established for the development of harbors suitable for giving safe refuge to shallow draft craft from storms on Lake Superior. This grant program is an extension of the LCMR grants-in-aid program and is established by Minnesota Laws, 1969, Chapter 1139, Section 48, Subdivision 7, Paragraph g.

B. ELIGIBLE APPLICANT.

Any local unit of government or public agency which as received a grant from the U.S. Army Corps of Engineers for the acquisition or development of a harbor of refuge may apply for a LCMR grant-in-aid.

C. ELIGIBLE PROJECTS.

An eligible applicant may receive a LCMR grant-in-aid for 50 percent of the eligible local costs provided it does not exceed the maximum legislative grant-in-aid allowable for that project. Grants from this program shall be available for acquisition and development only. Maintenance and operational costs shall be the responsibility of the applicant.

D. APPLICATION PROCEDURE.

1. Eligible applicants may apply for a LCMR grant-in-aid for harbors of refuge by submitting an application to OLUA. OLUA shall prescribe the form and content of the application.
2. Procedure.
   a. Upon receipt of a harbor of refuge application, OLUA shall review the application for eligibility of the project, completeness of the application, and furthermore, evaluate it as to priority.
   b. When the application is determined by OLUA to be satisfactory and of high priority, OLUA shall recommend a grant to the LCMR and the LAC in accordance with SPA 302 D.1.c.,d.,e.

E. DISBURSEMENT OF GRANTS.

The disbursement of grants for LCMR grants-in-aid to harbors of refuge shall be as specified in SPA 302 E.

F. AMENDMENTS.

Harbors of refuge projects that have been amended by the Corps of Engineer shall be eligible for LCMR grant-in-aid amendments as specified in SPA 302 F.

G. PROJECT COMPLETION.

Upon completion, the project shall be subject to closing requirements as specified in SPA 302 G.

SPA 304

LCMR GRANTS-IN-AID PROGRAM FOR LAKE IMPROVEMENT PROJECTS

A. LAKE IMPROVEMENT PROGRAM.

A lake improvement grant program is hereby established for demonstrating or carrying out new techniques to improve the quality of lakes. This grant program is an extension of the LCMR grants-in-aid program and is established by Minnesota Laws, 1969, Chapter 1139, Section 48, Subdivision 7, Paragraph g. Pursuant to said statute, the following shall be eligible to apply for such projects:

B. ELIGIBLE APPLICANTS.

1. Units of local government and public agencies that have the authority to undertake lake improvement projects;
2. Non-profit organizations and associations whose primary objective is the management of natural resources and the improvement of the environment.

C. ELIGIBLE PROJECTS.

Eligible projects for lake improvement grants shall be pilot demonstration projects which are new or unique for that type of lake. Eligible projects and facilities may receive a LCMR grant-in-aid of 50 percent of the eligible costs but not to exceed the maximum legislative grant-in-aid allowable for that project. Grants from this program shall be available for acquisition, construction and testing costs. Maintenance and operational costs shall be the responsibility of the applicant.

D. APPLICATION PROCESS.

Eligible applicants may apply for a LCMR grant-in-aid for lake improvement by submitting a preliminary application to OLUA. OLUA shall prescribe the form and content of the application.

E. EVALUATION OF APPLICATIONS.

1. Priorities.

The criteria that shall be used to evaluate and establish priorities for applications shall be based upon projects that:

a. Perpetuate the beneficial natural characteristics of the shoreline.

b. Consider upstream conditions and sound watershed management practices, as may be established in the comprehensive watershed plan.

c. Are located in areas that have and are enforcing effective zoning ordinances, building codes, health ordinances, and conservation rules that affect the project.

d. Have a majority of shoreline in public ownership. Only lakes that are accessible to the public shall be eligible for a grant.

e. Improve the quality of waterbased recreational activities and fish and game habitat.

f. Have received a federal grant.

2. Procedure.

Upon receipt of a preliminary application for a lake improvement grant, OLUA shall follow the following procedure:

a. The application shall be reviewed for eligibility and completeness. If additional information is required, the applicant shall be notified and asked to provide the additional information.

b. A preliminary evaluation and priority ranking of the lake improvement project shall be conducted by OLUA, the Department of Natural Resources and the Pollution Control Agency.

c. Applicants that receive a high priority ranking in the preliminary project evaluation shall then be submitted to the "Ad Hoc Lake Improvement Committee" for review.

d. Applicants that receive a high ranking from the "Ad Hoc Lake Improvement Committee" evaluation shall be eligible to submit a final application.

e. Final applications shall be submitted to OLUA. OLUA shall prescribe the form and content of the application. Final applications that are acceptable shall be recommended to the LCMR and the LAC in accordance with SPA 302 D.1.c.,d.,e.

F. DISBURSEMENT OF GRANTS.

The disbursement of grants for LCMR grant-in-aid lake improvement projects shall be as specified in SPA 302 E .

G. AMENDMENTS.

Lake improvement projects shall be eligible for LCMR grant-in-aid amendments as specified in SPA 302 F .

H. PROJECT COMPLETION.

Upon completion, the project shall be subject to closing requirements as specified in SPA 302 G .

Ex #2

STATE OF MINNESOTA

COUNTY OF RAMSEY

STATE PLANNING AGENCY

In the Matter of the Proposed Adoption of Rules of the State Planning Agency Governing Land and Water Conservation Fund Act and Legislative Commission on Minnesota Resources Grants-In-Aid.

APPOINTMENT OF HEARING OFFICER

Howard K. Kaibel is hereby appointed hearing officer in the matter of the proposed rules of the State Planning Agency governing land and water conservation fund act and Legislative Commission on Minnesota Resources grants-in-aid.

Said hearing officer is authorized and empowered to conduct the hearing and to perform any and all acts necessary and proper thereto.

Dated this 7 day of July, 1976.

STATE OF MINNESOTA

STATE PLANNING AGENCY

Peter Vanderpoel, Director

By A. E. Hunter

A. Edward Hunter
Deputy Director

Ex 4

STATE OF MINNESOTA

COUNTY OF RAMSEY

STATE PLANNING AGENCY

In the Matter of the Proposed Adoption of Rules of the State Planning Agency Governing Land and Water Conservation Fund Act and Legislative Commission on Minnesota Resources Grants-In-Aid.

ORDER FOR HEARING

IT IS HEREBY ORDERED that a public hearing on the above captioned rules be held in the State Office Building, Room 57, St. Paul, Minnesota, on August 26, commencing at 9:00 a.m. and continuing until all persons have had an opportunity to be heard.

IT IS FURTHER ORDERED that a Notice of Hearing be mailed to all persons or representatives of associations or other interested groups who have registered their names with the Secretary of State for that purpose.

IT IS FURTHER ORDERED that the Notice of Hearing be published in the State Register.

Dated: July 9, 1976

STATE PLANNING AGENCY

Peter Vanderpoel, Director

By A. Edward Hunter

A. Edward Hunter
Deputy Director

Ex 5

STATE OF MINNESOTA

STATE PLANNING AGENCY

COUNTY OF RAMSEY

In the Matter of the Proposed Adoption of Rules of the State Planning Agency Governing Land and Water Conservation Fund Act and Legislative Commission on Minnesota Resources Grants-In-Aid.

AFFIDAVIT

Joanne Herbenson, first being duly sworn on oath, deposes and says that:

1. I am an employee of the State Planning Agency.

2. On July 2, 1976, I went to the Secretary of State's Office in the City of Saint Paul and requested a current list of all associations and individuals who had registered their names with the Secretary of State for the purpose of obtaining Notices of public hearings. I also requested a current list of all associations and individuals who had registered their names with the Secretary of State for the purpose of obtaining Notices of public hearings relating to the promulgation of rules by the State Planning Agency.

3. On July 2, 1976, in response to the above request, the Secretary of State's Office provided me with the lists.

Joanne Herbenson

Subscribed and sworn to before me this 2nd day of July, 1976.

Leo M. Stfiner

Notary Public

LEO M. STFINER
RAMSEY COUNTY
NOTARY PUBLIC-MINNESOTA
MY COMMISSION EXPIRES NOV. 30, 1982

STATE OF MINNESOTA

STATE PLANNING AGENCY

Ex #6

COUNTY OF RAMSEY

In the Matter of the Proposed Adoption of Rules of the State Planning Agency Governing Land and Water Conservation Fund Act and Legislative Commission on Minnesota Resources Grants-In-Aid.

AFFIDAVIT OF MAILING

Pam Burdick, being first duly sworn, deposes and says:

That on the 12th day of July, 1976, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Hearing by depositing in the United States mail at said City of St. Paul, a true and correct copy thereof, properly enveloped, with postage prepaid, to all persons and associations at the addresses listed on the attached Certificate of the Secretary of State.

Pam Burdick

Subscribed and sworn to before me
this 12th day of July, 1976.

Joanne M. Herbenson
Notary Public

JOANNE HERBENSON
RAMSEY COUNTY
NOTARY PUBLIC-MINNESOTA
MY COMMISSION EXPIRES NOV. 30, 1982

E #7

STATE OF MINNESOTA

STATE PLANNING AGENCY

COUNTY OF RAMSEY

In the Matter of the Proposed Adoption of Rules of the State Planning Agency Governing Land and Water Conservation Fund Act and Legislative Commission on Minnesota Resources Grants-In-Aid.

CERTIFICATE

I hereby certify that the attached 494 labels & one sheets constitute the complete list of persons, associations, and other interested groups who as of 10:30 o'clock A .M., this 2nd day of July, 1976, have requested pursuant to M.S. 1971, Section 15.0412, Subd. 4 that their names be placed on file with the Secretary of State for the purpose of receiving notice of public hearing on proposed rules on the subject captioned above.

Secretary of State

Joan Anderson Growe

By Ceil Dorn

Ex 8

STATE OF MINNESOTA

STATE PLANNING AGENCY

COUNTY OF RAMSEY

In the Matter of the Proposed Adoption of Rules of the State Planning Agency Governing Land and Water Conservation Fund Act and Legislative Commission on Minnesota Resources Grants-In-Aid.

STATEMENT OF NEED

The above-captioned rules are not amendments to existing rules of the State Planning Agency.

The need to adopt these rules arises because of the authority granted in Minn. Stat. § 86.71 (1974) and the requirement set out be Executive Order no. 24, dated March 31, 1972, which designates the responsibility for promulgation of the Land and Water Conservation program to the State Planning Agency.

Furthermore, the Legislative Commission on Minnesota Resources has requested the promulgation of rules for their grant program.

Dated: July 27, 1976

STATE OF MINNESOTA

STATE PLANNING AGENCY

Peter Vanderpoel
Director

Ex #9

STATE OF MINNESOTA

STATE PLANNING AGENCY

In the Matter of the Proposed Adoption of Rules of the State Planning Agency Governing Land and Water Conservation Fund Act and Legislative Commission on Minnesota Resources Grants-In-Aid.

STATEMENT OF EVIDENCE

In addition to the "Statement of Justification" which is available for inspection or purchase at the Office of Hearing Examiners, 1745 University Avenue, St. Paul, Minnesota, and in support thereof the State Planning Agency will introduce the following evidence:

James Solem and William Atkins will be giving expert testimony and opinions for the Office of Local and Urban Affairs of the State Planning Agency.

We may call one or more of the following expert witnesses to testify:

Thomas Clawson, staff member of the Office of Local and Urban Affairs, to answer questions of the public.

Robert E. Hanson and John Velin, staff representatives of LCMR to give testimony and answer questions relative to LCMR policy.

We intend to introduce the following manuals, books, scientific treatises, and other documentary evidence:

Bureau of Outdoor Recreation Grants-In-Aid Manual, preliminary and final grant forms for federal and state grants.

We will be citing the following statutes and case law:

Minn. Stat. § 86.71 (1974); Minn. Laws 1969, Chapter 1139, § 48, Subd. 7, para. g; and Minn. extra session Laws 1971, Chapter 3, § 48, subd. 7, para. h.

Dated: July 27, 1976

STATE OF MINNESOTA

STATE PLANNING AGENCY

By Peter Vanderpoel
Peter Vanderpoel
Director

Ex ** 9A

STATE OF MINNESOTA

COUNTY OF RAMSEY

STATE PLANNING AGENCY

In the Matter of the Proposed Adoption of Rules of the State Planning Agency Governing Land and Water Conservation Fund Act and Legislative Commission on Minnesota Resources Grants-In-Aid.

ADDENDUM TO STATEMENT OF EVIDENCE

JAMES SOLEM will not be offering expert testimony or expertise in the rules hearing, but will simply introduce the proposed rules.

WILLIAM ATKINS will be offering opinion evidence to support the justifications and avail himself for questions in this area.

In addition to the evidence already stated in our original statement of evidence, we will be presenting the following documentary evidence:

State Comprehensive Outdoor Recreation Program (SCORP)

Dated: August 11, 1976

STATE OF MINNESOTA

STATE PLANNING AGENCY

Peter Vanderpoel, Director

By A. Edward Hunter

A. Edward Hunter
Deputy Director

ADDENDUM TO STATEMENT OF JUSTIFICATIONS FOR PROPOSED RULES ON LAWCON AND LCMR GRANTS-IN-AID OF THE STATE PLANNING AGENCY

1. The following sentence is hereby added to the justification for rule SPA 302 B.1.a. (page 34 of justifications) to further clarify the need for this rule.

This paragraph is also necessary to distinguish the regional grant catagory from the other than regional grant catagory and to make potential applicants aware of the maximum percentage rates allowable for regional grants.

2. The following sentence is hereby added to the justification for rule SPA 302 B.2.a. (page 35 of jusitifications) to further clarify the need for this rule.

This paragraph is also necessary to make potential applicants aware that the maximum percentage rates allowable is 50% of the local share of a project that has received a federal park, recreation, or open space grant.

3. The following sentence is hereby added to the justification for rule SPA 302 D.1.c. (page 38 of justifications) to further clarify the need for this rule.

This paragraph is also necessary to make potential applicants aware of the review and recommendation requirements necessary by Minnesota legislative commissions to approve a final application.

4. The following sentence is hereby added to the justification for rule SPA 302 D.1.d. (page 39 of justifications) to further clarify the need for this rule.

This paragraph is also necessary to make potential applicants aware that LCMR must make recommendations to LAC concerning the approval of a final application.

5. The following sentence is hereby added to the justification for rule SPA 302 D.1.e. (page 39 of justifications) to further clarify the need for this rule.

This paragraph is also necessary to make potential applicants aware that LAC must be consulted before the final application can be approved.

6. The following sentence is hereby added to the justification for rule SPA 303 c. (page 46 of justifications) to further clarify the need for this rule.

This paragraph is also necessary to make potential applicants aware that the maximum percentage rules allowable for Harbors of Refgue grants is 50% of the eligible local costs.

# STATE OF MINNESOTA

STATE PLANNING AGENCY
100 CAPITOL SQUARE BUILDING
550 CEDAR STREET
ST. PAUL, 55101

## LAWCON AND LCMR GRANT-IN-AID PROPOSED RULES AND REGULATIONS

## STATEMENT OF JUSTIFICATION FOR RULES AND REGULATIONS

### INTRODUCTION

The proposed rules prescribed in the following are for the administration of the Land and Water Conservation Fund Act of 1965 as amended (LAWCON) for local government units and Legislative Commission on Minnesota Resources (LCMR) grants-in-aid for local and regional recreation and natural areas. These rules are proposed by the State Planning Agency, Office of Local and Urban Affairs, to administer these grant programs. The LAWCON and LCMR grants-in-aid programs provide grants for the acquisition and development of outdoor recreation and natural areas.

### SPA 300
### AUTHORITY, DEFINITIONS, GENERAL PROVISIONS

A. AUTHORITY

The rules contained herein are prescribed by the State Planning Agency, Office of Local and Urban Affairs, pursuant to authority granted in Minn. Stat. Section 86.71 (1974) and Minnesota Laws, 1969, Chapter 1139, Section 48, Subdivision 7, Paragraph g, as amended and Minnesota Extra Session Laws 1971, Chapter 3, Section 48, Subdivision 7, Paragraph h as amended (et. seq.).

JUSTIFICATION: This paragraph is necessary to establish the legislative basis for the State Planning Agency, Office of Local and Urban Affairs, to administer these grant programs, designate the establishment of the programs, and promulgate rules for them.

Minnesota statutes, sec. 86.71, subd. 1, states, "The governor is designated as the state agency to apply for, accept, receive and disburse federal funds...from the Federal Land and Water Fund Act.". The Governor may designate a state agency to act in his behalf for this program. On March 31, 1972, the Governor issued Executive Order No. 24 designating the State Planning Agency to administer that portion of LAWCON monies and LCMR grants-in-aid made available for distribution to local units of government.

This executive order also gave to the State Planning Agency, the authority to establish rules, regulations, and procedures for administering the funds.

Since the Office of Local and Urban Affairs (OLUA) has a primary responsibility to inform local units of government of federal assistance programs, administer grant programs for regional and local government units, and provide technical assistance to local units within the State Planning Agency, OLUA has been designated to administer the LAWCON for local governmental units and LCMR grants-in-aid programs.

Minnesota Laws 1969, ch. 1139, sec. 48, subd. 7, para. g, provides grants-in-aid to local units of government. This paragraph states that the State Office of Local and Urban Affairs will administer the Natural Resources and Land and Water grants-in-aid programs to local units of government. Minnesota Laws 1975, ch. 204, sec. 55, subd. 2, para. g, continues this appropriation into the current biennium.

Minnesota Extra Session Laws 1971, ch. 3, sec. 48, subd. 7, para. h, provides grants-in-aid for regional parks. This paragraph states that the State Office of Local and Urban Affairs will administer the Natural Resources and Land and Water grants-in-aid programs to local units of government. Minnesota Laws 1975, ch. 204, sec. 55, subd. 2, para. h, continues this appropriation into the current biennium.

The Legislative Commission on Minnesota Resources, which makes recommendations to the Legislative Advisory Commission regarding such expenditures, has also requested that the State Planning Agency promulgate and adopt rules regarding the allocation of LAWCON and State LCMR grants-in-aid.

B. PURPOSE OF RULES

These rules are set forth to provide criteria, priorities, and procedures for evaluating outdoor recreation proposals of local government units under consideration for LAWCON and LCMR grants-in-aid.

JUSTIFICATION: This paragraph is necessary to explain to potential applicants what the purpose of these rules are promulgated for.

C. DEFINITIONS

The following terms as used in these rules shall have the following meanings:

1. "Ad Hoc Lake Improvement Committee" means the committee composed of representatives of the State Planning Agency, the Department of Natural Resources, University of Minnesota, the Department of Health, the Pollution Control Agency, the Legislative Commission on Minnesota Resources, and the Department of Agriculture, that reviews and evaluates lake improvement applications.

JUSTIFICATION: This definition is necessary to designate the committee's responsibility for evaluating lake improvement applications and membership of the committee.

In 1969, state legislation expanded the use of the LCMR grants-in-aid program to include "locally" sponsored lake improvement projects. Guidelines developed indicate that these projects should demonstrate new methods of improving lakes in Minnesota. It is necessary that the emphasis for lake improvement projects be on new methods of solving lake problems to provide the most benefit for lakes throughout Minnesota for the limited appropriations available. This must be accomplished in a way that insures that such appropriations do not jeopardize the funding for other recreational projects. The nature of the program requires that applications be evaluated by persons who have considerable technical knowledge of Minnesota's lakes, their problems, and of previous studies undertaken. The relatively limited funds available for such projects necessitate that the evaluation process be accomplished with minimum time delay and administrative expense.

Therefore, the proposed Ad Hoc Lake Improvement Committee shall be composed of representatives of state agencies which have considerable technical knowledge of lakes and their problems on a statewide basis. Agencies on the committee have many management, regulatory, or related resource functions which have an effect on water quality and quantity. Personnel in these agencies have technical knowledge of current lake studies and previous ones done both within and outside Minnesota. The water management responsibilities of agencies proposed to be on the Ad Hoc Lake Improvement Committee are listed below.

A. The State Planning Agency shall have the following responsibilities in affecting water quality and quantity:

   1. To provide administrative services that include receipt and analysis of proposed projects to meet program qualifications and priorities.

   2. To prepare and present applications to committees for funding consideration.

   3. To have knowledge of previous projects and studies undertaken in Lake Improvements funding available for projects, and knowledge of local government recreation systems using lake or lands adjacent to lakes.

B. The Minnesota Department of Natural Resources shall have the following management functions that have an effect on water quality and quantity:

   1. To prepare shoreland and flood plain management ordinances for local units of government.

   2. To collect and distribute information on the physical and chemical characters of lakes and streams.

3. To administer state-owned control structures and provide state public accesses to lakes.

4. To manage game, water fowl, fur bears, and fish population in Minnesota waters and surrounding lands for public harvest and enjoyment.

5. To establish criteria for evaluating watercraft uses and assist local governments in implementing water surface use controls to resolve water use conflicts.

6. To regulate work in beds of public waters, appropriation of waters, and use of waters, to regulate control programs for nuisance aquatic plants in lakes.

7. To conduct studies of ground water and surface water resources, water management, water use and water regulation.

C. The University of Minnesota shall conduct water research in its Limnological Research Center on biological, chemical, geographical, and physical features of lakes in Minnesota and shall have knowledge of similar studies outside the state.

D. The Minnesota Department of Health shall have the following management functions that have an effect on water quality and quantity:

1. To assure that wastes from water treatment processes do not adversely affect the environment, including lakes.

2. To supervise public water supply systems to assure safe and sanitary water for public use.

3. To conduct public health investigations of the suitability of natural bathing areas for swimming and advise on improving the sanitation safety and usability of natural bathing waters.

4. To protect ground water resources from pollutants and maintain well records for interpretation and mapping of the geological and ground water resources of the state.

E. The Minnesota Pollution Control Agency shall have the following management functions that have an effect on water quality and quantity:

1. To establish water quality standards on all interstate and intrastate waters; to develop municipal and industrial effluent standards consistent with established water quality standards.

2. To regulate, control, and issue permits for waste, water and sewage control works.

3. To issue permits for construction and operation of treatment facilities to industries and munipalities.

4. To regulate the pollution from livestock feed lockers, poultry lots, and other animal lots to prevent them from polluting water bodies.

5. To prevent or break up water,land, and air pollution due to solid waste, abandoned motor vehicles, and other scrap metal, and animal feed lots.

6. To undertake research on lake eutophication or natural lake aging process and pesticides.

7. To survey waters to establish base line water quality levels to determine effluent characteristics and effects on the physical, chemical, and biological characteristics of waters receiving pollution.

8. To compile and evaluate water quality data from sampling networks.

F. The Legislative Commission on Minnesota Resources shall set the policy for the administration and operation of the Lake Improvement program and shall make recommendations regarding the expenditure of Lake Improvement grants.

G. The Minnesota Department of Agriculture shall have administrative and regulatory authority relating to crop and animal production, fertilizers, pesticides, herbicides, and protection of agricultural crops and forests. Representation from the Department of Agriculture shall provde important technical information on what effects agricultural practices and uses adjacent to many Minnesota lakes will have on proposed Lake Improvement projects.

Since these agencies are all located in the same general vicinity, the transmittal of documents and communications and the meetings necessary to review and evaluate projects can be carried out with a minimum of time delay and administration expense.

2. "BOR" means the Bureau of Outdoor Recreation of the United States Department of the Interior.

3. "BOR Guidelines" means those guidelines established by Bureau of Outdoor Recreation Grants-in-Aid Manual, effective as of May 6, 1976.

JUSTIFICATION: This definition is necessary to insure that the reference to BOR guidelines is consistant with the current, not future regulations of the BOR Grants-in-Aid Manual.

JUSTIFICATION: This definition is necessary since it is an abbreviation of the federal agency from which the State Planning Agency receives LAWCON grants and sets forth the policy and procedural guides for the administration of the LAWCON program as proposed in these rules.

4. "Eligible Applicant" means units that are eligible to apply for an outdoor recreation grant under any of the programs provided for in these rules .

JUSTIFICATION: This definition is necessary to clarify that an eligible applicant is a unit eligible to apply for the recreation grant programs proposed in these rules.

5. "Eligible Costs" means costs that are eligible for a grant from the LCMR grant-in-aid program or reimbursement from a LAWCON grant.

JUSTIFICATION: This paragraph is necessary to clarify to potential applicants that this term is those costs that are eligible for a grant from the LCMR grants-in-aid program or reimbursement from a LAWCON grant.

6. "Grant" means a specific sum of money made available by the Federal government or the State of Minnesota to an eligible applicant for the execution of outdoor recreation projects.

JUSTIFICATION: This definition is necessary to clarify this term to potential applicants as an actual sum of money made available to an eligible applicant for execution of a specific project. BOR Manual 600.2.1 defines "grant" in a similar manner to that used in this proposed definition. Thus, this term as used in the federal LAWCON program has a comparable meaning to the term proposed in these rules.

SUPPORTING DOCUMENTATION: BOR Manual 600.2.1 defines "grant" as follows:

GRANT: The act of providing a specific sum of money toward the execution of a specific project, consistent with the terms of a signed agreement. Also the amount of money provided.

7. "LAWCON" means the program established by the Act of Congress entitled " The Land and Water Conservation Fund Act of 1965", as amended, (78 Stat. 897) that provides federal grants to the State of Minnesota for the acquisition and development of outdoor recreation projects.

JUSTIFICATION: This definition is necessary since it is an abbreviation of the Land and Water Conservation Fund Act of 1965, as amended, which is the source of federal funds described in these rules. L stands for "Land", A stands for "and", W stands for "Water", and CON stands for the first three letters of "Conservation". The term can be pronounced with a minimum of difficulty and is in common use in Minnesota.

8. "LAC" means the Legislative Advisory Commission established in Minn. Stat., Sect. 3.30 (1974).

JUSTIFICATION: This definition is necessary to provide an abbreviation for the Legislative Advisory Commission which must be consulted prior to the expenditure of state appropriations for LCMR grants-in-aid. The Legislative Advisory Commission is composed of the chairmen of the Minnesota Senate Committees on Taxes and Finance and the Minnesota House Committees on Taxes and Appropriations. The Governor shall preside at the commission meetings. Minnesota Laws, 1975, ch.204,sec.55, subd.2, para. g, states that the LCMR grants-in-aid "appropriation shall be expended with the approval of the Governor after consultation with the Legislative Advisory Committee." Minnesota Laws 1975, ch. 271, sec. 3, has changed the name of the Legislative Advisory Committee to the Legislative Advisory Commission.

9. "LCMR" means the Legislative Commission on Minnesota Resources established in Minn. Stat., Sect. 86.06(1974).

JUSTIFICATION: This definition is necessary to provide an abbreviation for the Legislative Commission on Minnesota Resources which must be consulted regarding expenditures of the state or LCMR grants-in-aid programs proposed in these rules. The Legislative Commission on Minnesota Resources then makes recommendations to the Legislative Advisory Commission regarding the expenditures for grants from the LCMR grants-in-aid program. The Legislative Commission on Minnesota Resources also sets forth policy for the administration of the LCMR grants-in-aid program and recommends legislation establishing the funding level of that program.

Minnesota Laws 1975, ch. 204, sec. 55, subd. 2, paras. g and h, which continues the LCMR grants-in-aid appropriation in the current biennium, states that"the Minnesota Resources Commission shall make recommendatios to the Legislative Advisory Committee regarding such expenditures". Minnesota Laws, 1975, ch. 271, sec. 3 has changed the name of the Minnesota Resources Commission to the Legislative Commission on Minnesota Resources.

10. "LCMR Grants-in-Aid Program" means the LCMR grants-in-aid for local and regional recreation and natural areas as established by the Minnesota Laws 1965, ch. 810, sec. 23, as amended and Minnesota Extra Session Laws 1971, ch. 3, sec. 48, subd. 7, para. h as amended (et seq.).

JUSTIFICATION: This definition is necessary as an abbreviation of the state grant program proposed in these rules for grants-in-aid for local and regional recreation and natural areas. It would provide a close identification with the title of the legislation establishing the appropriation. Minnesota Laws 1975, ch. 204, sec. 55, Subdivision g is entitled "grants-in-aid for local recreation and natural reas" while Subdivision h of this legislation is entitled "grants-in-aid for regional recreation and natural areas." By including LCMR in the definition, reference is made to this commission which recommends grant requests, sets administrative policy and recommends funding levels for this state grant program.

11. "Local units of government"means counties, cities, and townships within the State of Minnesota.

JUSTIFICATION: This definition is necessary since this is a major category of applicants that are eligible for LCMR grants-in-aid programs and LAWCON grants proposed in these rules. Minnesota Statutes 86.71, subd. 4 (1974) provides that 50 percent of available LAWCON funds shall be distributed for projects to be acquired, developed and maintained by local units of government. Approved projects are also to be consistent with statewide, county, or regional recreation plans. Minnesota Laws 1965, ch. 810, sec. 22, subd. 1 which initiates appropriations for LCMR grants-in-aid programs, states that the appropriation shall be distributed to counties and local units of government. Minnesota Extra Session Laws 1971, ch. 3, sec. 48, subd. 7, para h, which initiates regional park appropriations

for the LCMR grants-in-aid program, indicates that these funds are available to counties, local units of government and special government units. Counties, cities, and townships in Minnesota are the proposed units which exercise general local unit of government functions and have the authority to acquire, develop, maintain, operate, and plan for outdoor recreation facilities as required in the above legislation. The following legislation provides such authority to counties, cities, and townships:

A. Counties - Minnesota Statutes chapter 398.32 (1974) provides that counties may acquire land or water areas for public park purposes and related outdoor recreation purposes and may hold, improve, maintain, supervise, control, operate the same for set purposes.

B. Cities - Minnesota Statutes chapter 448.04 (1974) provides that cities of the fourth class are authorized to acquire lands not exceeding 100 acres for use by the public for a park or golf course or for park purposes and may approve such and protect the same and in such other ways it is paid be necessary to make such land suitable for the uses of a public park. Minnesota Statutes 448.09 (1974) provides that cities of the second or third class may acquire land within its corporate limits and thereafter hold, control, layout, alter, approve, operate and maintain these lands for public parks and parkways. Minnesota Statutes 430.01 (1974) provides that any city of the first class may designate lands to be acquired for systems of streets, parks and parkways and methods to proceed to take and approve land for parks and parkways. Minnesota Statutes 440.826 (1974) provides cities of the first class are empowered to levy a tax for the acquisition, maintenance and improvement of parks, parkways and other grounds. Minnesota Statutes 412.49 (1974) provides that any statuatory city which is a city without a home rule charter may establish, improve, ornament, maintain and manage parks, parkways, and rec-creation facilities and by ordinance protect and regulate their use.

C. Townships - Minnesota Statutes, ch. 368.01, subd. 24(1974) provides that "(certain) town(s) may establish, improve, ornament, maintain, and manage parks, parkways, and other recreational facilities." Chapter 368.63 (1974) provides that certain towns may "acquire by gift or purchase,... land(s)...within the limits of such town, for park and playground purposes, and thereafter to improve and maintain the same ....".

12. "Metropolitan Council" means the areawide council created pursuant to Minn.Stat., Sect. 473.123 (1975).

JUSTIFICATION: This definition is necessary since the council has the authority to review and approve LAWCON and LCMR grants-in-aid applications from the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington.

The following Minnesota statutes (Supp. 1975) designate the jurisdiction of the Metropolitan Council and its authority to review and approve LAWCON and LCMR grant-in-aid applications:

> 473.123 METROPOLITAN COUNCIL. Subdivision 1. Creation. A metropolitan council with jurisdiction in the metropolitan area consisting of the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington is created....
>
> 473.171 Council review; applications for federal and state aid.
> Subdivision 1. The council shall review all applications ....by commissions and local governmental units for grants, loans or loan guarantees from the from the United States of America or any agency thereof if review by a regional agency is required by federal law or the federal agency ....
> Subd. 2. The council shall review all....other applications by metropolitan commissions,independent commissions, boards, agencies,and local governmental units for state funds if review by a regional agency is required by state law or the granting state agency.
>
> 473.181 Additional council review powers.
> Subd. 2. Parks. ....The metropolitan council shall approve the use of moneys made available for land acquisition to local units of government from the land and conservation fund, the open space program of HUD, the natural resources account in the state treasury, if the use thereof conforms with the system of priorities established by law as part of a comprehensive plan for the development of parks; otherwise it shall disapprove of the use thereof.

13. "OLUA" means the Office of Local and Urban Affairs established by Minn. Stat. Sect. 4.11, Subd. 7 (1974) within the State Planning Agency.

JUSTIFICATION: This definition is necessary as an abbreviation of the Office of Local and Urban Affairs, which is a division of the Minnesota State Planning Agency. The Office of Local and Urban Affairs is necessary since this office has been designated to administer the LCMR grants-in-aid program and LAWCON grants available to local units of government proposed in these rules. The Minnesota Legislation and executive order cited in the previous paragraph on authority (SPA 300A) provides the legislative and governor's directives to OLUA to administer the LAWCON and LCMR grants-in-aid programs proposed in these rules.

14. "Project" means a planned undertaking for outdoor recreation, proposed by an eligible applicant, having fixed commencement and termination dates and consisting of either of the following two types alone or together:

a ."Acquisition Project" means the acquisition of real property or an interest and rights thereto for a well-defined outdoor recreation area and/or purpose.

b ."Development Project" means the development of structures, utilities or facilities necessary for the purpose of outdoor recreation on publicly owned or controlled land.

JUSTIFICATION: This definition is necessary to establish that a project is a undertaking planned for outdoor recreation by the eligible applicant and which has a fixed starting and ending date. This term specifies the work to be undertaken for which a grant is requested in these rules. There are two types of projects for which eligible applicants can receive grants: acquisition and development projects. In order to keep these definitions consistent with the LAWCON program, the definitions of acquisition and development projects as used in BOR Manual 600.2.1 are used in this definition. These definitions are:

Acquisition Project: The acquisition of real property or interest and rights thereto for a well-defined outdoor recreation area and/or purpose.

Development Project: The development of structures, utilities, or facilities necessary for the outdoor recreation use of an area.

15."Project Agreement" means the contract executed between the BOR and the State, or the State and the eligible applicant that sets forth the mutual obligations with regard to a portion or all of a specific project.

JUSTIFICATION: This definition is necessary since it provides the contract or agreement by which the projects proposed in these rules can be undertaken. These project agreements are of two types. The project agreements between the United States and the State of Minnesota set forth the mutual obligations of a LAWCON grant to Minnesota. The project agreements between the State of Minnesota and the eligible applicants set forth the mutual obligations of LCMR grants-in-aid and LAWCON grants for eligible applicants. The term "project agreement" is proposed since it is consistent with similar definitions in the BOR Manual.

SUPPORTING DOCUMENTATION: BOR Manual 600.2.1 defines Project Agreement as follows:

PROJECT AGREEMENT: A contract executed between the United States and a State setting forth the mutal obligations with regard to a portion or all of a specific project.

16."Public Agency" means a public entity established by state law with the authority to act in the acquisition interests in realty and in the development, maintenance, operation, and planning of outdoor recreation facilities. For the purposes of these regulations, state agencies, and the University of Minnesota, shall not be considered as public

agencies.

"Public agencies" provides a single term to include special units of government, park districts, watershed districts, public educational institutions, and other local units of governments not previously defined that are established by Minnesota law.

It is important to distinguish public agencies from local units of government, as previously defined, to allow only agencies exercising some government functions to be eligible for LCMR grants-in-aid and LAWCON grants, if they have adequate recreational authority by state law.

The term "public agency" is important to provide a common denominator for a large number of public entities created by state legislative power. A recent attorney general's opinion indicates that the common denominator of a number of public entities is their creation and legal subservience to state legislative power.

In response to an opinion concerning the eligibility of local units for LCMR grants-in-aid, an attorney general's opinion dated Februrary 27, 1975, was issued to the director of the State Planning Agency stating:

> Neither "local units of government" nor "special units of government" are phrases with precise legal meanings. 1/ The common denominator of these entities, as well as of "political subdivisions," "municipalities," "quasi-municipal corporations," is generally agreed to be their creation by, and legal subservience to, state legislative power. 62 C.J.S. "Municipal Corporations" § 6a at 77 (1949). Alternatively, it is stated that:
>
> > Limited only by (certain) constitutional provisions... the legislative power over local governmental units has been referred to as plenary and complete.

The BOR Manual states that public agencies are eligible for LAWCON assistance as follows:

> BOR Manual 600.3.5 - Eligibility. Only States may apply directly for financial assistance, however, funds can be made available to political subdivisions of the State and other appropriate public agencies, including recognized Indian tribes which qualify for grant assistance under the Fund program through the State. The Bureau expects that all non-Federal public agencies having outdoor recreational functions will have an opportunity to share in the benefits of the Fund, commensurate with their responsibilities for providing outdoor recreation.

The LCMR grants-in-aid program provides that special units of government and public educational institutions are eligible applicants for LCMR grants-in-aid for regional recreation and natural areas. In order to provide consistency with the LAWCON program and reduce the number of definitions needed in these rules, the proposed term"Public Agency"is to include special units of government and public educational institutions eligible for LCMR grants-in-aid.

It is necessary that a Public Agency have the authority to act in the acquisition or long-term lease of land, development, maintenance, operation or planning for outdoor recreation projects, since these are consistent with the following legislation authorizing LCMR grants-in-aid and LAWCON grants:

Minnesota Laws 1975, Chapter 204, Section 55, Subd. 2(h)

h. Grants-in-aid for regional recreation and natural areas-
This appropriation is available to pay up to 100 percent of the local share for long term lease, acquisition and major development for recreation projects, natural areas and open space serving a regional need to counties, local units of government, special units of government and public educational institutions authorized to acquire, maintain and operate recreational and natural areas;provided that the state share shall not exceed 75 percent of the total acquisition for any project.

Minnesota Statutes 86.71

86.71 Federal Land Water Fund; Acceptance of Fund Distribution
Subd. 4. Fifty percent of all moneys made available to the state from funds granted under subdivision 1 shall be distributed for projects to be acquired, developed and maintained by local units of government,providing that any project approved is consistent with a statewide or a county or regional recreational plan and compatible with the statewide recreational plan.

Since the authority of OLUA is limited to administering the LCMR grants-in-aid program and LAWCON program to local units of government and public agencies for regional parks, State agencies and the University of Minnesota are considered to be ineligible for grants proposed in these regulations. State agencies and the University of Minnesota are eligible to apply for 50% of LAWCON funds not available to local units of government through the Minnesota Department of Natural Resources.

17."Regional Development Commission" means any regional commission organized under the "Regional Development Act of 1969" Minn. Stat., Section 462.381 to 462.396 (1974).

JUSTIFICATION: This definition is necessary since this commission has the authority to review LCMR grants-in-aid and LAWCON applications within its jurisdiction and advise on the relationship of such application to regional comprehensive plans and rec-

-reational priorities. The following citation from Minnesota Statutes provides the Regional Development Commissions with the authority to review and advise on these applications.

> Minnesota Statutes 462.391 Subd. 3. Review of federal and state aid programs. The commission shall review all applications of governmental units, independent commission, boards, or agencies operating in the region for a loan or grant from the United States of America or any agency, including state agencies and colleges or universities, for public facilities, studies, or any other purpose if the application clearly is related to the region, whether or not such review is required by the federal government. The review shall advise the granting authority as to relationship of the application to the comprehensive plans and priorities of the region as established by the region.

18. "Regional Needs"means a park or open space project serving a region and consisting of the following:

    a . A site that consists of outstanding natural resources or man-made features and that is capable of management to interpret and preserve the resources, and the project has been reviewed by the Metropolitan Council or the appropriate Regional Development Commission and found to be consistent with regional facilities and related plans and priorities

    b. Is of sufficient size to provide a variety of recreational opportunities and attract a substantial number of users from outside the boundaries of the applicant's jurisdiction and has been reviewed by the Metropolitan Council or the appropriate Regional Development Commission and found to be consistent with regional recreational facilities and related plan and priorities.

JUSTIFICATION: This definition is necessary since the LCMR grants-in-aid program proposed in these rules specifies two separate categories of state grants, one for regional recreation and natural areas and the other for local recreation and natural areas. It is necessary to define in order to provide the basis on which a project can qualify for the regional grant category. The term "regional" generally means relating to or pertaining to a region. In a similar manner, it is proposed that regional recreation and natural areas projects relate to or serve the region.

a. Natural resources or man-made features are a major consideration for the selection of regional recreation and natural areas sites since they provide the land features necessary to develop the type of recreation proposed, provide the features that are interpreted which characterize the region, and preserve the sites for people to use and enjoy.

In order for a site to be usable as a regional park, it must be sponsored by a local government unit or combination of units that have the fiscal capacity and personnel available to interpret and preserve the resources of the park for public use and enjoyment.

Several types of natural resources are important to consider in selecting sites for regional recreational and natural areas. The present Minnesota landscape has been strongly influenced by glaciation which occurred in the very recent history of the earth. Glaciation in Minnesota has been largely responsible for the formation of its present river valleys, lake basins, marshes,rolling hills, rock cliffs, and level plains. Outstanding examples of these natural landscape features representative of the region should be preserved and provide terrain variation necessary to develop high quality recreation facilities.

At the time of the first white settlements, Minnesota was covered with a variety of vegetation which provided habitat for many animals and birds. However, since then man's activities have altered or removed much of the pre-settlement vegetation. Outstanding examples of pre-settlement vegetation, ranging from prairie plains to deciduous forests to conifer forests should be preserved where they occur to represent the region.

Wildlife habitat and breeding areas for fauna now commonly found in the region should be preserved. Such areas for animals, birds, game, and fish should be preserved to promote their continued existence and provide for their observation and study.

Man-made features that have made an important contribution in the region's development should be preserved when they are available. Outstanding examples of man-made features such as a large reservoir improved by a dam structure,historical sites, and early industrial facilities provide recreation opportunities to large numbers of users.

An important consideration for the selection of a regional recreation and natural areas project is that it be reviewed by the Regional Development Commission or Metropolitan Council designated to review that project. It is also important that such a regional project be consistent with any applicable regional recreation facilities and related plans and priorities. This is necessary since Regional Development Commissions, as earlier defined in these justifications, SPA 300 C. 17. have the legislative authority to review these applications and advise on the relationship of such applications to regional recreational plans and priorities. Metropolitan Council review is also necessary since the Council has the authority to review regional projects within its jurisdiction and approve those projects that conform to priorities established in its comprehensive plan for parks. The justification of the Metropolitan Council as earlier

defined in SPA 300-C. 12. includes the legislative authority of this commission to review and approve regional applications.

b. A second alternative criteria that is important in the selection of regional recreation and natural areas sites is whether they are of sufficient size to provide a variety of recreational opportunities and attract a substantial number of users from outside the boundaries of the applicant's jurisdiction.

This is necessary to provide sufficient room for the interpretation of man-made or natural resources, preservation of areas of scenic beauty for public use and enjoyment, and provision for certain active outdoor recreation uses in keeping with the objectives of the regional parks. The provision of a variety of high quality recreational experiences and outstanding natural resources will make the facility attractive to users on a fairly regular and continual basis.

It is also important that a regional recreation and natural areas site be able to attract a substantial number of people from outside the community or county in which it is located. This is necessary since it would show that the project would serve the needs of a combination of communities or counties and thus serve more of a regional need.

An important consideration for the selection of a regional recreation and natural areas project is that it be reviewed by the Regional Development Commission or Metropolitan Council designated to review that project. It is also important that such a regional project be consistent with any applicable regional recreation facilities and related plans and priorities. This is necessary since Regional Development Commissions, as earlier defined in these justifications, SPA 300C. 17. have the legislative authority to review these applications and advise on the relationship of such applications to regional recreational plans and priorities. Metropolitan Council review is also necessary since the Council has the authority to review regional projects within its jurisdiction and approve those projects that comform to priorities established in its comprehensive plan for parks. The justification of the Metropolitan Council as earlier defined in SPA 300C. 12. includes the legislative authority of this commission to review and approve regional applications.

SUPPORTING DOCUMENTATION - Following are several other definitions of regional parks which have attributes similar in nature to the areas proposed above for the selection of regional projects:

1. A position paper of the metropolitan county parks and open space committee for theMetropolitan Council dated June 30, 1972 defines a regional park as follows: " A regional park is an extensive natural environment (several hundred acres). It

provides significant natural amenities such as lakes, streams, waterfalls, marshes, meadows, forests, hills, and valleys. It provides water and nature-oriented outdoor recreation activities capable to the preservation of the natural environment. Regional parks should be distributed throughout the metropolitan region where areas of exceptional natural beauty and inspirational value exist near areas of population density".

2. The Metropolitan Council's Development Guide/Policy Plan for Recreation Open Space, dated August 1975, contains the following definition for a regional park:

| Component | Use | Service Area | Sites | Site Attributes | Site Location |
|---|---|---|---|---|---|
| Regional Park | Area of natural or ornamental quality for nature-oriented outdoor recreation such as picnicking, boating, fishing, swimming, skiing, hiking & camping. | 3-5 communities | 200-500 acres (100 acres minimum) | Complete natural setting contiguous to water bodies or water courses where possible. | Where natural resources occur particularly water. |

3. The City of Duluth publication titled "The Language of Open Space", dated November 1974, defines a regional park as folows: "Regional parks serve the people of a large region, usually those within an hour's travel time. The size and location will vary, but many experts call for at least 250 acres and they go up to several thousand acres. The responsibility for providing these extra-urban parks generally falls upon the county or regional authority. There may be variances in the type of development included in the regional park. Some are left primarily in their natural state while others will have both natural areas and extensive development. As metropolitan areas expand, there is often pressure to put facilities in a regional park that are not in keeping with the philosophy or purpose of such a park. If proper location and development of other parks in a city's municipal park system exist, however, such as neighborhood and district parks, this pressure need not exist. Some of the facilities normally found in the regional parks are campgrounds, picnic areas, nature centers, trail systems, water areas, golf courses, botanical gardens, and in some cases, sports fields. Although very few cities have adopted standards for regional parks, the National Recreation and Park Association recommends a standard of 20 acres per thousand people with a minimum size of 250 acres".

4. The National Recreation and Park Association, in its publication entitled "National Parks Recreation and Open Space Standards", dated June, 1971, discusses regional parks as follows:

> Regional Parks - These parks serve the people of a large region - usually those within an hour's travel time. The size and location will vary but at least 250 acres

is recommended and may go up to several thousand acres ....

19. For the purposes of these regulations, certain terms or words used herein shall be interpreted as follows: The word "shall" is mandatory, not permissive; the word "may" is permissive.

JUSTIFICATION: This definition is necessary so that potential applicants will understand that the word "shall" is mandatory as used in these rules, and the word "may" is permissive.

SPA 301

LAWCON GRANT PROGRAM

A. APPLICATION PROCESS

1. Submission of preliminary applications.

a. Eligibility. Any local applicant which satisfies the guidelines for eligibility established by BOR, may apply for a LAWCON grant.

JUSTIFICATION: This paragraph is necessary to specify that local applicants who satisfy the LAWCON program guidelines are those eligible to submit applications for LAWCON grants.

Local applicants for LAWCON funds which are administered by OLUA shall be those political subdivisions of the state and other appropriate public agencies specified in BOR Manual 600.3.5. BOR Manual 600.3.5 states that LAWCON funds are available to political subdivisions of the state and public agencies having outdoor recreation functions including recognized Indian tribes. Political subdivisions are defined to include counties, cities, and townships. Public agencies as defined in these regulations are public entities established by state legislation and have the authority to acquire, develop, maintain, operate and plan for outdoor recreation facilities at the local level. Examples of these might include park districts, watershed districts, and local school systems.

b. Notice. Annually, OLUA shall send notice of the period of time that preliminary applications for LAWCON grants shall be accepted by OLUA. The notice shall be sent at least 45 days before the period ends. Such notice shall be sent to the following:

(1) Mayors and clerks of all cities in Minnesota;

(2) County board chairmen and auditors of all counties in Minnesota;

(3) Chairpersons of county planning commissions and city planning commissions of all cities over 5,000 population according to the last federal dicennial census in Minnesota;

(4) Chairmen of regional development commissions;

(5) Chairpersons of each county's Township Association;

(6) Statewide organizations representing Minnesota local governments;

(7) Persons requesting notice; and

(8) Upon request, to the Minnesota State Legislature.

JUSTIFICATION: The notice is necessary to inform eligible applicants when they can apply for a LAWCON grant.

A two-stage application process is proposed to reduce the amount of written material an eligible applicant must submit to have its application evaluated and to receive notification of its disposition. The first stage is a preliminary application which consists of minimal information needed to determine whether a proposed project can be ranked high enough to be programmed for a grant. The second stage is a final application containing more detailed documentation necessary to meet the requirements of the LAWCON program.

It is important that an opportunity for eligible applicants to submit preliminary applications be provided on an annual basis, since the large number of applicants and the many steps necessary to administer the LAWCON program do not provide sufficient time to accept applications on a more frequent basis. Since additional funds for the LAWCON program have been appropriated annually, it is important that potential applicants be notified each year in order to utilize every appropriation. It is important that the notice shall set out the time period for acceptance of applications and that OLUA set a final date for the acceptance of preliminary applications in order that OLUA can review, schedule site visits, and evaluate all applications in an efficient manner. In order to give eligible applicants sufficient time to prepare the preliminary application, this notice will be sent out at least 45 days before the period ends. The material required on the preliminary application normally does not require more than a few pages of written justification and information. A longer time period between sending the notice and final acceptance of preliminary applications would seriously delay the amount of time available for selecting projects for grants and requesting approval of them within the same fiscal year. It is proposed that the notice to submit a preliminary application be sent to the mayor and clerk of all cities in Minnesota, county board chairmen and auditors of all counties in Minnesota, the chairperson of county planning commissions and city planning commissions of cities over 5,000 in population in Minnesota, Regional Development Commissions, chairpersons of each county's township association, statewide organizations representing local governments, persons requesting notice, and, when requested, the Minnesota State Legislature.

It is necessary to notify the people listed above since they represent local units of government that have submitted almost all of the preliminary applications in the past. Approximately 2500 preliminary application packets are sent out each year.

Sending out additional notices to other units of government or public agencies has in the past resulted in a proportion of return too low to justify the considerable additional time and expense necessary for such notification.

c. Contents of Application. The contents of the preliminary application shall be consistent with the informational requirement of these rules and shall be prescribed by OLUA.

JUSTIFICATION: This paragraph is necessary in order to permit OLUA to limit the content of preliminary applications to that information necessary to evaluate and program projects for funcing in accordance with these rules. Since the content needs to conform with the LCMR grant-in-aid and LAWCON programs as they cange over a period of time, occasional revisions may be necessary. To reduce the number of rule changes necessary if the contents of the preliminary application are revised, the specific form and content of preliminary applications are not specified.

d. Submission. Preliminary applications shall be submitted in a completed form to OLUA and the Metropolitan Council or the appropriate regional development commission for a project review before the closing date for applications.

JUSTIFICATION: This paragraph is necessary to permit OLUA to receive complete preliminary applications no later than the closing date for applications. Complete preliminary applications are necessary for OLUA to understand what is proposed, where it is located, how it relates to future plans, and what local funds are available. It is necessary that applications be received on time so that site visits, evaluations, and ranking of projects can be done in an efficient manner and projects can be approved within the same fiscal year in which they are received. It is important that applications are processed in the same fiscal year they are received so that projects can be started as soon as possible and they do not hinder the processing and applications for the next year's LAWCON allocation. It is also important that preliminary applications be submitted to the Metropolitan Council or appropriate regional development commission for a regional review as required by state and federal legislation.

2. Evaluation of Preliminary Applications
Preliminary project applications which satisfy the BOR's project eligibility guidelines and priorities for LAWCON grants shall be evaluated and ranked as follows:
a) general criteria; b) acquisition priorities; and
c) development priorities.

JUSTIFICATION: This paragraph is necessary to specify the manner in which applications will be evaluated and ranked. It is recommended that applications be evaluated in two steps: The first step is to evaluate applications for general criteria to determine any considerations that influence development potential or create an urgency for acquisition where the land could be lost to other development. The second step is to evaluate qualified acquisition and development projects in order to rank projects in priority categories.

a. General Criteria . Preliminary applications that meet one or more of the following criteria shall receive priority over similar projects that do not.

JUSTIFICATION: This paragraph is necessary so that projects which are eligible for a LAWCON grant are then evaluated for general critera. General criteria are necessary since they have an important influence on the potential development of the project, or create an urgency for site acquisition.

(1) Projects with outstanding irreplaceable resources or features that are in danger of commercial (non-recreational) development, subdivision, or other use that may be incompatible with outdoor recreation uses.

JUSTIFICATION: The first criteria is necessary so that irreplaceable projects which are about to be developed for other than recreational uses can be given special consideration. Irreplaceable sites are considered those that exhibit outstanding natural or man-made resources. It is important to preserve such sites for outdoor recreation, since the development of industrial, commercial or housing may destroy the resource or increase the value of the property to a point where it is no longer economically feasible to acquire the site.

(2) Projects that have received a prior LAWCON grant or LCMR grant-in-aid for a preceeding phase of the proposed project.

JUSTIFICATION: The second criteria is necessary so that proposed projects too large to be funded in a single year can be divided into phases to be completed in additional funding years. After a first phase of a project is completed, it is important to continue funding that project if it is proceeding on schedule, to develop a usable recreation facility.

(3) Projects that meet generally recognized national design standards for recreational facilities.

JUSTIFICATION: The third criteria is necessary so that recreational facilities can be used in the intended manner and playing fields can be used for regulation play. It is important that

proposed recreational facilities be of sufficient size to accomodate the people who intend to use the facility. It is also important that playing fields be of sufficient size for regulation play so that games played on such fields are comparable to other games played throughout the state and nation.

(4) Projects that reflect quality site planning; recognize and compliment existing land forms; provide for ease of maintenance and operation of the site and do not have major environmental intrusions which are detrimental to the intended use of the property.

JUSTIFICATION: The fourth criteria is necessary so that proposed recreation development is located to preserve natural features of site, provide a pleasing layout that is enjoyable to use and locate facilities where needed to make efficient use of the site. Provision for the ease of maintenance and operation of the site is necessary so that the facility can be operated in an efficient and economical manner. By conducting operation and maintenance in an efficient and economical manner, OLUA has better assurances that successful project operation will continue.

The fourth criteria is also necessary so that environmental intrusions do not detract from the natural beauty of the site nor limit its recreational use. Undesirable views, noise, and odors may detract from the pleasant, quiet natural setting of the park and interfere with the utilization of recreation facilities proposed at the site. The BOR evaluates proposed applications as to whether they include the elimination and prevention of air and water pollution, and the protection and enhancement of natural beauty.

SUPPORTING DOCUMENTATION: The BOR Manual contains the following environmental considerations in evaluating applications for grants.

600.2.2.H The extent to which the project will affect the environment.
The State agencies administering the Fund program, the Bureau and the project sponsors must set an example by maintaining high standards for the preservation and enhancement of the environment. This includes the elimination and prevention of air and water pollution, and protection and enhancement of natural beauty. Environmental improvement measures are eligible for matching assistance from the Fund(see 640.3.2L).

(5) Projects that comply with the recreational facility priority needs as designated in the applicant's recreation plan.

JUSTIFICATION: The fifth criteria is necessary so that applicants fulfilling their remaining recreational priority needs as designated in their recreation plans can be given special consideration. It is important that applicants attempt to fulfill their

priority recreation needs as examined on a community-wide basis, and receive priority over similar applications which are not fulfilling the highest level of remaining recreation needs.

b. Acquisition Priorities. The following priorities shall be used in descending order to evaluate applications for acquisition projects and to determine priorities for projects:

JUSTIFICATION: This paragraph is necessary so that qualified acquisition applications can be evaluated to rank projects into priority categories. It is important that acquisition applications be ranked separately from development applications so that they can be ranked on criteria related to acquisition needs and subject to comparision with similar type applications.

(1) Project sites having outstanding examples of existing or potential natural, scientific, cultural, historical, educational, or recreational values for public enjoyment.

JUSTIFICATION: The first priority is necessary to preserve outstanding natural and man-made resources not commonly found in the applicant's area of jurisdiction; provide a pleasing setting for the public to enjoy natural beauty; provide the features necessary to develop recreational activities which attract a large number of people to the site; and remain in accordance with first acquisition priority established in the Minnesota Comprehensive Outdoor Recreation Plan. BOR Manual 600.3.10 provides basic policy guides for establishing priorities including the language, "projects which would enhance, preserve, or restore natural beauty are encouraged".

SUPPORTING DOCUMENTATION:The Minnesota Comprehensive Outdoor Recreation Plan - 1974 provides the first acquisition priority for the allocation of federal assistance funds as follows:
(page 7-40) Allocation of Federal Assistance Funds.
Priority schedules for local, regional and state projects .
Acquisition project priorities. Schedule A.
Acquisition projects will be classified in terms of the following priorities:
Areas having outstanding natural, cultural or historical values of major significance for public enjoyment.

(2) Acquisitions of sites which protect or enhance aesthetics or land and water quality of existing park facilities.

JUSTIFICATION: The second priority is necessary to protect, preserve and improve the natural beauty of existing park facilities to make them more usuable and enjoyable with a minimum of environmental intrusions. An example might be the acquisition of land adjacent to the entrance of an existing park that is

scheduled for extensive commercial development which would detract from the setting of the park and provide considerable noise and traffic hazard to people using the facility. The second priority is in accordance with the second acquisition priority of the Minnesota Comprehensive Outdoor Recreation Plan.

SUPPORTING DOCUMENTATION: The Minnesota Comprehensive Outdoor Recreation Plan - 1974 provides the second acquisition priority for the allocation of federal assistance funds as follows:
(page 7-70) Allocation of Federal Assistance Funds .
Priority schedules for local, regional and state projects.
Acquisition project priorities.. Schedule A.
Acquisition projects will be classified in terms of the following priorities:

2. Sites needed to protect and enhance aesthetics, land and water quality of existing recreation facilities.

(3) Project sites that provide to the general public, a broad range of outdoor recreational opportunities or that are particularly well suited for one or more heavily used and concentrated recreational activities . (e.g. swimming beach)

JUSTIFICATION: The third priority is necessary so that priority is given to sites that serve a wide range of the recreational needs of the public. BOR Manual 600.3.10 provides basic policy guidelines for establishing priorities which state "priority shall be given...to activities of the general public over those of a limited group". Such recreational facilities serve a wider range of interest than single purpose activities. Unless single activities are intensively used, a broad range of activities would normally serve a greater number of people.

An exception to this would be an intensely-used single activity site which should receive a priority since it would also serve a large number of people. This priority is in accordance with the third acquisition priority established in the Minnesota Comprehensive Outdoor Recreation Plan.

SUPPORTING DOCUMENTATION: The Minnesota Comprehensive Outdoor Recreation Plan - 1974 provides the third acquisition priority for allocation of federal assistance funds as follows:
Priority schedules for local, regional and state projects.
Acqusition project priorities. Schedule A.
Acquisition projects will be classified in terms of the following priorities:

3. Needed sites which will operate as a high density recreation use areas.

(4) Project sites providing for needed low intensity use recreation activities, such as trail systems, wildlife observation, and other activities providing open space enjoyment.

JUSTIFICATION: The fourth priority is necessary to provide a lower ranking for low intensity use whose development would tend to distribute people throughout the facility. Dispersed uses include trail systems, wildlife observation, and access to lakes. Low intensity use recreation activities generally serve fewer people at a given time as compared to intensely-used recreation facilities. This priority corresponds to the fourth acquisition priority established in the Minnesota Comprehensive Outdoor Recreation Plan.

SUPPORTING DOCUMENTATION: The Minnesota Comprehensive Outdoor Recreation Plan - 1974 provides the fourth acquisition priority for the allocation of federal assistance funds as follows:
(page 7-40) Allocation of Federal Assistance Funds.
Priority schedules for local, regional and state projects.
Acquisition project priorities. Schedule A.
Acquisition projects will be classified in terms of the following priorities:
4. Areas which will provide for needed dispersed use recreation lands, including areas such as wildlife habitat, trail lands and other lands providing open space enjoyment.

(5) Projects which are equivalent to commercial camping accommodations for recreational users.

JUSTIFICATION: The fifth priority is necessary to acknowledge a lower priority for long term deluxe camping facilities equivalent to commercial camping accommodations. This type of camping facility may be in competition with similar nearby facilities provided by private enterprise and may discourage their continued operation. BOR Manual 600.3.10 provides basic policy guidelines which state "priorities should be given... to basic over elaborate facilities". The fifth priority corresponds to the last acquisition priority established in the Minnesota Comprehensive Outdoor Recreation Plan.

SUPPORTING DOCUMENTATION: The Minnesota Comprehensive Outdoor Recreation Plan - 1974 provides the last acquisition priority for the allocation of federal assistance funds as follows:
(page 7-40) Allocation of Federal Assistance Funds.
Priority schedules for local, regional and state projects.
Acquisition project priorities. Schedule A.
Acquisition projects will be classified in terms of the following priorities:
5. Areas which will provide needed tenancy accommodations. sites for recreationists.

c. Development Priorities. The following criteria shall be used in descending order to evaluate applications for development projects and to determine priorities for projects:

JUSTIFICATION: This paragraph is necessary so that qualified development applications can be evaluated to rank projects into priority categories. It is important that development applications be ranked separately from acquisition applications so that they can be ranked on criteria related to development needs and be compared to similar type applications..

(1) Projects designed to protect and enhance land and water quality of the site consistent with the estimated number of its potential users, make it accessible or designed to insure safety and health.

JUSTIFICATION: The first priority is necessary to protect and improve the recreation values of the area, make the site accessible to the public so that basic recreational activities of the site can be used, and the site will promote the safety and public health of the user to prevent dangerous or unhealthy situations. BOR Manual 640.3.1 provides criteria for development projects that state, "Emphasis should be given to public health, the safety of users, and the protection of the recreation values of the area". The first priority corresponds with the first development priority established in the Minnesota Comprehensive Outdoor Recreation Plan.

SUPPORTING DOCUMENTATION: The Minnesota Comprehensive Outdoor Recreation Plan -1974 provides the first development priority as follows:
(page 7-40) Allocation of Federal Assistance Funds. Priority schedules for local, regional and state projects. Development project priorities. Schedule B. Development projects will be classified in terms of the following priorities:

1. Projects designed to protect and enhance land and water quality of the site consistent with the size of its clientele or to insure safety and health.

(2) Projects that provide to the general public a broad range of outdoor recreation opportunities or that are particularly well suited for one or more heavily used and concentrated recreational activities. (e.g. swimming beach)

JUSTIFICATION: The second priority is necessary so that priority is given to development which serves a wide range of recreational needs of the public. BOR Manual 600.3.10 provides basic policy guides for establishing priorities which state "priority should be given...to activities of the general public over those for a limited group". An exception to this would be an intensely used recreational activity. Such recreational facilities serve a wider range of interest than single purpose activities. Unless single activities are intensely used, a broad range of activities would normally serve a greater number of people. The second priority corresponds with the third development priority listed in the Minnesota Comprehensive Outdoor Recreation Plan.

SUPPORTING DOCUMENTATION: The Minnesota Comprehensive Outdoor Recreation Plan - 1974 provides the third development priority for the allocation of federal assistance funds as follows:
(page 7-40) Allocation of Federal Assistance Funds
Priority schedules for local, regional and state projects.
Development project priorities. Schedule B.
Development projects will be classified in terms of the following priorities :

3. Projects which provide to the general public facilities needed for high density recreation activities. Facilities in this category include but are not limited to, picnic grounds, launching sites, swimming beaches, ski, toboggan and sled areas, and playing fields. Consideration should be given to the needs of the handicapped, aged, minorities and underprivileged groups.

(3) Projects providing needed facilities associated with low intensity use recreational areas.

JUSTIFICATION: The third priority is necessary to provide lower ranking, low intensity developments that would tend to distribute people throughout the facility. Low intensity use recreation activities generally serve fewer numbers of people at a given time as compared to intensely used recreational facilities. This priority corresponds to the second and fourth development priorities established in the Minnesota Comprehensive Outdoor Recreation Plan.

SUPPORTING DOCUMENTATION: The Minnesota Comprehensive Outdoor Recreation Plan - 1974 provides the second and fourth development priorities for the allocation of federal assistance funds as follows:
(page 7-40) Allocation of Federal Assistance Funds
Priority schedules for local, regional and state projects.
Development project priorities. Schedule B.
Development projects will be classified in terms of the following priorities:

2. Projects essential to provide suitable access to dispersed use areas including, but not limited to, water and public land access sites, hiking, horseback, snowmobile and other trails.
4. Projects providing needed facilities associated with dispersed use recreation areas. Facilities in this category include shelter, sanitary facilites, trails and informative markers.

(4) Projects which are equivalent to commercial camping accomodations for recreational users.

JUSTIFICATION: The fourth priority is necessary to acknowledge a lower priority for long term deluxe camping facilities equivalent to commercial camping accomodations. This type of camping facility may be in competition with similar nearby facilities provided by private enterprise and may discourage their continued operation. BOR Manual 600.3.10 provides basic

policy guidelines which state "priorities should be given.... to basic over elaborate facilities." The fourth priority corresponds to the last development priority established in the Minnesota Comprehensive Outdoor Recreation Plan.

SUPPORTING DOCUMENTATION: The Minnesota Comprehensive Outdoor Recreation Plan - 1974 provides the last development priority for the allocation of federal assistance funds as follows:
(page 7-40) Allocation of Federal Assistance Funds.
Priority schedules for local, regional and state projects.
Development project priorities. Schedule B.
Development projects will be classified in terms of the following priorities:

6. Projects providing needed tenancy accomodations for recreationists.

3. Notice of Disposition of Preliminary Applications. All applicants shall be notified by OLUA of the disposition of their preliminary applications within 120 days of the closing date for the submission of preliminary applications. Grants shall be distributed in order of ranking until LAWCON and LCMR funds are depleted. For those applicants who are recommended for a grant, this notice shall include the submission deadline and a scheduled meeting to explain the content requirements for a final application. For those applicants who are not recommended for a grant, this notice shall indicate the reasons.

JUSTIFICATION: This paragraph is necessary so that applicants will be made aware of the final disposition of their applications and reasons for denial for lower ranking applications. It is important that grants be distributed in order of ranking only until LAWCON and LCMR funds are depleted in order not to program for grants, more funds then are available.

This paragraph is also necessary so that applicants programmed for a grant receive notice to attend a meeting to explain the requirements for the final application. Such a meeting helps applicants understand and submit correct final applications. One hundred and twenty days is necessary to properly evaluate and rank preliminary applications. This evaluation includes visiting each site for an inspection, taking pictures, and preparing a summary report. Projects are then evaluated, state and regional reviews are conducted, projects are ranked, and funds are programmed for high priority projects.

4. Final Application

a. Eligibility. When a preliminary application has been given a high priority ranking by general criteria and project priorities (SPA 301 A. 2.), the eligible applicant who is recommended for a grant may submit a final application. OLUA will request a LAWCON grant

if the eligible applicant submits a final application in adequate detail before the established deadline.

JUSTIFICATION: This paragraph is necessary so that applicants who have been programmed for a grant may submit the final application. It is also necessary that the final application be submitted in adequate detail before the established deadline, so that OLUA can request LAWCON grants on schedule within the same fiscal year as the preliminary applications were received. It is important to request grants within the same fiscal year in which preliminary applications are received so that project work can start as soon as possible, and applications for the present year do not overlap another year's applications, hindering the processing of preliminary applications for the next fiscal year's allocations. Since LAWCON allocations must be spent within a three-year period, it is important that they are assigned to projects as quickly as possible.

b. Content. The contents of the final application shall be consistent with the informational requirement of these rules and shall be prescribed by OLUA.

JUSTIFICATION: This paragraph is necessary to permit OLUA to limit the content of final applications to information to request a LAWCON grant in accordance with these rules. Since the content needs to conform with LCMR grant-in-aid and LAWCON programs as they change over a period of time, occasional revisions may be necessary. To reduce the number of rule changes necessary if the contents of the final applications are revised, the specific form and content of final applications are not specified.

5. BOR Approval
If the final application is satisfactory, OLUA shall request BOR approval of a LAWCON grant for the recommended project. OLUA shall notify the applicant of the action taken by BOR.

JUSTIFICATION: This paragraph is necessary so that OLUA can request BOR approval of a LAWCON grant for a final application meeting the requirements of the BOR Manual. Upon approval of the LAWCON grant by BOR, it is necessary that OLUA notify the applicant so that a project agreement can be executed and the applicant can undertake the project.

B. PROJECT AGREEMENT.
Upon approval by BOR, OLUA shall execute a project agreement with the applicant and the applicant shall comply with the terms of the project agreement.

JUSTIFICATION: This paragraph is necessary so that a project agreement is executed between OLUA and the applicant to undertake the project; and the applicant complies with the terms of the agreement to meet requirements of the LAWCON grant program required by BOR. The BOR Manual requires a project

agreement for all LAWCON grants.

SUPPORTING DOCUMENTATION: The BOR Manual specifies the following concerning project agreements and when work is eligible for grant assistance.

660.1.3 Submission of a Proposal

B. Agreement Forms. An agreement, Form BOR 8-92 (see illustration 2), will be negotiated between the United States and the State for each project. Execution of the agreement by the Bureau constitutes its approval of the project. (See 660.2.4A)

660.2.4 Project Approval. All projects submitted to BOR for funding (as well as those submitted for qualifications only) are evaluated in relation to the standards in 660.2.2. Those that are found eligible, and for which project agreements have been submitted, are approved and become active projects. Those for which no funds are requested are qualified if found technically eligible (see 660.1.2B).

A. Coverage of the Agreement. The agreement between the United States and the State establishes the framework for accomplishing the project.

B. State - Participants Relations. The agreement binds the Federal Government and the State to certain obligations. When the actual participant is not the State, but is a local unit of government, the State Liason Officer will make such arrangements with the participant as he deems necessary for the successful completion of the project and the enforcement of Federal laws and regulations.

C. DISBURSEMENT OF GRANT

The applicant shall initially pay for the project costs as specified in the project agreement. The applicant shall submit to OLUA a billing request for work completed on the project, but not more than six billings per project. Upon receipt of a billing request, containing the documentation required in the project agreement, OLUA shall request from the BOR the Federal share of the eligible costs represented by that billing. Upon receipt of the LAWCON grant for that billing, OLUA shall reimburse the applicant. The final billing shall reflect any cost adjustments due to project changes and shall be subject to a site inspection by State and BOR personnel and verification by federal and state audit.

JUSTIFICATION: This paragraph is necessary so that OLUA can request reimbursement to applicants for the federal grant share of the project costs and close out the project. It is necessary that the reimbursement request be accompanied by documentation for acquisition and development projects required in the BOR Manual so that the request can be paid by BOR. In order to avoid excessive staff work on the project by OLUA and the

applicant, it is important that the number of billing requests for each project will be limited to six. Most applicants bill three or four times during the project period. Six billings should be an adequate number of times to bill completely for the entire project.

Since the original cost estimates may change during the project period, it is necessary that the final billing reflect any cost adjustment in order to request correct reimbursement and account for accurate project costs. It is necessary that the project be subject to inspection to verify that the project is consistent with the project agreement. It is necessary that the project be subject to verification by federal audit to account for the LAWCON grant as required in the BOR Manual. Since BOR makes OLUA responsible for project accountability, a state audit may be necessary to help verify the federal audit.

SUPPORTING DOCUMENTATION: The BOR Manual provides the following requirements for reimbursement of grants, accounting for projects, and site inspections.

670.1.3B.4 Participant's Financial Obligations.

A. Participant's Matching Share. In most cases the participant will initially pay in full all costs incurred during the project period. The participant, upon the presentation of a billing (through the State Liason Officer) to the Bureau, will then be reimbursed (through the State Liason Officer) for the Federal share of the eligible costs represented by that billing.

675.7.2 Audit Policies. Federal agencies are responsible for providing adequate audit coverage of grant programs as a constructive aid in determining whether federal funds have been applied effectively and in a manner that is consistent with related federal laws, program objectives, and underlying agreements. Therefore, authorized representatives of the Director, the Secretary of the Interior, and the Comptroller General of the United States shall have the right to audit, examine, or inspect accounts, books, documents, and other pertinent records involving operations and transactions relating to assistance provided pursuant to the Act. Such material shall be maintained by the State or local participant for 3 years after final payment on the project by the Federal Government. The material shall be maintained beyond the required 3 year period if audit findings have not been resolved.

675.7.3 Audits by State. The State is expected to provide for a system of periodic internal review or audit by state employees or other competent organizations. State audit programs should be developed in accordance with generally accepted auditing standards, with due consideration for Federal policies governing

the use of grant funds as well as state or local policies and procedures. Reports and workpapers of state and local audits should be available for review by appropriate federal auditors and should include a description of the method and extent of tests, examinations, and other techniques used in making verifications. The state will schedule such audits with reasonable frequency, usually annually, but not less frequently than once every 2 years, considering the nature, size, and complexity of the activity.

675.5.4 Standards for Grantee Financial Management Systems

The financial management systems of Land and Water Conservation Fund supported activities of State and local governments shall provide for:

A. Accurate, current, and complete disclosure of the financial results of each project grant.

F. Accounting records which are supported by source documentation. Separate project accounts shall be established and identified by the number assigned to the project by the Bureau.

675.1.6 On-site Inspection by the State. It will progressively become the responsibility of the State to administer a regular and continuing program of on-site inspections of projects. The scope, timing, selectivity, and content of these inspections will be covered in an agreement to be negotiated by the Regional Director and the State.

675.5.5 Monitoring and Reporting a Program Performance

E. The Bureau shall make site visits as frequently as practicable to:

(1) Review project accomplishments and management control systems.
(2) Provide such technical assistance as may be required.

D. AMENDMENTS.

A request for an amendment in the project scope, costs or time period may be submitted to OLUA prior to project termination. If the request is eligible for a LAWCON amendment and OLUA considers the amendment request to be reasonable and justified and it does not substantially affect the project eligibility under SPA 301 A.2. above, it may request BOR to approve the amendment.

JUSTIFICATION: This paragraph is necessary so that applicants can request changes in the scope, costs, or time period of the project agreement if it is permitted by BOR and needed while the project is underway. It is important that OLUA review the amendment request to determine if it is eligible for approval by BOR. If the request is eligible for approval, it is important that OLUA

determine that it is reasonable and justified by documentation required by BOR. Amendment requests are considered reasonable when they related to the project agreement, are of a type permitted, have a sound justification for the change, and provide a economically sound cost alternative in relation to the item's original cost and development. It is also important that OLUA be able to request BOR to approve reasonable amendments in order to have the amendment approved for the applicant.

SUPPORTING DOCUMENTATION: The BOR Manual contains the following amendment requirements and types of changes allowable:

660.2.5 Project Amendments. An amendment is necessary to add to or alter the signed agreement. Four copies of the amendment form (BOR 8-92a, see Illustration 4) are submitted by the State Liaison Officer or the State agency administering the Fund program for each desired amendment, the original and one copy of which must be hand-signed, plus a letter giving full explanation of the changed conditions and how they affect the project. The amendment describes those items of the agreement that are to be changed or added to. When an amendment is for an increase or decrease in funding or for a scope change which alters the allocation of funding among the approved scope items, a revised Part III .B of OMB Form 80-R0184 (grant application) is necessary. Four copies of the revised form shall accompany the amendment.

Amendments are required in two basic situations:

B. When one of the conditions in the agreement changes, such as a change in project scope, a revised estimate of costs, or a need to extend the project period. The amendment will describe the new factors and the signed form will supersede the agreement in those particulars only. Amendments are not necessary to return unexpended project balances, at the time of project completion, to the State's apportionment (see 620.1.8).

SPA 302
LCMR GRANTS-IN-AID PROGRAM

A. ELIGIBLE APPLICANT

Only the following shall be eligible to submit an application for a LCMR grant-in-aid;

1. Local units of government;
2. Public agencies.

JUSTIFICATION: This paragraph is necessary to specify who are eligible applicants to submit applications for LCMR grants-in-aid. Minnesota laws indicate this appropriation is available to local units of government which have been previously defined (SPA 300 C. 11.) as counties, cities and townships.

"Public agencies" as a category of eligible applicants provide a single term to include special units of government, public educational institutions and other local units of government not specifically designed above. The term "public agency" is also necessary so that this term is consistent with the same term used for LAWCON applicants and the applicant will be eligible for both grant programs.

Minnesota Laws designate special units of governmental and public educational institutions as eligible for regional LCMR grants-in-aid. A recent attorney general's opinion indicates that local units of government are generally agreed to be those created by state legislative power. Public agencies as previously defined (SPA 300 C. 16.) agree with this opinion since they are a public entity established by Minnesota laws with the authority to act in the acquisition or long term lease of land, development, maintenance, operation and planning for outdoor recreation facilities .

SUPPORTING DOCUMENTATION: The following Minnesota Laws provide authorization for special units of government and public educational institutions.

Minnesota Laws 1975, Chapter 204, Section 55, Subd. 2 Para. h.
h. Grants-in-aid for regional recreation and natural areas. 4,000,000

This appropriation is available to pay up to 100 per cent of the local share for long term lease, acquisition, and major development for recreation projects, natural areas and open space serving a regional need to counties, local units of government, special units of government and public educational institutions authorized to acquire, maintain and operate recreational and natural areas; provided that the state share shall not exceed 75 percent of the total acquisition for any project.

In response to an opinion concerning the eligibility of local units for LCMR grants-in-aid, an attorney

general's opinion dated February 27, 1975, was issued to the director of the State Planning Agency stating:

Neither "local units of government" nor "special units of government" are phrases with precise legal meanings. 1/ The common denominator of these entities, as well as of "political subdivisions," "municipalities," "quasi-municipal corporations," is generally agreed to be their creation by, and legal subservience to, state legislative power. 62 C.J.S. "Municipal Corporations" § 6a at 77 (1949). Alternatively, it is stated that:

Limited only by (certain) constitutional provisions... the legislative power over local governmental units has been referred to as plenary and complete.

B. GRANT CATEGORIES AND FINANCIAL ASSISTANCE.

1. Regional Project. A LCMR grant-in-aid may be available when the applicants can document that the project serves a regional need under the following circumstances:

JUSTIFICATION: This paragraph is necessary to establish availability of LCMR grants-in-aid for projects serving a regional need (SPA 300 C. 18. )as specified in Minnesota law. A project serving a regional need is summarized as having outstanding natural and man-made features; can be used during single day's recreation activity and is of sufficient size to provide a variety of recreation uses and attract non-residents to the project; and is consistent with regional recreational priorities.

a. Project with approved federal grant: Eligible applicants with an approved federal grant for a park, recreation or open space project within their jurisdiction, may apply for a LCMR grant-in-aid up to 100% of the local share of that acquisition or development project provided that the state share shall not exceed 75% of the total project costs.

JUSTIFICATION: This paragraph is necessary to specify the maximum percentage rate of LCMR grants-in-aid available for regional projects with an approved federal grant as stated in Minnesota laws.

b. Project without approved federal grant: Eligible applicants not receiving a federal recreation grant may apply for a LCMR grant-in-aid to 75% of the total cost of the project application.

JUSTIFICATION: This paragraph is necessary to qualify regional recreation projects without a federal grant for LCMR grants-in-aid and specify the maximum percentage rates available as stated in Minnesota laws.

SUPPORTING DOCUMENTATION: The following section of Minnesota laws provides LCMR grants-in-aid appropriations for projects serving a regional need and specifies the maximum percentage rates available for projects. Minnesota Laws 1975, Chapter 204, Section 55, Subd. 2, Para. h.

h. Grants-in-aid for regional recreation and natural areas 4,000,000

This appropriation is available to pay up to 100 percent of the local share for long term lease, acquisition and major development for recreation projects, natural areas and open space serving a regional need to counties, local units of government, special units of government and public educational institutions authorized to acquire, maintain and operate recreational and natural areas; provided that the state share shall not exceed 75 percent of the total acquisition for any project.

Priorities for use of funds provided in this subdivision will be given to projects eligible for federal funding and which are consistent with priorities established by regional recreation and open space plans.

2. Other than Regional Projects. A LCMR grant-in-aid may be available to applicants for other than regional projects under the following circumstances:

JUSTIFICATION: This paragraph is necessary to establish the availability of LCMR grants-in-aid serving a local project as specified in Minnesota law. This paragraph is also necessary to distinguish appropriations for local projects from regional projects.

a. Project with approved federal grant: Eligible applicants receiving a federal grant for a park, recreation or open space project may apply for a LCMR grant-in-aid up to 50% of the local share of the project.

JUSTIFICATION: This paragraph is necessary to specify the maximum percentage rates of LCMR grants-in aid available for local projects with an approved federal grant as stated in Minnesota laws.

b. Project without approved federal grant: Eligible applicants not receiving a federal recreation grant may apply for a LCMR grant-in-aid up to 50% of the total cost of the project.

JUSTIFICATION: This paragraph is necessary to qualify local recreation projects without a federal grant for LCMR grants-in-aid and specify the maximum percentage rates available as stated in Minnesota laws.

SUPPORTING DOCUMENTATION: The following section of Minnesota laws provides LCMR grants-in-aid appropriation for projects serving a local need and specifies the maximum percentage rates available for projects.
Minnesota Laws 1975, Chapter 204, Section 55, Subd. 2 Para. g.
g. Grants-in-aid for local recreation and natural areas . 4,000,000

This appropriation is to pay up to 50 percent of the total cost or 50 percent of the local share if federal matching funds are used, of long term lease, acquisition and development for recreational projects for the purposes described in Laws 1965, Chapter 810, Section 23, as amended by Laws 1969, Chapter 1139, Section 48, Subdivision 7, Paragraph g. Notwithstanding any other law to the contrary these grants are not contingent upon the matching of federal grants.

C. EVALUATION CONSIDERATIONS.

1. Criteria.
The criteria that shall be used to evaluate an application and to establish priorities for applications for a LCMR grant-in-aid shall be the criteria specified for a LAWCON applicant in SPA 301 A.2. a.,b.,c.

JUSTIFICATION: This paragraph is necessary to establish the criteria for evaluating applications and establishing priorities for LCMR grants-in-aid. It is important that applications for LCMR grants-in-aid be evaluated with the same criteria used for LAWCON applications since LCMR grants-in-aid are used to supplement LAWCON grants. Thus, a project that ranked high for a LAWCON grant would also rank high for a LCMR grant-in-aid. It is also important that applications for LCMR grants-in-aid be evaluated on the same basis as LAWCON grants to promote efficient program adinistration so that projects can be funded within the same year that applications are received.

2. Priorities .
Projects which have an approved federal recreational grant will generally be given a higher priority.

JUSTIFICATION: This paragraph is necessary so that projects that have an approved federal grant are given priority over other eligible projects in accordance with Minnesota laws and LCMR policy. The LCMR in a letter to the State Planning Agency dated May 25, 1971, stated "LCMR has, during the past two years, emphasized to your Office of Local and Urban Affairs that the natural resource dollars are to be matched wherever possible with federal grants".

SUPPORTING DOCUMENTATION: The following are Minnesota laws concerning priority for projects with federal funding.
Minnesota Laws 1975, Chapter 204,Section 55, Subd. 2, Para. g.

g. Grants-in-aid for local recreation and natural areas 4,000,000

This appropriation is to pay up to 50 percent of the total cost or 50 percent of the local share if federal matching funds are used, of long term lease, acquisition and development for recreational projects for the purposes described in Laws 1965, Chapter 810, Section 23, as amended by Laws 1969, Chapter 1139, Section 48, Subdivision 7, Paragraph g.

Minnesota Laws 1965, Chapter 810, Section 23

Section 23. Subdivison 1. The appropriation made in section 16 for the local share of projects financed in part with federal funds shall be distributed to counties and local units of government for land acquisition development for recreational purposes including but not limited to the following: Historic sites; Archaeology; Public Access; Parks; Scenic Easements; Campgrounds; Wildlife areas;County and School Forests; Water impoundment.

Minnesota Laws 1975, Chapter 204, Section 55, Subd. 2, Para. h.
h. Grants-in-aid for regional recreation and natural areas . 4,000,000

Priorities for use of funds provided in this subdivision will be given to projects eligible for federal funding and which are consistent with priorities established by regional recreation and open space plans.

D. APPLICATION PROCEDURE.

1. Projects under consideration for a LAWCON grant.

a. A final application that has been submitted for a LAWCON grant may be sufficient to meet the requirements of a LCMR grant-in-aid; additional documentation may not be necessary.

JUSTIFICATION: This paragraph is necessary to establish a procedure for processing final applications for LCMR grants-in-aid that have been programmed for a LAWCON grant. Since LCMR grants-in-aid are used to supplement LAWCON grants and the same procedures are used to evaluate both types of applications, the final application used for LAWCON grants is usually sufficient for LCMR grants-in-aid. The use of the same application for both types of grants eliminates the necessity of applicants completing and processing two separate applications.

b. Upon BOR approval of a LAWCON application, OLUA shall initiate the application procedure for applicants that have not received LCMR grants-in-aid exceeding the maximum legislative grant allowable for that project.

JUSTIFICATION: This procedure is necessary so that OLUA is assured that BOR has approved a LAWCON grant for a project

before initiating procedure for a LCMR grant-in-aid. Since LCMR grants-in-aid are used to supplement LAWCON grants, it is necessary that approval be first obtained for the principal LAWCON grant.

It is necessary that LCMR grants-in-aid do not exceed the maximum grant allowable for that project so that the grant complies with Minnesota laws.

SUPPORTING DOCUMENTATION: The following subdivision of Minnesota laws provides the maximum allowable LCMR grants-in-aid allowable for projects.

Minnesota Laws 1967, Chapter 867, Section 9
Section 9, Laws 1965, Chapter 810, Section 23, Subdivision 3 has been amended to read:

Subd. 3. The maximum state contribution under this section is limited to 50 percent of the total cost of the project or 50 percent of the local share if federal matching funds are used with a maximum payment of $100,000 for any individual project.

c. OLUA shall submit the application with its recommendations to the LCMR and the secretary of the LAC.

JUSTIFICATION: This procedure is necessary to enable the LCMR to make recommendations on LCMR grants-in-aid applications and allow the Legislative Advisory Commission to consider these applications as required by Minnesota law.

SUPPORTING DOCUMENTATION: The following Minnesota laws specify the review responsibilities of LCMR and the LAC concerning LCMR grants-in-aid.

Minnesota laws 1975, Chapter 204, Section 55, Subd2, Para. g.
g. Grants-in-aid for local recreation and natural areas. 4,000,000

This appropriation shall be expended with the approval of the governor after consultation with the legislative advisory committee. The Minnesota resources commission shall make recommendations to the legislative advisory committee regarding such expenditures.

Minnesota Laws 1975, Chapter 204, Section 55, Subd.2 Para. h.
h. Grants-in-aid for regional recreation and natural areas. 4,000,000

This appropriation shall be expended with the approval of the governor after consultation with the legislative advisory committee. The Minnesota resources commission shall make recommendations to the legislative advisory committee regarding such expenditures.

d. OLUA shall request the LCMR to review each application and make its recommendations to the LAC regarding such expenditures.

JUSTIFICATION: This procedure is necessary so that LCMR is requested to make recommendations on LCMR grants-in-aid applications as required by Minnesota law. Minnesota Laws 1975, Chapter 204, Section 55, Subd. 2, Para. g and h state the following:

> "The Minnesota resources commission shall make recommendations to the legislative advisory committee regarding such expenditures."

e. The secretary of the LAC shall review the application for completeness and present it to the Governor and the LAC for consideration. Applications shall be submitted to the secretary of the LAC and the LCMR within the deadline established by LAC. If an application is not submitted prior to the deadline, it shall be held for the next meeting.

JUSTIFICATION: This procedure is necessary so that the governor and the LAC can be requested to approve the application as required by Minnesota law. Minnesota Laws 1975, Chapter 204, Section 55, Subd. 2, Para. g and h state the following:

> "This appropriation shall be expended with the approval of the governor after consultation with the legislative advisory committee."

This paragraph is also necessary so that applications can be submitted in time to permit adequate staff review prior to meetings of the LAC. The secretary of the LAC in a memorandum of March 8, 1976, stated that, "Requests are to be received by the Department of Finance at least one month prior to the LAC meeting." Since these meetings can be held any time during the month, it is necessary that applications be submitted prior to the deadline established by LAC.

2. Projects that have received a grant from another federal program.

a. Local units of government or public agencies that have received a federal grant (other than a LAWCON grant) for park or open space acquisition or development may apply for a LCMR grant-in-aid by submitting an application to OLUA. OLUA shall prescribe the form and content of the applications.

JUSTIFICATION: This paragraph is necessary to establish a procedure for processing final applications for LCMR grants-in-aid that have been programmed to supplement a federal recreation grant other than a LAWCON grant.

It is important that OLUA prescribe the form and content of

applications so they are limited to that information necessary to evaluate and program projects for funding. Since the content must conform with the LCMR grant-in-aid program as it may change over time, occasional revisions may be necessary. To reduce the number of rule changes necessary if the contents of the application are revised, the specific form and content of applications is not specified.

b. Upon receipt of a satisfactory and complete application, OLUA shall initiate the processing of the application in accordance with the proceudre specified in SPA 302 D. 1. c., d., e.

JUSTIFICATION This paragraph is necessary to specify how the application will be processed. It is necessary that OLUA submit applications to LCMR and LAC in a similar manner to LCMR grant-in-aid applications with approved LAWCON grants to promote a uniform processing system. The processing of all LCMR grant-in-aid applications in a similar manner will promote administrative efficiency as well as an easily understood system for all persons involved in the processing of applications.

3. Projects without any federal grant.

Eligible projects which are given high priority but do not receive federal recreation grant assistance due to lack of federal funding or ineligibility, may be considered for LCMR grant-in-aid. When LCMR grant-in-aid funds are available. OLUA may process those applications of high ranking. The procedure shall be the same as outlined in SPA 302 D. 1.c.,d.,e.

JUSTIFICATION: This paragraph is necessary to establish a procedure for processing final applications for LCMR grants-in-aid for high priority recreational projects without any federal grant. It is necessary that OLUA submit applications without federal grants to LCMR and the LAC in a similar manner to LCMR grant-in-aid applications with approved LAWCON grants to promote a uniform processing system. The processing of all LCMR grant-in-aid applications in a similar manner will promote administrative efficiency as well as an easily understood system for all persons involved in the processing of applications.

E. DISBURSEMENT OF GRANTS PROCEDURE.

1. When the governor with the advice of LAC has approved an application for a LCMR grant-in-aid, a project agreement between the applicant and the State of Minnesota shall be executed; and, the applicant may then proceed with the project.

JUSTIFICATION: This paragraph is necessary so that when a LCMR grant-in-aid project is approved, a project agreement can be executed and the applicant can proceed with the project. A project agreement is necessary to specify the terms, conditions, funds, and time period for which the project is to be undertaken.

2. The State of Minnesota shall then pay the applicant the amount of the grant after the agreement has been executed. The applicant shall maintain a separate accounting of the project costs. The applicant shall submit documentation as specified by OLUA, unless it has already been submitted under the requirements for a federal grant to verify the costs and comply with the project agreement.

JUSTIFICATION: This paragraph is necessary to provide a method for distributing funds to the applicant, establishing proper accounting procedures of project costs, and providing documentation necessary to justify the proper expenditure of grant funds and to comply with the project agreement.

It is important that OLUA prescribes the documentation necessary to verify the costs and comply with the project agreement so it is limited to that information necessary to account for and close out the project. Since the content must conform with the LCMR grant-in-aid program as it changes over a period of time, occasional revisions may be necessary. To reduce the number of rule changes necessary if the contents of the project documentation are revised, the specific form and content of project documentation are not specified.

SUPPORTING DOCUMENTATION: The Governor's Executive Order No. 24 dated March 31,1972 states that the State Planning Agency shall be responsible for maintenance of project and fiscal records as follows:

EXECUTIVE ORDER NO. 24

2. The powers in Laws 1965, Chapter 810,Section 21, Subd. 4 for the administration of the portion of the monies made available to be distributed to local units of government are hereby designated to the State Planning Agency in accordance with Laws 1969, Chapter 1139, Section 48, Subd. 7, g , and include the following resonsibilities:

b. The maintenance of project records including fiscal records for local units of government projects.

c. The responsibility of performing fiscal and compliance inspections and auditing local units of government records on all projects.

F. AMENDMENTS.

1. Request. An applicant may request an amendment of a project agreement to change the scope, boundaries, or time period of a project. Applicants shall not request an amendment for cost overruns Applicants requesting an amendment shall submit documentation as specified by OLUA to explain and justify the project.

JUSTIFICATION: This paragraph is necessary to allow an applicant to request an amendment for a project. Amendments are necessary to allow changes in the project agreement where unforeseen events necessitate a change in the project. Project amendments that have been made in the past and are necessary to continue include changes in the scope, boundaries, or time period of a project. It is necessary that amendment requests not be for cost overruns since it is LCMR policy not to provide grants for amendments.

It is important that OLUA prescribe the documentation necessary to explain and justify the project so it is limited to that information necessary to evaluate and understand the request . Since the content needs to conform with the LCMR grant-in-aid and program as it changes over a period of time, occasional revisions may be necessary. To reduce the number of rule changes necessary if the contents of the amendment documentation are revised, the specific form and content of amendment documentation are not specified.

SUPPORTING DOCUMENTATION: The LCMR stated its policy concerning grants for amendments in a memorandum to OLUA dated June 2, 1975:

SUBJECT: Natural Resource Grant in Aid program guidelines

2. The MRC also indicated that there may be no "amendment" grants under the "g" and "h" program. This feature should be spelled out somewhere in the program guidelines. Please forward a copy of the program guidelines as now constituted and indicate where this latest amendment appears.

2. OLUA Action.

When satisfactory documentation is received and OLUA considers the amendment request to be fair and reasonable, the following procedures shall apply:

a. OLUA may approve requests for changes in the time period of a project and requests for modifications of development items originally approved.

b. OLUA may approve requests for minor changes in the project scope or boundaries which shall not exceed 25% of the total project.

c. If the request is for a major change in project scope or boundaries exceeding 25% of the total project, OLUA shall request LCMR to consider the amendment.

JUSTIFICATION: This paragraph is necessary to establish procedures for approval of amendment requests. In these instances where amendment requests are of a minor nature not exceeding 25% of the total project or are extensions of time for the project,

it is important that OLUA have the authority to approve such changes to minimize administrative steps and time lag in the approval procedure. Where requests for changes are of a major nature, such as those exceeding 25% of the total project, it is important that these be referred to LCMR for policy considerations in relation to the original grant intent.

G. PROJECT COMPLETION.

Upon completion, the project shall be subject to a site inspection by state personnel and verification by a state audit. If the total costs of the project when completed are less than the costs upon which the state grant was based, the applicant shall return that portion of the state grant not utilized for the project, which is consistent with the percentage of the state grant participation in the project.

JUSTIFICATION: This paragraph is necessary to verify that the project has been completed in accordance with terms of the project agreement and provide for the return of any unused portion of the grant. The Governor's Executive Order No. 24 provides that OLUA shall be responsible for compliance inspections and audits for local government projects. Since state grants are only approved for specific projects, it is necessary that any unused portion of the grant not necessary to complete the project be returned to the state for other approved uses.

SUPPORTING DOCUMENTATION: The Governor's Executive Order No. 24 dated March 31, 1972 provides the following concerning inspection and auditing responsibilities of the State Planning Agency.

Executive Order No. 24

2. The powers in Laws 1965, Chapter 810, Section 21, Subd. 4 for the administration of the portion of the monies made available to be distributed to local units of government are hereby designated to the State Planning Agency in accordance with Laws 1969, Chapter 1139, Section 48, Subd. 7, g, and include the following responsibilities:

c. The responsibility of performing final and compliance inspections and auditing local units of government records on all projects.

H. RETENTION AND USE OF PROJECT.

1. Property acquired or developed with a LCMR grant-in-aid shall be retained and used for public outdoor recreation on a non-discriminatory basis during its useful life. Any property so acquired or developed shall not be changed to a non-recreational use or another rec-creational use without prior approval of OLUA and

LCMR. In the event that this occurs, the applicant shall return part or all of the state grant upon request by OLUA.

JUSTIFICATION: This paragraph is necessary to assure that LCMR grants-in-aid grants will continue to be used for public recreation purposes consistent with the authorized uses permitted in Minnesota Statutues. Since LCMR grants-in-aid are used to supplement LAWCON grants, it is important that state grants be consistent with LAWCON requirements for a project to be available for public use on a non-discriminatory basis.

2. If approval is granted to change the property acquired or developed with LCMR grant-in-aid to a non-recreational use, the applicant shall return that portion of the state grant representing the non-recreational use to the State of Minnestoa.

JUSTIFICATION: This paragraph is necessary to assure that LCMR grant-in-aid funds will only be used for the purposes authorized by Minnesota Statutes. It is important that any funds not used for recreational purposes be returned to the state for reallocation in accordance with the legislative purposes of the LCMR grants-in-aid program.

SUPPORTING DOCUMENTATION: The following Minnesota Laws specify that LCMR grant-in-aid appropriations are for local government recreational and open space purposes.

Minnesota Laws 1975, Chapter 204, Section 55, Subd. 2, Para. g.
g. Grants-in-aid for local recreation and natural areas. 4,000,000

This appropriation is to pay up to 50 percent of the total cost or 50 percent of the local share if federal matching funds are used, of long term lease, acquisition and development for recreational projects for the purposes described in Laws 1965, Chapter 810, Section 23, as amended by Laws 1969, Chapter 1139, Section 48, Subdivision 7, Paragraphg.

Minnesota Laws 1965, Chapter 810, Section 23

Section 23. Subdivision 1. The appropriation made in section 16 for the local share of projects financed in part with federal funds shall be distributed to counties and local units of government for land acquisition development for recreational purposes including but limited to the following: Historic Sites; Archaeology; Public Access, Parks, Scenic Easements, Campgrounds, Wildlife areas; County and School Forests; Water impoundment.

Minnesota Laws 1975, Chapter 204, Section 55
Subd. 2, Para. h.
h. Grants-in-aid for regional recreation and natural areas. 4,000,000.

This appropriation is available to pay up to 100 percent of the local share for long term lease, acquisition and major development for recreation projects, natural areas and open space serving a regional need to counties, local units of government, special units of government and public educational institutions authorized to acquire, maintain and operate recreational and natural areas; provided that the state share shall not exceed 75 percent of the total acquisition for any project.

I. RESPONSIBLITIES OF APPLICANTS.

An applicant of a LCMR grant-in-aid shall comply with all existing or subsequent state laws and regulations that apply to the project.

JUSTIFICATION: These paragraphs are necessary to insure that the LCMR grants-in-aid comply with any applicable present or future State laws and regulations not mentioned in these regulations. The inclusion of this paragraph allows LCMR grants-in-aid to be applicable to present and future state laws to minimize the necessity of amending these rules and regulations.

SPA 303
LCMR GRANTS-IN-AID PROGRAM
FOR HARBORS OF REFUGE

A. HARBORS OF REFUGE PROGRAM.

Harbors of refuge grant program is hereby established for the development of harbors suitable for giving safe refuge to shallow draft craft from storms on Lake Superior. This grant program is an extension of the LCMR grants-in-aid program and is established by Minnesota Laws, 1969, Chapter 1139, Section 48, Subdivision 7, Paragraph g.

JUSTIFICATION

This paragraph is necessary to establish a separate state grant program for eligible harbors of refuge since it is an extension of Minnesota Laws 1969, Ch. 1139, Sec. 48, Subd. 7, para. g, providing a new category for these projects. Since the recommended priorities for harbors of refuge grants are substantially different from other recreational projects because of the special nature of these grants, it is important that they be considered separately. Minnesota Laws listed above stated that this appropriation to local units of government is for the acquisition and development of harbors of refuge. The term "harbors of refuge" has only been been designated by the United States Corps of Engineers to studies and grant programs for harbors on the Great Lakes System in the North Central states. The United States Corps of Engineers has studies and recommended that certain shelter areas on Lake Superior be recommended as harbors of refuge. It is important that harbors of refuge be recommended by the United States Corps of Engineers to be consistent with the federal criteria established for the entire great lakes system to protect pleasure craft.

B. ELIGIBLE APPLICANT.

Any local unit of government or public agency which has received a grant from the U.S. Army Corps of Engineers for the acquisition or development of a harbor of refuge may apply for a LCMR grant-in-aid.

JUSTIFICATION

This paragraph is necessary to specify who are eligible to submit applications for LCMR grants-in-aid for harbors of refuge in accordance with the program intent. Minnesota Laws 1969, Ch. 1139, Sec. 48, Subd. 7, para. g states that this appropriation to local units of government is for the acquisition and development of harbors of refuge.

C. ELIGIBLE PROJECTS.

An eligible applicant may receive a LCMR grant-in-aid for 50 percent of the eligible local costs provided it does not exceed the maximum legislative grant-in-aid allowable for that project. Grants from this program shall be available for acquisition and development only. Maintenance and operational costs shall be the responsibility of the applicant.

JUSTIFICATION

This paragraph is necessary to specify the maximum percentage rates of LCMR grants-in-aid available for harbors of refuge as stated in Minnesota

and permit LCMR grants-in-aid for acquisition and construction as authorized by Minnesota Law. Since maintenance and operation costs are not eligible for LCMR grants-in-aid, it is important that they be the responsibility of the sponsor.

SUPPORTING DOCUMENTATION

The following sections of Minnesota Law provide maximum percentage rates and eligiblity of acquisition and construction costs for LCMR grants-in-aid for harbors of refuge.

Minnesota Laws 1969, Chapter 1139, Section 48, Subd. 7, Par. g

g. Grants-in-aid to local units of government ..... 2,500,000

This appropriation is for acquisition and development for recreational projects in accordance with Laws 1965, Chapter 810, Section 21, Subdivision 4, and Section 23 as amended by Extra Session Laws 1967, Chapter 48, Section 48, Subdivision 9, h; for harbors of refuge; and for locally sponsored lake improvement projects by governmental units and non-profit organizations and associations eligible under guidelines established jointly by the state planning agency and the department of conservation.

Minnesota Laws 1967, Chapter 867, Section 9

Section 9. Laws 1965, Chapter 810, Section 23, Subdivision 3, is amended to read:

Subd. 3. The maximum state contribution under this section is limited to 50 percent of the total cost of the project or 50 percent of the local share if federal matching funds are used with a maximum payment of $100,000 for any individual project.

D. APPLICATION PROCEDURE.

1. Eligible applicants may apply for a LCMR grant-in-aid for harbors of refuge by submitting an application to OLUA. OLUA shall prescribe the form and content of the application.

JUSTIFICATION

This paragraph is necessary to establish a procedure for processing LCMR grants-in-aid for harbors of refuge and documentation necessary to evaluate and process the application. It is important that OLUA prescribe the form and content of applications so they are limited to that information necessary to evaluate and program projects for funding. Since the content needs to conform with the LCMR grant-in-aid program as they change over time, occasional revisions may be necessary. To reduce the number of rule changes necessary if the contents of the application are revised, the specific form and content of applications is not specified.

2. Procedure.

a. Upon receipt of a harbor of refuge application, OLUA shall review the application for eligiblity of the project, completeness of the application, and furthermore, evaluate it as to priority.

JUSTIFICATION

This paragraph is necessary to provide a procedure for processing LCMR grant-in-aid applications for harbor of refuge projects. It is important that harbor of refuge applications received by OLUA be reviewed for eligibility of the project, completeness, and evaluated for priority, so that it can be recommended for a grant.

It is necessary that OLUA rank harbor of refuge applications to determine high priority. High priority applications are those that have received a federal grant from the U.S. Army, Corp of Engineers for a harbor of refuge.

b. When the application is determined by OLUA to be satisfactory and of high priority, OLUA shall recommend a grant to the LCMR and the LAC in accordance with SPA 302 D.1.c.,d.,e.

JUSTIFICATION

When OLUA has determined that a harbor of refuge application is satisfactory and of high priority, it is important that OLUA complete the processing by recommending a grant to the LCMR and the Legislative Advisory Commission. It is necessary that OLUA submit applications for harbors of refuge to the LCMR and the LAC in a similar manner as LCMR grant-in-aid applications with approved LAWCON grant-in-aid applications in a similar manner will promote administrative efficiency and provide an understandable system for processing applications.

E. DISBURSEMENT OF FUNDS.

The disbursement of funds for LCMR grants-in-aid to harbors of refuge shall be as specified in SPA 302 E .

JUSTIFICATION

This paragraph is necessary to establish a procedure for the distribution of LCMR grant-in-aid funds for harbor of refuge projects. It is important that the disbursement of funds for LCMR grants-in-aid to harbors of refuge be the same as the disbursement for other LCMR grants-in-aid funds to promote administrative efficiency and provide an understandable standardized system for processing disbursements.

F. AMENDMENTS.

Harbors of refuge projects that have been amended by the Corps of Engineer shall be eligible for LCMR grant-in-aid amendments as specified in SPA 302

JUSTIFICATION

This paragraph is necessary to establish a procedure for the consideration and processing of LCMR grant-in-aid amendments for harbors of refuge. It is important the procedures for the consideration and processing of LCMR grant-in-aid amendments for harbors of refuge be the same as the amendment procedures for other LCMR grants-in-aid to promote administrative efficiency and provide an understandable standardized system for processing amendments.

G PROJECT COMPLETION.

Upon completion, the project shall be subject to closing requirements as specified in SPA 302 G .

JUSTIFICATION

This paragraph is necessary to verify that the harbor of refuge project has been completed in accordance with the terms of the project agreement and provide for the return of any unused portion of the state grant as required for other LCMR grants-in-aid. It is important that closing procedures for harbors of refuge be the same as closing procedures for other LCMR grants-in-aid to promote administrative efficiency and provide an understandable standardized system for closing projects.

SPA 304
LCMR GRANTS-IN-AID PROGRAM FOR LAKE IMPROVEMENT PROJECTS

A. LAKE IMPROVEMENT PROGRAM.

A lake improvement grant program is hereby established for demonstrating or carrying out new techniques to improve the quality of lakes. This grant program is an extension of the LCMR grants-in-aid program and is established by Minnesota Laws, 1969, Chapter 1139, Section 48, Subdivision 7, Paragraph g. Pursuant to said statute, the following shall be eligible to apply for such projects:

JUSTIFICATION

This paragraph is necessary to establish a separate state grant program for lake improvement projects since it is a new category of grants established by an extension of Minnesota Laws 1969, Chap. 1139, Sec. 48, Subd. 7, para. g. Since the recommended priorities for lake improvement grants are substantially different from other recreational projects, due to the special nature of these grants, it is important that they be considered separately.

B. ELIGIBLE APPLICANTS.

1. Units of local government and public agencies that have the authority to undertake lake improvement projects;

2. Non-profit organizations and associations whose primary objective is the management of natural resources and the improvement of the environment.

JUSTIFICATION

This paragraph is necessary to specify who are eligible to submit applications for LCMR grants-in-aid for lake improvement projects as authorized in Minnesota Law. Minnesota Laws 1969, Chapter 1139, Section 48, Subdivision 7, Paragraph g listed above states that appropriations are for locally sponsored lake improvement projects by governmental units and non-profit organizations and associations. To comply with this legislation the following categories of applicants have been established as being eligible to apply for lake improvement projects.

1. Units of local government and public agencies that have the authority to undertake lake improvement projects.

2. Non-profit organizations and associations that can show a definite relationship to the improvement of lakes. It is important that non-profit organizations and associations have the management of natural resources and improvement of the environment as a primary objective to provide a relationship to the improvement of lakes and manage the lake improvement project so it can serve the purpose for which was intended.

C. ELIGIBLE PROJECTS.

Eligible projects for lake improvement grants shall be pilot demonstration projects which are new or unique for that type of lake. Eligible projects and facilities may receive a LCMR grant-in-aid of 50 percent of the eligible

costs but not to exceed the maximum legislative grant-in-aid allowable for that project. Grants from this program shall be available for acquisition, construction and testing costs. Maintenance and operational costs shall be the responsibility of the applicant.

JUSTIFICATION

This paragraph is necessary to designate what lake improvement projects are eligible for a LCMR grant-in-aid, the maximum percentage rate of aid available, and what types of costs are eligible for a grant. Guidelines developed for lake improvements ,as required by Minnesota Law, established this program to develop pilot projects to provide lake information, research ways for lake improvement, and develop procedures to economically effect such improvement. In order for projects to be a pilot or demonstration project, it needs to be something that has not been tried before and is new or unique for that type of lake. It is important that demonstration projects provide information of value to other Minnesota lakes with similar characteristics to provide the most benefit within the appropriations available. It is also important that appropriations for lake improvement projects do not jeopardize the funding available for other recreation projects. It is necessary that the project include a written analysis of the physical and economical results of the demonstration project. The physical results are necessary to indicate what actually was done and the economic results are necessary to indicate whether the project was successful and what the relative costs might be as an illustration for other types of lakes.

It is necessary that LCMR grants-in-aid for lake improvement projects not exceed 50% of eligible costs or the maximum grant allowable as specified in Minnesota laws. Minnesota law further authorizes appropriation for lake improvement projects to include acquisition and development. Since demonstration projects include trying new methods to improve lakes, it is important that testing costs are included as a type of development cost necessary to undertake the demonstration. As LCMR grants-in-aid for lake improvement projects fund only a portion of the project costs for acquisition and development, it is necessary that applicants submit documentation that they are financially able to assume their share of the costs and maintenance and operational costs to complete the project and put it into effect.

SUPPORTING DOCUMENTATION

The following sections of Minnesota Law provide for development of guidelines, maximum percentage rates and eligiblity of acquisition and development costs for LCMR grants-in-aid for lake improvement projects.

Minnesota Laws 1969, Chapter 1139, Section 48, Subdivision 7, Par. g

g. Grants-in-aid to local units of government ..... 2,500,000

This appropriation is for acquisition and development for recreational projects in accordance with Laws 1965, Chapter 810, Section 21, Subd. 4, and Section 23, as amended by Extra Session Laws 1967, Chapter 48, Section 48, Subd. 9, h; for harbors of refuge; and for locally sponsored lake improvement projects by governmental units and non-profit organizations and associations eligible under guidelines established jointly by the state planning agency and the department of conservation.

Minnesota Laws 1967, Chapter 867, Section 9

Section 9. Laws 1965, Chapter 810, Section 23, Subdivision 3 is amended to read:

Subd. 3. The maximum state contribution under this section is limited to 50 percent of the total cost of the project or 50 percent of the local share if federal matching funds are used with a maximum payment of $100,000 for any individual project.

D. APPLICATION PROCESS.

Eligible applicants may apply for a LCMR grant-in-aid for lake improvement by submitting a preliminary application to OLUA. OLUA shall prescribe the form and content of the application.

JUSTIFICATION

This paragraph is necessary to establish a procedure for processing LCMR grants-in-aid for lake improvements and documentation necessary to evaluate and process the application. It is important that OLUA prescribe the form and content of preliminary applications so they are limited to that information necessary to evaluate and program projects for funding. Since the content needs to conform with the LCMR grant-in-aid program as they change over time, occasional revisions may be necessary. To reduce the number of rule changes necessary if the contents of the preliminary application are revision, the specific form and content of preliminary applications is not specified.

E. EVALUATION OF APPLICATIONS.

1. Priorities.

The criteria that shall be used to evaluate and establish priorities for applications shall be based upon projects that:

JUSTIFICATION

This paragraph is necessary to establish the criteria for evaluating applications and establishing priorities for LCMR grants-in-aid for lake improvement projects.

a. Perpetuate the beneficial natural characteristics of the shoreline.

JUSTIFICATION

The first criteria is necessary to carry out the objective of lake improvement projects to restore lakes to their natural state and minimize lake distrubances caused by activities of people. A shoreline which is perpetuated in its natural character provides a relaxing setting in which people can enjoy the natural beauty of the lake and shore area. It also preserves natural vegetation and habitat areas for wildlife so that people can observe and enjoy them.

b. Consider upstream conditions and sound watershed management practices, as may be established in the comprehensive watershed plan.

JUSTIFICATION

The second criteria is necessary since upstream conditions and sound watershed management practices have an important effect upon restoring the lake to its natural state. Upstream conditions that contribute a minimal amount of additives to waters leading to the lake, will have much less of an effect upon

the lake improvement project and its continued effectiveness than upstream conditions that contribute large amounts of additivies. It is also important that sound watershed management practices be initiated upstream of the lake improvement project to minimize the amount of water additives from man-made activities that may affect the project.

c. Are located in areas that have and are enforcing effective zoning ordinances, building codes, health ordinances, and conservation rules that affect the project.

JUSTIFICATION

The third criteria is necessary to determine if the applicant is taking whatever measures it can to correct the problem necessitating a lake improvement project. Many problems to lakes and rivers are for conditions that can be improved by the enactment and enforcement of proper ordinances. It is important to utilize such measures wherever possible to improve the effectiveness of the lake improvement project and its continued operation.

d. Have a majority of shoreline in public ownership. Only lakes that are accessible to the public shall be eligible for a grant.

JUSTIFICATION

The fourth criteria is necessary so that lake improvement projects serve the public and they are able to enjoy its benefits. The larger the amount of shoreline in public ownership on a proposed lake improvement project, the larger the amount of the lake that is available for public use and enjoyment. Thus, lake improvement projects on lakes with the majority or over 50% of the shoreline in public ownership will be considered to have a substantial benefit to the public and be given the priority over those that have less than 50% public ownership. Projects on lakes that have less than 50% public shoreline ownership tend to give a higher proportion the benefits of the lake improvement projects to property owners owning the adjacent shorelines.

e. Improve the quality of waterbased recreational activities and fish and game habitat.

JUSTIFICATION

The fifth criteria is necessary to give priority to projects that carry out the objectives of the LCMR grant-in-aid program for the improvement of local recreation and natural areas. It is also important that priority be given to lake improvement projects that perpetuate fish and game in natural habitat areas to maintain and improve the number of fish and game for recreational fishing, hunting, observation and study.

f. Have received a federal grant.

JUSTIFICATION

The sixth criteria is necessary so that lake improvement projects that have an approved federal grant are given priority over other eligible projects in accordance with legislative intent. The LCMR has indicated that priority shall be given to applications for LCMR grants-in-aid which have received a federal grant over those which have not. The LCMR in a letter to the State Planning Agency dated May 25, 1971, stated "MRC has during the past two years

emphasized to your Office of Local & Urban Affairs that Natural Resource dollars are to be matched wherever possible with federal grant."

SUPPORTING DOCUMENTATION

The following Minnesota laws authorize LCMR grants-in-aid financed in part with federal funds.

Minnesota Laws 1965, Chapter 810, Section 23

Section 23. Subdivision 1. The appropriation made in section 16 for the local share of projects financed in part with federal funds shall be distributed to counties and local units of government for land acquisition development for recreational purposes including but not limited to the following: Historic sites; Archaeology; Public Access; Parks; Scenic Easements; Campgrounds, Wildlife areas; County and School Forests; Water Impoundment.

2. Procedure.

Upon receipt of a preliminary application for a lake improvement grant, OLUA shall follow the following procedures:

JUSTIFICATION

This paragraph is necessary to provide a procedure for evaluating, ranking, and processing LCMR grants-in-aid applications for lake improvement projects.

a. The application shall be reviewed for eligiblity and completeness. If additional information is required, the applicant shall be notified and asked to provide the additional information.

JUSTIFICATION

The first procedure is necessary to allow OLUA to determine if the application is eligible for a LCMR grant-in-aid for a lake improvement project. It is also necessary that the application be complete so that OLUA can make a complete evaluation of the proposal. If the application is not complete and additional information is needed, it is important that the applicant be notified and asked to provide any necessary additional information to avoid time delay in the processing of applications.

b. A preliminary evaluation and priority ranking of the lake improvement project shall be conducted by OLUA, the Department of Natural Resources, and the Pollution Control Agency.

JUSTIFICATION

The second procedure is necessary to provide a preliminary evaluation and ranking of lake improvement projects by state agencies that administer the LCMR grants-in-aid program or have major statewide water management responsibilities. It is necessary that OLUA evaluate and rank projects to determine if this type of proposal has already been undertaken, the availability of state funds, how the proposal fulfills local government waterbased recreational activities, and to summarize evaluations to recommend a LCMR grant-in-aid project for further consideration.

It is necessary that the Department of Natural Resources evaluate and rank lake improvement projects since it has major responsibilities for the management of lakes and rivers in Minnesota and has personnel with considerable technical knowledge in many areas of water management. The Department of Natural Resources major water management functions include the collection of physical and chemical characteristics of lakes and streams; management of fish and water wildlife; regulation of work in and use of public water bodies; and to conduct studies of water management, use, and regulations. Other water management responsibilities of the Department of Natural Resources are listed in the justification for the agency's inclusion on the Ad Hoc Lake Improvement Committee (SPA 300 C. 1.).

It is necessary that the Pollution Control Agency also evaluate and rank lake improvement projects since it also has major management functions that have an effect on water quality and quantity and has personnel with considerable technical knowledge on water problems. The Pollution Control Agency's major water management functions include the establishment of water quality standards; regulate municipal, industrial, and agricultrual wastes leading to water bodies; survey waters on natural aging process and effects of pollution on water bodies. Other water management responsibilities of the Department of Natural Resources are listed in the justification for the agency's inclusion on the Ad Hoc Lake Improvement Committee.

c. Applicants that receive a high priority ranking in the preliminary project evaluation shall then be submitted to the "Ad Hoc Lake Improvement Committee" for review.

JUSTIFICATION

The third procedure is necessary to permit lake improvement projects which received a high priority ranking from a preliminary evaluation, to be evaluated and ranked by the Ad Hoc Lake Improvement Committee. It is important that the Ad Hoc Lake Improvement Committee review lake improvement projects since this committee is composed of representatives of state agencies which have considerable technical knowledge of lakes and their problems on a statewide basis. Agencies represented on this comitttee have many management, regulatory, or related resource functions which have an effect on water quality and quantity and can centrally meet with relative ease due to their close proximity. Personnel in these agencies have technical knowledge of current lake studies and previous ones done both within and outside Minnesota. This committee consists of representatives at the State Planning Agency, Department of Natural Resources, University of Minnesota, Department of Health, the Pollution Control Agency, and the Legislative Commission on Minnesota Resources and the Department of Agriculture as defined and further justified in SPA 300 C.1.

d. Applicants that receive a high ranking from the "Ad Hoc Lake Improvement Committee" evaluation shall be eligible to submit a final application.

JUSTIFICATION

The fourth procedure is necessary so that applicants requesting lake improvement projects that have received a high ranking from the Ad Hoc Lake Improvement Committee are eligible to submit a final application. A final application is necessary since it includes all the information necessary to submit a

request to the LCMR for an approval of a grant-in-aid for Lake Improvement. It is also necessary since it contains necessary information to document what the project will consist of, its costs, location, time period for completion, sources of funding, and any agreements with other agencies or units of government relating to the project.

e. Final applications shall be submitted to OLUA. OLUA shall prescribe the form and content of the application. Final applications that are acceptable shall be recommended to the LCMR and the LAC in accordance with SPA 302 D.1.c.,d.,e.

JUSTIFICATION

The fifth procedure is necessary so that OLUA can review final applications and if they are acceptable, recommend them to the LCMR and the LAC for a LCMR grant-in-aid. It is important that OLUA to prescribe the form and content of final applications so they are limited to that information necessary to justify and program projects for funding. Since the content needs to conform with the LCMR grant-in-aid program as they change over time, occasional revisions may be necessary. To reduce the number of rule changes necessary if the contents of the final application are revised, the specific form and content of final applications is not specified.

When OLUA has determined that final applications for lake improvement projects are complete and acceptable, it is necessary that OLUA complete the processing by recommending a LCMR grant-in-aid to the LCMR and the LAC. It is important that OLUA submit applications for lake improvement projects to the LCMR and the LAC in a similar manner as LCMR grant-in-aid applications with approved LAWCON grants to promote a uniform processing system. To process all LCMR grant-in-aid applications in a similar manner will promote administrative efficiency and provide an understandable system for processing applications.

F. DISBURSEMENT OF GRANTS.

The disbursement of grants for LCMR grant-in-aid lake improvement projects shall be as specified in SPA 302 E .

JUSTIFICATION

This paragraph is necessary to establish a procedure for the distribution of LCMR grant-in-aid funds for lake improvement projects. It is important that the disbursement of funds for LCMR grants-in-aid to lake improvement projects be the same as the disbursement for other LCMR grants-in-aid funds to promote administrative efficiency and provide an understandable standardized system for processing disbursements.

G. AMENDMENTS.

Lake improvement projects shall be eligible for LCMR grant-in-aid amendments as specified in SPA 302 F .

JUSTIFICATION

This paragraph is necessary to establish a procedure for the consideration and processing of LCMR grant-in-aid amendments for lake improvement projects. It is important the procedures for the consideration and processing of LCMR grant-in-aid amendments for lake improvement projects be the same as the

amendment procedures for other LCMR grants-in-aid to promote administrative efficiency and provide an understandable standardized system for processing amendments.

H. PROJECT COMPLETION.

Upon completion, the project shall be subject to closing requirements as specified in SPA 302 G .

JUSTIFICATION

This paragraph is necessary to verify that the lake improvement project has been completed in accordance with the terms of the project agreement and provide for the return of any unused portion of the state grant as required for other LCMR grants-in-aid projects. It is important that closing procedures for lake improvement projects be the same as closing procedures for other LCMR grants-in-aid projects to promote administrative efficiency and provide an understandable standardized system for closing projects.