

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

MJC

RULE REVIEW CHECKLIST

File No. 1598 Docket No. 05.0009.0414

DATE RECEIVED 4-28-89 ADOPTED W/O HEARING X

REVIEW DATE 5-8-89 EMERGENCY RULE _____

DUE DATE 5-12-89 KWD

REVISOR APPROVED _____

APPROVED 5/12/89 REVISOR DISAPPROVED _____

DISAPPROVED _____ FILED W/SEC. OF STATE _____

WITHDRAWN _____ RETURNED TO AGENCY _____

✓ Rule as adopted (4 copies)

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

_____ ~~Petition for Adoption of a Rule (if applicable)~~

✓ ~~Board's Authorizing Resolution~~
- _____ ~~Date adopted~~

✓ Proposed Rule
- yes Revisor's Certificate

✓ Notice of Intent to Adopt Rule
- 46.71 Statutory Authority 116J.035, 116J.401, 116J.406
- no Small Business Statement
- no Expenditure of public money statement
- yes Signature

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

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
- 2/10/89 Date 30/25 days before adoption
- ok Notice attached
- _____ ~~Copy of rule or summary attached~~

✓ Publication in State Register
- 2/13/89 Date 30/25 days before adoption

_____ 180-day deadline from:
- n/a Effective date of law requiring rule (14.12) (both rules)
- 3/15/89 end of comment period (§ 14.26) (rules without hearing)
- _____ ~~effective date of statutory authority (§ 14.29) (emergency rules)~~

_____ ~~Resolution Adopting~~
- _____ ~~Date adopted~~

✓ Findings of Fact, Conclusions & Order Adopting
- 4/26/89 Date

_____ ~~Written requests, submissions or comments~~

✓ Declaration of attorney
- Kyl Sonneman Name of SAAG representing agency

_____ ~~Notice of Submission to Atty. Gen. (if applicable)~~

_____ ~~Aff. of Mailing Notice to Atty. Gen. (if applicable)~~

DEPARTMENT : ATTORNEY GENERAL

STATE OF MINNESOTA

Office Memorandum

DATE : May 12, 1989

TO : KARL W. SONNEMAN
Special Assistant Attorney General

FROM : MARTY J. CASSERLY
Special Assistant Attorney General

PHONE : 6-6839

SUBJECT : In the Matter of the Adopted Permanent Rules Relating to Outdoor Recreation Grants

The above-referenced rule has been approved as to its legality by the Attorney General on May 12, 1989.

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

Also enclosed are any petitions, requests, submission or comments received by the agency and any extra copies of documents which the agency submitted to the Attorney General.

In order for a permanent rule without a hearing to become effective, your agency must publish a notice of adoption in the State Register in accoradance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

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

MJC:klk
Enclosures

cc: Maryanne Hruby
Executive Director
Legislative Commission to Review
Administrative Rules

William Brown
Chief Administrative Law Judge
Office of Administrative Hearings

Department of Trade and Economic Development

Adopted Permanent Rules Relating to Outdoor Recreation Grants

Rules as Adopted

4310.8105 DEFINITIONS.

Subpart 1. **Scope.** The following terms used in parts 4310.8105 to 4310.8160 have the meanings given them.

Subp. 2. **Community development application.** "Community development application" means the official consolidated application form as developed by the department to be used to apply for funding assistance from various community assistance programs administered by the Community Development Division.

Subp. 3. **Community Development Division.** "Community Development Division" means the Community Development Division of the Department of Trade and Economic Development.

Subp. 4. **Eligible applicant.** "Eligible applicant" means local units of government that are eligible to apply for an outdoor recreation grant.

Subp. 5. **LAWCON.** "LAWCON" means the program established by the act of Congress entitled "The Land and Water Conservation Fund Act of 1965," as amended, Statutes at Large, volume 87, page 897, which provides federal grants to Minnesota for the acquisition and development of outdoor recreation projects.

Subp. 6. **Local units of government.** "Local units of government" means counties, cities, townships, and Indian tribes and bands recognized by the federal government.

Subp. 7. **NPS.** "NPS" means the National Park Service of the United States Department of the Interior.

Subp. 8. **NPS guidelines.** "NPS guidelines" means those guidelines established by the National Park Service and contained in the "Land and Water Conservation Fund Grants Manual," prepared by the National Park Service. This manual is incorporated by reference, is available through the Minitex interlibrary loan system, and is subject to frequent change.

Subp. 9. **Outdoor recreation grant.** "Outdoor recreation grant" means a specific sum of money made available by the federal government or Minnesota to an eligible applicant for the execution of outdoor recreation projects.

Subp. 10. **Project.** "Project" means a planned undertaking for outdoor recreation, proposed by an eligible applicant, having fixed beginning and ending dates and consisting of either or both of the following two types:

A. "acquisition project" means the acquisition of real property or an interest and rights to the property for a well-defined outdoor recreation area and purpose; and

B. "development project" means the development of structures, utilities, or facilities necessary for the purpose of outdoor recreation on publicly-owned or controlled land.

Subp. 11. **Project agreement.** "Project agreement" means the contract executed between the NPS 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.

Subp. 12. **SCORP.** "SCORP" means the Minnesota Statewide Comprehensive Outdoor Recreation Plan prepared by the Minnesota Department of Natural Resources as required by the NPS as a prerequisite to distribution of LAWCON funds. This plan is incorporated by reference, is available through the Minitex interlibrary loan system, and is subject to change every five years.

4310.8120 PURPOSE.

Parts 4310.8105 to 4310.8300 provide criteria, priorities, and procedures for evaluating outdoor recreation proposals of local government units under consideration for outdoor recreation grants.

4310.8130 APPLICATION PROCESS.

Subpart 1. **Eligibility.** An eligible local unit of government may apply for an outdoor recreation grant. To receive a grant, an eligible applicant must satisfy the

requirements in parts 4310.8105 to 4310.8160 and related statutory requirements.

Subp. 2. **Notice.** Annually, the Community Development Division shall provide notice concerning the application process for outdoor recreation grants to the following:

A. mayors in care of the clerks of all cities in Minnesota;

B. county board chairs in care of the auditors of all counties in Minnesota;

C. chairs of county planning commissions and city planning commissions of all cities over 5,000 population according to the last federal decennial census in Minnesota;

D. chairs of county park and recreation commissions and city park and recreation commissions of all cities over 5,000 population according to the last federal decennial census in Minnesota;

E. chairs in care of the executive directors of regional development commissions;

F. chairs of each county's township association;

G. chairs of tribal councils of recognized Indian tribal governments;

H. statewide organizations representing Minnesota local governments;

I. persons requesting notice; and

J. upon request, to the Minnesota state legislature.

Subp. 2a. **Application content and submission.** Applications may be submitted year-round to the Community Development Division and on the Community Development Division's community development application.

A completed community development application must include:

A. needs narrative summarizing the need for the proposed outdoor recreation project;

B. project summary outlining the facilities and land acquisition to be completed and the scope of the project;

C. activities and budget detailing the specific estimated costs associated with each proposed acquisition or

development activity;

D. assurances necessary to comply with federal or state requirements as a prerequisite to receiving state or federal funding;

E. a resolution from the local unit of government approving the submission of the application and authorizing execution of the grant agreement in accordance with the requirements of the Community Development Division, if funds are made available; and

F. supporting materials that are designed to verify or support information presented in items A to E.

The Community Development Division may require additional information from the applicant if it is necessary to clarify and evaluate the application.

Subp. 3. [See Repealer.]

Subp. 3a. **Evaluation criteria.** Funding of outdoor recreation projects, included on completed community development applications, shall be officially determined during an annual competitive review and ranking period. The Community Development Division may request applicants who have submitted completed applications with outdoor recreation projects, before the annual competitive review and ranking period, to submit additional materials and support documentation necessary to complete the evaluation and ranking.

Outdoor recreation projects, included on completed community development applications, shall be officially evaluated, scored, and ranked in accordance with the general criteria in subpart 4a, acquisition priorities in subpart 5a, and development priorities in subpart 6a.

Subp. 4. [See Repealer.]

Subp. 4a. **General criteria.** Applications that meet one or more of the following criteria shall receive priority over similar projects that do not:

A. projects involving outstanding irreplaceable resources or features of statewide or regional significance that are in danger of commercial (nonrecreational) development,

subdivision, or other use that may be incompatible with outdoor recreation uses;

B. projects that have received a prior outdoor recreation grant for a preceding phase of the proposed project and that have been satisfactorily managed;

C. projects that are designed with a sensitivity toward the physical limitations and natural characteristics of the site; recognize and complement existing land forms and recreation facilities; provide for ease of maintenance and operation of the site; do not have major environmental intrusions that are detrimental to the intended use of the property; make good use of available space without crowding; and include facilities that are designed in accordance with generally-accepted engineering and architectural standards;

D. projects for which the applicant has submitted a statement documenting a financial commitment to continued operations and maintenance of the proposed facilities;

E. projects that are consistent with the outdoor recreation needs and priorities related to local governments as identified in SCORP; and

F. projects for which the applicant can demonstrate a need for priority consideration for state financial assistance.

Subp. 5. [See Repealer.]

Subp. 5a. **Acquisition priorities.** The following criteria shall be used to evaluate applications for acquisition projects and to determine priorities for projects:

A. acquisition of project sites having existing or potential natural, scientific, cultural, historical, educational, or recreational values that would be made available for public enjoyment;

B. acquisition of project sites that would protect or enhance aesthetics, land and water quality, or the recreational use of existing outdoor recreation facilities; and

C. acquisition of project sites that address the outdoor recreation land acquisition needs and priorities related to local governments as identified in SCORP.

Subp. 6. [See Repealer.]

Subp. 6a. **Development priorities.** The following criteria shall be used to evaluate applications for outdoor recreation development projects and to determine priorities for projects:

A. projects designed to protect and enhance land and water quality of the site consistent with the estimated number of its potential users and the proposed outdoor recreation activities;

B. projects designed to be readily accessible to a wide range of potential users, including handicapped users;

C. projects designed to minimize any potential risk to the health and safety of users; and

D. projects designed to provide to the general public a wide range of outdoor recreation opportunities that are related to the needs and priorities established in SCORP.

Subp. 7. [See Repealer.]

Subp. 7a. **Competitive review and ranking period.** As part of the competitive review and ranking period, Community Development Division staff shall conduct an on-site inspection of each project. After completion of the on-site inspections, each project shall be reviewed in accordance with the evaluation criteria contained in subpart 3a, and a priority ranking shall be established for each applicant based on the evaluation criteria. All applicants shall be notified by the Community Development Division about the disposition of their project after the competitive review and ranking period has been completed and a funding determination has been made.

Grants shall be allocated to applicants in descending order or priority, as determined by the ranking, until all available grant funds are depleted.

The highest ranked projects will be eligible for and shall be awarded federal LAWCON funds. The Community Development Division shall determine which projects will be eligible for state funds.

Subp. 8. [See Repealer.]

Subp. 8a. **NPS approval and notice of LAWCON grant award.**

For any eligible project for which the Community Development Division has determined that federal LAWCON funds will be awarded, the Community Development Division shall request NPS approval of a LAWCON grant for the recommended project. The Community Development Division shall notify the applicant that the project has been recommended for a grant and will be submitted to the NPS for final approval. The Community Development Division shall also notify the applicant of the action taken by the NPS.

Subp. 9. [See Repealer.]

Subp. 9a. **Notification of state grant award.** For any eligible project for which the Community Development Division has determined that state funds will be awarded, the Community Development Division shall notify the applicant that the project has received a grant award. If an eligible project is not recommended to receive a grant award, the Community Development Division shall notify the applicant that the project did not rank highly enough for funding.

Subp. 10. to 12. [See Repealer.]

4310.8140 PROJECT AGREEMENT.

Upon approval by the NPS for LAWCON-funded projects and approval by the Community Development Division for state-funded projects, the Community Development Division shall execute a project agreement with the applicant and the applicant shall comply with the terms of the project agreement.

4310.8150 DISBURSEMENT OF GRANT.

The applicant shall initially pay for the project costs as specified in the project agreement. The applicant shall submit to the Community Development Division a payment request for reimbursement of costs incurred in the completion of the project. In all cases, not more than four payment requests shall be submitted for the life of the project. Upon receipt of a payment request containing the documentation required in the project agreement, the Community Development Division shall audit the payment request documentation to determine the

eligibility and propriety of the costs incurred by the applicant.

For projects funded with federal LAWCON funds, if the costs are eligible and properly documented, the Community Development Division shall request reimbursement from NPS of the federal share of the eligible costs represented by the applicant's payment request. Upon receipt of the LAWCON reimbursement for that payment request, the Community Development Division shall issue payment of the federal funds to the applicant.

For projects funded with state grant funds, the Community Development Division shall reimburse the applicant for the eligible costs represented by each payment request, provided that the payment request documentation submitted contains the documentation required in the project agreement.

The final payment shall reflect any cost adjustments due to project changes. The project site shall be subject to an inspection by state and federal personnel. All costs incurred by the applicant may be subject to verification by an independent federal or state audit.

4310.8160 AMENDMENTS.

A request for an amendment in the project scope, costs, or time period may be submitted to the Community Development Division prior to project termination. If the request is eligible for a LAWCON amendment and the Community Development Division considers the amendment request to be reasonable and justified and it does not substantially affect the project eligibility under part 4310.8130, it may request NPS to approve the amendment.

REPEALER. Minnesota Rules, parts 4310.8100; 4310.8110; 4310.8130, subparts 3 to 12; 4310.8170; 4310.8180; 4310.8190; and 4310.8300, are repealed.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

MAY 12 1989

Joan Anderson Growe

Secretary of State

10:00 AM

APPROVED AS TO FORM AND LEGALITY

May 12 1989

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY M J Cassedy

SPECIAL ASSISTANT ATTORNEY GENERAL

Department of Trade and Economic Development

Proposed Permanent Rules Relating to Outdoor Recreation Grants

Rules as Proposed

4310.8105 DEFINITIONS.

Subpart 1. **Scope.** The following terms used in parts 4310.8105 to 4310.8160 have the meanings given them.

Subp. 2. **Community development application.** "Community development application" means the official consolidated application form as developed by the department to be used to apply for funding assistance from various community assistance programs administered by the Community Development Division.

Subp. 3. **Community Development Division.** "Community Development Division" means the Community Development Division of the Department of Trade and Economic Development.

Subp. 4. **Eligible applicant.** "Eligible applicant" means local units of government that are eligible to apply for an outdoor recreation grant.

Subp. 5. **LAWCON.** "LAWCON" means the program established by the act of Congress entitled "The Land and Water Conservation Fund Act of 1965," as amended, Statutes at Large, volume 87, page 897, which provides federal grants to Minnesota for the acquisition and development of outdoor recreation projects.

Subp. 6. **Local units of government.** "Local units of government" means counties, cities, townships, and Indian tribes and bands recognized by the federal government.

Subp. 7. **NPS.** "NPS" means the National Park Service of the United States Department of the Interior.

Subp. 8. **NPS guidelines.** "NPS guidelines" means those guidelines established by the National Park Service and contained in the "Land and Water Conservation Fund Grants Manual," prepared by the National Park Service. This manual is incorporated by reference, is available through the Minitex interlibrary loan system, and is subject to frequent change.

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Subp. 9. **Outdoor recreation grant.** "Outdoor recreation grant" means a specific sum of money made available by the federal government or Minnesota to an eligible applicant for the execution of outdoor recreation projects.

Subp. 10. **Project.** "Project" means a planned undertaking for outdoor recreation, proposed by an eligible applicant, having fixed beginning and ending dates and consisting of either or both of the following two types:

A. "acquisition project" means the acquisition of real property or an interest and rights to the property for a well-defined outdoor recreation area and purpose; and

B. "development project" means the development of structures, utilities, or facilities necessary for the purpose of outdoor recreation on publicly-owned or controlled land.

Subp. 11. **Project agreement.** "Project agreement" means the contract executed between the NPS 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.

Subp. 12. **SCORP.** "SCORP" means the Minnesota Statewide Comprehensive Outdoor Recreation Plan prepared by the Minnesota Department of Natural Resources as required by the NPS as a prerequisite to distribution of LAWCON funds. This plan is incorporated by reference, is available through the Minitex interlibrary loan system, and is subject to change every five years.

4310.8120 PURPOSE.

Parts ~~4310.8100~~ 4310.8105 to 4310.8300 ~~are set forth to~~ provide criteria, priorities, and procedures for evaluating outdoor recreation proposals of local government units under consideration for ~~LAWCON, LCMR grants in aid, athletic courts, and trails~~ outdoor recreation grants.

4310.8130 APPLICATION PROCESS.

Subpart 1. **Eligibility.** ~~Any local applicant that satisfies the guidelines for eligibility established by HCRS~~ An

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eligible local unit of government may apply for ~~a LAWCON~~ an outdoor recreation grant. To receive a grant, an eligible applicant must satisfy the requirements in parts 4310.8105 to 4310.8160 and related statutory requirements.

Subp. 2. **Notice.** Annually, ~~OLHA~~ the Community Development Division shall ~~send~~ provide notice ~~of the period of time that preliminary applications for LAWCON grants shall be accepted by OLHA. The notice shall be sent at least 45 days before the period ends. Such notice shall be sent~~ concerning the application process for outdoor recreation grants to the following:

A. mayors in care of the clerks of all cities in Minnesota;

B. county board ~~chairmen~~ chairs in care of the auditors of all counties in Minnesota;

C. ~~chairpersons~~ chairs of county planning commissions and city planning ~~commission~~ commissions of all cities over 5,000 population according to the last federal decennial census in Minnesota;

D. ~~chairman~~ chairs of county park and recreation commissions and city park and recreation commissions of all cities over 5,000 population according to the last federal decennial census in Minnesota;

E. chairs in care of the executive directors of regional development commissions;

~~E.~~ F. ~~chairpersons~~ chairs of each county's township association;

G. chairs of tribal councils of recognized Indian tribal governments;

~~F.~~ H. statewide organizations representing Minnesota local governments;

~~G.~~ I. persons requesting notice; and

~~H.~~ J. upon request, to the Minnesota state legislature.

Subp. 2a. **Application content and submission.** Applications may be submitted year-round to the

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Community Development Division and on the Community Development Division's community development application.

A completed community development application must include:

A. needs narrative summarizing the need for the proposed outdoor recreation project;

B. project summary outlining the facilities and land acquisition to be completed and the scope of the project;

C. activities and budget detailing the specific estimated costs associated with each proposed acquisition or development activity;

D. assurances necessary to comply with federal or state requirements as a prerequisite to receiving state or federal funding;

E. a resolution from the local unit of government approving the submission of the application and authorizing execution of the grant agreement in accordance with the requirements of the Community Development Division, if funds are made available; and

F. supporting materials that are designed to verify or support information presented in items A to E.

The Community Development Division may require additional information from the applicant if it is necessary to clarify and evaluate the application.

Subp. 3. [See Repealer.]

Subp. 3a. **Evaluation criteria.** Funding of outdoor recreation projects, included on completed community development applications, shall be officially determined during an annual competitive review and ranking period. The Community Development Division may request applicants who have submitted completed applications with outdoor recreation projects, before the annual competitive review and ranking period, to submit additional materials and support documentation necessary to complete the evaluation and ranking.

Outdoor recreation projects, included on completed community development applications, shall be officially evaluated, scored, and ranked in accordance with the general

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criteria in subpart 4a, acquisition priorities in subpart 5a, and development priorities in subpart 6a.

Subp. 4. [See Repealer.]

Subp. 4a. **General criteria.** Applications that meet one or more of the following criteria shall receive priority over similar projects that do not:

A. projects involving outstanding irreplaceable resources or features of statewide or regional significance that are in danger of commercial (nonrecreational) development, subdivision, or other use that may be incompatible with outdoor recreation uses;

B. projects that have received a prior outdoor recreation grant for a preceding phase of the proposed project and that have been satisfactorily managed;

C. projects that are designed with a sensitivity toward the physical limitations and natural characteristics of the site; recognize and complement existing land forms and recreation facilities; provide for ease of maintenance and operation of the site; do not have major environmental intrusions that are detrimental to the intended use of the property; make good use of available space without crowding; and include facilities that are designed in accordance with generally-accepted engineering and architectural standards;

D. projects for which the applicant has submitted a statement documenting a financial commitment to continued operations and maintenance of the proposed facilities;

E. projects that are consistent with the outdoor recreation needs and priorities related to local governments as identified in SCORP; and

F. projects for which the applicant can demonstrate a need for priority consideration for state financial assistance.

Subp. 5. [See Repealer.]

Subp. 5a. **Acquisition priorities.** The following criteria shall be used to evaluate applications for acquisition projects and to determine priorities for projects:

A. acquisition of project sites having existing or

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potential natural, scientific, cultural, historical, educational, or recreational values that would be made available for public enjoyment;

B. acquisition of project sites that would protect or enhance aesthetics, land and water quality, or the recreational use of existing outdoor recreation facilities; and

C. acquisition of project sites that address the outdoor recreation land acquisition needs and priorities related to local governments as identified in SCORP.

Subp. 6. [See Repealer.]

Subp. 6a. **Development priorities.** The following criteria shall be used to evaluate applications for outdoor recreation development projects and to determine priorities for projects:

A. projects designed to protect and enhance land and water quality of the site consistent with the estimated number of its potential users and the proposed outdoor recreation activities;

B. projects designed to be readily accessible to a wide range of potential users, including handicapped users;

C. projects designed to minimize any potential risk to the health and safety of users; and

D. projects designed to provide to the general public a wide range of outdoor recreation opportunities that are related to the needs and priorities established in SCORP.

Subp. 7. [See Repealer.]

Subp. 7a. **Competitive review and ranking period.** As part of the competitive review and ranking period, Community Development Division staff shall conduct an on-site inspection of each project. After completion of the on-site inspections, each project shall be reviewed in accordance with the evaluation criteria contained in subpart 3a, and a priority ranking shall be established for each applicant based on the evaluation criteria. All applicants shall be notified by the Community Development Division about the disposition of their project after the competitive review and ranking period has been completed and a funding determination has been made.

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Grants shall be allocated to applicants in descending order or priority, as determined by the ranking, until all available grant funds are depleted.

The highest ranked projects will be eligible for and shall be awarded federal LAWCON funds. The Community Development Division shall determine which projects will be eligible for state funds.

Subp. 8. [See Repealer.]

Subp. 8a. **NPS approval and notice of LAWCON grant award.** For any eligible project for which the Community Development Division has determined that federal LAWCON funds will be awarded, the Community Development Division shall request NPS approval of a LAWCON grant for the recommended project. The Community Development Division shall notify the applicant that the project has been recommended for a grant and will be submitted to the NPS for final approval. The Community Development Division shall also notify the applicant of the action taken by the NPS.

Subp. 9. [See Repealer.]

Subp. 9a. **Notification of state grant award.** For any eligible project for which the Community Development Division has determined that state funds will be awarded, the Community Development Division shall notify the applicant that the project has received a grant award. If an eligible project is not recommended to receive a grant award, the Community Development Division shall notify the applicant that the project did not rank highly enough for funding.

Subp. 10. to 12. [See Repealer.]

4310.8140 PROJECT AGREEMENT.

Upon approval by ~~HCRS, OLUA~~ the NPS for LAWCON-funded projects and approval by the Community Development Division for state-funded projects, the Community Development Division shall execute a project agreement with the applicant and the applicant shall comply with the terms of the project agreement.

4310.8150 DISBURSEMENT OF GRANT.

Approved
by Revisor _____

The applicant shall initially pay for the project costs as specified in the project agreement. The applicant shall submit to ~~OEDA a billing request for work completed on the project, but not more than six billings per~~ the Community Development Division a payment request for reimbursement of costs incurred in the completion of the project. In all cases, not more than four payment requests shall be submitted for the life of the project. Upon receipt of a ~~billing~~ payment request~~,~~ containing the documentation required in the project agreement, ~~OEDA~~ the Community Development Division shall audit the payment request documentation to determine the eligibility and propriety of the costs incurred by the applicant.

For projects funded with federal LAWCON funds, if the costs are eligible and properly documented, the Community Development Division shall request reimbursement from ~~HCRS~~ NPS of the federal share of the eligible costs represented by ~~that billing~~ the applicant's payment request. Upon receipt of the LAWCON ~~grant~~ reimbursement for that ~~billing~~ payment request, ~~OEDA~~ the Community Development Division shall ~~reimburse~~ issue payment of the federal funds to the applicant.

For projects funded with state grant funds, the Community Development Division shall reimburse the applicant for the eligible costs represented by each payment request, provided that the payment request documentation submitted contains the documentation required in the project agreement.

The final ~~billing~~ payment shall reflect any cost adjustments due to project changes ~~and~~. The project site shall be subject to ~~a site~~ an inspection by ~~the~~ state and ~~HCRS~~ federal personnel ~~and~~. All costs incurred by the applicant may be subject to verification by an independent federal ~~and~~ or state audit.

4310.8160 AMENDMENTS.

A request for an amendment in the project scope, costs, or time period may be submitted to ~~OEDA~~ the Community Development Division prior to project termination. If the request is

Approved by Revisor _____

eligible for a LAWCON amendment and ~~OLUA~~ the Community Development Division considers the amendment request to be reasonable and justified and it does not substantially affect the project eligibility under part 4310.8130, ~~subparts 5 to 8,~~ it may request ~~HCRS~~ NPS to approve the amendment.

REPEALER. Minnesota Rules, parts 4310.8100; 4310.8110; 4310.8130, subparts 3 to 12; 4310.8170; 4310.8180; 4310.8190; and 4310.8300, are repealed.

Approved
by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Outdoor Recreation Grants

AGENCY: Department of Trade and Economic Development

MINNESOTA RULES: Chapter 4310

INCORPORATIONS BY REFERENCE:
Part 4310.8105, subpart 8. National Park Service Guidelines contained in the "Land and Water Conservation Fund Grants Manual"

Part 4310.8105, subpart 12. Minnesota Statewide Comprehensive Outdoor Recreation Plan; prepared by Department of Natural Resources

The attached rules are approved for publication in the State Register

Paul M. Marinac
Assistant Deputy Revisor

Department of Trade and Economic Development
Proposed Permanent Rules Relating to
Outdoor Recreation Grants

Notice of Intent to Adopt Rule Amendments
Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Department of Trade and Economic Development intends to adopt the above entitled rule amendments without a public hearing following the procedures set forth in Minnesota Statutes, § 14.22-14.28.

Changes are proposed to sections concerning definitions, authority, purpose, the application process, project agreements, disbursements of grants, and amendments. The rules are authorized by Minnesota Statutes 1988, section 86.71, section 116J.035, subd. 2, section 116J.401 (5), and section 116J.406.

All persons have 30 days in which to submit comments in support of or in opposition to the proposed amended rule or any part of subpart of the amended rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed amendments may be modified in final adoption if modifications are supported by the data and views submitted to the Department of Trade and Economic Development and do not result in a substantial change in the proposed language.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If twenty-five or more persons submit written requests for a public hearing on the proposed amendments within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their requests in writing. The written request must be specific on which amendment(s) a hearing is desired. Identification of the particular objection, the suggested modifications, and the reasons or data relied upon to

support the suggested modifications are desired. If a public hearing is required, the department will proceed pursuant to the provisions of Minnesota Statutes, § 14.131-14.20.

Persons who wish to submit comments or written request for a public hearing, or persons who wish to receive a copy of this notice and/or a copy of the proposed amendments, should address their correspondence to:

Wayne Sames
Outdoor Recreation Grant Program
Minnesota Department of Trade and Economic Development
Community Development Division
900 American Center Building
150 East Kellogg Boulevard
St. Paul, MN 55101-1421

A free copy of the proposed rule amendments and a statement that describes the need for and reasonableness of each provision of the proposed amendments is available from the Department of Trade and Economic Development upon request.

Upon adoption of the final amendments without a public hearing, the proposed amendments, this notice, the statement of need and reasonableness, all written comments received, and the final amendments as adopted will be delivered to the Attorney General for review as to legality and form, to the extent the form relates to legality. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final amendments as proposed for adoption, should submit a written request to the above address.

Please be advised that Minnesota Statutes chapter 10A requires each lobbyist

to register with the State Ethical Practices Board within five days after he or she commences lobbying. Minnesota Statutes § 10A.01, subdivision 11 defines a lobbyist as any individual: (a) engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250 not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or (b) who spends more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative administrative action by communicating or urging others to communicate with public officials. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101-2520, telephone (612)296-5148.

Dated:

Ruthann A Hames for David Speer

David J. Speer, Commissioner
Department of Trade and Economic Development

OR/3-1

STATE OF MINNESOTA

DEPARTMENT OF TRADE AND ECONOMIC DEVELOPMENT

In the Matter of the Proposed Rules Governing the Outdoor Recreation Grant Program, Minn. Rules Parts 4300

STATEMENT OF NEED AND REASONABLENESS

I. INTRODUCTION

This proposed rule amendment will modify a portion of existing rules codified in Chapter 4300 of Minnesota Rules. These rules establish standards and procedures to govern the administration of the Outdoor Recreation Grants Program. These rules were initially adopted when the state assumed the responsibility for awarding and administering federal Land and Water Conservation Fund grants. They were later amended when the state developed a complementary state grant program for funding outdoor recreation projects.

The rules have not been amended since 1977. Since that time, a number of changes have occurred in both the federal and state programs, including statutory changes and changes in the agencies responsible for administering the program.

In addition, the proposed rule amendments reflect a new grant application process that is being developed within the Community Development Division of the Department.

Basically, the proposed rule amendments will bring the rules into accordance with existing statutory authority and will reflect changes in the application process designed to simplify and streamline the process.

II. STATEMENT OF COMMISSIONER'S STATUTORY AUTHORITY

The Department's statutory authority to adopt the rules is set forth in MS s 86.71, 116J.035, Subd. 2, 116J.401, (5), 116J.406, Subd. 5 and 116J.980, Subd. 1(1) (1988) which provide:

86.71 FEDERAL LAND AND WATER FUND; ACCEPTANCE OF FUNDS; DISTRIBUTION.

Subdivision 1. The governor is designated as the state agency to apply for, accept, receive and disburse federal funds and private funds which are granted to the state of Minnesota from the Federal Land and Water Fund Act.

Subd. 2. The governor may designate a state agency or agencies to act in applying for, receiving, and accepting federal funds under the provisions of subdivision 1. Such designation of a state department or agency shall be filed in the office of the secretary of state.

Subd. 3. The governor or any state department or agency designated shall comply with any and all requirements of federal law and any rules and regulations promulgated thereunder to enable the application for, the receipt of, and the acceptance of such federal funds. The expenditure of any such funds received shall be governed by the laws of the state except insofar as federal requirements may otherwise provide. All such money received by the governor or any state department or agency designated for such purpose shall be deposited in the state treasury and are hereby appropriated annally in order to enable the governor or the state department or agency designated for such purpose to carry out the purposes for which the funds are received. None of such federal money so deposited in the state treasury shall cancel and they shall be available for expenditure in accordance with the requirements of federal law.

Subd. 4. Fifty percent of all money 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.

Subd. 5. Any guidelines established by the state for distribution of money made available to the state under subdivision 1 shall, after July 1, 1967, be distributed on a statewide and regional priorities basis other than a formula based on population and land areas.

116J.035 DUTIES AND POWERS OF COMMISSIONER; RULES.

Subd. 2. Rules. The Commissioner may adopt rules pursuant to chapter 14 as necessary to carry out the Commissioner's duties and responsibilities pursuant to this chapter.

116J.401 POWERS AND DUTIES

The Commissioner of Trade and Economic Development shall:

(5) receive and administer the land and water conservation grant program authorized by Congress under the Land and Water Conservation Funds Act of 1965, as amended.

116J.406 GRANTS-IN-AID FOR RECREATIONAL BETTERMENT.

Subd. 5. Powers; rules. The Commissioner shall have all powers necessary and convenient in order to establish programs for recreational betterment grants-in-aid for parks, trails, and athletic courts pursuant to this section

including, but not limited to, the authority to adopt rules for the programs, pursuant to sections 14.05 to 14.36.

116J.980. COMMUNITY DEVELOPMENT DIVISION.

Subd. 1. Duties. The Community Development Division is a division with the Department of Trade and Economic Development. It shall:

(1) be responsible for administering all state community development and assistance programs, including the Economic Recovery Fund, the Outdoor Recreation Grant Program, the Rural Development Board programs, the Community Development Corporation Program, the Urban Revitalization Program, the Minnesota Public Facilities Authority Loan and Grant Programs, and the Enterprise Zone Program;

III. STATEMENT OF NEED

The rules for the Outdoor Recreation Grants Program have not been revised since 1978. Since that time, many changes have occurred to both the administrative framework of the program and the statutory authority governing the program.

In 1978 the responsibility for administering the federal Land and Water Conservation Fund (LAWCON), which provides funding for state outdoor recreation grant programs, was transferred from the Bureau of Outdoor Recreation to the newly created Heritage Conservation and Recreation Service (HCRS) of the United States Department of the Interior. HCRS then administered the program until 1981 when the LAWCON program was transferred to the National Park Service (NPS) where it is currently administered.

Meanwhile, several changes were also occurring in the state's framework for administering the program. In 1978 the state Outdoor Recreation Grants Program was administered by the Office of Local and Urban Affairs (OLUA) in the State Planning Agency. In 1981 the State Planning Agency was merged into the newly created Department of Planning, Energy, and Development which, in turn, became the Department of Energy and Economic Development in 1983. Finally, in 1987 the Department of Energy and Economic Development became the Department of Trade and Economic Development. During part of this time the Legislative Commission on Minnesota Resources (LCMR) also had oversight responsibilties for the state funded portion of the Outdoor Recreation Grants Program. The LCMR no longer exercises that oversight authority. Presently the Outdoor Recreation Grants Program, including both the federal LAWCON funded portion and the state funded portion, are administered by the Community Development Division of the Department of Trade and Economic Development.

The current rules must be revised to reflect these changes to both the federal and state administrative frameworks and the related legislative changes that have occurred.

The addition, the proposed rule amendments reflect a change in the grant application process related to the pending implementation by the Community Development Divsion of a new "Community Development Application."

In January 1988, the Department of Trade and Economic Development underwent a major reorganization whereby the Department's Community Assistance financing programs were transferred to the Community Development Division. In an attempt to make these programs more accessible to constituents, the division began a three-step education and application simplification effort.

The first step in the education process was to develop and distribute the publication "Enhance Minnesota." This manual contains a complete listing of the division's programs and summaries, including examples of each program.

In May of 1988, the division sponsored a series of six seminars in greater Minnesota. The theme of the seminars was the same as the "Enhance" publication. They were held to educate potential applicants as to the loan and grant programs available through the division.

The third step in this effort is the development and implementation of a "Community Development Application." The Community Development Application will help make financing assistance programs more accessible and less complicated to communities and other constituents. The Community Development Application will make it easier for communities to access the 10 financing programs administered by the Community Development Division, including the Outdoor Recreation Grants Program. It will also streamline, consolidate, reduce, and simplify the application process.

The Community Development Application will entail the following activities:

1. The applicant will submit a Community Development application form which will describe the needs of the community and any potential projects the applicant is planning to undertake. This application can access any of the division's 10 financing programs.

2. A review team comprised of Community Development staff will review these applications on a weekly basis.

3. When the review has been completed, the applicant will meet with division staff to discuss funding programs both within the division and outside the division. If there is a potential for financing assistance within the division, relevant program manuals and forms packets for specific programs will be provided.

The current rules must be revised to incorporate the utilization of the new Community Development Application. The Outdoor Recreaton Grants program will not be altered.

IV. STATEMENT OF REASONABLENESS

A. Reasonableness of the Rules as a Whole

It is reasonable to amend the rules to reflect changes in both the federal and state administrative framework for the Outdoor Recreation Grants Program that have occurred during the past ten years, as well as related legislative changes.

The overall approach to reflecting these changes in the rules is to amend outdated references to agencies or programs that are no longer in existence, have been replaced, or have been deleted by legislative action. Though a substantial portion of the existing rule language is being changed, the Department has chosen to amend the rule, rather than repeal and replace it, so that specific changes may be more reaily identified.

It is also reasonable to amend the rules to incorporate the changes in the grant application process related to the new Community Development Application. The Community Development Application will not alter the objectives, purposes, or methods of selecting projects for funding by the Outdoor Recreation Grants Program. Neither the evaluation of projects nor the grant award process will change as a result of the implementation of the Community Development Application. This streamlined, innovative approach will enable the division to provide more efficient, comprehensive services to its constituents.

B. Reasonableness of Individual Rules

The following discussion addresses the specific provisions of the proposed rules:

Part 4310.8100 DEFINITIONS.

This portion of the existing rule is being repealed and replaced by a new definitions section, Part 4310.8105 DEFINITIONS, which incorporates several changes based on statutory and administrative changes.

4310.8105 DEFINITIONS.

Subpart 2. Community Development Application. "Community Development Application" means the official consolidated application form as developed by the Department to be used to apply for funding assistance from various community assistance programs administered by the Community Development Division.

It is reasonable to incorporate this definition into the rules because the Outdoor Recreation Grants Program will utilize this consolidated application form as part of the application process.

Subpart 3. Community Development Division. "Community Development Division" means the Community Development Division of the Department of Trade and Economic Development.

It is reasonable to incorporate this definition into the rules because the Outdoor Recreation Grants Program is now administered by the Community Development Division.

Subpart 4. Eligible applicant. "Eligible applicant" means local units of government that are eligible to apply for an outdoor recreation grant. ~~under any of the programs provided for in these parts~~.

It is reasonable to change this definition to clarify that only local units of government are eligible and that the federal and state funds are incorporated into one Outdoor Recreation Grants Program.

Subpart 6. Local units of government. "Local units of government" means counties, cities, ~~and~~ townships, ~~within the state of Minnesota.~~ and Indian tribes and bands recognized by the federal government.

It is reasonable to change this definition because the Outdoor Recreaton Grants program can only fund projects within the state and because Indian tribes and bands recognized by the federal government are eligible for funding and considered to be local units of government for the purposes of this program.

Subpart 7. NPS. "NPS" means the National Park Service of the United States Department of the Interior.

It is reasonable to incorporate this definition into the rules because the National Park Service has replaced the Heritage Conservation and Recreation Service as the administering agency for federal LAWCON funds.

Subpart 8. NPS guidelines. "NPS guidelines" means those guidelines established by the National Park Service and contained in the "Land and Water Conservation Fund Grants Manual" prepared by the National Park Service.

It is reasonable to incorporate this definition into the rules because the National Park Service grants-in-aid manual has replaced the Heritage Conservation and Recreation Service grants-in-aid manual.

Subpart 9. Outdoor recreation grant. "Outdoor recreation 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.

It is reasonable to change this definition to reflect the adoption of the term "outdoor recreation grant" to help distinguish these grants from other grant programs.

Subpart 11. Project agreement. "Project agreement" means the contract executed between the ~~BOR~~ NPS 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.

It is reasonable to change this definition to reflect the replacement of the BOR by the NPS as the administering agency for LAWCON funds.

Subpart 13. SCORP. "SCORP" means the "Minnesota State-wide Comprehensive Outdoor Recreation Plan" prepared the by Minnesota Department of Natural Resources as required by the NPS as a prerequisite to distribution of LAWCON funds.

It is reasonable to incorporate this definition into the rules because SCORP is an important document that affects the process for evaluating and ranking proposed outdoor recreation grant projects.

4310.8100 DEFINITIONS, Subpart 5. HCRS, Subpart 6. HCRS guidelines, Subpart 7. LAC, Subpart 9. LCMR, Subpart 10. LCMR grants-in-aid program, Subpart 12. Metropolitan Council, Subpart 13. OLUA, Subpart 16. Public agency, Subpart 17. Regional development commission, and Subpart 18. Regional need have all been repealed and/or replaced because they either no longer exist (HCRS and OLUA) or are no longer directly involved with the outdoor recreation grants program due to legislative changes in the statutes related to the outdoor recreation grants program.

It is reasonable to repeal and/or replace these definitions to bring the rules into conformance with legislative and administrative changes that have occurred since 1978.

4310.8110 AUTHORITY

This portion of the existing rule is repealed.

It is reasonable to repeal this part of the rule because the existing references to statutory authorities are outdated and there is no requirement to include an authority section in rules. Since program authority may change frequently with specific funding legislation, an authority section of the rules would require frequent amendment of the rules to reflect those changes.

Part 4310.8120 PURPOSE

This portion of the existing rule will become Part 4310.8120 PURPOSE of the new rule and will be amended as follows:

Part 4310.8120 PURPOSE

Parts 4310.8105 to 4310.8160 ~~are set forth to~~ provide criteria, priorities, and procedures for evaluating outdoor recreation proposals of local government units under consideration for ~~LAWCON~~, ~~LCMR grants-in-aid, athletic courts, and trails.~~ outdoor recreation grants.

It is reasonable to amend this part because the LCMR grants-in-aid program no longer exists and the LAWCON, athletic courts and trails programs are now incorporated into one outdoor recreation grant program.

Part 4310.8130 APPPLICATION PROCESS:

This part of the existing rule will become Part 4310.8130 APPLICATION PROCESS. of the new rule and will be amended as follows:

Part 4310.8130 APPLICATION PROCESS.

Subpart 1. Eligibility. Any ~~local applicant that satisfies the guidelines for eligibility established by HCRS~~ eligible local units of government may apply for ~~a LAWCON~~ an outdoor recreation grant. To receive a grant an eligible applicant must satisfy the requirements established in this rule by the Community Development Division and related statutory requirements.

It is reasonable to amend this subpart because HCRS no longer exists. In addition, the amendments clarify that while any eligible local unit of government may apply, only those that satisfy the requirements established in the rule and in related statutory provisions may receive a grant.

It is reasonable to cite related statutory requirements because specific state funding bills may include additional eligibility requirements that go beyond the standard requirements contained in the rule.

Subpart 2. Notice. Annually, ~~OLUA~~ THE Community Development Division shall ~~send~~ provide 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~~ concerning the application process for outdoor recreation grants to the following:

A. mayors in care of the clerks of all cities in Minnesota;

B. county board ~~chairmen~~ chairs in care of the auditors of all counties in Minnesota;

C. ~~chairpersons~~ chairs of county planning commissions and city planning commissions of all cities over 5,000 population according to the last federal decennial census in Minnesota;

D. chairs of county park and recreation commissions and city park and recreation commissions of all cities over 5,000 population according to the last federal decennial census in Minnesota;

~~D.~~ E. ~~chairmen~~ chairs in care of the executive directors of regional development commissions;

~~E.~~ F. ~~chairpersons~~ chairs of each county's township association;

G. chairs of tribal councils of recognized Indian tribal governments;

~~F.~~ H. statewide organizations representing Minnesota local governments;

~~G.~~ I. persons requesting notice; and

~~H.~~ J. upon request, to the Minnesota state legislature.

It is reasonable to amend this subpart to reflect the change of administering agencies from OLUA, which no longer exists, to the Community Development Division. The amendments also reflect the fact that there is no longer a preliminary application procedure and that both the LAWCON and state

funded grants are combined into a single outdoor recreation grant application process.

The addition of providing notice to county park and recreation commissions and city park and recreation commissions of all cities over 5,000 population is reasonable since these commissions may have a direct interest in reviewing and utilizing the grant application information and are most knowledgeable of outdoor recreation plans and potential projects for their area. It is reasonable to limit such notice to cities of over 5,000 population since those cities are more likely to have park and recreation commissions.

It is reasonable to add a provision for notice to chairs of Indian tribal councils of recognized Indian tribal governments since Indian tribal governments are eligible applicants for outdoor recreation grants.

The other amendments reflect the use of the standard gender-neutral term of "chair" rather than the terms "chairmen" or "chairpersons".

Subpart 3. ~~Contents of application. The contents of the preliminary application shall be consistent with the informational requirement of these parts and shall be prescribed by OLUA.~~

~~Subpart 4. 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 of 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.~~

Application content and submission. Applications may be submitted year-round to the Community Development Division and on the Community Development Division's Community Development Application.

A completed Community Development Application shall include:

a) Needs narrative summarizing the need for the proposed outdoor recreation project;

b) Project summary outlining the facilities and land acquisition to be completed and the scope of the project;

c) Activities and budget detailing the specific estimated costs associated with each proposed acquisition or development activity;

d) Assurances necessary to comply with federal or state requirements as a prerequisite to receiving state or federal funding;

e) Resolution from the local government applicant approving the submission of the application and authorizing execution of the grant agreement in accordance with the requirements of the Community Development Division, if funds are made available; and

f) Supporting materials which are designed to verify or support information presented in items a) through e).

The Community Development Division may request additional information from the applicant if it is necessary to clarify and evaluate the application.

It is reasonable to amend subpart 3 and subpart 4 of the existing rule because OLUA no longer exists, the Metropolitan Council and regional development commissions no longer are required to review preliminary applications, and there is no longer a preliminary application component to the application process.

The new language reflects the use of the new Community Development Application and provides more specific information about the required contents of the application.

~~Subpart 5. Evaluation of preliminary applications. Preliminary project applications which satisfy the HCRS project eligibility guidelines and priorities for LAWCON grants shall be evaluated and ranked as follows: general criteria, specified in subpart 6; acquisition priorities, specified in subpart 7; and development priorities, specified in subpart 8.~~

Subpart 3a. Evaluation criteria. Funding of outdoor recreation projects, included on completed Community Development Applications, shall be officially determined during an annual Competitive Review and Ranking Period. The Community Development Division may request applicants who have submitted completed applications with outdoor recreation projects, prior to the annual Competitive Review and Ranking Period, to submit additional materials and support documentation necessary to complete the evaluation and ranking.

Outdoor recreation projects, included on completed Community Development Applications, shall be officially evaluated, scored and ranked in accordance with the general criteria specified in subpart 5, acquisition priorities specified in subpart 6, and development priorities specified in subpart 7.

It is reasonable to amend subpart 5 of the existing rule because there is no longer a preliminary application component of the application process. It is

reasonable to add the language in the new subpart 4 which outlines how outdoor recreation projects will be evaluated, scored and ranked and how the Outdoor Recreation Grants Program will utilize the Community Development Application.

Subpart ~~6.~~ 4a. General criteria. ~~Preliminary applications~~ Applications that meet one or more of the following criteria shall receive priority over similar projects that do not:

A. projects ~~with~~ involving outstanding irreplaceable resources or features of statewide or regional significance that are in danger of commercial (non-recreational) development, subdivision or other use that may be incompatible with outdoor recreation uses;

B. projects that have received a prior ~~LAWCON~~ outdoor recreation grant ~~or LCMR grant-in-aid~~ for a preceding phase of the proposed project;

C. ~~projects that meet generally recognized national design standards for recreational facilities~~;

projects that are designed with a sensitivity toward the physical limitations and natural characteristics of the site;

recognize and complement existing land forms~~;~~ and recreation facilities; 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; make good use of available space without crowding; and include facilities that are designed in accordance with generally-accepted engineering and architectural standards.

~~D. projects that reflect quality site planning~~;

D. projects for which the applicant has submitted a statement documenting a financial commitment to continued operations and maintenance of the proposed facilities;

E. ~~Projects that comply with the recreational facility priority needs as designated in the applicant's recreation plan.~~

projects which are consistent with the outdoor recreation needs and priorities related to local governments as identified in SCORP; and

F. projects for which the applicant can demonstrate a need for priority consideration for state financial assistance.

It is reasonable to delete references to preliminary applications and LCMR grant-in-aid since they no longer exist. It is reasonable to make the proposed changes to items A, B, C, and D in order to clarify the evaluation criteria that will be used to rank the projects. In particular, the new language in item D relating to a financial commitment to continued operations and maintenance is reasonable in order to ensure that the investment of state or federal funds will be a wise and prudent investment.

Item E has been changed because it is reasonable to assume that a proposed recreation project submitted by an applicant complies with the applicant's recreation plan and because federal LAWCON grants and, in practice, state grants require that the projects be consistent with the needs and priorities identified in the State Comprehensive Outdoor Recreation Plan (SCORP).

Item F is reasonable because the limited available funding should be allocated to those eligible projects and applicants that can demonstrate the

greatest need for state financial assistance, if all other evaluation factors are essentially equal.

Subpart ~~7.~~ 5a. Acquisition priorities. The following criteria shall be used to ~~in descending order~~ to evaluate applications for acquisition projects and to determine priorities for projects:

A. acquisition of project sites having ~~outstanding examples of~~ existing or potential natural, scientific, cultural, historical, educational, or recreational values that would be made available for public enjoyment;

B. acquisition of project sites that would protect or enhance aesthetics, ~~or~~; land and water quality; or the recreational use of existing ~~park~~ outdoor recreation facilities; and

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

acquisition of project sites which address the outdoor recreation land acquisition needs and priorities related to local governments as identified in SCORP.

~~D. project sites providing for needed low intensity use recreation activities, such as trail systems, wildlife observation, and other activities providing open space enjoyment,~~

~~E. projects that are equivalent to commerical camping accommodations for recreational users.~~

The words "in descending order" are deleted to indicate that the acquisition priorities listed are of equal value. This is reasonable since there is no basis for ranking one priority higher than another.

Amendments to Items A and B are made to clarify the criteria and make the statements more precise.

Item C is amended because the priority stated in the existing rule is incorporated within the needs and priorities identified in SCORP and projects must be consistent with those SCORP needs and priorities in order to receive funding.

Item D is also amended because the priority stated in the existing rule is already incorporated within the SCORP needs and priorities.

Item E is deleted because it is not a need or priority identified in SCORP and it is reasonable that the state not provide for outdoor recreation facilities that are better provided by private commercial operators.

Subpart ~~8.~~ 6a. Development priorities. The following criteria shall be used ~~in descending order~~ to evaluate applications for outdoor recreation development projects and to determine priorities for projects:

A. 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 ensure safety and health,~~ and the proposed outdoor recreation activities;

B. ~~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)~~,

projects designed to be readily accessible to a wide range of potential users, including handicapped users;

C. ~~projects providing needed facilities associated with low intensity use recreational areas~~,

projects designed to minimize any potential risk to the health and safety of users; and

D. ~~projects that are equivalent to commerical camping accommodations for recreational users.~~

projects designed to provide to the general public a wide range of outdoor recreation opportunities that are related to the needs and priorities established in SCORP.

The words "in descending order" are deleted for the same reason as in Subpart 5a.

Item A is amended to indicate the necessary relationship of project design to the proposed outdoor recreation activities. The reference to safety and health considerations is moved to Item C.

Item B of the existing rule is deleted and replaced by the new Item D, which incorporates the criteria contained in the original language in the reference to SCORP.

The new Item B specifically responds to federal and state requirements for accommodating handicapped users.

The existing language for Item C is deleted and replaced by the new language related to health and safety concerns. The priority expressed in the existing language of Item C is incorporated within the overall SCORP priorities.

The existing Item D is deleted because it is reasonable that the state not provide for outdoor recreation facilities that are better provided by private commerical operations. It is replaced by language related to the requirement that projects meet the needs and priorities established in SCORP.

Subpart ~~9.~~ 7a. ~~Notice of disposition of preliminary applications. All applicants shall be notified by OLUA of the disposition of their preliminary application 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.~~

Competitive Review and Ranking Period. As part of the Competitive Review and Ranking Period, Community Development Division staff shall conduct an on-site inspection of each project. After completion of the on-site inspections, each project shall be reviewed in accordance with the evaluation criteria contained in subparts 5 through 7, and a priority ranking shall be established for each applicant based on the evaluation criteria. All applicants shall be notified by the Community Development Division as to the disposition of their project after the Competitive Review and Ranking Period has been completed and a funding determination has been made.

Grants shall be allocated to applicants in descending order of priority, as determined by the ranking, until all available grant funds are depleted.

The highest ranked projects will be eligible for and shall be awarded Federal LAWCON funds. The remaining projects will be eligible for and shall be awarded state funds. The Community Development Division shall determine which projects will be eligible for state funds.

Subpart 9 of the existing rule is deleted and replaced by Subpart 7a of the proposed rule. It is reasonable to delete Subpart 9 of the existing rule because there is no longer a preliminary application process, OLUA no longer exists, and the LCMR no longer exercises oversight authority over outdoor recreation grants.

It is reasonable to outline the new competitive review, evaluation and ranking process and provide a better idea of the different steps in that process. The new language is consistent with the requirements of the federal LAWCON grant program. It is reasonable that the ranking process relate to the criteria established in the rule, and that grants shall be allocated based on the respective ranking of the projects. The federal LAWCON program requires that the highest ranked projects receive federal LAWCON funds. State funds are, therefore, available to fund the remaining projects until such funds are also exhausted.

Subpart 8a. NPS approval and notice of LAWCON grant award. For any eligible project for which the Community Development Division has determined that federal LAWCON funds will be awarded, the Community Development Division shall request NPS approval of a LAWCON grant for the recommended project. The

Community Development Division shall notify the applicant that the project has been recommended for a grant and will be submitted to the NPS for final approval. The Community Development Division shall also notify the applicant of the action taken by the NPS.

Subpart 8a reflects the procedure used to comply with NPS requirements for review and approval of LAWCON funded grants. It is reasonable and necessary to outline this procedure in the rules and to differentiate the approval and notice procedures for LAWCON grants from those of state funded grants.

Subpart ~~10~~. 9a. ~~Final application eligibility. When a preliminary application has been given a high priority ranking by general criteria and project priorities (subparts 5 to 8) 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.~~

Notification of state grant award. For any eligible project for which the Community Development Division has determined that state funds will be awarded, the Community Development Division shall notify the applicant that the project has received a grant award. If an eligible project is not recommended to receive a grant award, the Community Development Division shall notify the applicant that the project did not rank highly enough for funding.

Subpart 10 is amended and replaced by Subpart 9a because there is no longer a final application process or a preliminary application process. The existing language is replaced by language explaining the notification procedure for state grant awards. It is reasonable to differentiate between the procedures used to notify applicants for federal LAWCON grants and state funded grants.

4310.8140 PROJECT AGREEMENT.

This portion of the existing rule will become Part 4310.8140 PROJECT AGREEMENT. and will be amended as follows:

Upon approval by ~~HCRS~~, ~~OLUA~~ the NPS for LAWCON-funded projects and approval by the Community Development Division for state-funded projects, the Community Development Division shall execute a project agreement with the applicant and the applicant shall comply with the terms of the project agreement.

It is necessary and reasonable to amend this part because HCRS and OLUA no longer exist and because only LAWCON projects require approval by the NPS.

4310.8150 DISBURSEMENT OF GRANT.

This portion of the existing rule will become Part 4310.8150 DISBURSEMENT OF GRANT. and will be amended as follows:

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.~~ the Community Development Division a payment request for reimbursement of costs incurred in the completion of the project. In all cases, not more than four payment requests shall be submitted for the life of the project.

Upon receipt of a ~~billing~~ payment request containing the documentation required in the project agreement, ~~OLUA~~ the Community Development Division shall audit the payment request documentation to determine the eligibility and propriety of the costs incurred by the applicant.

For projects funded with federal LAWCON funds, if the costs are eligible and properly documented, the Community Development Division shall request reimbursement from ~~HCRS~~ NPS of the federal share of the eligible costs represented by ~~that billing~~ the applicant's payment request. Upon receipt of the LAWCON ~~grant~~ reimbursement for the ~~billing~~, payment request, ~~OLUA~~ the Community Development Division shall ~~reimburse~~ issue payment of the federal funds to the applicant.

For projects funded with state grant funds, the Community Development Division shall reimburse the applicant for the eligible costs represented by each payment request, provided that the payment request documentation submitted contains the documentation required in the project agreement.

The final ~~billing~~ payment shall reflect any cost adjustments due to project changes. ~~and~~ The project site shall be subject to an ~~a site~~ inspection by ~~the~~ state and ~~HCRS~~ federal personnel. ~~and~~ all costs incurred by the applicant may be subject to verification by an independent federal ~~and~~ or state audit.

It is necessary and reasonable to amend this part because OLUA no longer exists and to reflect a change in the disbursement of grant funds.

It is reasonable to reduce the number of payment requests from six to four in order to reduce unnecessary paperwork and accounting and encourage better recordkeeping and accountability on the part of the applicant.

It is reasonable for the Community Development Division to audit payment requests to determine the eligibility and propriety of costs incurred to ensure that federal and state funds are being used for the authorized and intended purposes. It is reasonable to refer to federal reimbursement for LAWCON funded

projects and state funded projects since the applicants incur the costs initially and are reimbursed for those costs. It is also reasonable to refer to eligible and properly documented costs because failure to provide proper documentation is required before a payment request can be approved.

It is reasonable to clarify that the project site, not the final payment, shall be subject to an inspection and that all costs incurred may be subject to an audit.

4310.8160 AMENDMENTS.

This part of the existing rule will be amended as follows:

4310.8160 AMENDMENTS

A request for an amendment in the project scope, costs or time period may be submitted to ~~OLUA~~ the Community Development Division prior to project termination. If the request is eligible for a LAWCON amendment and the ~~OLUA~~ the Community Development Division considers the amendment request to be reasonable and justified and it does not substantially affect the project eligibility under Part 4310.8130, subparts ~~5~~ 3a to ~~8~~ 5a, it may request ~~HCRS~~ NPS to approve the amendment.

It is necessary and reasonable to amend this part because OLUA and HCRS no longer exist and have been replaced by the Community Development Division and NPS in terms of administration of the outdoor recreation grants program.

Part 4310.8170 LCMR GRANT-IN-AID PROGRAM.

This part is being repealed because the program no longer exists and the LCMR and LAC no longer exercise oversight authority in regard to the outdoor recreation grants program.

Part 4310.8180 LCMR GRANTS-IN-AID PROGRAM FOR HARBORS OF REFUGE.

This part is being repealed for the same reasons as Part 4310.8170 above.

Part 4310.8190 ATHLETIC COURT GRANTS PROGRAM.

This part is being repealed because the program no longer exists.

Part 4310.8300 TRAIL GRANTS PROGRAM.

This part is being repealed because the program no longer exists.

Elements of the above repealed programs have been incorporated into the remaining grants program.

V. SMALL BUSINESS CONSIDERATIONS IN RULEMAKING

The proposed rules will not directly affect small businesses as defined in Minn. Stat. §14.115, subd. 1 (1988). The rules are primarily addressed to counties, cities, townships and Indian tribal governments.

VI. AGRICULTURAL IMPACT

Minn. Stat. §14.11, subd. 2 and 17.83 (1988) require the Department to address any direct and substantial adverse effect on agricultural land as a consequence of the proposed rule and to state what alternatives it has considered in order to avoid or reduce that effect. The Department has found that a direct adverse impact on agricultural land will not result from adoption of the proposed rule.

SAM II/3-(1,10)

STATE OF MINNESOTA

In the Matter of the Proposed Adoption of the Amendments to the Permanent Rules of the Commissioner of the Department of Trade and Economic Development Governing:

AFFIDAVIT OF MAILING THE NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING AND CERTIFICATE OF MAILING LIST

1) The Outdoor Recreation Grant Program and
2) The Small Cities Community Development Block Grant Program and the Economic Recovery Grant Program

STATE OF MINNESOTA)
)
COUNTY OF RAMSEY)

Mary Andersen, being duly sworn says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minn. Stat. 14.14, Subd. 1a and 14.22 (1986) that their names be placed on the Minnesota Department of Trade and Economic Development rulemaking mailing list is accurate, complete, and current as of this 9th day of February, 1989.

Mary Andersen
Name

Data Processing Coordinator
Title

Subscribed and sworn to before me

this 9th day of February, 1989.

Leona L. Humphrey

LEONA L. HUMPHREY
NOTARY PUBLIC — MINNESOTA
HENNEPIN COUNTY
My commission expires 12-14-93

Notary Public

Terry Kuhlman, being duly sworn says:

That on the 10th day of February, 1989, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt Rules Without a Public Hearing by depositing in the State of Minnesota Central Mail System of United States Mail or in the United States mail a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

Terry Kuhlman
Name

Executive Director, PFA
Title

Subscribed and sworn to before me

this 10th day of February, 1989.

Leona L. Humphrey

LEONA L. HUMPHREY
NOTARY PUBLIC — MINNESOTA
HENNEPIN COUNTY
My commission expires 12-14-93

Department of Trade and Economic Development

Proposed Permanent Rules Relating to Outdoor Recreation Grants

Notice of Intent to Adopt Rule Amendments Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Department of Trade and Economic Development intends to adopt the above entitled rule amendments without a public hearing following the procedures set forth in *Minnesota Statutes*, § 14.22-14.28.

Changes are proposed to sections concerning definitions, authority, purpose, the application process, project agreements, disbursements of grants, and amendments. The rules are authorized by *Minnesota Statutes* 1988, section 86.71, section 116J.035, subd. 2, section 116J.401 (5), and section 116J.406.

All persons have 30 days in which to submit comments in support of or in opposition to the proposed amended rule or any part or subpart of the amended rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed amendments may be modified in final adoption if modifications are supported by the data and views submitted to the Department of Trade and Economic Development and do not result in a substantial change in the proposed language.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If twenty-five or more persons submit written requests for a public hearing on the proposed amendments within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their requests in writing. The written request must be specific on which amendment(s) a hearing is desired. Identification of the particular objection, the suggested modifications, and the reasons or data relied upon to support the suggested modifications are desired. If a public hearing is required, the department will proceed pursuant to the provisions of *Minnesota Statutes*, § 14.131-14.20.

Persons who wish to submit comments or written request for a public hearing, or persons who wish to receive a copy of this notice and/or a copy of the proposed amendments, should address their correspondence to:

Wayne Sames
Outdoor Recreation Grant Program
Minnesota Department of Trade and Economic Development
Community Development Division
900 American Center Building
150 East Kellogg Boulevard
St. Paul, MN 55101-1421

A free copy of the proposed rule amendments and a statement that describes the need for and reasonableness of each provision of the proposed amendments is available from the Department of Trade and Economic Development upon request.

Upon adoption of the final amendments without a public hearing, the proposed amendments, this notice, the statement of need and reasonableness, all written comments received, and the final amendments as adopted will be delivered to the Attorney General for review as to legality and form, to the extent the form relates to legality. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final amendments as proposed for adoption, should submit a written request to the above address.

Please be advised that *Minnesota Statutes* chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. *Minnesota Statutes* § 10A.01, subdivision 11 defines a lobbyist as any individual: (a) engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250 not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or (b) who spends more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative administrative action by communicating or urging others to communicate with public officials. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101-2520, telephone (612) 296-5148.

David J. Speer, Commissioner
Department of Trade and Economic Development

Rules as Proposed

4310.8105 DEFINITIONS.

Subpart 1. **Scope.** The following terms used in parts 4310.8105 to 4310.8160 have the meanings given them.

STATE OF MINNESOTA
DEPARTMENT OF TRADE AND ECONOMIC DEVELOPMENT

In the Matter of the Proposed
Permanent Rules Relating to
Outdoor Recreation Grants

FINDINGS OF FACT,
CONCLUSIONS, AND
ORDER ADOPTING RULES

After affording all interested persons the opportunity to present written and oral data, statements and arguments to the Department, in accordance with statutory requirements regarding the adoption of noncontroversial rules, after considering the Statement of Need and Reasonableness, after considering all of the evidence adduced upon the records, files and proceedings herein, the Department hereby adopts the following Findings of Fact, Conclusions, and Order:

FINDINGS OF FACT

1. Notice of the Minnesota Department of Trade and Economic Development's intent to adopt the above-entitled rules without a public hearing was published in the State Register on February 13, 1989, and was sent by mail to all persons on the list maintained by the Department pursuant to Minn. Stat. section 14.14, subd. 1a and 14.22 (1988) on February 10, 1989.

2. The Statement of Need and Reasonableness was prepared prior to mailing and publication of the notice and was made available to the public.

3. All persons were given the opportunity to submit comments on the rule for 30 days after notice of proposed rulemaking. The 30-day comment period, as set out in the notice, expired on March 15, 1989.

4. No requests for public hearing were received during the comment period.

5. No requests for notice of submission to the Attorney General were received by the Department.

6. During the comment period, the Department received no comments.

7. The Department adopts the Statement of Need and Reasonableness, in its entirety, as the factual basis for the proposed rules. The Department hereby incorporates the Statement of Need and Reasonableness into these findings.

8. The above-captioned rule is needed and reasonable.

CONCLUSION

1. The Minnesota Department of Trade and Economic Development duly acquired and has jurisdiction over this proceeding.

2. The Department published and served due, timely, and adequate notice of the intent to adopt the rules without a public hearing.

3. All relevant legal and procedural requirements of statute and rule have been complied with.

ORDER

NOW, THEREFORE, IT IS ORDERED, that the attached Minn. Rules pts. 4310.8105 to 4310.8160 relating to Outdoor Recreation Grants are adopted pursuant to the authority vested in the Minnesota Department of Trade and Economic Development by Minn. Stat. section 86.71, section 116J.035, subd. 2, section 116J.401(5), and section 116J.406 (1988).

MINNESOTA DEPARTMENT OF TRADE AND
ECONOMIC DEVELOPMENT

David J. Speer

David J. Speer, Commissioner
Department of Trade and
Economic Development

OR/7-1

DATE: 4/26/89

STATE OF MINNESOTA
DEPARTMENT OF TRADE AND ECONOMIC DEVELOPMENT

In the Matter of the Proposed Rules
Governing the Outdoor Recreation
Grant Program,
Minn. Rules Part 4300

DECLARATION OF COUNSEL

I, KARL W. SONNEMAN, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rule and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules, chapter 2010 have been followed. Any exceptions are listed below. For Attorney General billing purposes, the four-digit docket client code is 0414.

For the reviewer's information, certain cross references to rule subparts found in the text of the Statement of Reasonableness are erroneous. However, the Revisor has corrected these references in the Revisor's copy of both the proposed permanent rules and the adopted permanent rules. The confusion exists because certain subparts of Rule 4310.8120 were repealed and their content substantially incorporated into new subparts. Please reference the SONR at page 14, which refers to subpart 3, without identifying the new language as subpart 2a; page 16 and 17 which refer to subparts 4, 5, 6 and 7 which have been renumbered 3a, 4a, 5a and 6a, respectively; and page 22 which

refers to subparts 5 through 7 and is now limited to material found in subpart 3a in the adopted rule. Because the erroneous cross references found in the Statement of Reasonableness do not affect the Rule as proposed, noticed, or adopted, and is understandable in the context of the redrafting of the amendments, the error is not material and should not affect approval of the Rules.

KARL W. SONNEMAN
Special Assistant
Attorney general

Dated: April 21, 1989.

Minnesota Department of
Trade and Economic Development

Community Development Division

900 American Center
150 East Kellogg Boulevard
St. Paul, MN 55101-1421

612/296-5005
Fax: 612/296-1290

RECEIVED

APR 28 89 OIC RmD

ATTORNEY GENERAL'S OFFICE
515 TRANSPORTATION BLDG.
ST. PAUL, MN 55155

April 27, 1989

Ms. Marty Casserly
Special Assistant Attorney General
Office of the Attorney General
515 Transportation Building
John Ireland Boulevard
St. Paul, MN 55155

RE: In the Matter of Proposed Rules Governing the Outdoor Recreation Grant Program, Minn. Rules Pt. 43010

Dear Ms. Casserly:

On April 26, 1989, the Minnesota Department of Trade and Economic Development by Commissioner David J. Speer adopted the above-captioned rules governing the Outdoor Recreation Programs. Enclosed for your review are the following:

1. Rules as adopted (original and 3 copies).

2. Findings of Fact, Conclusions and Order Adopting Rules.

3. State Register Notice of Intent to Adopt Rules Without a Public Hearing.

4. Notice of Intent to Adopt Rules Without a Public Hearing as mailed.

5. Rules as proposed.

6. Affidavit of Mailing the Notice of Intent to Adopt the Rule Without a Public Hearing and Certificate of Mailing List.

7. Statement of Need and Reasonableness.

8. Declaration of Counsel.

No comments were received during the comment period and outside opinion was not solicited prior to proposing the Rule. Therefore, other documents addressed in Minn. Rule pt. 2010.0300 are not applicable.

If you have any questions related to these documents, please call me at 296-1567.

Thank you.

Sincerely,

Wayne M. Sames

Wayne M. Sames, Director
Outdoor Recreation Grants Program

WMS:km
OR.GEN/I46-(1-2)

Enclosures

Offic of the Revisor of Statutes
Administrative Rules

Paul M. Marinac
Assistant Deputy Revisor
296-0948

700 State Office Building
100 Constitution Avenue
St. Paul, MN 55155-1297

March 29, 1989

Community Development Division

MAR 29 1989

Mr. Wayne Sames
Trade and Economic Development
Outdoor Recreation Unit
Community Development Division
900 American Center Bldg.
150 East Kellogg Blvd.
St. Paul, MN 55101-1421

RE: File No. 1448

Dear Mr. Sames:

Enclosed is a stripped copy of your proposed rules as published in the State Register. The copy shows the text of the rules as you proposed them with the stricken text deleted and the underscoring removed.

If your emergency rules or rules adopted without public hearing are adopted without modification, please submit the required number of copies of this document to the Attorney General for final approval. If these rules are to be modified, please use this copy to indicate the modifications you wish to make. Our office will then input the changes, approve the document as to form, and provide you with copies to submit to the Attorney General.

If your rules are adopted after public hearing without modification, please submit one copy of this document to our office for final approval as to form. If these rules are to be modified, please use this copy to indicate the modifications you wish to make. Our office will input the changes, approve the document as to form, and provide you with copies.

Very truly yours,

Paul Marinac/cs