

**Testimony of Kathryn Ludwig, Flaherty & Hood, P.A. before the
Rules Reform Task Force**

On behalf of the Coalition of Greater Minnesota Cities

November 10, 2000

The following brief remarks are based on CGMC's long-standing experience with the Minnesota Pollution Control Agency and its rules, particularly with respect to the State's water quality standards, located in Minnesota Rules, chapter 7050.

- The cost of implementing certain rules is a huge issue for our cities. We have long argued that any new rules should undergo some sort of cost-benefit analysis and be reviewed for their cost-effectiveness by the legislature prior to adoption. The legislature would have to find that the proposed rule was indeed cost-effective.
- We would propose that the Statement of Need and Reasonableness be required to contain the total cost of implementing the rule. We would also suggest that some trigger amount be established as to when a higher level of legislative oversight would be required. For example, if the cost of implementing the new rule were projected to exceed one million dollars (\$1,000,000.00) on a cumulative basis, or one hundred thousand dollars (\$100,000.00) on an individual basis, the legislature would specifically have to approve the rule.
- We would also request that the legislature be required to review and approve any rule imposing stricter requirements than those authorized by federal law.
- Finally, although CGMC appreciates the fact that rulemaking is labor-intensive and time-consuming for state agencies, it also objects to recent efforts – particularly by the MPCA – to bypass the process altogether and instead develop what the agency refers to as a “strategy,” “policy,” “plan” or “guidance.” A recent example is the MPCA's internally developed and board-approved Phosphorus Strategy. The MPCA has recently begun using this strategy as a way to justify the imposition of phosphorus limits on municipal dischargers – limits that could not be justified under existing rules.