

STATE OF MINNESOTA

BOARD OF WATER AND SOIL RESOURCES

In the Matter of Proposed Permanent Rules
of the Board of Water and Soil Resources
Relating to a Local Water Resources Protection
and Management Program

Minnesota Rules Chapter 8405

STATEMENT OF NEED AND REASONABLENESS

I. Purpose of the proposed rule 8400.0100

Minnesota Statutes (1990), sections 103B.3361 to 103B.3369, authorize the board to make grants to counties for local government activities that protect or manage water and related land resources and to adopt rules. The proposed rules, parts 8405.0100 to 8405.0230, provide procedures and criteria to be followed by counties and the board in implementing sections 103B.3361 to 103B.3369.

The proposed rules reflect the board's experience in making grants to over 150 local units of government totaling over three million dollars annually and in guiding the development and ultimately approving local water plans. Further, during the seven month drafting process, clientele affected by the rule were asked to participate in a work group to review and comment on drafts of the rule. Membership of the work group included: Association of Minnesota Counties, Minnesota Association of Soil and Water Conservation Districts, Metropolitan Council, Minnesota Association of Conservation District Employees, State Planning Agency, Department of Health, Minnesota Geological Survey, Department of Natural Resources, Pollution Control Agency, Department of Agriculture, Minnesota Extension Service, League of Minnesota Cities, Minnesota Association of Townships, Minnesota Association of Planning and Zoning Administrators, Minnesota Association of Watershed Districts, Metropolitan Inter-County Association, Association of Metropolitan Municipalities, local water planning project managers, and representatives of several watershed management organizations.

The board considers both the work group process and resulting proposed rule as necessary and reasonable. Consequently, it is necessary and reasonable to adopt the rules as proposed so that:

- i. Appropriate administrative and technical criteria are adequately explained; and,
- ii. Local program administrators and cooperating parties are provided with guidance concerning application procedures and grant requirements.

II. Need and Reasonableness of each Rule part

8405.0110 DEFINITIONS.

The terms as defined have the meanings given them. Some terms are defined in statute and are included in the proposed rules for consistency and as a convenience to the reader. The terms "local share", "local water planning levy", "official controls", and "related land resources" are new definitions. The new definitions are necessary to clarify the meaning of other parts of the proposed rule. The definitions are necessary and reasonable because they will provide a better understanding of the proposed rule. Moreover, the definition of "local share" acknowledges the many sources of local funding and provides counties with flexibility to develop the appropriate combination of matching funds.

The rule, as is indicated by the following parts, was written in chronological order. This format was intended to aid local program administrators in understanding and using the proposed rule.

8405.0120 AVAILABLE ASSISTANCE.

This part describes the type of grants and their applicability, matching requirements, priority given to applicants, and technical assistance available from the board. The basis for the language is the enabling legislation and suggestions from the work group. The amounts indicated for plan development grants are reasonable as they are consistent with grants made by the board to counties for development of M.S. section 110B.04 or M.S. section 473.8785 plans commenced prior to July 1, 1990. The grant requirement of 50 percent coverage of adopted comprehensive local water plans is also reasonable as it provides an incentive for counties to initiate planning. Further, in terms of equity to grant recipients, this requirement will prevent grants from being made to a county with a small percentage of land area covered by adopted local water plans. It is necessary and reasonable to provide the information offered by this part (early in the rule) so that counties can determine the grant that best applies to their situation and generally ascertain the consideration given to priorities and board technical assistance.

8405.0130 ELIGIBILITY CRITERIA.

This part discusses applicants and costs. The basis for the language is the enabling legislation, eligible cost criteria used by the board for other grant programs and suggestions from the work group. It is necessary and reasonable to provide this information to avoid confusion among local units of government regarding eligible applicants and avoid unreasonable, unethical, or illegal expenditures and activities.

8405.0140 NOTICE OF GRANT AVAILABILITY.

To ensure that counties and other interested parties are duly notified of the availability of grant funds and application periods, it is necessary and reasonable to include this part. Sixty (60) days is a reasonable amount of time for a county to prepare an application after notification.

8405.0150 GRANT APPLICATION.

As described in Part 8405.0120, three types of grants are available. Due to the intended use of the grant, the need for documentation increases from plan development to plan implementation challenge grants. This part provides specific information needed by counties to properly and timely complete an application. Sufficient information is required to enable challenge grant applications to be adequately ranked as discussed in part 8405.0180. The basis for the language is the enabling legislation, the board's experience with similar grants, comments from the board's assigned Attorney General representative and suggestions from the work group. To ensure consistent applications and offer guidance to applicants, it is necessary and reasonable to include this part.

8405.0160 DENIAL OF GRANT APPLICATIONS.

This part establishes the grounds for denying a grant application, a timeframe for notifying denied grant applicants, and the effect of denial of an application. The basis for the language is consistent with previous parts and reflects the board's experience in administering other grant programs. This part is necessary to the grant process and is reasonable because it complements other parts of the proposed rule, and provides denied applicants with a quick response so that other grant opportunities are not delayed.

8405.0170 ALLOCATION OF FUNDING.

It is necessary and reasonable to include this part to give counties a sense of funding priorities from the enabling legislation and that the intent of the board is to maximize the use of funds among grant categories and grant periods.

8405.0180 RANKING OF APPLICATIONS.

A successful comprehensive local water plan utilizes a partnership of private, local, state, and federal technical and financial assistance. To ensure that challenge grant applications are reviewed from many perspectives and disciplines, a multi-member review team is proposed. The membership represents those groups significantly involved in comprehensive local water planning, including persons or agencies who will be requested by counties to assist in implementing local water plans. The basis for the review criteria is the enabling legislation and comments from the work group. Review criteria also complements part 8405.0150. To obtain different perspectives and ensure a thorough technical review, it is necessary and reasonable to include this part.

8405.0190 SELECTION OF GRANTEES.

This part discusses the process of selecting grantees by the board after review by the review team. In summary, the board acts on the recommendation of the review team at a regular or special meeting. The highest priority challenge grant applications are funded. Deadlines for certain actions are included to ensure a thorough and consistent review and selection process. Within 90 days after the

8405.0190 SELECTION OF GRANTEES (CONTINUED)

close of the application period, the review team must have forwarded their recommendation to the board. The board then has 30 days to select grantees. These timelines strike a balance between time needed to review applications versus timely notification of applicants. This part is necessary to the selection process and reasonable because it complements the previous part and provides a consistent and timely process of selecting grantees.

8405.0200 GRANT CONDITIONS.

It is necessary and reasonable to include this part to inform counties of grant conditions. The basis for this language is the enabling legislation, comments from the board's assigned Attorney General representative, the board's experience with grant programs and comments from the work group. Duration of grant periods are consistent with current plan development activities or necessary to conform to the county calendar year budget period. Since challenge grants are project specific in contrast to administrative base grants, additional time is warranted for their completion. To enable the board to assess the progress of the program and comply with legislative reporting requirements, grantees are required to submit annual progress reports.

8405.0210 GRANT AGREEMENT.

To confirm the conditions of the grant, an agreement must be signed by the board and county. Consequently, it is necessary and reasonable to include this part which complements the previous part and provides additional information. The basis for the additional requirements, such as requiring that a county is responsible for the grant even if delegated to another local unit of government, is that of accountability. It is the board's view that since the county is the grantee they should be ultimately responsible for the expenditure of grant funds.

8405.0220 GRANT PAYMENTS.

Payments are made in one installment after the effective date of the grant agreement. Based on previous experience, the board views partial payments as administratively undesirable. The requirement of a county to return unspent or unobligated grant funds within two months is reasonable as it allows sufficient time for a county to make payment. This part is both necessary and reasonable as a part of a proposed rule dealing with grants.

8405.0230 GRANT TERMINATION.

This part proposes a process for the board or county to terminate a grant agreement. It is both a necessary and reasonable part of a rule dealing with grants. A reasonable amount of time is provided for a county to demonstrate why a grant agreement should not be cancelled. In the event of a cancellation, a county is entitled to a pro-rata payment for work satisfactorily performed. This is reasonable. This part concludes with a section required by the enabling legislation. This is reasonable since a large portion

8405.0230 GRANT TERMINATION (CONTINUED)

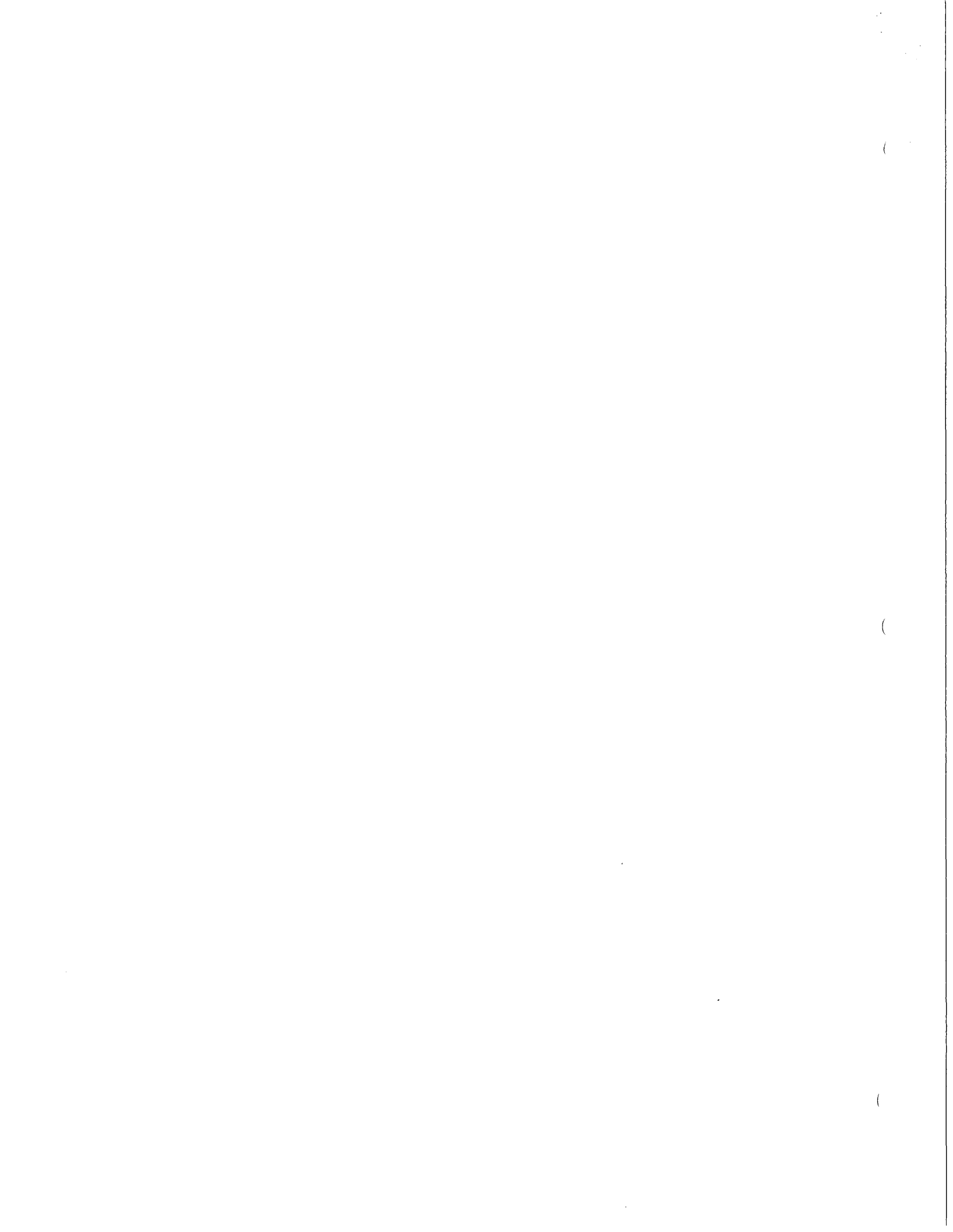
of grant proceeds will be used by counties to assume delegation of state agencies programs.

III. IMPACT OF THE PROPOSED RULES TO SMALL BUSINESS

The proposed rule does not apply to small business because it relates to county administration of a state grant program.

IV. CONCLUSION

For the reasons stated above, the Minnesota Board of Water and Soil Resources considers the "Proposed Permanent Rules Relating to a Local Water Resources Protection and Management Program" as necessary and reasonable to effectively administer Minnesota Statutes (1990), sections 103B.3361 to 103B.3369.





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August 29, 1990

Maryanne Hruby, Director
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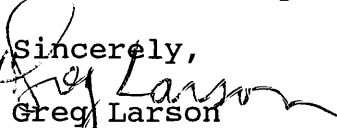
Subject: Statement of Need and Reasonableness

Dear Ms. Hruby:

As required by 1990 Minn. Laws ch. 422, I have enclosed the Statement of Need and Reasonableness for proposed rules chapter 8405 relating to a local water resources protection and management program. The proposed rule was published in the State Register on August 27th.

Contact me if you have questions or comments.

Sincerely,


Greg Larson
Head, Water and Land Management Section

