

Environmental Quality Board

AMENDED DUAL NOTICE: Notice of Intent to Adopt Rules Without a Public Hearing Unless 25 or More Persons Request a Hearing, and Notice of Hearing if 25 or More Requests for Hearing Are Received; Revisor's ID Number RD-04157

Proposed Amendment to Rules Governing Environmental Review, *Minnesota Rules*, 4410.0200, 4410.0500, 4410.4300, 4410.4400, 4410.5200, 4410.7904, 4410.7906, 4410.7926, 4410.4600

Introduction. The Environmental Quality Board intends to adopt rules without a public hearing following the procedures in the rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2300 to 1400.2310, and the Administrative Procedure Act, *Minnesota Statutes*, sections 14.22 to 14.28. If, however, 25 or more persons submit a written request for a hearing on the rules by 4:30 p.m. on February 4, 2019, the Environmental Quality Board will hold two public hearings.

AMENDED DATES: EQB has changed the hearing dates for this rulemaking. The first hearing, in Room 100, Minnesota Pollution Control Agency, 520 Lafayette Road, St. Paul, MN 55155, starting at 10:00 am on **Friday March 8, 2019** and continuing until all public comments have been heard. The second hearing at Great River Regional Library, 1300 W St. Germain St., St Cloud, MN 56301, starting at 10:30am on **Tuesday March 12, 2019** and continuing until all public comments have been heard. To find out whether the Environmental Quality Board will adopt the rules without a hearing or if it will hold the hearings, you should contact the agency contact person after February 4, 2019 and before March 8, 2019.

Any comments submitted following the publication of the original Dual Notice published on November 13, 2018, will be included in the rulemaking record.

Agency Contact Person. Submit any comments or questions on the rules or written requests for a public hearing to the Environmental Quality Board contact person. The Environmental Quality Board contact person is:

Erik Cedarleaf Dahl
Environmental Quality Board,
520 Lafayette Rd. St. Paul, MN, 55101,
651-757-2364 (phone), 651-757-2343 (fax), erik.dahl@state.mn.us.

You may also review the proposed rule and submit written comments via the Office of Administrative Hearings Rulemaking e-comments website at <https://minnesotaoah.granicusideas.com/discussions> .

Subject of Rules and Statutory Authority. The proposed rules are about Environmental Review: definitions, RGU selection process, Mandatory EAW Categories, Mandatory EIS Categories, Exemptions, Required notices, Licensing of Explorers, Content of an application for drilling permit, Abandonment of Exploratory Borings. The statutory authority to adopt the rules

is *Minnesota Statutes, section 116D.04, subdivisions 2a(a), 4a, 5a; Minnesota Statutes 116D.045, subdivision 1; Laws of Minnesota 2013, Chapter 114, Article 4, Section 105; Laws of Minnesota 2015, Chapter 4, Article 4, Section 121; Minnesota Statutes 116C.991; Laws of Minnesota 2015, Chapter 4, Section 33*. A copy of the proposed rules is published in the *State Register* and attached to this notice as mailed.

Comments. You have until 4:30 p.m. on February 4, 2019 to submit written comment in support of or in opposition to the proposed rules or any part or subpart of the rules. Your comment must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comments should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed. You are encouraged to propose any change that you desire. Any comments that you have about the legality of the proposed rules must also be made during this comment period. Any comments submitted following the publication of the original Dual Notice published on November 13, 2018, will be included in the rulemaking record.

Request for a Hearing. In addition to submitting comments, you may also request that the Environmental Quality Board hold a hearing on the rules. You must make your request for a public hearing in writing, which the agency contact person must receive by 4:30 p.m. on February 4, 2019. You must include your name and address in your written request. In addition, you must identify the portion of the proposed rules that you object to or state that you oppose the entire set of rules. Any request that does not comply with these requirements is not valid and the agency cannot count it when determining whether it must hold a public hearing. You are also encouraged to state the reason for the request and any changes you want made to the proposed rules.

Withdrawal of Requests. If 25 or more persons submit a valid written request for a hearing, the Environmental Quality Board will hold a public hearing unless a sufficient number of persons withdraw their requests in writing. If enough requests for hearing are withdrawn to reduce the number below 25, the agency must give written notice of this to all persons who requested a hearing, explain the actions the agency took to effect the withdrawal, and ask for written comments on this action. If a public hearing is required, the agency will follow the procedures in *Minnesota Statutes*, sections 14.131 to 14.20.

Alternative Format/Accommodation. Upon request, this information can be made available in an alternative format, such as large print, braille, or audio. To make such a request or if you need an accommodation to make this hearing accessible, please contact the agency contact person at the address or telephone number listed above.

Modifications. The Environmental Quality Board might modify the proposed rules, either as a result of public comment or as a result of the rule hearing process. It must support modifications by data and views submitted to the agency or presented at the hearing. The adopted rules may not be substantially different than these proposed rules unless the Environmental Quality Board follows the procedure under *Minnesota Rules*, part 1400.2110. If the proposed rules affect you in any way, the Environmental Quality Board encourages you to participate in the rulemaking process.

Cancellation of Hearing. The Environmental Quality Board will cancel the hearing(s) scheduled for March 8, 2019 (in St Paul), and March 12, 2019 (in St. Cloud) if the Environmental Quality Board does not receive requests for a hearing from 25 or more persons. If you requested a public hearing, the Environmental Quality Board will notify you before the scheduled hearings whether the hearings will be held. You may also call the agency contact person at 651-757-2364 after February 4, 2019 (4:30pm) to find out whether the hearing will be held.

Notice of Hearing. If 25 or more persons submit valid written requests for a public hearing on the rules, the Environmental Quality Board will hold a hearing following the procedures in *Minnesota Statutes*, sections 14.131 to 14.20. The Environmental Quality Board will hold the hearings on the dates and at the times and places listed above. The hearings will continue until all interested persons have been heard. Administrative Law Judge, LauraSue Schlatter is assigned to conduct the hearings. Judge LauraSue Schlatter can be reached at the Office of Administrative Hearings, 600 North Robert Street, P.O. Box 64620, Saint Paul, Minnesota 55164-0620, telephone (651) 361-7875, and fax (651) 539-0310.

Hearing Procedure. If the Environmental Quality Board holds a hearing, you and all interested or affected persons, including representatives of associations or other interested groups, will have an opportunity to participate. You may present your views either orally at the hearing or in writing at any time before the hearing record closes. All evidence presented should relate to the proposed rules. You may also submit written material to the Administrative Law Judge to be recorded in the hearing record for five working days after the public hearing ends. At the hearing the Administrative Law Judge may order that this five-day comment period is extended for a longer period but not more than 20 calendar days. Following the comment period, there is a five-working-day rebuttal period when the agency and any interested person may respond in writing to any new information submitted. No one may submit **new** evidence during the five-day rebuttal period. The Office of Administrative Hearings must receive all comments and responses submitted to the Administrative Law Judge via the Office of Administrative Hearings Rulemaking e-comments website at <https://minnesotaoah.granicusideas.com/discussions> no later than 4:30 p.m. on the due date. All comments or responses received will be available for review at the Environmental Quality Board or on the Environmental Quality Board website at <https://www.eqb.state.mn.us/content/eqb-mandatory-categories-rulemaking>. This rule hearing procedure is governed by *Minnesota Rules*, parts 1400.2000 to 1400.2240, and *Minnesota Statutes*, sections 14.131 to 14.20. You may direct questions about the procedure to the Administrative Law Judge.

The agency requests that any person submitting written views or data to the Administrative Law Judge before the hearing or during the comment or rebuttal period also submit a copy of the written views or data to the agency contact person at the address stated above.

Statement of Need and Reasonableness. The statement of need and reasonableness summarizes the justification for the proposed rules, including a description of who will be affected by the proposed rules and an estimate of the probable cost of the proposed rules. It is now available from the agency contact person. You may review or obtain copies for the cost of reproduction by contacting the agency contact person. The SONAR will be available at the

Environmental Quality Board's website here: <https://www.eqb.state.mn.us/content/eqb-mandatory-categories-rulemaking>.

Lobbyist Registration. *Minnesota Statutes*, chapter 10A, requires each lobbyist to register with the State Campaign Finance and Public Disclosure Board. Ask any questions about this requirement of the Campaign Finance and Public Disclosure Board at: Suite #190, Centennial Building, 658 Cedar Street, St. Paul, Minnesota 55155, telephone (651) 539-1180 or 1-800-657-3889.

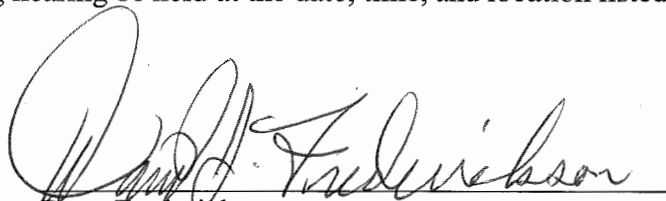
Adoption Procedure if No Hearing. If no hearing is required, the agency may adopt the rules after the end of the comment period. The Environmental Quality Board will submit the rules and supporting documents to the Office of Administrative Hearings for a legal review. You may ask to be notified of the date the rules are submitted to the office. If you want either to receive notice of this, to receive a copy of the adopted rules, or to register with the agency to receive notice of future rule proceedings, submit your request to the agency contact person listed above.

Adoption Procedure after a Hearing. If a hearing is held, after the close of the hearing record, the Administrative Law Judge will issue a report on the proposed rules. You may ask to be notified of the date that the Administrative Law Judge's report will become available, and can make this request at the hearing or in writing to the Administrative Law Judge. You may also ask to be notified of the date that the agency adopts the rules and the rules are filed with the Secretary of State by requesting this at the hearing or by writing to the agency contact person stated above.

Order. I order that the rulemaking hearing be held at the date, time, and location listed above.

12/20/18

Date



Dave Frederickson

Chair, Environmental Quality Board