



**Environmental Quality Board**  
300 Centennial Building  
658 Cedar Street  
St. Paul, MN 55155  
Voice: 651.201.2499  
Fax: 651.296.3698

## **NOTICE OF HEARING**

### **Proposed Amendment to Rules Governing the Environmental Review Program, Minnesota Rules, chapter 4410,**

**Public Hearing.** The Environmental Quality Board (EQB) intends to adopt rules after a public hearing following the procedures set forth in the rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2200 to 1400.2240, and the Administrative Procedure Act, *Minnesota Statutes*, sections 14.131 to 14.20. The EQB will hold a public hearing on the above-entitled rules at the following times and places and continuing until the hearing is completed:

- Wednesday, February 25, 2009, at the Alexandria Technical College, Room 208, 1601 Jefferson Street, Alexandria, MN; one session beginning at 2:00 p.m. and a second session beginning at 7:00 p.m.
- Thursday, February 26, 2009, at the Fort Snelling History Center Auditorium, Fort Snelling, MN, at the junction of state highways 5 & 55; one session beginning at 2:00 p.m. and a second session beginning at 7:00 p.m.
- Monday, March 2, 2009, at the Hermantown Public Safety Training Facility, 5111 Maple Grove Road, Hermantown, MN; one session beginning at 2:00 p.m. and a second session beginning at 7:00 p.m.
- Wednesday, March 4, 2009, at the Bemidji Public Library, 509 America Avenue NW, Bemidji, MN; one session beginning at 2:00 p.m. and a second session beginning at 7:00 p.m.
- Thursday, March 5, 2009, Northland Arboretum, 14250 Conservation Drive, Baxter, MN; one session beginning at 2:00 p.m. and a second session beginning at 7:00 p.m..

*To find out if a hearing has been postponed due to adverse weather conditions, please call the EQB contact person listed below.*

Additional days of hearing will be scheduled if necessary. All interested or affected persons will have an opportunity to participate by submitting either oral or written data, statements, or arguments. Statements may be submitted without appearing at the hearing.

**Administrative Law Judge.** The hearing will be conducted by Administrative Law Judge Steve M. Mihalchick, who can be reached at the Office of Administrative Hearings, 600 North Robert Street, P.O. Box 64620, St. Paul, Minnesota 55164-0620, telephone 651/361-7844, and FAX 651/361-7936. The rule hearing procedure is governed by *Minnesota Statutes*, sections 14.131 to 14.20, and by the rules of the Office of Administrative Hearings, *Minnesota Rules*, and parts 1400.2000 to 1400.2240. Questions concerning the rule hearing procedure should be directed to the Administrative Law Judge.

**Subject of Rules, Statutory Authority, and Agency Contact Person.** The proposed rules would amend or add 29 subparts in Chapter 4410 regarding the Environmental Review program. These amendments consist of five topical areas:

- New mandatory EAW, EIS, and Exemption categories that would apply to certain projects located in the shoreland areas of lake and rivers;
- Amendments to how the rules handle treatment of “cumulative potential effects” in EAWs, EIS, and Alternative Urban Areawide Reviews (AUARs) in response to a 2006 Minnesota Supreme Court decision;
- Amendments to the Alternative Urban Areawide Review (AUAR) process with respect to how specific individual projects are treated or how they affect the review;
- A new mandatory EIS category for releases of genetically-engineered wild rice, in response to a legislative directive in the 2007 session; and
- Miscellaneous other amendments to clarify the meaning of certain rule provisions.

Minnesota Statutes, section 116D.04, subdivisions 2a(a), 4a, & 5a and section 116D.045 give the EQB authority adopt rules governing the Environmental Review program. One specific amendment, the creation of a mandatory EIS category for release of genetically engineered wild rice, is also authorized by Minnesota Laws, 2007, chapter 57, article 1, section 140. A copy of the proposed rules is published in the *State Register* and attached to this notice as mailed. The proposed rule is also available at the EQB website, [www.eqb.state.mn.us](http://www.eqb.state.mn.us). A free copy of the rules is available upon request from the agency contact person.

The agency contact person is: Gregg Downing, EQB Environmental Review Program, 300 Centennial Building, 658 Cedar Street, St. Paul, MN 55155; phone, 651/201-2476; FAX, 651/296-3698; and email [gregg.downing@state.mn.us](mailto:gregg.downing@state.mn.us). TTY users may call the Department of Administration at 800/627-3529.

**Statement of Need and Reasonableness.** A Statement of Need and Reasonableness is now available for review. This statement contains a summary of 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. The document is available for review at the EQB website ([www.eqb.state.mn.us](http://www.eqb.state.mn.us)), EQB offices and at the Office of Administrative Hearings. Copies may be obtained at the cost of reproduction by contacting the agency contact person.

**Public Comment.** You and all interested or affected persons, including representatives of associations and 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 close of the hearing record. 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. This five-day comment period may be extended for a longer period not to exceed 20 calendar days if ordered by the Administrative Law Judge at the hearing. Following the comment period, there is a five-working-day rebuttal period during which the agency and any interested person may respond in writing to any new information submitted. No additional evidence may be submitted during the five-day rebuttal period. All comments and responses submitted to the Administrative Law Judge must be received at the Office of Administrative Hearings no later than 4:30 p.m. on the due date. All comments or responses received will be available for review at the Office of Administrative Hearings.

The EQB requests that any person submitting written views or data to the Administrative Law Judge prior to 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.

**Alternative Format/Accommodation.** Upon request, this Notice can be made available in an alternative format, such as large print, Braille, or cassette tape. 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 proposed rules may be modified as a result of the rule hearing process. Modifications must be supported by data and views presented during the rule hearing process, and the adopted rules may not be substantially different than these proposed rules, unless the procedure under *Minnesota Rules*, part 1400.2110, has been followed. If the proposed rules affect you in any way, you are encouraged to participate.

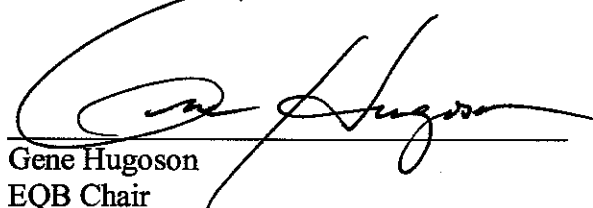
**Adoption Procedure After the Hearing.** After the close of the hearing record, the Administrative Law Judge will issue a report on the proposed rules. You may ask to be notified of the date when the judge's report will become available, and can make this request at the hearing or in writing to the Administrative Law Judge. You may also ask to be notified of the date on which the agency adopts the rules and the rules are filed with the Secretary of State, or ask to register with the agency to receive notice of future rule proceedings, and can make these requests at the hearing or in writing to the agency contact person stated above.

**Lobbyist Registration.** *Minnesota Statutes*, chapter 10A, requires each lobbyist to register with the State Campaign Finance and Public Disclosure Board. Questions regarding this requirement may be directed to the Campaign Finance and Public Disclosure Board at: Suite 190, Centennial Building, 658 Cedar Street, St. Paul, Minnesota 55155, telephone 651-296-5148 or 1-800-657-3889.

### Order

I order that the rulemaking hearing be held at the dates, times, and locations listed above.

Dated: 12-19-08

  
Gene Hugoson  
EQB Chair