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2/9/2006

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

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

Introduction. The Environmental Quality Board intends to adopt rules without a public hearing following the procedures set forth 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 March 15, 2006, a public hearing will be held in the Fort Snelling History Center Auditorium, Fort Snelling, Minnesota (at the junction of State Highways 5 & 55) on Thursday, March 30, 2006, one session starting at 2:00 p.m. and a second session starting at 7:00 p.m.

To find out whether the rules will be adopted without a hearing or if the hearing will be held, you should contact the agency contact person after March 15, and before March 30, 2006.

Agency Contact Person. Comments or questions on the rules and written requests for a public hearing on the rules must be submitted to the agency contact person. The agency contact person is: Gregg Downing, Environmental Quality Board, Room 300, Centennial Office Bldg., 658 Cedar Street, St. Paul, MN 55155; telephone 651/201-2476, fax 651/296-3698, and email address: gregg.downing@state.mn.us. TTY users may call the Department of Administration at 800-627-3529.

Subject of Rules and Statutory Authority. The proposed amendments would change 39 subparts of the Environmental Review program rules in chapter 4410. Most of the amendments are minor “housekeeping” or technical amendments that are intended to clarify points of ambiguity or confusion in the existing rules or to correct minor flaws in the environmental review procedures. A few of the amendments are more substantial and would require additional review procedures in limited specific circumstances; this primarily would affect the Alternative Urban Areawide Review (AUAR) process at part 4410.3610. These amendments would also change the mandatory Environmental Assessment Worksheet (EAW) thresholds for air pollution sources, wastewater systems, and historical places.

The statutory authority to adopt the rules is *Minnesota Statutes*, sections 116D.04, subds. 2a, 4a & 5a and 116D.045. A copy of the proposed rule amendments is published in the *State Register*, posted at the EQB webpage (www.eqb.state.mn.us) and is attached to this notice as mailed.

Comments. You have until 4:30 p.m. on March 15, 2006, to submit written comment in support of or in opposition to any of the proposed rule amendments. 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 desired. Any comments that you would like to make on the legality of the proposed rules must also be made during this comment period.

Request for a Hearing. In addition to submitting comments, you may also request that a hearing be held on the rules. Your request for a public hearing must be in writing and must be received by the agency contact person by 4:30 p.m. on March 15, 2006. Your written request for a public hearing must include your name and address. You must identify the portion of the proposed rule amendments to which you object or state that you oppose the entire set of rule amendments. Any request that does not comply with these requirements is not valid and cannot be counted by the agency when determining whether a public hearing must be held. 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, a public hearing will be held unless a sufficient number 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 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, either as a result of public comment or as a result of the rule hearing process. Modifications must be supported by data and views submitted to the agency or presented at the hearing 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 in the rulemaking process.

Cancellation of Hearing. The hearing scheduled for March 30, 2006, will be canceled if the agency does not receive requests from 25 or more persons that a hearing be held on the rules. If you requested a public hearing, the agency will notify you before the scheduled hearing whether or not the hearing will be held. You may also call the agency contact person indicated above 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, a hearing will be held following the procedures in *Minnesota Statutes*, sections 14.131 to 14.20. The hearing will be held on the date and at the time and place listed above. The hearing will continue until all interested persons present have been heard. Administrative Law Judge Steve M. Mihalchick is assigned to conduct the hearing. Judge Mihalchick can be reached at the Office of Administrative Hearings, 100 Washington Square, Suite 1700, Minneapolis, Minnesota 55401-2138, telephone 612-349-2544, and FAX 612-349-2665.

Hearing Procedure. If a hearing is held, 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 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. This rule hearing procedure is governed by *Minnesota Rules*, parts 1400.2000 to 1400.2240, and *Minnesota Statutes*, sections 14.131 to 14.20. Questions about procedure may be directed to the Administrative Law Judge.

The agency 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.

Statement of Need and Reasonableness. A statement of need and reasonableness is now available from the agency contact person and is posted at the EQB's webpage at www.eqb.state.mn.us. 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 statement may also be reviewed and copies obtained at the cost of reproduction from the agency.

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.

Adoption Procedure if No Hearing. If no hearing is required, the EQB may adopt the rules after the end of the comment period. The rules and supporting documents will then be submitted to the Office of Administrative Hearings for review for legality. You may ask to be notified of the date the rules are submitted to the office. If you want to be so notified, or want to receive a copy of the adopted rules, or want 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 when 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 on which the agency adopts the rules and the rules are filed with the Secretary of State, and can make this request at the hearing or in 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.

Dated: January 27, 2006

Robert A. Schroeder
Chair