

NOTICE OF HEARING

Minnesota Environmental Quality Board

Proposed Amendment to Rules Governing the Environmental Review Program, *Minnesota Rules*, chapter 4410, Adopting Mandatory Environmental Assessment Worksheet and Exemption Categories for Recreational Trails

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:

- Tuesday, January 11, 2005, 2:00 p.m. to 5:00 p.m. and 7:00 p.m. to 10:00 p.m., at the Northern Inn, Highway 2 West, Bemidji, MN 56601
- Wednesday, January 12, 2005, 2:00 p.m. to 5:00 p.m. and 7:00 p.m. to 10:00 p.m., at the Hermantown Public Safety Training Facility, 5111 Maple Grove Road, Hermantown, MN 55811
- Wednesday, January 19, 2005, 2:00 p.m. to 5:00 p.m. and 7:00 p.m. to 10:00 p.m., Fort Snelling History Center Auditorium, Fort Snelling, MN, at the junction of state highways 5 & 55.

To find out if a hearing has been postponed due to adverse weather conditions, please call the EQB contact person listed below or check the EQB website: www.eqb.state.mn.us.

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, 100 Washington Square, Suite 1700, Minneapolis, Minnesota 55401-2138, telephone 612-349-2544, and FAX 612-349-2665. 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 the lists of mandatory Environmental Assessment Worksheet (EAW) categories (at *Minnesota Rules*, part 4410.4300) and Exemption categories (at *Minnesota Rules*, part 4410.4600) to add categories specific to certain types of recreational trails. The proposed rules would not establish categories for mandatory Environmental Impact Statements (EISs) for recreational trails. The proposed mandatory EAW and Exemption categories would apply to private as well as public recreational trails, provided that private trails would only be subject to

review if governmental approval or financial assistance was involved. Currently, the environmental review program rules do not contain any mandatory review or exemption categories that apply directly to recreational trails of any type. An EAW may be prepared on a discretionary basis by a unit of government for a recreational trail, and citizens may request preparation of an EAW by filing a citizen's petition as authorized by the environmental review rules. If the EQB adopts the mandatory EAW and Exemption categories, review will become automatic for some trail projects, while discretionary review (including review initiated by citizen petition) will no longer be possible for some other projects.

The proposed rules are authorized by *Minnesota Laws* 2003, chapter 128, article 1, section 167, subdivision 3, which directs the EQB to "adopt rules providing for threshold levels for environmental review for recreational trails." The EQB also has standing authority to adopt and amend the mandatory categories and exemptions pursuant to *Minnesota Statutes*, section 116D.04, subd. 2a (a). 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. A free copy of the rules is available upon request from the agency contact person. The agency contact person is: Gregg Downing at EQB, 300 Centennial Building, 658 Cedar Street, St. Paul, MN 55155; phone, 651/205-4660; FAX, 651/296-3698; and email, 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 at the EQB offices and website (www.eqb.state.mn.us) and at the Office of Administrative Hearings. 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 be reviewed and copies obtained at the cost of reproduction from the agency.

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: November 9, 2004

Robert A. Schroeder
Chair