

MINNESOTA ENVIRONMENTAL QUALITY BOARD

Notice of Intent to Adopt Rules under the Good Cause Exemption, *Minnesota Statutes* Section 14.388, Subdivision 1, Clause 3

Proposed Exempt Rules Relating to the Rules Governing Environmental Review, *Minnesota Rules*, chapter 4410

Introduction: The Minnesota Environmental Quality Board (EQB) intends to adopt amendments to rules under the good cause exemption rulemaking process in the Administrative Procedure Act, *Minnesota Statutes*, § 14.388, subdivision 1, clause 3, and the rules of the Office of Administrative Hearings, *Minnesota Rules*, part 1400.2400. These rule amendments will incorporate several statutory amendments mandated through the 2011 and 2012 legislative sessions.

Interested parties have five business days after the date of this notice to submit comment to the Office of Administrative Hearings. You may submit comment until 4:30 p.m. on August 31, 2012. The EQB requests that any person submitting comment to the Office of Administrative Hearings also submit a copy of the comment to the EQB's contact person, Carol Nankivel, whose contact information is provided below.

Subject of the Proposed Exempt Rule Amendments and Statutory Authority: The proposed exempt rule amendments will amend *Minnesota Rule*, ch. 4410 in a number of areas. The rule amendments are summarized as follows:

1. Addition of "Iron Range resources and rehabilitation" to the list of entities that are excluded from consideration under the definition of "governmental unit". (*Minnesota Laws*, 2011, Chapter 4, Section 5)
2. Addition of requirements regarding notification of the public availability of an Environmental Assessment Worksheet. (*Minnesota Laws*, 2012, Chapter 272, Section 76)
3. Addition of a provision to allow the proposer of a project to submit a preliminary draft Environmental Impact Statement. (*Minnesota Laws*, 2011, Chapter 4, Section 6)
4. Changes to the number of days a responsible governmental unit has to make a determination of adequacy of a final Environmental Impact Statement (from "90 days" to "30 days"). (*Minnesota Laws* 2011, Chapter 4, Section 7)
5. Changes to allow a responsible governmental unit to assess costs for the review of Environmental Impact Statements. (*Minnesota Laws* 2011, Chapter 4, Sections 9 and 10)
6. Changes to the number and qualifications of persons who may petition for an Environmental Assessment Worksheet (from "25 individuals" to "100 individuals who reside or own property in the state"). (*Minnesota Laws*, 2011, Chapter 107, section 87)

Good Cause Exempt Rulemaking Process: The EQB intends to use the good cause exempt rulemaking process provided in *Minnesota Statutes*, section 14.388, subdivision 1, clause (3) to amend *Minnesota Rules*, ch. 4410. The legislature has specifically directed the use of the good cause rulemaking process for all of the amendments identified above, with the exception of the change identified in item 6. The EQB believes that the good cause exempt rulemaking process is an appropriate process to incorporate the specific changes in item 6. No interpretation of the statutes is required for the

amendments. The use of the good cause rulemaking process is an effective use of resources to implement the changes in an expedient and cost-effective manner as possible.

A copy of the proposed amendments is attached to this notice. In accordance with *Minnesota Statutes* § 16E.07, subd. 3, the proposed amendments may also be viewed at: <http://www.pca.state.mn.us/iryp3c9>. You may also obtain information about the proposed amendments from the EQB's contact person identified below.

Comments: You have until 4:30 p.m. on August 31, 2012, to submit comment to the Office of Administrative Hearings in support of or in opposition to the proposed rule amendments, or to address the legality of the proposed rule amendments. Comments are encouraged. Your comment must be in writing in either electronic or paper form and received by the Office of Administrative Hearings contact person by the deadline. Comments must describe the nature of any concern and must include the commenter's name and mailing address.

Contact Persons: The Office of Administrative Hearings contact person is: Denise Collins, Office of Administrative Hearings, at PO Box 64620, St. Paul, MN 55164-0620, phone 651-361-7875, Fax 651-361-7936, and e-mail rulecomments@state.mn.us.

The EQB contact person for this rulemaking is Carol Nankivel, MPCA, 520 Lafayette Road North, St. Paul, MN 55155-4194, phone 651-757-2597, Fax: 651-297-8676, and e-mail carol.nankivel@state.mn.us. TTY users may call 651-292-7553 or 800-657-3867.

Alternative Format: Upon request, the EQB can make this notice available in an alternative format, such as large print, Braille, or cassette tape. To make such a request, please contact the EQB's contact person identified above.

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

Review and Adoption of Exempt Rules: The proposed rule amendments and supporting documents have been submitted to the Office of Administrative Hearings for a review of their legality. The Administrative Law Judge has 14 days to approve or disapprove the rule amendments. If the rule amendments are approved, the EQB will adopt the rule amendments and publish notice of their adoption in the *State Register*. The rule amendments will take effect on the date they are published in the *State Register*.

If you want to receive a copy of the adopted rules, or want to register to receive notice of future rule proceedings, submit your request to the EQB's contact person listed above.

August 24, 2012



Robert Patton
Executive Director
Environmental Quality Board