

Minnesota Environmental Quality Board

NOTICE OF HEARING

Proposed Permanent Rules Governing Environmental Review of Electric Power Generating Plants and High Voltage Transmission Lines in Proceedings before the Public Utilities Commission, *Minnesota Rules* parts 4410.7010 to 4410.7070, and Technical Amendments to the Power Plant Siting Rules, *Minnesota Rules*, Chapter 4400, and Repeal of *Minnesota Rules* parts 4410.7000 to 4410.7500.

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 agency will hold public hearings on the above-entitled rules in room 302 Centennial Building, 658 Cedar Street, St. Paul, Minnesota, starting at 2 p.m. and again at 7 p.m. on Thursday, September 4, 2003, and continuing until the hearings are completed. 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. Written statements may be submitted without appearing at the hearing.

Administrative Law Judge. The hearing will be conducted by Administrative Law Judge Allan W. Klein, who can be reached at the Office of Administrative Hearings, 100 Washington Square, Suite 1700, Minneapolis, Minnesota 55401-2138, telephone (612) 341-7609, 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*, parts 1400.2000 to 1400.2240. Questions concerning the rule hearing procedure should be directed to the Administrative Law Judge.

Subject of Rules and Statutory Authority. The proposed rule amendments establish requirements for conducting environmental review of proposed large electric power generating plants and high voltage transmission lines at the time such projects are before the Minnesota Public Utilities Commission for a determination of need. The statutory authority to adopt the rules is *Minnesota Statutes*, section 116D.04, subds. 4a and 5a. These amendments will replace existing rules parts 4410.7000 to 4410.7500, which are proposed to be repealed. In addition, the EQB intends to make three minor technical amendments in the power plant siting rules in *Minnesota Rules* chapter 4400 to correct some grammatical errors and to cite the new rule numbers.

The proposed amendments require the Environmental Quality Board to prepare an Environmental Report on every proposed large energy facility at the time the project proposer applies to the Minnesota Public Utilities Commission for a certificate of need or other need certification. Large energy facilities are generally power plants with a capacity of 50 megawatts or more and transmission lines in excess of 100 kilovolts.

The rules establish a procedure for the EQB to follow in determining what matters will be considered as part of the environmental review. The procedures require the EQB to hold a public meeting to answer questions about the project and to provide an opportunity for the public to comment about the alternatives and possible impacts to evaluate in the Environmental Report. The proposed rules require the EQB to complete the Environmental Report within four months of commencement of the process. Upon completion of the Report, the EQB will provide a copy to the PUC for its consideration in making a final decision on the need for the project. The proposed rules recognize that in the event the applicant for a certificate of need has also applied to the EQB for a permit for a specific site or route, the EQB could elect to combine environmental review into one process. The rules also provide that the applicant for the certificate of need must pay the reasonable fees incurred by the EQB in conducting environmental review.

Agency Contact Person. A copy of the proposed rules was published in Volume 27 of the *State Register*, Issue 47, Monday, May 19, 2003. A copy of the rules is available upon request from the agency contact person or available on the EQB web site at <http://www.eqb.state.mn.us/>.

The agency contact person is: Alan Mitchell at the Environmental Quality Board, 300 Centennial Building, 658 Cedar Street, St. Paul, MN 55155-0001, phone (651) 296-3714, fax (651) 296-3698, or email alan.mitchell@state.mn.us. TTY users may call the EQB at 1-800-627-3529.

Statement of Need and Reasonableness. A Statement of Need and Reasonableness is available for review at the agency offices 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 from the agency at the cost of reproduction. The Statement of Need and Reasonableness is also available on the EQB web site at <http://www.eqb.state.mn.us/>.

Other Notices. In addition to the statutory requirements to publish notice in the *State Register* and to mail notice to persons on the EQB rulemaking list, the EQB will also undertake other efforts to notify the public about the public hearing.

The EQB will publish notice in the *EQB Monitor* of the public hearing. Each issue of the *EQB Monitor* is distributed to a lengthy list of persons and published on the EQB webpage. Many groups and individuals in Minnesota and elsewhere who are active and interested in environmental matters in the state are aware of the *EQB Monitor* and read it regularly. In addition, the EQB will post a copy of the notice directly on the EQB webpage. The EQB has already posted on the website the proposed rules and the Statement of Need and Reasonableness.

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 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.

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 date, time, and location listed above.

Date

Robert A. Schroeder, Chair
Environmental Quality Board