

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE MINNESOTA DEPARTMENT OF NATURAL RESOURCES

In the Matter of the Proposed Exempt
Rules of the Department of Natural
Resources Relating to Display of Paddle
Board Licenses

**ORDER ON REVIEW OF
RESUBMITTED RULES UNDER
MINN. STAT. § 14.388, SUBD. 3 (2014)**

The Minnesota Department of Natural Resources (Department) sought review and approval of the above-entitled rules under Minn. Stat. § 14.388 and Minn. R. 1400.2400 (2013).

On October 28, 2014, the Office of Administrative Hearings received the documents required by Minn. Stat. § 14.388 and Minn. R. 1400.2400. The record closed on November 4, 2014, the close of the public comment period pursuant to Minn. Stat. § 14.388, subd. 2. By Order dated November 12, 2014, Administrative Law Judge LauraSue Schlatter determined that the proposed rules included a defect.

In a letter dated November 18, 2014, the Department requested the chief judge to review the Administrative Law Judge's determination that the proposed rules included a defect. Based upon the submissions and rulemaking record,

IT IS HEREBY ORDERED:

1. The agency has the statutory authority to adopt the rules.
2. The rules were adopted in compliance with all procedural requirements of Minnesota Statutes, chapter 14, and Minnesota Rules, chapter 1400 (2013).
3. Rule part 6110.0400 is **APPROVED**. All other parts of the rule were approved for legality under the terms of the November 12, 2014 Order.

Dated: November 24, 2014

s/Tammy L. Pust

TAMMY L. PUST
Chief Administrative Law Judge

MEMORANDUM

The Department requested the Chief Administrative Law Judge to review the Administrative Law Judge's disapproval of the following language which the Department proposed to add to Minn. R. 6110.0400:

If it is impossible to display the decals on the forward half of the paddle board so as to provide clear and legible identification, both decals must then be affixed to the stern of the paddle board.

The legislature limited the authority for this exempt rulemaking to language which would "exempt paddle boards from the requirement to display license certificates and license numbers, in the same manner as other nonmotorized watercraft such as canoes and kayaks."¹ In disapproving the decal display language the Administrative Law Judge expressed concern that the exempt rule language not treat paddle boards differently than other nonmotorized watercraft, specifically noting that there was no similar exception in the rule for sailboards.

In its request for Chief Administrative Law Judge review, the Department pointed out that Minn. R. 6110.0500 (2013) contains substantially the same exception for sailboards that the Department proposed for paddle boards in this exempt rulemaking proceeding:

All nonmotorized sailboats and sailboards shall display the decals These decals shall be securely affixed on each side of the forward half of the watercraft . . . in such a position as to provide clear and legible identification. If it is impossible to display such decals on the forward half of such watercraft so as to provide clear and legible identification both decals must then be affixed to the stern of such watercraft.²

Because the Minnesota rules already permit a parallel exception for sailboats and sailboards, the Chief Administrative Law Judge concurs with the Department that its proposed language regarding the placement of decals on paddle boards, to be placed at the end of Minn. R. 6100.0400, is within the authorized scope of this exempt rulemaking proceeding.

T. L. P.

¹ 2013 Minn. Laws Ch. 114, art. 4, § 104.

² Minn. R. 6110.0500 (2013).