OAH 8-9002-40830
Revisor R-4886

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of the Proposed Expedited Rules Relating to Electronic License System	**ORDER ON REVIEW OF RULES UNDER MINN. STAT. § 14.389 AND MINN. R. 1400.2410**

On May 15, 2025, the Minnesota Department of Natural Resources (Department) filed documents with the Office of Administrative Hearings (OAH) seeking review and approval of the above-entitled rules under Minn. Stat. § 14.389 (2024) and Minn. R. 1400.2410 (2023). Based upon a review of the written submissions by the Department and the contents of the rulemaking record,

IT IS HEREBY DETERMINED THAT:

1. Under Minn. Stat. §§ 84.027, subd. 13a(b), 97A.485, subd. 11 (2024), the Department has the statutory authority to adopt the proposed rules and to do so using the expedited rulemaking process.

2. With one exception, as detailed in the accompanying memorandum, the proposed rules were adopted in compliance with the procedural requirements of Minn. Stat., ch. 14 (2024), and Minn. R. ch. 1400 (2023).

3. The Department's failure to include a citation to the statutory authority to adopt the proposed rules (and to do so under the expedited process) was a procedural error. *See* Minn. R. 1400.2085, subp. 2(B) (2023); *see also* Minn. R. 1400.2570 (2023).

4. This failure was a harmless error as those terms are used in Minn. Stat. § 14.26, subd. 3(d)(1) (2024).

IT IS HEREBY ORDERED THAT:

The proposed rule parts are **APPROVED**.

Dated: May 28, 2025

ERIC L. LIPMAN
Administrative Law Judge

MEMORANDUM

As noted above, Minn. R. 1400.2085, subp. 2(B), requires agencies issuing a Notice of Intent to Adopt Expedited Rules to include "a citation to the statutory authority for the rule and the statutory authority for the rule to be adopted under the expedited process." There is no such citation in the Notice published by the Department in this matter. *See* 49 *State Register* 534 (Nov. 18, 2024).

A procedural defect can be considered a harmless error under Minn. Stat. § 14.26, subd. 3(d), if: "(1) the failure did not deprive any person or entity of an opportunity to participate meaningfully in the rulemaking process; or (2) the agency has taken corrective action to cure the error or defect so that the failure did not deprive any person or entity of an opportunity to participate meaningfully in the rulemaking process."

A review of the public comments received in response to the Notice make clear that the missing citation did not deprive any person or entity of an opportunity to participate meaningfully in the rulemaking process, as those terms are used in Minn. Stat. § 14.26, subd. 3(d)(1). The procedural defect was harmless error.

E. L. L.