

Minnesota Department of Health

Division of Environmental Health

DUAL NOTICE: Notice of Intent to Adopt Rules Without a Public Hearing Unless 25 or More Persons Request a Hearing, and Notice of Hearing if 25 or More Requests for Hearing Are Received; Revisor's ID Number: 4803; OAH Docket number: 22-9000-40331

Proposed Amendments to Rules Governing Health Risk Limits for Groundwater, *Minnesota Rules*, Chapter 4717, Part 7500 and Part 7860

Introduction.

The Minnesota Department of Health ("MDH") intends to adopt rules without a public hearing following the procedures set forth in the rules of the Office of Administrative Hearings, Minn. Rules, §§ 1400.2300 to 1400.2310, and the Administrative Procedure Act, Minn. Stat. §§ 14.22 to 14.28. If, however, 25 or more persons submit a written request for a hearing on the rules by 4:30 p.m. on Wednesday, December 4, 2024. MDH will hold a public hearing virtually via WebEx. An Administrative Law Judge will conduct the hearing starting at 9:30 a.m. on Tuesday, February 18, 2025, until everyone who wants to comment has had the chance to do so, if possible, but no later than 4:30 p.m. To find out whether MDH will adopt the rules without a hearing or if it will hold the hearing, contact the agency contact person after Wednesday, December 4, 2024, and before Tuesday, February 18, 2025.

You can register to join with video and audio through an internet connection with a computer or mobile device. You also may participate by telephone as follows:

Call: 1-855-282-6330 (US Toll Free)

Meeting link:

<https://minnesota.webex.com/minnesota/j.php?MTID=md01cb56d03e1f8f81558d5881acc336a>

Access code: 2498 705 8342

All of the information about how to attend the hearing by WebEx or telephone will also be posted on MDH's website: Health Risk Limits Rules for Groundwater Amendments: Overview and Links (<https://www.health.state.mn.us/hrlrules.html>).

Agency Contact Person.

Submit any comments or questions on the rules or written requests for a public hearing to the agency contact person. The agency contact person is:

Nancy Rice
Minnesota Department of Health
625 Robert Street North
P.O. Box 64975
St. Paul, MN 55164-0975

Phone: (651) 201-4923
Fax: (651) 201-4606
Email: nancy.rice@state.mn.us

You may also review the proposed rule and submit written comments via the Office of Administrative Hearings Rulemaking eComments website <https://minnesotaoah.granicusideas.com/discussions>.

Subject of Rules and Statutory Authority.

The Groundwater Protection Act of 1989 (Minn. Stat. § 103H.201), authorizes MDH to review, revise, and adopt thresholds for certain substances degrading groundwater in Minnesota. The proposed rule revision is about water guidance values called Health Risk Limits (“HRLs”) for contaminants in groundwater used for drinking water, as found in Minnesota Rules, Chapter 4717, parts 7500 and 7860. HRLs provide a concentration of a groundwater contaminant, or a mixture of contaminants, that is likely to pose little or no health risk to humans, including vulnerable populations. The current rulemaking is required under Laws of Minnesota 2023, Chapter 60, Article 3, Section 34, where MDH must adopt an updated HRL value of no greater than 0.015 ppm for [Perfluorooctane Sulfonate] PFOS by July 1, 2026.

The proposed amendments to the Health Risk Limit Rules for Groundwater will add or replace HRL values developed by MDH between 2022 and mid-2023, including a value for PFOS. The amendments will add (to Minn. R. ¶ 4717.7860) updated health-based guidance values for four chemicals that have been in Health Risk Limit Rules for Groundwater previously. The outdated HRL values (adopted in 1993, 1994, 2009, or 2018) for these four chemicals will be repealed (in part 4717.7500 or part 4717.7860) and replaced (in part 4717.7860) by new HRL values. In addition, previously adopted HRL values for two chemicals (anthracene, adopted in 1993; and dichlorodifluoromethane, adopted in 2011) will be repealed and not replaced. For these two contaminants, new Risk Assessment Advice has already been posted on MDH’s Human Health-Based Water Guidance Table, which is available at www.health.state.mn.us/communities/environment/risk/guidance/gw/table.html.

Additional information about the Health Risk Limits Rules for Groundwater Amendments is available at: <https://www.health.state.mn.us/hrlrules.html>. You may request a free copy of the proposed rule amendments from the contact person listed above. You may also review the proposed rule and submit written comments via the Office of Administrative Hearings’ Rulemaking e-comments website at minnesotaoah.granicusideas.com/discussions.

Comments.

You have until 4:30 p.m. on Wednesday, December 4, 2024, to submit written comment in support of or in opposition to the proposed rules or any part or subpart of the rules. Your comment must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comments should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed. You are encouraged to propose any change that you desire. Any comments that you have about the legality of the proposed rules must also be made during this comment period.

Request for a Hearing.

In addition to submitting comments, you may also request that MDH hold a hearing on the rules. You must make your request for a public hearing in writing, which the agency contact person must receive by 4:30 p.m. on Wednesday, December 4, 2024. You must include your name and address in your written request. In addition, you must identify the portion of the proposed rules that you object to or state that you oppose the entire set of rules. Any request that does not comply with these requirements is not valid and the agency cannot count it when determining whether it must hold a public hearing. You are also encouraged to state the reason for the request and any changes you want made to the proposed rules.

Withdrawal of Requests.

If 25 or more persons submit a valid written request for a hearing, MDH will hold a public hearing unless a sufficient number of persons withdraw their requests in writing. If enough requests for hearing are withdrawn to reduce the number below 25, the agency must give written notice of this to all persons who requested a hearing, explain the actions the agency took to effect the withdrawal, and ask for written comments on this action. If a public hearing is required, the agency will follow the procedures in *Minnesota Statutes*, sections 14.131 to 14.20.

Alternative Format/Accommodation.

Upon request, this information can be made available in an alternative format, such as large print, braille, or audio. 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.

MDH might modify the proposed rules, either as a result of public comment or as a result of the rule hearing process. It must support modifications by data and views submitted to the agency or presented at the hearing. The adopted rules may not be substantially different than these proposed rules unless MDH follows the procedure under *Minnesota Rules*, part 1400.2110. If the proposed rules affect you in any way, MDH encourages you to participate in the rulemaking process.

Cancellation of Hearing.

MDH will cancel the hearing scheduled for February 18, 2025, if the agency does not receive requests for a hearing from 25 or more persons. If you requested a public hearing, the agency will notify you before the scheduled hearing whether the hearing will be held. You may also call the agency contact person at 651-201-4923 after Wednesday, December 4, 2024, to find out whether the hearing will be held or visit the MDH Health Risk Limits Rules for Groundwater Amendments website at <https://www.health.state.mn.us/hrlrules.html>.

Notice of Hearing.

If 25 or more persons submit valid written requests for a public hearing on the rules, MDH will hold a hearing following the procedures in *Minnesota Statutes*, sections 14.131 to 14.20. MDH will hold the hearing on the date and at the time and place listed above. The hearing will continue until all interested persons have been heard. Administrative Law Judge Christa Moseng is assigned to conduct the hearing. Judge Moseng's Legal Assistant William Moore can be reached at the Office of Administrative Hearings, 600 North Robert Street, P.O. Box 64620,

Saint Paul, Minnesota 55164-0620, telephone 651-361-7900 and fax 651-539-0310 or William.t.moore@state.mn.us

Hearing Procedure.

If MDH holds a hearing, you and all interested or affected persons, including representatives of associations or 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 hearing record closes. 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. At the hearing the Administrative Law Judge may order that this five-day comment period is extended for a longer period but not more than 20 calendar days. Following the comment period, there is a five-working-day rebuttal period when the agency and any interested person may respond in writing to any new information submitted. No one may submit new evidence during the five-day rebuttal period.

All post-hearing comments and responses must be submitted to the Administrative Law Judge no later than 4:30 p.m. on the due date. The Office of Administrative Hearings strongly encourages all persons submitting comments and responses to do so using their Rulemaking eComments website minnesotaoah.granicusideas.com/discussions. If you are unable to use the eComments website, you may submit post-hearing comments in person, via United States mail, or by facsimile addressed to Judge Moseng at the address or facsimile number listed in the Notice of Hearing section above.

All comments or responses received will be available for review at the Minnesota Department of Health website at <https://www.health.state.mn.us/hrlrules.html>. This rule hearing procedure is governed by Minnesota Rules, parts 1400.2000 to 1400.2240, and Minnesota Statutes, sections 14.131 to 14.20. You may direct questions about the procedure to the Administrative Law Judge.

Statement of Need and Reasonableness.

The statement of need and reasonableness summarizes 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. It is now available from the agency contact person. You may review or obtain copies for the cost of reproduction by contacting the agency contact person. A copy of this document can also be found at www.health.state.mn.us/communities/environment/risk/rules/water/hrlsonar.html

Lobbyist Registration.

Minnesota Statutes, chapter 10A, requires each lobbyist to register with the State Campaign Finance and Public Disclosure Board. Ask any questions about this requirement of the Campaign Finance and Public Disclosure Board at: Suite #190, Centennial Building, 658 Cedar Street, St. Paul, Minnesota 55155, telephone (651) 539-1180 or 1-800-657-3889.

Adoption Procedure if No Hearing.

If no hearing is required, the agency may adopt the rules after the end of the comment period. MDH will submit the rules and supporting documents to the Office of Administrative Hearings for a legal review. You may ask to be notified of the date the rules are submitted to the office. If

you want to receive notice of this, to receive a copy of the adopted rules, or to register with the agency to receive notice of future rule proceedings, submit your request to the agency contact person listed above.

Adoption Procedure after a Hearing.

If a hearing is held, after the close of the hearing record, the Administrative Law Judge will issue a report on the proposed rules. You may request to be notified of the date that the Administrative Law Judge's report will become available at the hearing or in writing directly to the Administrative Law Judge. You may also ask to be notified of the date that the agency adopts the rules and the rules are filed with the Secretary of State at the hearing or by writing to the agency contact person stated above.

Order.

I order that the rulemaking hearing be held at the date, time, and location listed above.

10/28/2024

/s/ Wendy Underwood

Date

Wendy Underwood
Deputy Commissioner
Minnesota Department of Health