

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 1053

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 8-1
DATE FOR REVIEW 8-10
DATE DUE 8-15

Adopted w/a hearing _____
Adopted w/o hearing X
Temporary rule _____

Approved 8/10/84 Disapproved _____ Returned to Agency _____

Resubmitted _____ Due _____
Approved _____ Disapproved _____ Returned to Agency _____

Date filed w/Secretary of State 8-17-84 Revisor approved 8/2/84 disapproved _____

✓ Rule as Adopted

✓ Rule as Proposed

✓ Order Adopting 7.26.84 Date

N/A Notice of Intent to Solicit Outside Opinion

✓ Order for rulemaking
N/A. date of Hearing

N/A Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
? Sufficiency as mailed, does not fully comply with Laws 84, Ch. 640

✓ Affidavit of Mailing Notice or rulemaking
6.5.84 At least 30 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

✓ Publication in State Register but does not fully comply with Laws 84 ch. 640
5.21.84 At least 30/~~20~~ days prior to ~~hearing~~/adoption

N/A Hearing Examiner's Report

Chief Hearing Examiner's Report(s)
_____ Approving H.E.'s Report
_____ Approving agency action

Agree, but the rule has no effect since it merely removes the duplicative existing statutory requirement. CDS

Agency's Findings of Fact

LCRAR Report or agency Affidavit

Certificate of Board's Resolution Adopting Rules

Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness

N/A Petition for Adoption of a Rule

✓ Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

✓ Certificate of Compliance w/Rulemaking Procedures

N/A Affidavit of Mailing Notice of Submission to Attorney General

✓ Notice of Submission to the Attorney General

SF-00006-02

DEPARTMENT ATTORNEY GENERAL

STATE OF MINNESOTA

Office Memorandum

TO : JOSEPH N. ALEXANDER, Commissioner
Department of Natural Resources

DATE: 8/17/84

Attn: A.W. CLAPP III, Special Ass't. Atty. General

FROM : LARRY D. STARNS LDS
Special Assistant
Attorney General

PHONE: 297-3493

SUBJECT: In the Matter of the Adoption of an Amendment to the Rules for State Recreational Trails

Enclosed herewith are the rules you have submitted for approval. These rules have been approved by this office and filed with the Secretary of State. Please note that they have not been filed with the State Register. This must be done promptly by your agency.

Upon receipt and before transmittal to your agency, however, it is important that you recheck these rules as to:

1. Affixation of stamps of the Attorney General and Secretary of State;

2. Coverage by these stamps of all rules submitted; and

3. Inclusion of all pages to the rules in the approved set.

If you have any questions in this regard, please contact me.

Encs.

cc: Ms. Kathy Burek
Mr. Duane Harves

LDS:cw

AG copy;

Department of Natural Resources

Adopted Rules Governing State Recreational Trails

Rule as Adopted

6100.3100 STATUTORY AUTHORITY AND SCOPE.

These parts are adopted under the authority of Minnesota Statutes, sections 84.03 and 84.86, and apply to authorized state trail units as described in the Outdoor Recreation Act of 1975, Minnesota Statutes, chapter 86A, when designated by the commissioner of natural resources by order filed with the secretary of state.

These parts shall not apply to any person lawfully engaged in the performance of his duties in the development, maintenance, and operation of such trails, including but not limited to the commissioner of natural resources, his agents, employees, those persons operating under contract with the Department of Natural Resources, and law enforcement officers.

RECEIVED
MAY 25 1984
TRAILS & WATERWAYS UNIT

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
AUG 17 1984
Joan Anderson Growe
Secretary of State
1:40 PM

APPROVED AS TO LEGALITY
August 15, 1984
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY
SPECIAL ASSISTANT ATTORNEY GENERAL

Exhibit A

(b) JURISDICTION AND SCOPE

These rules ~~and regulations~~ are promulgated under the authority of Minnesota Statutes, Section 84.03, and Minnesota Statutes, Section 84.86~~,~~. ~~and apply to state recreational trails, which are (aa) these trails established by the Legislature in Minnesota Statutes, Section 85.015.~~ These rules apply to authorized state trail units as described in the Outdoor Recreation Act, ~~when~~ Minnesota Statutes Chapter 86A, when designated by the Commissioner of Natural Resources by order filed with the Secretary of State~~;~~. ~~and (bb) these other trails designated by the Commissioner by order filed with the Secretary of State after a public hearing conducted pursuant to Minnesota Statutes, Chapter 15, in a county through which the proposed trail passes.~~ These rules ~~and regulations~~ shall not apply to any person lawfully engaged in the performance of his duties in the development, maintenance and operation of such trails, including but not limited to, the Commissioner of Natural Resources, his agents, employees, those persons operating under contract with the Department of Natural Resources and law enforcement officers.

STATE OF MINNESOTA

DEPARTMENT OF NATURAL RESOURCES

In the Matter of the Adoption
of an Amendment to the Rules
for State Recreational Trails.

ORDER ADOPTING
RULE AMENDMENT

Notice of the commissioner's intent to adopt the above-entitled rule amendment was published in the State Register on Monday, May 21, 1984 and was mailed to all persons on the list maintained by the agency pursuant to Minn. Stat. § 14.14, subd. 1a on June 5, 1984.

No comments or requests for hearing have been received. I find the amendment needed and reasonable as proposed.

NOW THEREFORE IT IS ORDERED that the proposed amendment to Minn. Rule Part 6100.3100 as published in the State Register on May 21, 1984, is adopted, pursuant to the authority vested in me by Minn. Stat. § 84.03.

Dated: July 24, 1984.

JOSEPH N. ALEXANDER, Commissioner

STATE OF MINNESOTA

DEPARTMENT OF NATURAL RESOURCES

In the Matter of the
Proposed Adoption of an
Amendment to the Rules for
State Recreational Trails
Minnesota Rule NR 20
(6 MCAR § 1.NR 20)

ORDER FOR NOTICE OF INTENT
TO ADOPT RULES WITHOUT
PUBLIC HEARING

WHEREAS, it has been determined that the proposed amendment is non-controversial in nature;

NOW THEREFORE, IT IS ORDERED that notice of intent to adopt rules without public hearing, be published in the State Register and mailed to all persons who have registered their names with the Department to receive notice of rulemaking.

Dated: March 29, 1984.

JOSEPH N. ALEXANDER, Commissioner
Department of Natural Resources

DEPARTMENT OF NATURAL RESOURCES

Proposed Amendment to Rules Governing State Recreational Trails.

Notice of Intent to Adopt Rule Amendment Without a Hearing.

Notice is hereby given that the State Department of Natural Resources is proposing to adopt the above entitled amendments without a public hearing. The Commissioner of Natural Resources has determined that the proposed adoption of these amendments will be noncontroversial in nature and has elected to follow procedures set forth in Minn. Stat. §§ 14.21-14.28.

The change will remove a duplicative requirement for a public hearing. Minnesota Rule NR 20 requires a public hearing prior to designation for trails other than those established by the legislature. The Outdoor Recreation Act (Minn. Stat. Chapter 86A), passed after adoption of NR 20, specifies that a trail can not be developed until a master plan has been developed, and that the master plan process must include a public hearing (Minn. Stat. 86A.09, Subd. 2). Minnesota Statute 86A.07, subdivision 3, which applies to the designation of state trails other than those designated by the legislature, does not prescribe a public hearing prior to designation. In short, Minn. Stat., Chapter 86A requires public hearings for all trails, and the requirement in NR 20 is duplicative.

Persons interested shall have 30 days to submit comments on the proposed amendments. The proposed amendments may be modified prior to final adoption of modifications are supported by the data and views submitted to the Department of Natural Resources and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on the proposed amendments within the 30-day comment period, a public hearing will not be held. Identification of the particular objection, the suggested

modifications, and the reasons or data relied upon to support the suggested modifications are desired. In the event a public hearing is required, the Department will proceed according to the provisions of Minn. Stat. §§ 14.13-14.20.

Persons who wish to submit comments or a written request for a public hearing, or persons who wish to receive a copy of this notice and/or a copy of the proposed amendment, should address their correspondence to:

Gordon Kimball, Trails Project Coordinator
Trails Operations Section
Trails & Waterways Unit
Department of Natural Resources
Box 52 - Centennial Building
Saint Paul, MN 55155-1679

The Department's authority to adopt the rules is contained in Minn. Stat. § 84.86. A statement that describes the need for the reasonableness of the proposed amendment is available from the Department of Natural Resources upon request.

Upon adoption of the final amendment without a public hearing, the proposed amendment, this notice, the statement of need and reasonableness, all written comments received, and the final amendment as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final amendment as proposed for adoption, should submit a written request to the above address.

Please be advised that Minn. Stat. Chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he or she commences lobbying. Minn. Stat. § 10A.01, subdivision 11 defines a lobbyist an any individual: a) engaged for pay or other consideration, or authorized by another individual or association to spend money, who spend more

than five hours (5) in any month or more than $250.00, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or b) who spends more than $250.00, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative administrative action by communicating or urging others to communicate with public officials. The statutes provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, Saint Paul, Minnesota 55155-1679, telephone (612)/296-5615.

Dated: March 29, 1984.

JOSEPH N. ALEXANDER, Commissioner
Department of Natural Resources

AFFADAVIT OF MAILING

I certify that on the date specified by my signature that a mailing of sixty-nine letters with attachments, properly addressed for United States Postal Service and State of Minnesota Interoffice Delivery, was received by me for handling and delivery.

Signed: Richard 6-5-84

Date: _____

I certify that the above referenced mailing was to the names shown on the current list of persons, associations, and other interested groups provided by F. Andrew Brewer on June 1, 1984, and that this list is for the purpose of receiving notice of rulemaking.

Signed: Gordon Kimball

Date: 6/5/84

Signed this day before me:

Patricia D. Kandakai
Notary Public

Patricia D. Kandakai
NOTARY PUBLIC — MINNESOTA
HENNEPIN COUNTY
My commission expires August 8, 1990

STATE OF MINNESOTA

DEPARTMENT OF NATURAL RESOURCES

In the Matter of the Proposed
Amendment to Rules for
State Recreational Trails

CERTIFICATE

I certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minn. Stat. § 14.14, subdivision 1, that their names be placed on file with and maintained by this agency for the purpose of receiving notice of rulemaking, is accurate and complete as of June 1, 1984.

Dated: June 1, 1984.

F. Andrew Brewer

F. ANDREW BREWER, Director
Division of Regulations and Legislative Services

Subp. 3. Mediation period. The 60-day or 45-day mediation period provided under part 5510.2910 commences on the day following certification of a new or different exclusive representative or resolution or a question of representation by the director.

5510.3210 CONTRACT TRANSMITTAL.

Upon the execution of a written labor contract or memorandum of contract, the employer shall submit one copy of the contract to the bureau.

REPEALER. Minnesota Rules, parts 5500.2900, 5500.3000, 5500.3100, 5500.3200, 5500.3300, 5500.3400, 5500.3500, 5500.3600, 5500.3700, 5500.3800, 5500.3900, 5510.0100, 5510.0200, 5510.0300, 5510.0400, 5510.0500, 5510.0600, 5510.0700, 5510.0800, 5510.0900, 5510.1000, 5510.1100, 5510.1200, 5510.1300, 5510.1400, 5510.1500, 5510.1600, 5510.1700, 5510.1800, 5510.1900, 5510.2000, 5510.2100, 5510.2200, 5510.2300, 5510.2400, 5510.2500, 5510.2600, 5510.2700, 5510.2800, 5510.2900, 5510.3000, 5510.3100, 5510.3200, 5510.3300, 5510.3400, 5510.3500, 5510.3600, 5510.3700, 5510.3800, 5510.3900, 5510.4000, 5510.4100, 5510.4200, 5510.4300, 5510.4400, 5510.4500 are repealed.

Department of Natural Resources

(494)

Proposed Rules Governing State Recreational Trails

Notice of Intent to Adopt Rule Amendment without a Hearing

Notice is hereby given that the State Department of Natural Resources is proposing to adopt the above entitled amendments without a public hearing. The Commissioner of Natural Resources has determined that the proposed adoption of these amendments will be noncontroversial in nature and has elected to follow procedures as set forth in Minn. Stat. §§ 14.21-14.28.

The change will remove a duplicative requirement for a public hearing. Minnesota Rule NR 20 requires a public hearing prior to designation for trails other than those established by the legislature. The Outdoor Recreation Act (Minn. Stat. Chapter 86A), passed after adoption of NR 20, specifies that a trail can not be developed until a master plan has been developed, and that the master plan process must include a public hearing (Minn. Stat. 86A.09, Subd. 2). Minnesota Statute 86A.07, subdivision 3, which applies to the designation of state trails other than those designated by the legislature, does not prescribe a public hearing prior to designation. In short, Minn. Stat., Chapter 86A requires public hearings for all trails, and the requirement in NR 20 is duplicative.

Persons interested shall have 30 days to submit comments on the proposed amendments. The proposed amendments may be modified prior to final adoption of modifications are supported by the data and views submitted to the Department of Natural Resources and do not result in a substantial change in the proposed language.

Unless 25 or more persons submit written requests for a public hearing on the proposed amendments within the 30-day comment period, a public hearing will not be held. Identification of the particular objection, the suggested modifications, and the reasons or data relied upon to support the suggested modifications are desired. In the event a public hearing is required, the Department will proceed according to the provisions of Minn. Stat. §§ 14.13-14.20.

Persons who wish to submit comments or a written request for a public hearing, or persons who wish to receive a copy of this notice and/or a copy of the proposed amendment, should address their correspondence to:

Gordon Kimball, Trails Project Coordinator
Trails Operations Section
Trails & Waterways Unit
Department of Natural Resources
Box 52—Centennial Building
Saint Paul, MN 55155-1679

The Department's authority to adopt the rules is contained in Minn. Stat. § 84.86. A statement that describes the need for the reasonableness of the proposed amendment is available from the Department of Natural Resources upon request.

Upon adoption of the final amendment without a public hearing, the proposed amendment, this notice, the statement of need and reasonableness, all written comments received, and the final amendment as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final amendment as proposed for adoption, should submit a written request to the above address.

Please be advised that Minn. Stat. Chapter 10A requires each lobbyist to register with the State Ethical Practices Board

within five (5) days after he or she commences lobbying. Minn. Stat. § 10A.01, subdivision 11 defines a lobbyist as any individual: a) engaged for pay or other consideration, or authorized by another individual or association to spend money, who spend more than five hours (5) in any month or more than $250.00, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or b) who spends more than $250.00, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative administrative action by communicating or urging others to communicate with public officials. The statutes provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, Saint Paul, Minnesota 55155-1679, telephone (612)/296-5615.

March 29, 1984.

RECEIVED
AUG 01 1984
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

Joseph N. Alexander, Commissioner
Department of Natural Resources

Rule as Proposed

6100.3100 STATUTORY AUTHORITY AND SCOPE.

These parts are ~~promulgated~~ adopted under the authority of Minnesota Statutes, sections 84.03 and 84.86, and apply to ~~state recreational trails, which are:~~

~~A. those trails established by the legislature in Minnesota Statutes, section 85.015~~ authorized state trail units as described in the Outdoor Recreation Act of 1975, Minnesota Statutes, chapter 86A, when designated by the commissioner of natural resources by order filed with the secretary of state; ~~and~~

~~B. those other trails designated by the commissioner by order filed with the secretary of state after a public hearing conducted pursuant to Minnesota Statutes, chapter 14, in a county through which the proposed trail passes.~~

These ~~rules~~ parts shall not apply to any person lawfully engaged in the performance of his duties in the development, maintenance, and operation of such trails, including but not limited to the commissioner of natural resources, his agents, employees, those persons operating under contract with the Department of Natural Resources, and law enforcement officers.

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Department of Public Safety
Driver and Vehicle Services Division

Proposed Rules Relating to Drivers License and Motor Vehicle Registration Records

Notice of Intent to Adopt Rules without a Hearing

Notice is hereby given that the State Department of Public Safety is proposing to adopt the above entitled rules without a public hearing. The Commissioner of Public Safety has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow procedures set forth in Minn. Stat. Sections 14.21 through 14.28.

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified prior to final adoption if modifications are supported by the data and views submitted to the Department of Public Safety and do not result in a substantial change in the proposed language.

Unless 25 or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. The written request must be specific on which rule(s) a hearing is desired. Identification of the particular objection, the suggested modifications, and the reasons or data relied upon to support the suggested modifications are desired. In the event a public hearing is required, the department will proceed according to the provisions of Minn. Stat. Sections 14.13 through 14.20.

Persons who wish to submit comments or a written request for a public hearing, or persons who wish to receive a free copy of this notice and/or a free copy of the proposed rules, should address their correspondence to the address below and include the name of the rulemaking:

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

STATE OF MINNESOTA

DEPARTMENT OF NATURAL RESOURCES

In the Matter of Amending the State Trail Rule to Conform to the Statutory Designation and Hearing Process.

STATEMENT OF NEED AND REASONABLENESS.

Minnesota Rule NR 20 (6 MCAR § 1.NR 20) governs public behavior on state trails. Paragraph (b) of the rule says the rule applies to a trail upon "designation" of the trail by commissioner's order filed with the secretary of state. The rule specifies that for trails other than those established by the legislature, a public hearing must precede designation,

The trail rule was drafted before the Outdoor Recreation Act (Minn. Stat. Chapter 86A) was passed. The Act specifies that a trail cannot be developed until a master plan has been developed, and that the master plan process must include a public hearing. Minn. Stat. § 86A.09, subdivision 2.

Since the statute requires a hearing, the hearing requirement in the rule is duplicative.

Also, Minn. Stat. § 86A.07, subdivision 3, which applies to the designation of state trails other than those designated by the legislature, does not prescribe a public hearing prior to designation.

Landowners adjoining state trails will benefit from removing the hearing requirement in NR 20(b), because designation will be possible more promptly after a trail right-of-way is acquired (a master plan hearing may not happen for several years after trail land is bought). Designation brings NR 20 into effect on the trail, enabling the Department to control public behavior on the trail prior to trail development.

Both legally and practically therefore, it is needed and reasonable to strike the pre-designation hearing requirement from the rule.

Dated: January 19, 1984.

DONALD M. CARLSON,
Special Assistant to Commissioner

STATE OF MINNESOTA

DEPARTMENT OF NATURAL RESOURCES

In the Matter of the Adoption of an Amendment to the Rules to the Rules for State Recreational Trails.

STATEMENT OF COMPLIANCE WITH RULEMAKING PROCEDURES

I am familiar with the subject rules, and have examined their related documents. Based on that and my knowledge of the applicable procedures, I can say that the rule-making process required by law and rule has been followed.

Dated: July 30, 1984.

A. W. Clapp III

A. W. CLAPP III
Special Assistant
Attorney General

375 Centennial Office Building
658 Cedar Street
St. Paul, Minnesota 55155
Telephone: (612) 296-3294

Counsel for the Minnesota
Department of Natural Resources