

May 28, 2025

VIA E-FILING ONLY

Elizabeth P. Carlson
Department of Natural Resources
500 Lafayette Rd Box 10
Saint Paul, MN 55155
Beth.Carlson@state.mn.us

**Re: *In the Matter of the Proposed Expedited Rules Relating to
Electronic License System R-4886
OAH 8-9002-40830; Revisor R-4886***

Dear Elizabeth P. Carlson:

Enclosed herewith and served upon you please find the **ORDER ON REVIEW OF RULES UNDER MINN. STAT. § 14.389 AND MINN. R. 1400.2410**. With the approval of these expedited rules, the Office of Administrative Hearings has closed this file and is returning the rule record to the Department so that the Department can maintain the official rulemaking record in this matter as required by Minn. Stat. § 14.365.

Please ensure that the Department's signed order adopting the rules is filed with our office. The Office of Administrative Hearings will request the finalized rules from the Revisor's office following receipt of that order. The Office of Administrative Hearings will then file the adopted rules with the Secretary of State, who will forward one copy to the Revisor of Statutes and one copy to the Minnesota Department of Natural Resources. **Pursuant to Minn. Stat. § 14.389, subd. 3 and Minn. R. 1400.2410, subp. 5, the Department is responsible for filing a copy of the expedited rules with the Governor.**

The Department's next step is to arrange for publication of the Notice of Adoption in the State Register. The Department should request copies of the Notice of Adoption from the Revisor's Office. One copy should be placed in the official rulemaking record. Two copies of the Notice of Adoption should be sent to the State Register for publication. Please note that if the final expedited rule is different from the rule originally published, an agency must publish a copy of the changes in the State Register. An expedited rule becomes effective upon publication of the Notice of Adoption in the State Register in accordance with Minn. Stat. § 14.389, subd. 3.

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If you have any questions regarding this matter, please contact William Moore at (651) 361-7893, william.t.moore@state.mn.us or via facsimile at (651) 539-0310.

Sincerely,

A handwritten signature in black ink that reads "Nichole Sletten". The signature is written in a cursive, flowing style.

NICHOLE SLETTEN
Legal Assistant

Enclosure

cc: Legislative Coordinating Commission
Office of the Revisor of Statutes

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.