

August 1, 2023

**VIA EFILING ONLY**

Josh Skaar  
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Minnesota Department of Health  
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**Re: *In the Matter of the Proposed Amendments to Rules Governing Health Risk Limits for Groundwater, Minn R. 4717*  
OAH 5-9000-38941; Revisor R-4587**

Dear Mr. Skaar:

Enclosed herewith and served upon you please find the **ORDER ON REVIEW OF RESUBMITTED RULES UNDER MINN. STAT. § 14.16, SUBDS. 1, 2 AND MINN. R. 1400.2240, SUBP. 4** in the above-entitled matter. On July 25, 2023, the Office of Administrative Hearings received for review the submissions of the Minnesota Department of Health as modified pursuant to the July 10, 2023, Report of Administrative Law Judge Jim Mortenson. The rules, Revisor's Draft R-4587, are approved as to legality. The Office of Administrative Hearings has closed this file and is returning the rule record so that the Agency can maintain the official rulemaking record in this matter as required by Minn. Stat. § 14.365. If the Minnesota Department of Health has not already done so, please ensure that a signed order adopting the rules is filed with the Office of Administrative Hearings. The Office of Administrative Hearings will request copies of the finalized rules from the Revisor's office following receipt of that order. The Office of Administrative Hearings will file the adopted rules with the Secretary of State, who will forward one copy to the Revisor of Statutes, one copy to the Governor, and one to the Agency for its rulemaking record.

The Agency's next step is to arrange for publication of the Notice of Adoption in the State Register. Two copies of the Notice of Adoption provided by the Revisor's office should be submitted to the *State Register* for publication. A permanent rule without a hearing does not become effective until five working days after Notice of Adoption is published in the State Register in accordance with Minn. Stat. § 14.27.

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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](mailto:william.t.moore@state.mn.us) or via facsimile at (651) 539-0310.

Sincerely,

A handwritten signature in black ink that reads "Nichole Helmueller". The signature is fluid and cursive, with a long horizontal flourish at the end.

NICHOLE HELMUELLER  
Legal Assistant

Enclosure

cc: Legislative Coordinating Commission  
Ryan Inman  
Representative Ginny Klevorn  
Senator Erin P. Murphy

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of the Proposed Rules of  
the Department of Health Governing  
Health Risk Limits for Groundwater,  
Minn. R. 4717.7860, .7500, and .7850

**ORDER ON REVIEW OF  
RESUBMITTED RULES UNDER  
MINN. STAT. § 14.16, SUBDS. 1, 2  
AND MINN. R. 1400.2240, SUBP. 4**

This matter came on for review by the Chief Administrative Law Judge pursuant to Minn. Stat. § 14.16, subds. 1, 2 (2022) and Minn. R. 1400.2240, subp. 4 (2023).

The proposed rules concern the Minnesota Department of Health's (Department) amended Health Risk Limits (HRLs) for contaminants in groundwater. Following public rulemaking hearings held on April 5 and 6, 2023, Administrative Law Judge Jim Mortenson disapproved the proposed rules in a Report dated July 10, 2023.<sup>1</sup>

The Chief Administrative Law Judge concurred with the disapproval of the proposed rules based on the Department's failure to make the required determination under Minn. Stat. § 14.127 (2022) concerning potential compliance costs for small businesses and cities.<sup>2</sup> The Chief Administrative Law Judge disagreed with the disapproval of the proposed rules based on the Department's cost analyses under Minn. Stat. § 14.131(2), (5), (6) (2022).<sup>3</sup>

By Order dated July 20, 2023, the Chief Administrative Law Judge directed the Department to cure the procedural defect by supplementing its Statement of Need and Reasonableness (SONAR) and Order Adopting Rule to explicitly make the determination required under section 14.127.<sup>4</sup>

On July 25, 2023, the Department resubmitted the proposed rules with the supplemented record and requested the Chief Administrative Law Judge review and approve the proposed rules pursuant to Minn. R. 1400.2240, subp. 4.<sup>5</sup> The Chief Administrative Law Judge finds that the procedural defect identified in her prior Order dated July 20, 2023, has been corrected.

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<sup>1</sup> Report of the Administrative Law Judge (July 10, 2023).

<sup>2</sup> Order of the Chief Administrative Law Judge on Review of Rules (July 20, 2023).

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> See Department's Resubmission (July 25, 2023).

Therefore, based upon a review of the Department's submissions filed on July 25, 2023, and the rulemaking record,

**IT IS HEREBY ORDERED THAT:**

The proposed rules, as approved by the Revisor on November 1, 2022, are **APPROVED** as to legality.

Dated: August 1, 2023

A handwritten signature in black ink, consisting of a large, stylized 'S' followed by a horizontal line extending to the right.

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JENNY STARR  
Chief Administrative Law Judge