

Minnesota State Board of Accountancy

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

Proposed Amendment to Permanent Rules Governing Licensing and Regulation of Accountants, Minnesota Rules Chapter 1105

Introduction. The Board of Accountancy intends to adopt rules without a public hearing following the procedures set forth in the rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2300 to 1400.2310, and the Administrative Procedure Act, *Minnesota Statutes*, sections 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 July 9, 2008, a public hearing will be held in the Golden Rule Conference Room #295, Golden Rule Building, 85 East Seventh Place, St. Paul, MN 55101, starting at 9:00 AM on Tuesday, July 22, 2008. To find out whether the rules will be adopted without a hearing or if the hearing will be held, you should contact the agency contact person after July 9, 2008 and before July 22, 2008.

Agency Contact Person. Comments or questions on the rules and written requests for a public hearing on the rules must be submitted to the agency contact person. The agency contact person is: Doreen Frost, Executive Director, Board of Accountancy, Suite 125, 85 E. Seventh Place, St. Paul, MN, 55101, Telephone: (651) 296-7938, TTY (800) 627-5353.

Subject of Rules and Statutory Authority. The proposed rules seek to amend the Board's permanent rules governing licensing and regulation of accountants. The statutory authority to adopt the rules is *Minnesota Statutes*, section 326A.02, as amended (2008 MN Laws, Chapter 195). A copy of the proposed rules is published in the *State Register* and attached to this notice as mailed. The Board's Statement of Need and Reasonableness and proposed rules are posted on the Board's website at www.boa.state.mn.us.

The proposed amendments to the permanent rules are being made to:

- Update the rules for changes made necessary by amendments to Minnesota Statutes, chapter 326A (2008 MN Laws, Ch. 195),
- Make changes in the rules to adopt changes made in the Uniform Accountancy Act Statute and Rules since the rules were last amended in 2005,
- Update the rules for changes in professional standards applicable to licensees, and
- Clarify the rules as a result of questions and comments received by the Board since the rules were last amended in 2005.

Persons affected, and who will bear the cost of the rules include:

- (a) Applicants for the CPA Examination,
- (b) Certified Public Accountants,
- (c) Licensees,
- (d) CPA Firms, and
- (e) Registered Accounting Practitioners and RAP Firms.

It is not anticipated that there will be significant costs to the Board or any other state agency as a result of the rules. The rules will not affect state revenues.

Comments. You have until 4:30 p.m. on July 9, 2008, 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. You must also make any comments about the legality of the proposed rules during this comment period.

Request for a Hearing. In addition to submitting comments, you may also request that the Department hold a hearing on the rules. You must make your request for a public hearing in writing and must be received by the agency contact person by 4:30 p.m. on July 9, 2008. 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, the Board 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, the Board can make this Notice available in an alternative format, such as large print, Braille, or cassette tape. 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. The Board may 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 the Board follows the procedure under *Minnesota Rules*, part 1400.2110. If the proposed rules affect you in any way, the Board encourages you to participate in the rulemaking process.

Cancellation of Hearing. The Board will cancel the hearing scheduled for July 22, 2008, if the Board does not receive requests for a hearing from 25 or more persons. If you requested a public hearing, the Board will notify you before the scheduled hearing whether the hearing will be held. You may also call the Board contact person at (651) 296-7938 after July 9, 2008 to find out whether the hearing will be held.

Notice of Hearing. If 25 or more persons submit valid written requests for a public hearing on the rules, the Board will hold a hearing following the procedures in *Minnesota Statutes*, sections 14.131 to 14.20. The Board 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 Barbara L. Neilson is assigned to conduct the hearing. Judge Neilson can be reached at the Office of Administrative Hearings, P.O. Box 64620, St. Paul, Minnesota 55164-0620, telephone 651-361-7845, and FAX 651-361-7936.

Hearing Procedure. If the Board 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 Board and any interested person may respond in writing to any new information submitted. No one may submit additional evidence during the five-day rebuttal period. The Office of Administrative Hearings must receive all comments and responses submitted to the Administrative Law Judge no later than 4:30 p.m. on the due date. All comments or responses received will be available for review at the Office of Administrative Hearings. 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.

The Board requests that any person submitting written views or data to the Administrative Law Judge before the hearing or during the comment or rebuttal period also submit a copy of the written views or data to the Board contact person at the address stated above.

Statement of Need and Reasonableness. The statement of need and reasonableness statement contains a summary of 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 Board contact person or on the Board's website. You may review or obtain copies at the cost of reproduction by contacting the Board contact person.

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 651-296-5148 or 1-800-657-3889.

Adoption Procedure if No Hearing. If no hearing is required, the Board may adopt the rules after the end of the comment period. The Board will submit the rules and supporting documents to the Office of Administrative Hearings for review for legality. You may ask to be notified of the date the rules are submitted to the office. If you want either 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 Board 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 ask to be notified of the date that the Administrative Law Judge's report will become available, and can make this request at the hearing or in writing 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 by requesting this 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.

May 21, 2008

Doreen Frost
Executive Director