

**Rule 114. Court of Appeals Review of Administrative Rules****114.01 How Obtained**

Review by the Court of Appeals of the validity of administrative rules pursuant to Minnesota Statutes, section 14.44, may be obtained by:

- (a) filing a petition for declaratory judgment with the clerk of the appellate courts;
- (b) paying the filing fee of \$550 to the clerk of the appellate courts, unless no fee is required pursuant to Rule 103.01, subdivision 3;
- (c) serving the petition upon the attorney general and the agency or body whose rule is to be reviewed; and
- (d) filing proof of service with the clerk of the appellate courts.

No cost bond need be filed unless required upon motion for good cause pursuant to Rule 107.

(Added effective January 1, 1999; amended effective July 1, 2003; amended effective July 1, 2009; amended effective July 1, 2014.)

***Advisory Committee Comment - 2014 Amendments***

*Rule 114.01 is amended to remove the requirement for filing a cost bond except if ordered by the agency. See Rule 107. ("Trial Court" in Rule 107 is defined in Rule 101.02, subdivision 4, to include an agency from which an appeal is taken.)*

**114.02 Contents of Petition for Declaratory Judgment**

The petition shall briefly describe the specific rule to be reviewed and the errors claimed by petitioner. The statement of the case pursuant to Rule 133.03 and a copy of the rule which is to be reviewed shall be filed with the petition. The title and form of the petition shall conform to that shown in the appendix to these rules.

(Added effective January 1, 1999; amended effective July 1, 2014.)

***Advisory Committee Comment - 2014 Amendments***

*Rule 114.02 is amended to eliminate the requirement that an additional copy of the statement of the case be filed.*

**114.03 Record on Review of Petition for Declaratory Judgment; Transmission of Record; Non-Public Material**

**Subdivision 1. Review of the Record.** Review of the validity of administrative rules shall be on the record made in the agency rulemaking process. To the extent possible, the description of the record contained in Rule 110.01 and the provisions of Rules 110.02, 110.05, 111, and 112 shall apply to declaratory judgment actions.

**Subd. 2. Transmission of Record.** Unless the time is extended by order of the court on a showing of good cause, the record shall be forwarded by the agency or body to the clerk of the appellate courts with an itemized list as described in Rule 111.01 within 30 days after service of the petition. A copy of the itemized list shall be served on all parties.

(Added effective January 1, 1999; amended effective January 1, 2010; amended effective April 1, 2025.)

***Advisory Committee Comment - 2025 Amendment***

*Rule 114.03, subd. 1, was amended in 2025 to include a cross reference to Rule 112.*

**114.04 Briefing**

Petitioner shall serve and file a brief and addendum within 30 days after transmission of the record by the agency or body, and briefing shall proceed in accordance with Rule 131.01.

(Added effective January 1, 1999; amended effective January 1, 2010; amended effective July 1, 2014.)

***Advisory Committee Comment - 2009 Amendments***

*Rule 114 is amended to alter the timing rules for briefing. The change is made to delay the first deadline for filing a brief to 30 days after the record is transmitted to the appellate courts and the itemized list is provided to all parties.*

**114.05 Participants**

Persons, other than the petitioner, agency, and attorney general, may participate in the declaratory judgment action only with leave of the Court of Appeals. Permission may be sought by filing a motion with the Court of Appeals pursuant to Rule 127 or 129 and serving that motion upon all other parties. The motion shall describe the nature of the movant's participation below, the interest which would be represented in the declaratory judgment action, and the manner in which the rule affects the rights or privileges of the moving party.

(Added effective January 1, 1999.)

***Advisory Committee Comment - 1998 Amendments***

*By statute the Court of Appeals is granted original jurisdiction to review by declaratory judgment the validity of administrative rules promulgated by a state agency. Minnesota Statutes 1996, section 14.44. The statute contains no provisions regarding the procedure by which this review is to be accomplished. The Court of Appeals promulgated Minn. App. Spec. R. Pract. 10, effective October 25, 1991, to provide a procedural framework for such proceedings, but the Special Rules of Practice are not routinely referred to by the practicing bar when trying to determine matters of appellate procedure. To remedy this problem, a new rule, Rule 114, has been adopted.*

*A declaratory judgment action in the Court of Appeals is the proper method to challenge a rule prior to its application or enforcement. The grounds for challenging a rule, which must be described in the petition required by Rule 114.02, are prescribed by Minnesota Statutes 1996, section 14.45. Only formally promulgated rules may be challenged in a pre-enforcement action under Minnesota Statutes, section 14.44. Minnesota Educ. Ass'n v. Minnesota State Bd. of Educ., 499 N.W. 2d 846, 849 (Minn. App. 1993). This pre-enforcement challenge must be distinguished from a contested case action in which a rule is applied to a particular party and the validity of the rule, as illustrated by the application in the individual case, may be considered. See Mammenga v. State Dep't of Human Servs., 442 N.W. 2d 786 (Minn. 1989).*