

**CHAPTER 1400**  
**OFFICE OF ADMINISTRATIVE HEARINGS**  
**HEARINGS**

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**1400.0200** [Repealed, 20 SR 2058]

**1400.0250** [Repealed, 20 SR 2058]

**1400.0300** [Repealed, 20 SR 2058]

**1400.0400** [Repealed, 20 SR 2058]

**1400.0500** [Repealed, 20 SR 2058]

**1400.0600** [Repealed, 20 SR 2058]

**1400.0700** [Repealed, 20 SR 2058]

**1400.0800** [Repealed, 20 SR 2058]

**1400.0850** [Repealed, 20 SR 2058]

**1400.0900** [Repealed, 20 SR 2058]

**1400.0950** [Repealed, 20 SR 2058]

**1400.1000** [Repealed, 20 SR 2058]

**1400.1100** [Repealed, 20 SR 2058]

**1400.1200** [Repealed, 20 SR 2058]

**1400.1500** [Repealed, 20 SR 2058]

**1400.2000 SCOPE.**

Parts 1400.2010 to 1400 2560 govern all proceedings by an agency for adopting any rule under Minnesota Statutes, chapter 14.

**Statutory Authority:** *MS s 14.386; 14.388; 14.51*

**History:** 20 SR 2058

**1400.2010 DEFINITIONS.**

Subpart 1. **Scope.** The definitions in this part apply to parts 1400.2000 to 1400.2560.

Subp. 2. **Agency.** "Agency" has the meaning given in Minnesota Statutes, section 14.02, subdivision 2.

Subp. 3. **Chief administrative law judge or chief judge.** "Chief administrative law judge" or "chief judge" means the chief administrative law judge of the Office of Administrative Hearings.

Subp. 4. **Judge.** "Judge" means the administrative law judge assigned by the chief administrative law judge to conduct a rule hearing or review a rule.

Subp. 5. **Legislative commission.** "Legislative commission" means the Legislative Commission to Review Administrative Rules.

Subp. 6. **Multimember agency.** "Multimember agency" means an agency described in Minnesota Statutes, section 15.0597, subdivision 1, paragraph (a), clause (1), and the Capitol Area Architectural and Planning Board.

Subp. 7. **Office.** "Office" means the Office of Administrative Hearings.

Subp. 8. **Revisor.** "Revisor" means the Revisor of Statutes.

Subp. 9. **Rule.** "Rule" has the meaning given in Minnesota Statutes, section 14.02, subdivision 4.

Subp. 10. **Substantially different.** "Substantially different" has the meaning given in Minnesota Statutes, section 14.05, subdivision 2, paragraph (b).

**Statutory Authority:** *MS s 14.386; 14.388; 14.51*

**History:** *20 SR 2058*

#### **1400.2020 ASSIGNMENT AND DISQUALIFICATION OF JUDGE.**

Subpart 1. **Assignment.** The chief judge must promptly assign a judge to a rule proceeding after the chief judge receives a request to schedule a rule hearing, or a filing from an agency under parts 1400.2060, 1400.2300, 1400.2400, or 1400.2450. A request to schedule a rule hearing must include the documents listed in part 1400.2080, subpart 5.

Subp. 2. **Disqualification.** An assigned judge must withdraw from a rule proceeding at any time the judge decides that he or she is disqualified for any reason.

Subp. 3. **Disqualification by affidavit.** If an affected person files an affidavit of prejudice against a judge assigned to a rulemaking hearing, the chief judge must decide whether to disqualify the judge. The affidavit must be received by the chief judge at least five working days before the rulemaking hearing.

**Statutory Authority:** *MS s 14.386; 14.388; 14.51*

**History:** *20 SR 2058*

#### **1400.2030 COUNTING TIME AND FILING DOCUMENTS.**

Subpart 1. **Counting time.** To count a time period, the day of filing, mailing, publication, or other action is not counted and the last day of the time period is counted. Saturdays, Sundays, and legal holidays are included in calendar day time periods and are not included in working day time periods. If a calendar day time period ends on a Saturday, Sunday, or legal holiday, the time period ends on the next day which is not a Saturday, Sunday, or legal holiday. A time period is in calendar days unless it is stated as "working days."

Subp. 2. **Paper size.** All documents must be submitted to the office on standard size 8-1/2 inch by 11 inch paper, except:

- A. the proposed or adopted rules prepared by the revisor;
- B. handwritten comments from the public; and
- C. exhibits.

Subp. 3. **Facsimile transmission.** A person may file any document with the office using facsimile transmission. Filing a facsimile is equivalent to filing the original document, and is effective when the office receives it. A transmission commenced before 4:30 p.m. on the last day of filing is timely filed. The person filing the document must mail or deliver the original signed document to the office within five days.

**Statutory Authority:** *MS s 14.386; 14.388; 14.51*

**History:** *20 SR 2058*

#### **1400.2040 PETITION FOR RULEMAKING.**

Subpart 1. **Content of petition.** A petition to an agency requesting rulemaking under Minnesota Statutes, section 14.09, must be in the format of, and contain the information required in, the form in part 1400.2500.

Subp. 2. **Filing of petition with agency.** The petition must be filed with the executive director or head of the agency in person or by United States mail.

Subp. 3. **Agency response to petition.** The agency must reply in writing to the petition within 60 days after receiving it. The reply must meet the requirements of Minnesota Statutes, section 14.09, and be signed by a person authorized to adopt a rule or, for multimember agencies, by a member or officer.

**Statutory Authority:** *MS s 14.386; 14.388; 14.51*

**History:** *20 SR 2058*

#### 1400.2050 REQUEST FOR COMMENTS ON PLANNED RULE.

An agency must comply with Minnesota Statutes, section 14.101, before publishing a notice of intent to adopt rules or notice of hearing. Part 1400.2510 is a recommended form for the published request for comments:

**Statutory Authority:** *MS s 14.386; 14.388; 14.51*

**History:** *20 SR 2058*

#### 1400.2060 APPROVAL OF NOTICE PLAN.

Subpart 1. **Optional prior approval.** An agency may ask the office for prior approval of its plan for additional notice of planned rulemaking under Minnesota Statutes, section 14.101, or of its plan for additional notice of proposed rules under Minnesota Statutes, sections 14.131, 14.14, 14.22, and 14.23.

Subp. 2. **Filing.** An agency asking the office for prior approval of a notice plan must file with the office:

A. For notice plans under Minnesota Statutes, section 14.101:

- (1) a description of its proposed additional notice plans;
- (2) the agency's proposed request for comments on planned rule; and
- (3) an explanation of why the agency believes that its notice plan complies with Minnesota Statutes, section 14.101.

B. For notice plans under Minnesota Statutes, sections 14.131, 14.14, 14.22, and 14.23:

- (1) the proposed rule;
- (2) a draft of or a final copy of the statement of need and reasonableness under part 1400.2070, containing the agency's proposed notice plan;
- (3) the agency's proposed notice of intent to adopt rules, notice of hearing, or dual notice under part 1400.2080; and
- (4) an explanation of why the agency believes that its notice plan complies with Minnesota Statutes, section 14.14, subdivision 1a, or 14.22.

Subp. 3. **Review.** If a proposed notice plan is filed with the office, a judge must review, and approve or disapprove it within five working days after the office receives it. The judge must approve the notice plan if the judge finds that the notice plan meets the requirements of the applicable statute.

Subp. 4. **Approval or disapproval.** An approved notice plan is the office's final determination that the notice plan is adequate. If the notice plan is disapproved, the judge must explain why and tell the agency what changes are necessary for approval. The agency may resubmit the notice plan for review after changing it. The judge must review and approve or disapprove the revised notice plan within five working days after the office receives it.

**Statutory Authority:** *MS s 14.386; 14.388; 14.51*

**History:** *20 SR 2058*

#### 1400.2070 STATEMENT OF NEED AND REASONABLENESS.

Subpart 1. **General content.** The statement of need and reasonableness must summarize the evidence and argument that the agency is relying on to justify both the need for and the reasonableness of the proposed rules, and must state how the evidence rationally relates to the choice of action taken. The statement must explain the circumstances that created the

need for the rulemaking and why the proposed rulemaking is a reasonable solution for meeting the need. The statement must be sufficiently specific so that interested persons will be able to fully prepare any testimony or evidence in favor of or in opposition to the proposed rules. A general description of the statute being implemented or restating the proposed rule is not sufficient. The statement must include:

A. citations to any economic, scientific, or other manuals or treatises the agency anticipates relying on;

B. citations to any statutes or case law the agency anticipates relying on;

C. a list of any witnesses the agency anticipates asking to testify if there is a hearing on the rule, and a summary or description of their testimony; and

D. a citation to the agency's grant of statutory authority to adopt the rule and, if the grant of authority was made after January 1, 1996, the effective date of the agency's statutory authority to adopt the rule.

The statement need not contain evidence and argument in rebuttal of evidence and argument presented by the public. If an agency is amending existing rules, the agency need not demonstrate the need for and reasonableness of the existing rules not affected by the proposed amendments.

**Subp. 2. Specific requirements.** The statement must also contain the following:

A. for rules to be adopted after a public hearing, the information required by Minnesota Statutes, section 14.131;

B. for rules to be adopted without a public hearing, the information required by Minnesota Statutes, section 14.23;

C. an explanation of what effort the agency made to obtain any information that it states could not be ascertained through reasonable effort; and

D. information required by any other law or rule to be included in the statement, or which the agency is required by law or rule to consider in adopting a rule. Examples include: Minnesota Statutes, section 16A.1285, subdivision 5; 115.43, subdivision 1; 116.07, subdivision 6; or 144A.29, subdivision 4.

**Subp. 3. Timing.** The statement must be prepared before the agency orders publication of its notice of intent to adopt rules, notice of hearing, or dual notice. The agency must send a copy of the statement to the legislative commission when it becomes available for public review.

**Statutory Authority:** *MS s 14.386; 14.388; 14.51*

**History:** *20 SR 2058*

#### **1400.2080 NOTICE OF PROPOSED RULE.**

**Subpart 1. General content.** A notice of intent to adopt rules under Minnesota Statutes, section 14.22, must contain the information in subparts 2 and 3. A notice of hearing under Minnesota Statutes, section 14.14, must contain the information in subparts 2 and 4. A dual notice must contain the information in subparts 2, 3, and 4. Parts 1400.2520, 1400.2530, and 1400.2540 contain recommended forms for these notices.

**Subp. 2. Contents of all notices.** A notice of intent to adopt rules, notice of hearing, or dual notice must state:

A. that the agency intends to adopt a rule and identify the parts of Minnesota Statutes, chapter 14, and this chapter that the agency must follow;

B. a citation to the specific statutory authority for the rule;

C. that the proposed rule is attached to the notice or if the text of the proposed rule is not attached, a description of the nature and effect of the rule and how to obtain a free copy from the agency;

D. if applicable, that an entire rule is being repealed and a citation to the rule;

E. that the statement of need and reasonableness is available to the public, that the statement contains a summary of the justification for the proposed rule, including who will be affected by the proposed rule and an estimate of the probable cost of the proposed rule, and how to obtain a copy from the agency;

F. that the proposed rule can be modified if the modifications are supported by the information and comments submitted and do not make the rule substantially different;

G. that persons may request to be placed on the agency's mailing list to receive notice of future rule proceedings;

H. any other information required by law or rule to be included in the notice; and

I. the signature of the person authorized to give notice of intent to adopt rules, notice of hearing, or dual notice.

**Subp. 3. Additional contents for a notice of intent to adopt rules or dual notice.** A notice of intent to adopt rules without a public hearing or dual notice must state:

A. that the public has 30 days to comment in support of or in opposition to the rule or any part of it, and that comment is encouraged;

B. the calendar date that the comment period ends;

C. that each comment should identify the part of the rule addressed, any change proposed, and the reason for the suggested change;

D. that if 25 or more persons submit a written request for hearing during the comment period, a public hearing must be held on the rule unless a sufficient number later withdraw their requests in writing;

E. that any person requesting a hearing must include his or her name and address, must identify the portion of the rule to which the person objects or a statement that the person objects to the entire rule, and that a request that does not provide this information is invalid and will not count when determining whether a public hearing must be held;

F. that any person requesting a hearing is encouraged to propose changes to the rule;

G. how persons must submit their comments or requests for hearing;

H. that if a public hearing is held the agency must proceed under Minnesota Statutes, sections 14.131 to 14.20;

I. that if no hearing is required the agency must, after adopting the rule, submit the rule and supporting documents to the office for review for legality;

J. that persons who wish to comment on the legality of the rule must do so during the 30-day comment period; and

K. that persons may request to be notified of the date that the rule is submitted to the office for review and how to make that request.

**Subp. 4. Additional contents for a notice of hearing or dual notice.** A notice of hearing or dual notice must state:

A. the time, date, and place of the hearing;

B. that all interested persons will have an opportunity to participate;

C. how interested persons may present their views at the hearing;

D. the procedure in part 1400.2230 for submitting written materials after the hearing;

E. that persons can ask the judge questions about the procedure, and the name, address, and telephone number of the judge;

F. that persons can obtain the statement of need and reasonableness from the office at the cost of copying;

G. that any person can ask to be notified of the date on which the judge's report will become available and that the request can be made at the hearing or in writing to the judge;

H. that any person can ask to be notified of the date on which the agency adopts the rule and files it with the secretary of state, and that the request can be made at the hearing or in writing to the agency;

I. that lobbyists must register with the ethical practices board, that questions should be referred to the board, and the board's address and telephone number; and

J. that a hearing is ordered.

**Subp. 5. Scheduling of hearing, and approval of notice of hearing or dual notice.** The agency must request to schedule a rule hearing and obtain the judge's approval of any notice of hearing or dual notice prior to mailing it or publishing it in the State Register. The judge must also advise the agency as to when and where the hearing should be held in order to

allow for participation by all affected interests. A copy of the proposed rule with a certificate of approval as to form by the revisor of statutes attached, and a draft of or a final copy of the statement of need and reasonableness must be filed with a notice submitted for approval. The judge must review the proposed notice within five working days of receiving it and must either approve the notice or advise the agency how the notice must be revised.

**Subp. 6. Timing.** A notice of hearing or notice of intent to adopt rules must be mailed at least 33 days before the end of the comment period or the start of the hearing, and must be published in the State Register at least 30 days before the end of the comment period or the start of the hearing. A dual notice must be mailed at least 33 days before the end of the comment period and must be published in the State Register at least 30 days before the end of the comment period. If a hearing is required after using a dual notice, there must be at least ten days between the end of the comment period and the start of the hearing.

**Subp. 7. Certificate of mailing and certificate of mailing list.** The agency must prepare a certificate of mailing the notice to the rulemaking mailing list and a certificate of the rulemaking mailing list. Part 1400.2550 contains a recommended format for this document.

**Statutory Authority:** *MS s 14.386; 14.388; 14.51*

**History:** *20 SR 2058*

#### **1400.2090 ORDER ADOPTING RULE.**

An agency order adopting a rule must contain the following.

A. if any changes were made to the proposed rule in the adopted rule, a description of the changes, and an explanation of the reasons for the changes and why they do not make the rule substantially different, or, if the procedures in part 1400.2110 were followed, a statement that the agency followed the procedures in part 1400.2110 before adopting the changes;

B. a statement that the agency has complied with all notice and procedural requirements. For multimember agencies, the order must state that proposal of the rule was authorized by the agency and provide either:

(1) a copy of the authorization; or

(2) the date of the agency meeting where the person was authorized to do so, and state that a quorum was present and authorized proposal of the rule;

C. for rules adopted without a public hearing, the number of persons who requested a hearing, and the number of persons who withdrew their request;

D. the number of persons who requested notice that the rule has been submitted to the office;

E. a statement that the rule is needed and reasonable;

F. a statement that the rule is adopted by the agency; and

G. the signature of the person authorized to adopt the rule or sign the order and the date the person signed the order. For multimember agencies, the order must state that the person is authorized by the agency to sign the order and provide either:

(1) a copy of the authorization; or

(2) the date of the agency meeting where the rule was adopted, and state that a quorum was present and the agency authorized the person to sign the order adopting the rule.

Part 1400.2560 is a recommended form for an order adopting rules.

**Statutory Authority:** *MS s 14.386; 14.388; 14.51*

**History:** *20 SR 2058*

#### **1400.2100 STANDARDS OF REVIEW.**

A rule must be disapproved by the judge or chief judge if the rule:

A. was not adopted in compliance with procedural requirements of this chapter, Minnesota Statutes, chapter 14, or other law or rule, unless the judge decides that the error must be disregarded under Minnesota Statutes, section 14.15, subdivision 5, or 14.26, subdivision 3, paragraph (d);

B. is not rationally related to the agency's objective or the record does not demonstrate the need for or reasonableness of the rule;

C. is substantially different than the proposed rule, and the agency did not follow the procedures of part 1400.2110;

D. exceeds, conflicts with, does not comply with, or grants the agency discretion beyond what is allowed by, its enabling statute or other applicable law,

E. is unconstitutional or illegal;

F. improperly delegates the agency's powers to another agency, person, or group;

G. is not a "rule" as defined in Minnesota Statutes, section 14.02, subdivision 4, or by its own terms cannot have the force and effect of law; or

H. is subject to Minnesota Statutes, section 14.25, subdivision 2, and the notice that hearing requests have been withdrawn and written responses to it show that the withdrawal is not consistent with Minnesota Statutes, section 14.001, clauses (2), (4), and (5)

**Statutory Authority:** *MS s 14.386; 14.388; 14.51*

**History:** *20 SR 2058*

#### **1400.2110 PROCEDURE TO ADOPT SUBSTANTIALLY DIFFERENT RULES.**

**Subpart 1. Required procedure.** An agency may adopt a substantially different rule if it has complied with the procedures in this part.

**Subp. 2 Notice.** The agency must mail or deliver to each person or group that made a written or oral comment during the rule proceeding or registered at the rule hearing, if the person's address is known to the agency:

A. a copy of the substantially different rule; and

B. a statement that tells the recipient that the chief judge found the rule to be substantially different, explains the agency's reasons for modifying the rule, tells the recipient that the agency must accept written comments for 15 days, and gives the date the comment period ends.

**Subp. 3. Filing.** After considering any comments received, the agency must submit the documents listed in subpart 2 and any written responses to the chief judge.

**Subp. 4. Review.** The chief judge must review the agency's filing to decide whether:

A. the agency has met the requirements of this part;

B. the substantially different modifications to the rule are based on comments or evidence in the record,

C. the substantially different rule complies with part 1400.2100; and

D. in light of the nature of the substantially different modification and the course of the rule proceeding, it would not be fair to affected persons to allow the agency to adopt the modification without initiating a new rule proceeding.

The chief judge must either approve or disapprove the substantially different rule within ten days after the office receives it, unless it is withdrawn by a person authorized to withdraw the rule.

**Subp. 5. Rule adoption.** The agency may adopt the substantially different rule five working days after it has received the chief judge's written approval.

**Subp. 6. Effect of disapproval.** If the chief judge decides that the substantially different modifications must be disapproved under subpart 4, the agency may not adopt them without initiating and completing a new rule proceeding.

**Statutory Authority:** *MS s 14.386; 14.388; 14.51*

**History:** *20 SR 2058*

### **RULEMAKING HEARINGS**

#### **1400.2200 APPLICABILITY.**

Parts 1400.2200 to 1400.2240 apply to rule hearings and review of rules adopted by agencies under Minnesota Statutes, sections 14.131 to 14.20.

**Statutory Authority:** *MS s 14.386; 14.388; 14.51*

**History:** *20 SR 2058*

**1400.2210 CONDUCT OF HEARING:**

**Subpart 1. Registration of participants.** All persons who present evidence or ask questions must register with the judge before presenting evidence or asking questions at the hearing. Any person may register whether or not they speak at the hearing. Those who register must legibly print their names, addresses, telephone numbers, and the names of any individuals or associations that the persons represent at the hearing on a register provided by the judge. Persons may request on the register to be informed when the judge's report will be available. Persons may also request on the register that the agency inform them when the agency adopts the rules and files them with the secretary of state.

**Subp. 2. Introduction by judge.** The judge must start the hearing and must explain the purpose of the hearing and the procedure to be followed. The judge must explain how written materials can be submitted after the hearing under part 1400.2230. The judge must also explain the requirements for registration of lobbyists under Minnesota Statutes, chapter 10A.

**Subp. 3. Agency presentation.** The agency representatives and witnesses must identify themselves for the record. The agency must then make its presentation under part 1400.2220. Presentation by the agency of evidence not summarized in the statement of need and reasonableness, other than bona fide rebuttal, constitutes grounds for the judge, upon proper motion by any interested person, to recess the hearing to allow all interested persons an opportunity to prepare evidence in opposition to the newly presented evidence. The hearing recess must not exceed 25 days.

**Subp. 4. Opportunity for questions.** Interested persons may ask questions of the agency representatives or witnesses and other interested persons who speak. Agency representatives may question interested persons who speak. The questions may relate to the purpose or intended operation of the proposed rules, a suggested modification, or may be conducted for other purposes if material to the evaluation or formulation of the proposed rules.

**Subp. 5. Opportunity to present statements and evidence.** Interested persons may present oral and written statements and evidence regarding the proposed rules.

**Subp. 6. Questioning by judge.** The judge may question the agency representatives and witnesses and other interested persons who speak.

**Subp. 7. Further agency evidence.** The agency may present any further evidence that it considers appropriate in response to statements made by interested persons. Interested persons may respond to this evidence.

**Subp. 8. Powers of judge.** Consistent with law, the judge is authorized to do all things necessary and proper to conduct the hearing and to promote justice, fairness, and economy. This includes but is not limited to: presiding at the hearing; administering oaths or affirmations when appropriate; hearing and ruling on objections and motions; questioning witnesses where necessary to make a complete record; ruling on the admissibility of evidence and striking from the record objectionable evidence; limiting repetitive or immaterial oral statements and questioning; and determining the order of making statements and questions.

**Subp. 9. Court reporters.** Minnesota Statutes, section 14.52, governs the use of court reporters.

**Subp. 10. Transcript.** A transcript of the hearing must be made if requested by the agency, the attorney general, the chief judge, or any interested person. If a transcript is requested by an interested person, that person must pay for the original and one copy. Otherwise, the agency must pay for the original and any copies it requires. Any interested person may purchase a copy of a transcript once the original has been ordered by another person. The cost of an original or copy of a transcript must be determined by the office's contract with court reporters. When a transcript has been prepared, the original must be filed with the office. When a transcript has been prepared after the judge's report is issued, the original must be filed with the office and forwarded to the agency as soon as the office has completed its recordkeeping.

**Statutory Authority:** *MS s 14.386; 14.388; 14.51*

**History:** *20 SR 2058*

**1400.2220 AGENCY PRESENTATION AT HEARING.**

**Subpart 1. Rulemaking documents.** The agency must place into the hearing record the following documents:



- A. the request for comments published in the State Register;
  - B. the petition for rulemaking, if the rule was proposed in response to it;
  - C. the proposed rule, including the revisor's approval;
  - D. the statement of need and reasonableness;
  - E. a copy of the transmittal letter or a certificate showing that the agency sent a copy of the statement of need and reasonableness to the legislative commission;
  - F. the notice of hearing as mailed and as published in the State Register;
  - G. the certificate of mailing the notice of hearing and certificate of mailing list.
- Part 1400.2550 is a recommended certificate form;
- H. a certificate of additional notice if given;
  - I. any written comments on the proposed rule received by the agency;
  - J. if the legislative commission has authorized the agency to omit from the notice of hearing published in the State Register the text of any proposed rule, a copy of the document authorizing the omission; and

K. any other document or evidence to show compliance with any other law or rule which the agency is required to follow in adopting this rule.

**Subp. 2. Copies available.** The agency must have copies of the proposed rules and the statement of need and reasonableness available at the hearing.

**Subp. 3. Showing.** The agency must make its affirmative presentation of facts showing the need for and the reasonableness of the proposed rules and must present any other evidence necessary to fulfill all substantive and procedural requirements of law or rule. The agency may choose to rely on the statement of need and reasonableness as its presentation and the statement may be introduced as an exhibit into the record as though read.

**Subp. 4. Agency representatives present.** Agency representatives or other persons thoroughly familiar with the proposed rules and the statement of need and reasonableness must be available at the hearing for questioning by the judge and other interested persons or to briefly summarize all or a portion of the statement if requested by the judge.

**Statutory Authority:** *MS s 14.386; 14.388; 14.51*

**History:** *20 SR 2058*

#### **1400.2230 WRITTEN COMMENTS AFTER HEARING AND CLOSE OF HEARING RECORD.**

**Subpart 1. Written comments.** The judge must allow written comments to be submitted into the hearing record by the agency and all interested persons for five working days after the hearing ends, and may extend this time to no more than 20 days after the hearing ends. In its comment, the agency may state whether there are rule modifications that it intends to adopt. The office must receive the written comments no later than 4:30 p.m. on the last day for submission.

**Subp. 2. Written responses.** The office must allow the agency and all interested persons to review the submissions received under subpart 1 and must allow them five working days to respond in writing to any new information submitted. The office must receive the responses no later than 4:30 p.m. on the last day. In its response, the agency may state whether there are rule modifications that the agency intends to adopt. Additional evidence may not be submitted during this response period. The written responses are part of the hearing record.

**Subp. 3. Close of hearing record.** The hearing record closes on the last date for receipt of written responses filed under subpart 2.

**Statutory Authority:** *MS s 14.386; 14.388; 14.51*

**History:** *20 SR 2058*

#### **1400.2240 ADMINISTRATIVE LAW JUDGE'S REPORT.**

**Subpart 1. Report.** The judge must prepare a report on the rule within 30 days after the hearing record closes, unless an extension is granted by the chief judge under Minnesota Statutes, section 14.15, subdivision 2.

**Subp. 2. Standard of review.** The judge or chief judge must review the hearing record and must disapprove the rule if the judge makes any of the findings in part 1400.2100, items A to G.

Subp. 3. **Approval.** If the judge approves the rule, the judge must promptly send the original report and the hearing record to the agency. The agency and the office must make copies of the report available to any interested person at reasonable cost. The agency may not adopt the rule for at least five working days after receiving the report, so that interested persons may examine it.

Subp. 4. **Review by chief judge.** If the judge disapproves the rule, the judge must submit the report and the hearing record to the chief judge for review. The chief judge must review the rule and the judge's report and prepare a report within ten days. If the chief judge disapproves the rule, the chief judge must explain why and tell the agency what changes are necessary for approval. The chief judge must promptly send the chief judge's report, the judge's report, and the hearing record to the agency. The agency may resubmit the rule to the chief judge for review after changing it. The agency may also request that the chief judge reconsider the disapproval. The chief judge must review and approve or disapprove the changed rule or a request for reconsideration within five working days after the office receives it.

Subp. 5. **New changes to rule.** If the agency wants to adopt the rule with changes other than those recommended by the judge or chief judge, the agency must submit to the chief judge:

- A. the rule initially proposed;
- B. the agency's proposed order adopting rules; and
- C. the rule, showing the agency's changes.

The chief judge may request that the agency also return the hearing record. The chief judge must review the agency's changes to decide if they make the rule substantially different than the proposed rule. The chief judge must make a written decision within ten days after the office receives the rule.

Subp. 6. **Disapproval of need and reasonableness.** If the chief judge disapproves the rule because the agency has not shown it to be needed and reasonable, and if the agency chooses not to follow the chief judge's recommended corrections, the agency must submit the rule to the legislative commission for review under Minnesota Statutes, section 14.15, subdivision 4.

Subp. 7. **Disapproval based on substantial difference.** If the chief judge disapproves the rule because it is substantially different than the proposed rule, the agency may end the rule proceeding, may start a new rule proceeding to adopt the substantially different rule, or may proceed under part 1400.2110. The agency may adopt the portions of the rules which are not substantially different.

Subp. 8. **Withdrawal of rule.** The agency may withdraw a rule by submitting a request signed by a person authorized to withdraw the rule unless the withdrawal of a rule or a portion of the rule makes the remaining rules substantially different. The request must explain the person's authority to withdraw the rule. The office must return the agency's filing promptly after receiving this request.

Subp. 9. **Effect of disapproval.** Disapproval of a rule or part of a rule is binding on the agency to the extent specified in Minnesota Statutes, sections 14.15, subdivisions 3 and 4, and 14.16.

Subp. 10. **Rule adoption.** Once the judge or chief judge approves the rule or the review period for the legislative commission has passed, the agency may adopt the rule by executing an order adopting the rule. The agency must obtain the revisor's approval of the rule's form, file two copies of the rule with the secretary of state, and publish a notice of rule adoption in the State Register.

**Statutory Authority:** *MS s 14.386; 14.388; 14.51*

**History:** *20 SR 2058*

## RULES ADOPTED WITHOUT A PUBLIC HEARING

### 1400.2300 REVIEW OF RULES ADOPTED WITHOUT A PUBLIC HEARING.

Subpart 1 **Applicability.** Parts 1400.2300 to 1400.2310 apply to review of rules adopted by agencies under Minnesota Statutes, sections 14.22 to 14.28

Subp. 2. **Filing.** The agency must file with the office the documents listed in part 1400.2310.

Subp. 3. **Review.** A judge must review the agency's filing and either approve or disapprove it within 14 days after the office receives it, unless it is withdrawn. In reviewing the filing, the judge must decide whether the rule meets the standards of part 1400.2100.

Subp. 4. **Withdrawal of rule.** The agency may withdraw a rule from review by submitting a request signed by a person authorized to withdraw the rule unless the withdrawal of a rule or a portion of the rule makes the remaining rules substantially different. The request must explain the person's authority to withdraw the rule. The office must return the agency's filing promptly after receiving this request.

Subp. 5. **Approval.** If the rule is approved, the agency may publish notice of adoption of the rule in the State Register. The office must file two copies of the rule with the secretary of state, and send a copy of its decision to persons who requested a copy of this decision, to the legislative commission, and to the attorney general. The office must send the agency a copy of its decision and promptly return the agency's filing.

Subp. 6. **Disapproval.** If the rule is disapproved, the judge must state in writing the reasons for the disapproval and recommend what changes are necessary for approval. The written reasons for disapproval must then be submitted to the chief judge for review. The chief judge shall approve or disapprove the judge's determination within five working days and shall state the reasons in writing and shall advise the agency what changes are required for approval. The office must send a copy of the chief judge's decision to persons who requested a copy of the decision, the legislative commission, the revisor, and the attorney general. Minnesota Statutes, section 14.26, subdivision 3, governs the effect of any disapproval. The chief judge shall then promptly send the rule record to the agency.

Subp. 7. **Disapproval based on substantial difference.** If the chief judge disapproves a rule because it is substantially different than the proposed rule, the agency may end the rule proceeding, may start a new rule proceeding to adopt the substantially different rule, or may proceed under part 1400.2110. The agency may adopt the portions of the rules which are not substantially different.

Subp. 8. **Resubmission.** The agency may resubmit the rule to the chief judge for review after changing it and may request that the chief judge reconsider the disapproval. The agency must file with the office:

- A. the agency's initial filing under subpart 2;
- B. the rule with the agency's proposed changes; and
- C. an explanation of the changes, why they solve the problems identified by the chief judge, and why they do not result in a substantially different rule.

The chief judge must review the resubmitted rule and decide whether it meets the standards of part 1400.2100 within five working days of receiving it. Minnesota Statutes, section 14.26, subdivision 3, governs the effect of any disapproval.

Subp. 9. **Disapproval of need and reasonableness.** If the chief judge disapproves the rule because the agency has not shown it to be needed and reasonable, and if the agency chooses not to follow the chief judge's recommended corrections, the agency must submit the rule to the legislative commission for review under Minnesota Statutes, section 14.26, subdivision 3, paragraph (c).

**Statutory Authority:** *MS s 14.386, 14.388; 14.51*

**History:** *20 SR 2058*

#### 1400.2310 DOCUMENTS TO BE FILED.

The agency must file the following documents with the office:

- A. the request for comments published in the State Register;
- B. the petition for rulemaking, if the rule was proposed in response to it;
- C. the proposed rule, including the revisor's approval;
- D. the statement of need and reasonableness;
- E. the notice of intent to adopt rules as mailed and as published in the State Register;

F. if the legislative commission authorized the agency to omit from the notice of intent to adopt rules published in the State Register the text of any proposed rule, a copy of the document authorizing the omission;

G. the certificate of mailing the notice of intent to adopt rules and certificate of mailing list;

H. a certificate of additional notice, if given;

I. a copy of the transmittal letter or certificate showing that the agency sent a copy of the statement of need and reasonableness to the legislative commission;

J. all written comments and submissions on the proposed rule, requests for hearing and withdrawals of requests for hearing received by the agency, except those that only requested copies of documents;

K. if required by Minnesota Statutes, section 14.25, subdivision 2, the notice of withdrawal of hearing request, evidence that the notice of withdrawal was sent to all persons who requested a hearing, and any responsive comments received;

L. three copies of the adopted rule, showing any modifications to the proposed rule and the revisor's approval of them;

M. if the agency adopted a substantially different rule using the procedure in part 1400.2110, a copy of the notice that was sent to persons or groups who commented during the comment period and evidence that the notice was sent to those persons or groups;

N. the order adopting the rule;

O. the notice of submission of the rule to the office, if anyone requested this notice, and a copy of the transmittal letter or certificate showing that the agency sent out this notice; and

P. any other document or evidence to show compliance with any other law or rule which the agency is required to follow in adopting this rule.

Part 1400.2550 is a recommended certificate form.

**Statutory Authority:** *MS s 14.386; 14.388; 14.51*

**History:** 20 SR 2058

## EXEMPT RULES

### 1400.2400 REVIEW OF EXEMPT RULES.

Subpart 1. **Applicability.** This part applies to review of rules adopted by agencies under Minnesota Statutes, sections 14.386 and 14.388.

Subp. 2. **Filing.** The agency must file with the office:

A. the rule, including the revisor's approval; and

B. an order adopting the rule, which must include any explanation needed to support the legality of the rule, and:

(1) the citation to the rule's statutory exemption from the rulemaking procedures of Minnesota Statutes, chapter 14, and any argument needed to support the claim of exemption; or

(2) an explanation of why the rule meets the requirements of the good cause exemption under Minnesota Statutes, section 14.388; and

(3) any other information required by law or rule.

Subp. 3. **Review.** A judge must review the agency's filing and either approve or disapprove it within 14 days after the office receives it. In reviewing the filing, the judge must decide whether the rule meets the standards of part 1400.2100, items A and D to G, and whether the agency has established its exemption from rulemaking under Minnesota Statutes, section 14.386 or 14.388.

Subp. 4. **Approval and disapproval.** If the rule is approved, the agency may publish it in the State Register. If the rule is disapproved, the judge must tell the agency why and what changes are necessary for approval or why the rule is not exempt from rulemaking procedures. The agency may resubmit the rule to the judge for review after changing it. The judge must review and approve or disapprove the rule within five working days after receiving it. A rule does not take effect unless approved.

Subp. 5. **Review by chief judge.** An agency may ask the chief judge to review a rule that has been disapproved by a judge. The agency must make this request within five working days of receiving the judge's decision. The chief judge must review the agency's filing and, within 14 days of receiving it, either approve or disapprove it under the standards in subpart 3.

**Statutory Authority:** *MS s 14.386; 14.388; 14.51*

**History:** *20 SR 2058*

## MEDIATION

### 1400.2450 MEDIATION.

Subpart 1. **Request.** An agency may ask the chief judge to assign a judge to be a neutral party assisting in mediating or negotiating a resolution to disputes relating to proposed rules. The chief judge must assign a judge and notify the agency of the assignment within ten days after receiving the agency's written request.

Subp. 2. **Scheduling and notice.** The assigned judge must contact the agency to establish a date, time, and place for the first mediation session and to assist the agency in giving notice of the mediation. The agency must give notice of the mediation by publishing a notice in the State Register at least 15 days before the session and by mailing the notice to all persons registered with the agency to receive rulemaking notices.

Subp. 3. **Conduct of judge.** The judge assigned must not communicate, either directly or indirectly, about any facts or issues in the mediation with any person not participating in the mediation unless authorized to do so by all persons involved in the mediation.

Subp. 4. **Procedures and guidelines.** Procedures and guidelines for the mediation sessions must be established at the first session by agreement of all participants.

Subp. 5. **Subsequent sessions.** If additional mediation sessions are needed, the date, time, and place must be determined by agreement of the participants or by the judge if the participants do not agree. Notice of future sessions must be given orally to the participants present and by mail to any persons who have indicated a desire to participate but who are not present.

Subp. 6. **Termination.** The mediation terminates either when the agency decides to terminate it or when the agency and the participants sign an agreement resolving the disputed issues.

Subp. 7. **Involvement of mediation judge in subsequent proceedings.** The mediation judge shall not be assigned to any subsequent rule hearing or review that involves the rule that was the subject of the mediation.

Subp. 8. **Compliance with other requirements.** The agency must comply with all requirements of law or rule in subsequently adopting a rule on which agreement was reached through mediation under this part.

**Statutory Authority:** *MS s 14.386; 14.388; 14.51*

**History:** *20 SR 2058*

## RULEMAKING FORMS

### 1400.2500 PETITION FOR RULEMAKING.

PETITION FOR RULEMAKING TO THE MINNESOTA DEPARTMENT OF \_\_\_\_\_

Name: \_\_\_\_\_

Group Represented or Title: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

I request that the agency named above (check one).

- Adopt a new rule governing \_\_\_\_\_
- Amend Minnesota Rules, part(s) \_\_\_\_\_
- Repeal Minnesota Rules, part(s) \_\_\_\_\_

1. Explain the need or reason for the rulemaking you request. The agency will consider your reasons in making its decision, so your explanation must be detailed. You can use additional pages.

2. For a new rule, state the proposed new language of the rule. For rule amendments, repeat the text of the rule, striking through deletions and underlining new language. If you cannot provide new rule language, then write a detailed description of the rule that you are requesting. You can use additional pages.

You must file this petition with the executive director or head of the agency in person or by United States mail. The agency must reply in writing to your petition within 60 days after receiving it.

DATE: \_\_\_\_\_

\_\_\_\_\_  
Signature of Petitioner

**Statutory Authority:** *MS s 14 386; 14 388; 14.51*

**History:** *20 SR 2058*

**1400.2510 RECOMMENDED REQUEST FOR COMMENTS ON PLANNED RULE.**

Minnesota Department of \_\_\_\_\_

**REQUEST FOR COMMENTS**

Planned (Amendment to) (Repeal of) Rule Governing \_\_\_\_\_, Minnesota Rules \_\_\_\_\_

**Subject of Rule.** The \_\_\_\_\_ (name of department) requests comments on its planned (amendment to) (repeal of) rule governing \_\_\_\_\_. The department is considering (a rule) (rule amendments) (repealing its rule) that \_\_\_\_\_ (detailed description of subject matter of rule).

**Persons Affected.** The (amendment to) (repeal of) the rule would likely affect \_\_\_\_\_ (description of types of groups and individuals likely to be affected). (Optional): The department does (not) contemplate appointing an advisory committee to comment on the planned rule.

**Statutory Authority.** Minnesota Statutes, section \_\_\_\_\_ (section number), (authorizes) (requires) the department to adopt rules for \_\_\_\_\_ (brief description of statutory authority)

**Public Comment.** Interested persons or groups may submit comments or information on this planned rule in writing or orally until 4:30 p.m. on \_\_\_\_\_ (date). The department (insert either (has) (has not yet) prepared a draft of the planned rule (amendment) (repeal) **OR** does not anticipate that a draft of the rule (amendment) (repeal) will be available before the publication of the proposed rule) Written or oral comments, questions (requests to receive a draft of the rule) (when it has been prepared), and requests for more information on this planned rule should be addressed to: \_\_\_\_\_

\_\_\_\_\_ (name, address, and telephone number of staff person).

**Comments submitted in response to this notice will not be included in the formal rule-making record when a proceeding to adopt a rule is started.**

\_\_\_\_\_  
Commissioner

**Statutory Authority:** *MS s 14.386; 14 388; 14.51*

**History:** *20 SR 2058*

**1400.2520 RECOMMENDED NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING.**

Minnesota Department of \_\_\_\_\_

**NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING**

Proposed (Amendment to) (Repeal of) Rule Governing \_\_\_\_\_, Minnesota Rules \_\_\_\_\_

**Introduction.** The (department name) intends to adopt a permanent rule without a public hearing following the procedures set forth in the Administrative Procedure Act, Minnesota Statutes, sections 14.22 to 14.28. You have 30 days to submit written comments on the proposed rule and may also submit a written request that a hearing be held on the rule.

**Agency Contact Person.** Comments or questions on the rule and written requests for a public hearing on the rule must be submitted to:

\_\_\_\_\_  
(name, agency, address, telephone number, and FAX number [optional])

**Subject of Rule and Statutory Authority.** The proposed rule is about (subject of rule). The statutory authority to adopt this rule is (specific statutory citation). A copy of the proposed rule is published in the State Register and attached to this notice as mailed. (If the proposed rule is not attached to the mailed notice, then this notice must include an informative statement describing the nature and effect of the proposed rule and include the announcement that: A free copy of the rule is available upon request from the agency contact person listed above.)

**Comments.** You have until \_\_\_\_ p.m. on \_\_\_\_\_, 199\_, to submit written comment in support of or in opposition to the proposed rule and any part or subpart of the rule. Your comment must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comment should identify the portion of the proposed rule addressed and the reason for the comment. You are encouraged to propose any change desired. Any comments that you would like to make on the legality of the proposed rule must also be made during this comment period.

**Request for a Hearing.** In addition to submitting comments, you may also request that a hearing be held on the rule. Your request for a public hearing must be in writing and must be received by the agency contact person by \_\_\_\_ p.m. on \_\_\_\_\_, 199\_. Your written request for a public hearing must include your name and address. You must identify the portion of the proposed rule to which you object or state that you oppose the entire rule. Any request that does not comply with these requirements is not valid and cannot be counted by the agency for determining whether a public hearing must be held. You are also encouraged to state the reason for the request and any changes you want made to the proposed rule.

**Withdrawal of Requests.** If 25 or more persons submit a written request for a hearing, a public hearing will be held unless a sufficient number 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.

**Modifications.** The proposed rule may be modified as a result of public comment. The modifications must be supported by comments and information submitted to the agency, and the adopted rule may not be substantially different than this proposed rule. If the proposed rule affects you in any way, you are encouraged to participate in the rulemaking process.

**Statement of Need and Reasonableness.** A statement of need and reasonableness is now available from the agency contact person. This statement contains a summary of the justification for the proposed rule, including a description of who will be affected by the proposed rule and an estimate of the probable cost of the proposed rule.

**Other notices required by law or chosen to be inserted in this notice.**

**Adoption and Review of Rule.** If no hearing is required, the agency may adopt the rule after the end of the comment period. The rule and supporting documents will then be submitted to the Office of Administrative Hearings for review for legality. You may ask to be notified of the date the rule is submitted to the office. If you want to be so notified, or want to receive a copy of the adopted rule, or want to register with the agency to receive notice of future rule proceedings, submit your request to the agency contact person listed above.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Name  
Title

**Statutory Authority:** *MS s 14 386; 14.388; 14.51*

**History:** *20 SR 2058*

**1400.2530 RECOMMENDED NOTICE OF HEARING.**

Minnesota Department of \_\_\_\_\_

**NOTICE OF HEARING**

Proposed (Amendment to) (Repeal of) Rule Governing \_\_\_\_\_, Minnesota Rules  
\_\_\_\_\_

**Public Hearing.** The (department name) intends to adopt a rule after a public hearing following the procedures set forth in the Administrative Procedure Act, Minnesota Statutes, sections 14.131 to 14.20. The agency will hold a public hearing on the above-entitled rule at (place), starting at (time hearing starts) on \_\_\_\_\_, 199\_, and continuing until the hearing is completed. Additional days of hearing will be scheduled if necessary. All interested or affected persons will have an opportunity to participate by submitting either oral or written data, statements, or arguments. Statements may be submitted without appearing at the hearing.

**Administrative Law Judge.** The hearing will be conducted by (name, address, telephone number, and FAX number of judge). The rule hearing procedure is governed by Minnesota Statutes, sections 14.131 to 14.20, and by the rules of the Office of Administrative Hearings, Minnesota Rules, parts 1400.2000 to 1400.2240. Questions concerning the rule hearing procedure should be directed to the Administrative Law Judge.

**Subject of Rule, Statutory Authority, and Agency Contact Person.** The subject of the hearing will be the proposed rules governing \_\_\_\_\_, Minnesota Rules \_\_\_\_\_. The proposed rules are authorized by Minnesota Statutes, section (specific section number). A copy of the proposed rule is published in the State Register and attached to this notice as mailed. (If the proposed rule is not attached to the mailed notice, then this notice must include an informative statement describing the nature and effect of the pro-



posed rule and include the announcement that: A free copy of the rule is available upon request from the agency contact person. The agency contact person is: (name, address, telephone number, and FAX number [optional]).

**Statement of Need and Reasonableness.** A Statement of Need and Reasonableness is now available for review at the agency offices and at the Office of Administrative Hearings. This statement contains a summary of the justification for the proposed rule, including a description of who will be affected by the proposed rule and an estimate of the probable cost of the proposed rule. The statement may be reviewed and copies obtained at the cost of reproduction from either the agency or the Office of Administrative Hearings.

**Other notices required by law or chosen to be inserted in this notice.**

**Public Comment.** You and all interested or affected persons, including representatives of associations and 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 close of the hearing record. All evidence presented should relate to the proposed rule. 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. This five-day comment period may be extended for a longer period not to exceed 20 calendar days if ordered by the Administrative Law Judge at the hearing. Following the comment period, there is a five-working-day response period during which the agency and any interested person may respond in writing to any new information submitted. No additional evidence may be submitted during the five-day response period. All comments and responses submitted to the Administrative Law Judge must be received at the Office of Administrative Hearings 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.

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

**Accommodation.** 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 proposed rules may be modified as a result of the rule hearing process. Modifications must be supported by data and views presented during the rule hearing process, and the adopted rule may not be substantially different than this proposed rule. If the proposed rule affects you in any way, you are encouraged to participate.

**Adoption Procedure After Hearing.** After the close of the hearing record, the Administrative Law Judge will issue a report on the proposed rule. You may ask to be notified of the date when the 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 on which the agency adopts the rule and files it with the Secretary of State, and can make this request at the hearing or in writing to the agency contact person stated above.

**Lobbyist Registration.** Minnesota Statutes, chapter 10A, requires each lobbyist to register with the State Ethical Practices Board. Questions regarding this requirement may be directed to the Ethical Practices Board at: (address, telephone number).

**Order.** I order that the rulemaking hearing be held at the date, time, and location listed above.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Name  
Title

**Statutory Authority:** *MS s 14.386; 14 388; 14 51*

**History:** *20 SR 2058*

**1400.2540 RECOMMENDED DUAL NOTICE.**

Minnesota Department of \_\_\_\_\_

**DUAL NOTICE: NOTICE OF INTENT TO ADOPT A RULE 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) (Repeal of) Rule Governing \_\_\_\_\_, Minnesota Rules  
\_\_\_\_\_

**Introduction.** The (department name) intends to adopt a rule without a public hearing following the procedures set forth in 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 rule within 30 days or by \_\_\_\_\_, 199\_, a public hearing will be held at (location), starting at (time) on \_\_\_\_\_, 199\_. (The date must be at least ten days after the end of the comment period.) To find out whether the rule will be adopted without a hearing or if the hearing will be held, you should contact the agency contact person after (date comment period ends) and before (date of hearing).

**Agency Contact Person.** Comments or questions on the rule and written requests for a public hearing on the rule must be submitted to (name, address, telephone number, and FAX number [optional]).

**Subject of Rule and Statutory Authority.** The proposed rule is about (subject of rule). The statutory authority to adopt the rule is (specific statutory citation). A copy of the proposed rule is published in the State Register and attached to this notice as mailed. (If the proposed rule is not attached to the mailed notice, then this notice must include an informative statement describing the nature and effect of the proposed rule and include the announcement that: A free copy of the rule is available upon request from the agency contact person listed above.)

**Comments.** You have until \_\_\_\_\_ p.m. on \_\_\_\_\_, 199\_, to submit written comment in support of or in opposition to the proposed rule or any part or subpart of the rule. 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 rule addressed, the reason for the comment, and any change proposed. You are encouraged to propose any change desired. Any comments that you would like to make on the legality of the proposed rule must also be made during this comment period.

**Request for a Hearing.** In addition to submitting comments, you may also request that a hearing be held on the rule. Your request for a public hearing must be in writing and must be received by the agency contact person by \_\_\_\_\_ p.m. on \_\_\_\_\_, 199\_. Your written request for a public hearing must include your name and address. You must identify the portion of the proposed rule to which you object or state that you oppose the entire rule. Any request that does not comply with these requirements is not valid and cannot be counted by the agency for determining whether a public hearing must be held. You are also encouraged to state the reason for the request and any changes you want made to the proposed rule.

**Withdrawal of Requests.** If 25 or more persons submit a written request for a hearing, a public hearing will be held unless a sufficient number 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.

**Accommodation.** 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 proposed rule may be modified, either as a result of public comment or as a result of the rule hearing process. Modifications must be supported by data and

views submitted to the agency or presented at the hearing and the adopted rule may not be substantially different than this proposed rule. If the proposed rule affects you in any way, you are encouraged to participate in the rulemaking process.

**Cancellation of Hearing.** The hearing scheduled for \_\_\_\_\_, 199\_, will be canceled if the agency does not receive requests from 25 or more persons that a hearing be held on the rule. If you requested a public hearing, the agency will notify you before the scheduled hearing whether or not the hearing will be held. You may also call the agency contact person at (telephone number) after (date comment period ends) to find out whether the hearing will be held.

**Notice of Hearing.** If 25 or more persons submit written requests for a public hearing on the rule, a hearing will be held following the procedures in Minnesota Statutes, sections 14.14 to 14.20. The hearing will be held on the date and at the time and place listed above. The hearing will continue until all interested persons have been heard. An Administrative Law Judge is assigned to conduct the hearing. The judge can be reached at (name, address, telephone number, and FAX number).

**Hearing Procedure.** If a hearing is held, 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 close of the hearing record. All evidence presented should relate to the proposed rule. 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. This five-day comment period may be extended for a longer period not to exceed 20 calendar days if ordered by the Administrative Law Judge at the hearing. Following the comment period, there is a five-working-day response period during which the agency and any interested person may respond in writing to any new information submitted. No additional evidence may be submitted during the five-day response period. All comments and responses submitted to the Administrative Law Judge must be received at the Office of Administrative Hearings 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 14.14 to 14.20. Questions about procedure may be directed to the Administrative Law Judge.

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

**Statement of Need and Reasonableness.** A statement of need and reasonableness is now available from the agency contact person. This statement contains a summary of the justification for the proposed rule, including a description of who will be affected by the proposed rule and an estimate of the probable cost of the proposed rule. The statement may also be reviewed and copies obtained at the cost of reproduction from either the agency or the Office of Administrative Hearings.

**Other notices required by law or chosen to be inserted in this notice.**

**Lobbyist Registration.** Minnesota Statutes, chapter 10A, requires each lobbyist to register with the Ethical Practices Board. Questions regarding this requirement may be directed to the Ethical Practices Board at (address and telephone number).

**Adoption Procedure if No Hearing.** If no hearing is required, the agency may adopt the rule after the end of the comment period. The rule and supporting documents will then be submitted to the Office of Administrative Hearings for review for legality. You may ask to be notified of the date the rule is submitted to the office. If you want to be so notified, or want to receive a copy of the adopted rule, or want to register with the agency to receive notice of future rule proceedings, submit your request to the agency contact person listed above.

**Adoption Procedure After the Hearing.** If a hearing is held, after the close of the hearing record, the Administrative Law Judge will issue a report on the proposed rule. You may ask to be notified of the date when the 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 on which the agency adopts the rule and files it with the Secretary

of State, and can make this request at the hearing or in 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.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

**Statutory Authority:** *MS s 14.386; 14.388; 14 51*

**History:** *20 SR 2058*

**1400.2550 RECOMMENDED CERTIFICATES.**

NOTE: This part contains the format of a certificate and language that certifies the rule-making mailing list, certifies the mailing of a notice or proposed rule, certifies the mailing of the statement of need and reasonableness to the legislative commission, and certifies the mailing of a notice of submission of a rule adopted without a public hearing to the office. When making certificates using this part, use only the language that applies. If two or more people performed the various actions, create a separate certificate for each person that includes only the actions done by each individual.

**CERTIFICATE OF MAILING THE (DUAL) NOTICE (OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING) (OF HEARING) AND CERTIFICATE OF MAILING LIST**

Proposed Rule Governing \_\_\_\_\_, Minnesota Rules \_\_\_\_\_

(Certificate of mailing list) I certify that the list of persons and associations who have requested under Minnesota Statutes, section 14.14, subdivision 1a, that their names be placed on the department of \_\_\_\_\_ rulemaking mailing list is accurate, complete, and current as of \_\_\_\_\_, 199\_.

(Certificate of mailing notice to rulemaking mailing list) I certify that on \_\_\_\_\_, 199\_, at least 33 days before the end of the comment period, at the City of \_\_\_\_\_, County of \_\_\_\_\_, State of Minnesota, I mailed the \_\_\_\_\_ (state what was mailed, for example: (1) Notice of Intent to Adopt Rules, Dual Notice, or Notice for Hearing, and (2) the proposed rule) by depositing a copy thereof in United States mail, with postage prepaid, to all persons and associations on the rulemaking mailing list established by Minnesota Statutes, section 14.14, subdivision 1a.

(Certificate of additional notice) I certify that on \_\_\_\_\_, 199\_, the following additional notice was given by the agency.

(Certificate of mailing the statement of need and reasonableness to the legislative commission – change the title on the upper right of document) I certify that on \_\_\_\_\_, 199\_, when the statement of need and reasonableness became available to the public, I mailed a copy of the statement to the Legislative Commission to Review Administrative Rules by depositing it in United States mail, with postage prepaid.

(Certificate of mailing notice of submission of rule adopted without a public hearing to the Office of Administrative Hearings – change the title on the upper right document) I certify that on \_\_\_\_\_, 199\_, when the adopted rule was submitted to the Office of Administrative Hearings, I mailed the notice of submission of the rule to the office by depos-

ting it in United States mail, with postage prepaid, to all persons and groups who requested this notice.

\_\_\_\_\_  
Name  
Title

**Statutory Authority:** *MS s 14.386; 14.388; 14.51*

**History:** *20 SR 2058*

#### 1400.2560 RECOMMENDED ORDER ADOPTING RULES.

Minnesota Department of \_\_\_\_\_

#### ORDER ADOPTING RULE

Adoption of Rule Governing \_\_\_\_\_, Minnesota Rules \_\_\_\_\_

#### WHEREAS:

1. All notice and procedural requirements in Minnesota Statutes, chapter 14, Minnesota Rules, chapter 1400, and other applicable law have been complied with. (For multimember agencies, add the following: A copy of the authorization from the board to propose the rule is attached. **OR** Proposal of the rule was authorized by the board at its meeting on \_\_\_\_\_, 199\_, and a quorum was present.) (For rules adopted without a public hearing, if all notice and procedural requirements were not complied with, state what happened, what corrective action was taken (if any), and why the office should find it to be harmless under Minnesota Statutes, section 14.26, subdivision 3, paragraph (d).)

2. (For rules adopted without a public hearing, state the following: The agency received [no] written comments and submissions on the rule. \_\_\_\_\_ persons requested a public hearing [, of which \_\_\_ were subsequently withdrawn.] Therefore, there are not 25 or more outstanding requests for a public hearing. The agency received \_\_\_ requests for notice of submission to the Office of Administrative Hearings.) **OR** (For rules adopted after a public hearing, state the following: The department adopts the Administrative Law Judge's Report dated \_\_\_\_\_, 199\_, and incorporates the Report into this order, except as described above.)

3. **If any changes were made between the proposed rule and the adopted rule, explain each change, why the change is reasonable, and why the change does not make the rule substantially different.** (This requirement does not apply to rules adopted after a public hearing if the judge's report approved the specific change.)

4. The rule is needed and reasonable.

5. (For multimember agencies, add the following: A copy of the authorization from the board to adopt the rule is attached. **OR** The rule was adopted by the board at its meeting on \_\_\_\_\_, 199\_, a quorum was present, and the undersigned was authorized to sign this order.)

IT IS ORDERED that the above-captioned rule is adopted.

DATE: \_\_\_\_\_

\_\_\_\_\_  
Name  
Title

**Statutory Authority:** *MS s 14.386; 14.388; 14.51*

**History:** *20 SR 2058*