

**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 \_\_\_\_\_ (citation to rule).

**Introduction.** The (department name) intends to adopt a rule without a public hearing following the procedures set forth in the rules of the Office of Administrative Hearings, parts 1400.2300 and 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 rule by \_\_\_\_\_, \_\_\_\_\_, a public hearing will be held at (location), starting at (time) on \_\_\_\_\_, \_\_\_\_\_. (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]). (You may submit email comments, questions, or requests for a public hearing to: \_\_\_\_\_ (email address)) [optional].

**Subject of Rule and Statutory Authority.** The proposed rule is about (subject of rule and, if applicable, that an entire rule is being repealed and a citation to the rule).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 easily readable and understandable description of the rule's nature and effect 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 \_\_\_\_\_, \_\_\_\_\_, 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 \_\_\_\_\_, \_\_\_\_\_. 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 valid 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 unless the procedure under part 1400.2110 has been followed. 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 \_\_\_\_\_, \_\_\_\_\_, 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 valid written requests for a public hearing on the rule, a hearing will be held following the procedures in Minnesota Statutes, sections 14.131 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 rebuttal 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 rebuttal 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 14.131 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 rebuttal 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 be reviewed and copies obtained at the cost of reproduction from the agency.

**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 Campaign Finance and Public Disclosure Board. Questions regarding this requirement may be directed to the Campaign Finance and Public Disclosure 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 it is filed 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; 15.474*

**History:** *20 SR 2058; L 1997 c 202 art 2 s 63; L 1998 c 254 art 1 s 107; 26 SR 391*

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