CHAPTER 14

ADMINISTRATIVE PROCEDURE

14.07 FORM OF RULE.

Subdivision 1. **Rule drafting assistance provided.** The revisor of statutes shall:

(1) maintain an agency rules drafting department to draft or aid in the drafting of rules or amendments to rules for any agency in accordance with subdivision 3 and the objective or other instructions which the agency shall give the revisor; and,

(2) prepare and publish an agency rules drafting guide which shall set out the form and method for drafting rules and amendments to rules, and to which all rules shall comply.

Subd. 2. **Approval of form.** No agency decision to adopt a rule or temporary rule shall be effective unless the agency has presented the rule to the revisor of statutes and the revisor has certified that its form is approved.

Subd. 3. **Standards for form.** In determining the drafting form of rules the revisor shall:

(1) minimize duplication of statutory language;

(2) not permit incorporations into the rules by reference of publications or other documents which are not conveniently available to the public;

(3) to the extent practicable, use plain language in rules and avoid technical language; and

(4) amend rules by showing the portion of the rule being amended as necessary to provide adequate notice of the nature of the proposed amendment, as it is shown in the latest compilation or supplement, or, if not yet published in a compilation or supplement, then as the text is shown in the files of the secretary of state, with changes shown by striking and underlining words.

Subd. 4. **Incorporations by reference.** (a) An agency may incorporate by reference into its rules the text from Minnesota Statutes, Minnesota Rules, United States Statutes at Large, United States Code, Laws of Minnesota, Code of Federal Regulations, the Federal Register, and other publications and documents which are determined by the revisor of statutes, after consultation with the chief hearing examiner, to be conveniently available to the public. The agency must provide information necessary for the revisor's determination of availability. When presented with a rule for certification pursuant to subdivision 2 and this subdivision, the revisor of statutes should indicate in the certification that the rule incorporates by reference text from other publications or documents. If the

revisor certifies that the form of a rule is approved, that approval constitutes the revisor's finding that the publication or other document other than one listed by name in this subdivision, and which is incorporated by reference into the rules, is conveniently available to the public.

(b) For the purposes of paragraph (a), "conveniently available to the public" means available for loan or inspection and copying to a person living anywhere in Minnesota through a statewide interlibrary loan system or in a public library without charge except for reasonable copying fees and mailing costs.

Subd. 5. **Duplication of statutory language.** No agency shall adopt a rule which duplicates language contained in Minnesota Statutes unless either the hearing examiner, for rules adopted pursuant to sections 14.13 to 14.20, or the attorney general, for rules adopted pursuant to sections 14.21 to 14.36, determines that duplication of the language is crucial to the ability of a person affected by a rule to comprehend its meaning and effect. When presented with a rule for certification pursuant to subdivisions 2 and 4, the revisor of statutes should indicate in the certification that the rule duplicates statutory language.

Subd. 6. **Style and form revisions.** The revisor of statutes may periodically prepare style and form revisions of rules to clarify, modernize, or simplify the text without material change to the rules' substance or effect. Before beginning any revision, the revisor shall consult the agency whose rules will be subject to the revision. After the revision is prepared, the revisor shall present it to the agency and receive its consent to proceed to seek adoption of the revision. Upon receiving consent, the revisor shall seek adoption of the rules in accordance with sections 14.05 to 14.36. However, the need and reasonableness statement and any hearing shall be restricted to the issue of whether any material change in the substance and effect of the rule is proposed by the revisor. The revisor shall mail notice of any hearing to the persons registered with the agency whose rules are the subject of the revision. The revisor shall pay all costs to publish notices in the State Register and to replenish the agency's stock of rules which exist at the time the revisor adopts the revised rules.

Subd. 7. **Technical changes.** The revisor may approve the form of a rule amendment which does not meet the requirements of subdivision 3, clause (4), if, in the revisor's judgment, the amendment does not change the substance of the rule and the amendment is:

(a) a relettering or renumbering instruction;

(b) the substitution of one name for another when an organization or position is renamed;

(c) the substitution of a reference to Minnesota Statutes for a corresponding reference to Laws of Minnesota;

(d) the correction of a citation to rules or laws which has become inaccurate since the rule was adopted because of repealing or renumbering of the rule or law cited; or

(e) the correction of a similar formal defect.

This subdivision does not limit the revisor's authority to make the changes described in clauses (a) to (e) during the publication process under section 14.47.

History: *1983 c 210 s 1*

14.08 REVISOR OF STATUTE'S APPROVAL OF RULE FORM.

(a) For the purpose of obtaining the revisor's certificate of approval of the form of a rule prior to filing the rule with the secretary of state, two copies of the

rule shall be submitted by the agency to the attorney general. The attorney general shall send one copy of the rule to the revisor on the same day as it is submitted by the agency to the attorney general as required by sections 14.16, 14.26, and 14.32. Within five days after receipt of the rule, excluding weekends and holidays, the revisor shall either return the rule with a certificate of approval to the attorney general or notify the attorney general and the agency that the form of the rule will not be approved.

(b) If the attorney general disapproves the rule, the agency may modify it. After the chief hearing examiner's review, if any, the agency shall submit two copies of the modified rule to the attorney general who shall send a copy to the revisor for approval as to form as described in paragraph (a).

(c) If the revisor refuses to approve the form of any rules, the revisor's notice to the agency and the attorney general shall indicate the reason for the refusal and specify the modifications necessary so the form of the rules will be approved.

History: *1983 c 210 s 2*

14.115 SMALL BUSINESS CONSIDERATIONS IN RULEMAKING.

Subdivision 1. **Definition.** For purposes of this section, "small business" means a business entity, including its affiliates, that (a) is independently owned and operated; (b) is not dominant in its field; and (c) employs fewer than 50 full-time employees or has gross annual sales of less than $4,000,000. For purposes of a specific rule, an agency may define small business to include more employees if necessary to adapt the rule to the needs and problems of small businesses.

Subd. 2. **Impact on small business.** When an agency proposes a new rule, or an amendment to an existing rule, which may affect small businesses as defined by this section, the agency shall consider each of the following methods for reducing the impact of the rule on small businesses:

(a) the establishment of less stringent compliance or reporting requirements for small businesses;

(b) the establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;

(c) the consolidation or simplification of compliance or reporting requirements for small businesses;

(d) the establishment of performance standards for small businesses to replace design or operational standards required in the rule; and

(e) the exemption of small businesses from any or all requirements of the rule.

In its statement of need and reasonableness, the agency shall document how it has considered these methods and the results.

Subd. 3. **Feasibility.** The agency shall incorporate into the proposed rule or amendment any of the methods specified under subdivision 2 that it finds to be feasible, unless doing so would be contrary to the statutory objectives that are the basis of the proposed rulemaking.

Subd. 4. **Small business participation in rulemaking.** In addition to the requirements under section 14.14, the agency shall provide an opportunity for small businesses to participate in the rulemaking process, utilizing one or more of the following methods:

(a) the inclusion in any advance notice of proposed rulemaking of a statement that the rule will have an impact on small businesses which shall include a

description of the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons; or

(b) the publication of a notice of the proposed rulemaking in publications likely to be obtained by small businesses that would be affected by the rule; or

(c) the direct notification of any small business that may be affected by the rule; or

(d) the conduct of public hearings concerning the impact of the rule on small businesses.

Subd. 5. **Compliance.** If a hearing examiner or the attorney general finds that an agency has failed to comply with subdivisions 1 to 4 of this section the rules shall not be adopted.

Subd. 6. **Agency review of rules.** Each agency shall, during the five-year period beginning with the effective date of this section, review the current rules of the agency which were in effect prior to that date and shall consider methods of reducing their impact on small businesses as provided under subdivision 2. If a method appears feasible, the agency shall propose an amendment to the rule. No review is necessary for a rule that is repealed during the five-year period. This subdivision shall not apply to rules governing licensure of occupations listed in section 116J.70, subdivision 2a, clause (3), paragraphs (a) through (pp).

Subd. 7. **Applicability.** This section does not apply to:

(a) temporary rules adopted under sections 14.29 to 14.36;

(b) agency rules that do not affect small businesses directly, including, but not limited to, rules relating to county or municipal administration of state and federal programs;

(c) service businesses regulated by government bodies, for standards and costs, such as nursing homes, long-term care facilities, hospitals, providers of medical care, day care centers, group homes, and residential care facilities; and

(d) agency rules adopted under section 16.085.

Subd. 8. **LCRAR review.** The legislative commission to review administrative rules shall review the implementation of this section, and shall include in the biennial report required by section 14.40 a report on the implementation of this section.

History: *1983 c 188 s 1*

14.12 DEADLINE TO PUBLISH NOTICE.

The agency shall, within 180 days after the effective date of a law requiring rules to be promulgated, unless otherwise specified by law, publish an appropriate notice of intent to adopt a rule in accordance with sections 14.04 to 14.36. If an agency has not given this notice, it shall report to the legislative commission to review administrative rules, other appropriate committees of the legislature, and the governor its failure to do so, and the reasons for that failure.

History: *1983 c 210 s 3*

14.14 HEARING ON RULE.

Subdivision 1. **Required hearing.** Except as otherwise provided in chapter 14, no rule may be adopted by any agency unless the agency first holds a public hearing affording all affected interests an opportunity to participate.

Subd. 1a. **Notice of rule hearing.** Each agency shall maintain a list of all persons who have registered with the agency for the purpose of receiving notice of

rule hearings. The agency may inquire as to whether those persons on the list wish to maintain their names thereon and may remove names for which there is a negative reply or no reply within 60 days. The agency shall, at least 30 days prior to the date set for the hearing, give notice of its intention to adopt rules by United States mail to all persons on its list, and by publication in the State Register. The mailed notice shall include either a copy of the proposed rule or a description of the nature and effect of the proposed rule and an announcement that a free copy of the proposed rule is available on request from the agency. Each agency may, at its own discretion, also contact persons not on its list and may give notice of its intention in newsletters, newspapers or other publications or through other means of communication. The notice in the State Register must include the proposed rule or an amended rule in the form required by the revisor under section 14.07, together with a citation to the most specific statutory authority for the proposed rule, a statement of the place, date, and time of the public hearing, and other information as required by law or rule. When an entire rule is proposed to be repealed, the agency need only publish that fact, giving the citation to the rule to be repealed in the notice.

[For text of subds 2 and 3, see M.S.1982]

History: *1983 c 210 s 4; 1983 c 301 s 64*

14.15 HEARING EXAMINER'S REPORT.

Subdivision 1. **Time of preparation.** After allowing written material to be submitted and recorded in the hearing record for five working days after the public hearing ends, or for a longer period not to exceed 20 days if ordered by the hearing examiner, the hearing examiner assigned to the hearing shall write a report as provided for in section 14.50. The hearing examiner shall allow the agency three business days after the closing of the hearing record to indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. The agency may not submit additional information during this three-day period. The written acceptance of other amendments shall be added to the hearing record.

[For text of subd 2, see M.S.1982]

Subd. 3. **Finding of substantial change.** If the report contains a finding that a rule has been modified in a way which makes it substantially different from that which was originally proposed, or that the agency has not met the requirements of sections 14.13 to 14.18, it shall be submitted to the chief hearing examiner for approval. If the chief hearing examiner approves the finding of the hearing examiner, the chief hearing examiner shall advise the agency and the revisor of statutes of actions which will correct the defects. The agency shall not adopt the rule until the chief hearing examiner determines that the defects have been corrected.

Subd. 4. **Need or reasonableness not established.** If the chief hearing examiner determines that the need for or reasonableness of the rule has not been established pursuant to section 14.14, subdivision 2, and if the agency does not elect to follow the suggested actions of the chief hearing examiner to correct that defect, then the agency shall submit the proposed rule to the legislative commission to review administrative rules for the commission's advice and comment. The agency shall not adopt the rule until it has received and considered the advice of the commission. However, the agency is not required to delay adoption longer

than 30 days after the commission has received the agency's submission. Advice of the commission shall not be binding on the agency.

History: *1983 c 210 s 5-7*

14.17 ATTORNEY GENERAL'S APPROVAL.

The attorney general shall, within 20 days, either approve or disapprove the rule.

If the rule is approved, the attorney general shall promptly file two copies of it in the office of the secretary of state with the revisor's certificate approving the form of the rule. The secretary of state shall forward one copy of each rule filed to the revisor of statutes.

If the rule is disapproved, the attorney general shall state in writing the reasons and return the rule to the agency. The attorney general shall also send a statement of reasons for disapproving the rule to the agency, the revisor of statutes, the chief hearing examiner, and the legislative commission to review administrative rules. The rule shall neither be filed in the office of the secretary nor published. Upon receiving a rule disapproved as illegal, the agency shall either withdraw the rule under section 14.05, subdivision 3 or modify the rule to cure the illegality. If the rule is modified, it shall be submitted to the chief hearing examiner who shall determine if the modified rule is substantially different from the rule as originally proposed. The agency shall not resubmit the rule to the attorney general until the chief hearing examiner determines that the rule is not substantially different from the rule as originally proposed.

History: *1983 c 210 s 8*

14.18 PUBLICATION OF ADOPTED RULE; EFFECTIVE DATE.

A rule is effective after it has been subjected to all requirements described in sections 14.13 to 14.20 and five working days after the notice of adoption is published in the State Register unless a later date is required by law or specified in the rule. If the rule adopted is the same as the proposed rule, publication may be made by publishing notice in the State Register that the rule has been adopted as proposed and by citing the prior publication. If the rule adopted differs from the proposed rule, the portions of the adopted rule which differ from the proposed rule shall be included in the notice of adoption together with a citation to the prior State Register publication of the remainder of the proposed rule. The nature of the modifications must be clear to a reasonable person when the notice of adoption is considered together with the State Register publication of the proposed rule, except that modifications may also be made which comply with the form requirements of section 14.07, subdivision 7.

History: *1983 c 210 s 9*

14.19 DEADLINE TO COMPLETE RULEMAKING.

The agency shall, within 180 days after issuance of the hearing examiner's report, submit its notice of adoption, amendment, suspension, or repeal to the State Register for publication. If the agency has not submitted its notice to the State Register within 180 days, the rule is automatically withdrawn. The agency shall not adopt the withdrawn rules without again following the procedures of sections 14.05 to 14.36. It shall report to the legislative commission to review administrative rules, other appropriate committees of the legislature, and the governor its failure to adopt rules and the reasons for that failure. The 180-day

time limit of this section does not include any days used for review by the chief hearing examiner, the attorney general, or the legislative commission to review administrative rules if the review is required by law.

History: *1983 c 210 s 10*

14.21 AUTHORITY FOR USE OF NONCONTROVERSIAL RULES PROCEDURE.

When an agency determines that its proposed adoption, amendment, suspension or repeal of a rule will be noncontroversial in nature, it may utilize the provisions of sections 14.21 to 14.28 rather than the provisions of sections 14.13 to 14.20.

History: *1983 c 210 s 11*

14.22 NOTICE OF PROPOSED ADOPTION OF RULES.

The agency shall give notice of its intention to adopt a rule without public hearing. The notice shall be given by publication in the State Register and by United States mail to persons who have registered their names with the agency pursuant to section 14.14, subdivision 1. The mailed notice shall include either a copy of the proposed rule or a description of the nature and effect of the proposed rule and an announcement that a free copy of the proposed rule is available on request from the agency. The notice in the State Register shall include the proposed rule or the amended rule in the form required by the revisor under section 14.07, and a citation to the most specific statutory authority for the proposed rule. When an entire rule is proposed to be repealed, the notice need only state that fact, giving the citation to the rule to be repealed in the notice. The notice shall include a statement advising the public:

(1) that they have 30 days in which to submit comment on the proposed rule;

(2) that no public hearing will be held unless seven or more persons make a written request for a hearing within the 30 day comment period;

(3) of the manner in which persons shall request a hearing on rules proposed pursuant to sections 14.21 to 14.28; and

(4) that the rule may be modified if modifications are supported by the data and views submitted.

History: *1983 c 210 s 12*

14.26 ADOPTION OF PROPOSED RULE; SUBMISSION TO ATTORNEY GENERAL.

If no hearing is required, the agency shall submit to the attorney general the proposed rule and notice as published, the rule as proposed for adoption, any written comments received by the agency, and a statement of need and reasonableness for the rule. The agency shall give notice to all persons who requested to be informed that these materials have been submitted to the attorney general. This notice shall be given on the same day that the record is submitted. The rule and these materials shall be submitted to the attorney general within 180 days of the day that the comment period for the rule is over or the rule is automatically withdrawn. The agency shall report its failure to adopt the rules and the reasons for that failure to the legislative commission to review administrative rules, other appropriate legislative committees, and the governor.

Even if the 180-day period expires while the attorney general reviews the rule, if the attorney general rejects the rule, the agency may resubmit it after taking corrective action. The resubmission must occur within 30 days of when the agency receives written notice of the disapproval. If the rule is again disapproved, the rule is withdrawn. An agency may resubmit at any time before the expiration of the 180-day period. If the agency withholds some of the proposed rule, it may not adopt the withheld portion without again following the procedures of sections 14.13 to 14.20, 14.21 to 14.28, or 14.29 to 14.36.

The attorney general shall approve or disapprove the rule as to its legality and its form to the extent the form relates to legality, including the issue of substantial change, within 14 days. If the rule is approved, the attorney general shall promptly file two copies of it in the office of the secretary of state. The secretary of state shall forward one copy of each rule to the revisor of statutes. If the rule is disapproved, the attorney general shall state in writing the reasons, and the rule shall not be filed in the office of the secretary of state, nor published. The attorney general shall send a statement of reasons for disapproval of the rule to the agency, the chief hearing examiner, the legislative commission to review administrative rules, and to the revisor of statutes.

History: *1983 c 210 s 13*

14.32 SUBMISSION TO ATTORNEY GENERAL.

The agency shall submit to the attorney general the proposed temporary rule as published, with any modifications. The attorney general shall review the proposed temporary rule as to its legality, review its form to the extent the form relates to legality, and shall approve or disapprove the proposed temporary rule and any modifications within five working days. The attorney general shall send a statement of reasons for disapproval of the rule to the agency, the chief hearing examiner, the legislative commission to review administrative rules, and to the revisor of statutes.

History: *1983 c 210 s 14*

14.38 EFFECT OF ADOPTION OF RULES.

[For text of subds 1 to 5, see M.S.1982]

Subd. 6. **Exempt rules.** Rules adopted, amended, suspended, or repealed by any agency but excluded from the definition of "rule" in section 14.02, subdivision 4, shall have the force and effect of law upon compliance with subdivision 7.

However, subdivisions 5 to 9 do not apply to:

(1) rules concerning only the internal management of the agency or other agencies, and which do not directly affect the rights of or procedure available to the public; or,

(2) opinions of the attorney general; or,

(3) rules published in accordance with section 97.53.

[For text of subds 7 to 11, see M.S.1982]

History: *1983 c 138 s 1*

14.45 RULE DECLARED INVALID.

In proceedings under section 14.44, the court shall declare the rule invalid if it finds that it violates constitutional provisions or exceeds the statutory authority of

the agency or was adopted without compliance with statutory rulemaking procedures. Any party to proceedings under section 14.44, including the agency, may appeal an adverse decision of the district court to the court of appeals as in other civil cases.

History: *1983 c 247 s 7*

14.47 PUBLICATION IN COMPILED FORM.

Subdivision 1. **Plan of publication and supplementation.** The revisor of statutes shall:

(1) formulate a plan for the compilation of all permanent agency rules and, to the extent practicable, temporary agency rules, adopted pursuant to the administrative procedure act or filed pursuant to the provisions of section 14.38, subdivisions 5 to 9 which were in effect at the time the rules were filed or subdivision 11, including their order, classification, arrangement, form, and indexing, and any appropriate tables, annotations, cross references, citations to applicable statutes, explanatory notes, and other appropriate material to facilitate use of the rules by the public, and for the compilation's composition, printing, binding and distribution;

(2) publish the compilation of permanent agency rules and, if practicable, temporary rules, adopted pursuant to the administrative procedure act or filed pursuant to the provisions of section 14.38, subdivisions 5 to 9 which were in effect at the time the rules were filed or subdivision 11, which shall be called "Minnesota Rules";

(3) periodically either publish a supplement or a new compilation, which includes all rules adopted since the last supplement or compilation was published and removes rules incorporated in prior compilations or supplements which are no longer effective;

(4) include in Minnesota Rules a consolidated list of publications and other documents incorporated by reference into the rules after June 30, 1981, and found conveniently available by the revisor under section 14.07, subdivision 4, indicating where the publications or documents are conveniently available to the public; and

(5) copyright any compilations and or supplements in the name of the state of Minnesota.

[For text of subds 2 to 4, see M.S.1982]

Subd. 5. **Powers of revisor.** (a) In preparing a compilation or supplement, the revisor may renumber rules, paragraphs, clauses or other parts of a rule; combine or divide rules, paragraphs, clauses or other parts of a rule; rearrange the order of rules, paragraphs, clauses, or other parts of a rule; move paragraphs, clauses, or other parts of a rule to another rule; remove redundant language; make minor punctuation and grammatical changes to facilitate the renumbering, combining, dividing, and rearranging of rules or parts of rules; change reference numbers to agree with renumbered rules, paragraphs, clauses or other parts of a rule; change reference numbers to agree with renumbered statutes or parts of statutes; substitute the proper rule, paragraph, clause, or other part of a rule for the term "this rule," "the preceding rule" and the like; substitute numbers for written words and written words for numbers; substitute the term "rule" for the term "regulation" when "regulation" refers to a Minnesota rule; substitute the date on which the rule becomes effective for the words "the effective date of this rule," and the like; change capitalization, punctuation, and forms of citation for the purpose of uniformity; convert citations of Laws of Minnesota to citations of

Minnesota Statutes; correct manifest clerical or typographical errors; correct all misspelled words; correct manifest grammatical and punctuation errors; and make other editorial changes to ensure the accuracy and utility of the compilation or supplement.

(b) The revisor shall provide headnotes as catch words to rules and, if appropriate, to paragraphs, clauses, or other parts of a rule. The headnotes are not part of the rule even if included with the rule when adopted. The revisor shall change headnotes to clearly indicate the subject matter of the rules. "Headnote" means any text functioning as catch words to the substance of text and not itself communicating the substantive content of the rule.

[For text of subds 6 and 7, see M.S.1982]

Subd. 8. **Sales and distribution of compilation.** Any compilation, reissue, or supplement published by the revisor shall be sold by the revisor for a reasonable fee and its proceeds deposited in the general fund. An agency shall purchase from the revisor the number of copies of the compilation or supplement needed by the agency. The revisor shall provide one copy of any compilation or supplement to each county library maintained pursuant to section 134.12 or 375.33 upon its request, except in counties containing cities of the first class. If a county has not established a county library pursuant to section 134.12 or 375.33, the copy will be provided to any public library in the county upon its request.

[For text of subd 9, see M.S.1982]

History: *1983 c 210 s 15-17*

14.48 CREATION OF OFFICE OF ADMINISTRATIVE HEARINGS; CHIEF HEARING EXAMINER APPOINTED; OTHER HEARING EXAMINERS APPOINTED.

A state office of administrative hearings is created. The office shall be under the direction of a chief hearing examiner, who shall be learned in the law and appointed by the governor, with the advice and consent of the senate, for a term ending on June 30 of the sixth calendar year after appointment. Senate confirmation of the chief hearing examiner shall be as provided by section 15.066. The chief hearing examiner shall appoint additional hearing examiners and compensation judges to serve in his office as necessary to fulfill the duties prescribed in sections 14.48 to 14.56. All hearing examiners and compensation judges shall be in the classified service except that the chief hearing examiner shall be in the unclassified service, but may be removed from his position only for cause. All hearing examiners shall have demonstrated knowledge of administrative procedures and shall be free of any political or economic association that would impair their ability to function officially in a fair and objective manner. All workers' compensation judges shall be learned in the law, shall have demonstrated knowledge of workers' compensation laws and shall be free of any political or economic association that would impair their ability to function officially in a fair and objective manner.

History: *1983 c 305 s 5*

14.52 COURT REPORTERS; AUDIO RECORDINGS.

The office of administrative hearings may maintain a court reporter system and in addition to or in lieu thereof may contract with nongovernmental sources for court reporter services. The court reporters may additionally be utilized as the

chief hearing examiner directs. Unless the chief hearing examiner determines that the use of a court reporter is more appropriate, an audio magnetic recording device shall be used to keep a record at any hearing which takes place under this chapter. In all cases, the chief hearing examiner shall use audio magnetic recording devices to keep the record of hearings except when there are more than two primary parties in a case and the chief hearing examiner determines that the use of a court reporter is more appropriate. If the chief hearing examiner determines that the use of a court reporter is more appropriate, the cost of the court reporter shall be paid by the state. If the chief hearing examiner determines that the use of an audio magnetic recording device is more appropriate in a hearing, any party to that hearing may provide a court reporter at the party's expense. Court reporters provided by a party shall be selected from the chief hearing examiner's list of nongovernmental sources.

The fee charged by a court reporter to a party shall not exceed the fee which would be charged to the state pursuant to the court reporter's contract with the state.

Court reporters serving in the court reporter system of the office of administrative hearings shall be in the classified service. Notwithstanding the provisions of section 15.17, subdivision 4, copies of transcriptions of hearings conducted pursuant to sections 14.48 to 14.56 may be obtained only through the office of administrative hearings.

The departmental and classification seniority of an individual who was employed as a court reporter in state service prior to his appointment as a court reporter in the office of administrative hearings pursuant to Laws 1975, chapter 380, section 16, shall carry forward and be credited to his employment with the office of administrative hearings.

History: *1983 c 210 s 18*

14.62 DECISIONS, ORDERS.

[For text of subd 1, see M.S.1982]

Subd. 2. **Failure to make decision.** Unless otherwise provided by law, if an agency fails to render a decision and order in a contested case within 90 days after the submission of the final hearing examiner report and subsequent exceptions and arguments under section 14.61, if any, any party may petition the court of appeals for an order requiring the agency to render a decision and order on the contested case within such time as the court determines to be appropriate. The order shall be issued unless the agency shows that further delay is reasonable.

History: *1983 c 247 s 8*

14.63 APPLICATION.

Any person aggrieved by a final decision in a contested case is entitled to judicial review of the decision under the provisions of sections 14.63 to 14.68, but nothing in sections 14.63 to 14.68 shall be deemed to prevent resort to other means of review, redress, relief, or trial de novo provided by law. A petition for a writ of certiorari by an aggrieved person for judicial review under sections 14.63 to 14.68 must be filed with the court of appeals and served on the agency not more than 30 days after the party receives the final decision and order of the agency.

History: *1983 c 247 s 9*

14.64 PETITION; SERVICE.

Proceedings for review under sections 14.63 to 14.68 shall be instituted by serving a petition for a writ of certiorari personally or by certified mail upon the agency and by promptly filing the proof of service in the office of the clerk of the appellate courts and the matter shall proceed in the manner provided by the rules of civil appellate procedure.

If a request for reconsideration is made within ten days after the decision and order of the agency, the 30-day period provided in section 14.63 shall not begin to run until service of the order finally disposing of the application for reconsideration. Nothing herein shall be construed as requiring that an application for reconsideration be filed with and disposed of by the agency as a prerequisite to the institution of a review proceeding under sections 14.63 to 14.68.

Copies of the writ shall be served, personally or by certified mail, upon all parties to the proceeding before the agency in the proceeding in which the order sought to be reviewed was made. For the purpose of service, the agency upon request shall certify to the petitioner the names and addresses of all parties as disclosed by its records. The agency's certification shall be conclusive. The agency and all parties to the proceeding before it shall have the right to participate in the proceedings for review. A copy of the petition shall be provided to the attorney general at the time of service of the parties.

History: *1983 c 247 s 10*

14.65 STAY OF DECISION; STAY OF OTHER APPEALS.

The filing of the writ of certiorari shall not stay the enforcement of the agency decision; but the agency may do so, or the court of appeals may order a stay upon such terms as it deems proper. When review of or an appeal from a final decision is commenced under sections 14.63 to 14.68 in the court of appeals, any other later appeal under sections 14.63 to 14.68 from the final decision involving the same subject matter shall be stayed until final decision of the first appeal.

History: *1983 c 247 s 11*

14.66 TRANSMITTAL OF RECORD.

Within 30 days after service of the writ of certiorari, or within any further time as the court allows, the agency shall transmit to the reviewing court the original or a certified copy of the entire record of the proceeding under review. By stipulation of all parties to the review proceeding, the record may be shortened. Any party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional costs. The court may require or permit subsequent corrections or additions to the record when deemed desirable.

History: *1983 c 247 s 12*

14.67 NEW EVIDENCE, HEARING BY AGENCY.

If, before the date set for hearing, application is made to the court of appeals for leave to present additional evidence on the issues in the case, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the proceeding before the agency, the court may order that the additional evidence be taken before the agency upon such conditions as the court deems proper. The agency may modify its findings and decision by reason of the additional evidence and shall file with the reviewing

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court, to become a part of the record, the additional evidence, together with any modifications or new findings or decision.

History: *1983 c 247 s 13*

14.68 PROCEDURE ON REVIEW.

The review shall be confined to the record, except that in cases of alleged irregularities in procedure, not shown in the record, the court of appeals may transfer the case to the district court for the county in which the agency has its principal office or the county in which the contested case hearing was held. The district court shall have jurisdiction to take testimony and to hear and determine the alleged irregularities in procedure. Appeal from the district court determination may be taken to the court of appeals as in other civil cases.

History: *1983 c 247 s 14*

14.70 [Repealed, 1983 c 247 s 219]