

CHAPTER 14

ADMINISTRATIVE PROCEDURE

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14.03 NONAPPLICABILITY.

[For text of subs 1 and 2, see M.S.1990]

Subd. 3. Rulemaking procedures. The definition of a rule in section 14.02, subdivision 4, does not include:

- (1) rules concerning only the internal management of the agency or other agencies that do not directly affect the rights of or procedures available to the public;
- (2) rules of the commissioner of corrections relating to the placement and supervision of inmates serving a supervised release term, the internal management of institutions under the commissioner's control, and rules adopted under section 609.105 governing the inmates of those institutions;
- (3) rules relating to weight limitations on the use of highways when the substance of the rules is indicated to the public by means of signs;
- (4) opinions of the attorney general;
- (5) the systems architecture plan and long-range plan of the state education management information system provided by section 121.931;
- (6) the data element dictionary and the annual data acquisition calendar of the department of education to the extent provided by section 121.932;
- (7) the occupational safety and health standards provided in section 182.655; or
- (8) revenue notices and tax information bulletins of the commissioner of revenue.

History: 1991 c 259 s 3; 1991 c 291 art 21 s 1

NOTE: The amendments to subdivision 3 found in Laws 1991, chapter 259, section 3, are effective July 1, 1992. See Laws 1991, chapter 259, section 25.

14.07 FORM OF RULE.

Subdivision 1. Rule drafting assistance provided. (a) 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.
- (b) An agency may not contract with an attorney, consultant, or other person either to provide rule drafting services to the agency or to advise on drafting unless the revisor determines that special expertise is required for the drafting and the expertise is not available from the revisor or the revisor's staff.

Subd. 2. Approval of form. No agency decision to adopt a rule or emergency rule, including a decision to amend or modify a proposed rule or proposed emergency 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.

[For text of subs 3 to 7, see M.S.1990]

History: 1991 c 345 art 1 s 45,46

14.08 REVISOR OF STATUTES APPROVAL OF RULE FORM.

(a) Two copies of a rule adopted pursuant to the provisions of section 14.26 or 14.32 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 under section 14.26 or 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 of the form of the rule to the attorney general or notify the attorney general and the agency that the form of the rule will not be approved.

If the attorney general disapproves a rule, the agency may modify it and 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 this paragraph.

(b) One copy of a rule adopted after a public hearing shall be submitted by the agency to the revisor for approval of the form of the rule. Within five working days after receipt of the rule, the revisor shall either return the rule with a certificate of approval to the agency or notify the agency that the form of the rule will not be approved.

(c) If the revisor refuses to approve the form of the rule, the revisor's notice shall revise the rule so it is in the correct form.

(d) The attorney general shall assess an agency for the attorney general's actual cost of processing rules under this section. The agency shall pay the attorney general's assessments using the procedures of section 8.15. Each agency shall include in its budget money to pay the attorney general's assessments. Receipts from the assessment must be deposited in the state treasury and credited to the general fund.

History: 1991 c 345 art 1 s 47

14.18 PUBLICATION OF ADOPTED RULE; EFFECTIVE DATE.

Subdivision 1. Generally. A rule is effective after it has been subjected to all requirements described in sections 14.131 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.

Subd. 2. Pollution control agency fees. A new fee or fee increase adopted by the pollution control agency is subject to legislative approval during the next biennial budget session following adoption. The commissioner shall submit a report of fee adjustments to the legislature as a supplement to the biennial budget. Any new fee or fee increase remains in effect unless the legislature passes a bill disapproving the new fee or fee increase. A fee or fee increase disapproved by the legislature becomes null and void on July 1 following adjournment.

History: 1991 c 254 art 2 s 1

14.29 AUTHORITY FOR USE OF EMERGENCY RULES PROCEDURE; EXPIRATION OF AUTHORITY.

[For text of subd 1, see M.S.1990]

Subd. 2. 180-day time limit. Unless an agency is directed by federal law or court order to adopt, amend, suspend, or repeal a rule in a manner that does not allow for compliance with sections 14.14 to 14.28, no agency may adopt an emergency rule later than 180 days after the effective date of the statutory authority, except as provided in

subdivisions 3 and 4. If emergency rules are not adopted within the time allowed, the authority for the rules expires. The time limit of this section does not include any days used for review by the attorney general. If the 180-day period expires while the attorney general is reviewing the rule and the attorney general disapproves the rule, the agency may resubmit the rule to the attorney general after taking corrective action. The resubmission must occur within five working days after the agency receives written notice of disapproval. If the rule is again disapproved by the attorney general, it is withdrawn.

[For text of subd 3, see M.S.1990]

Subd. 4. Game and fish rules. (a) The commissioner of natural resources may adopt rules under sections 14.29 to 14.36 and this subdivision that are authorized under chapters 97A, 97B, and 97C to set open seasons and areas, to close seasons and areas, to select hunters for areas, to provide for tagging and registration of game, to prohibit or allow taking of wild animals to protect a species, and to prohibit or allow importation, transportation, or possession of a wild animal.

(b) If conditions exist that do not allow the commissioner to comply with sections 14.29 to 14.36, the commissioner may adopt a rule under this subdivision by submitting the rule to the attorney general for review under section 14.32, complying with sections 3.846, subdivision 2, and 14.36, and including a statement of the emergency conditions and a copy of the rule in the notice. The notice may be published after it is received from the attorney general or five business days after it is submitted to the attorney general, whichever is earlier.

(c) Rules adopted under paragraph (b) are effective upon publishing in the State Register and may be effective up to seven days before publishing and filing under section 3.846, subdivision 2, if:

- (1) the commissioner of natural resources determines that an emergency exists;
- (2) the attorney general approves the rule; and

(3) for a rule that affects more than three counties the commissioner publishes the rule once in a legal newspaper published in Minneapolis, St. Paul, and Duluth, or for a rule that affects three or fewer counties the commissioner publishes the rule once in a legal newspaper in each of the affected counties.

(d) Except as provided in paragraph (e), a rule published under paragraph (c), clause (3), may not be effective earlier than seven days after publication.

(e) A rule published under paragraph (c), clause (3), may be effective the day the rule is published if the commissioner gives notice and holds a public hearing on the rule within 15 days before publication.

(f) The commissioner shall attempt to notify persons or groups of persons affected by rules adopted under paragraphs (b) and (c) by public announcements, posting, and other appropriate means as determined by the commissioner.

(g) Notwithstanding section 14.35, a rule adopted under this subdivision is effective for the period stated in the notice but not longer than 18 months after the rule is adopted.

(h) A rule adopted under this subdivision is not subject to the 180-day time limit in subdivision 2.

History: 1991 c 259 s 4,5

NOTE: Subdivisions 2 and 4, as amended and added by Laws 1991, chapter 259, sections 4 and 5, respectively, are effective July 1, 1992. See Laws 1991, chapter 259, section 25.

14.38 EFFECT OF ADOPTION OF RULES.

[For text of subs 1 to 5, see M.S.1990]

Subd. 6. Exempt rules. Rules adopted, amended, suspended, or repealed by any agency but excluded from the definition of "rule" in section 14.03, subdivision 3, 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.

[For text of subs 7 to 11, see M.S.1990]

History: 1991 c 259 s 6

NOTE: Subdivision 6, as amended by Laws 1991, chapter 259, section 6, is effective July 1, 1992. See Laws 1991, chapter 259, section 25.

14.47 PUBLICATION IN COMPILED FORM.

[For text of subs 1 to 4, see M.S.1990]

Subd. 5. **Powers of revisor.** (a) In preparing a compilation or supplement, the revisor may:

- (1) renumber rules, paragraphs, clauses or other parts of a rule;
- (2) combine or divide rules, paragraphs, clauses or other parts of a rule;
- (3) rearrange the order of rules, paragraphs, clauses, or other parts of a rule;
- (4) move paragraphs, clauses, or other parts of a rule to another rule;
- (5) remove redundant language;
- (6) make minor punctuation and grammatical changes to facilitate the renumbering, combining, dividing, and rearranging of rules or parts of rules;
- (7) change reference numbers to agree with renumbered rules, paragraphs, clauses or other parts of a rule;
- (8) change reference numbers to agree with renumbered statutes or parts of statutes;
- (9) substitute the proper rule, paragraph, clause, or other part of a rule for the term "this rule," "the preceding rule" and the like;
- (10) substitute numbers for written words and written words for numbers;
- (11) substitute the term "rule" for the term "regulation" when "regulation" refers to a Minnesota rule;
- (12) substitute the date on which the rule becomes effective for the words "the effective date of this rule," and the like;
- (13) change capitalization, punctuation, and forms of citation for the purpose of uniformity;
- (14) convert citations of Laws of Minnesota to citations of Minnesota Statutes;
- (15) correct manifest clerical or typographical errors;
- (16) correct all misspelled words;
- (17) correct manifest grammatical and punctuation errors;
- (18) replace gender specific words with gender neutral words and, if necessary, recast sentences containing gender specific words; and
- (19) 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 subs 6 to 9, see M.S.1990]

History: 1991 c 199 art 1 s 2