State Agencies

CHAPTER 14

ADMINISTRATIVE PROCEDURE

GENERAL PROVISIONS

14.001 STATEMENT OF PURPOSE.

The purposes of the Administrative Procedure Act are:

(1) to provide oversight of powers and duties delegated to administrative agencies;

(2) to increase public accountability of administrative agencies;

(3) to ensure a uniform minimum procedure;

(4) to increase public access to governmental information;

(5) to increase public participation in the formulation of administrative rules;

(6) to increase the fairness of agencies in their conduct of contested case proceedings; and

(7) to simplify the process of judicial review of agency action as well as increase its ease and availability.

In accomplishing its objectives, the intention of this chapter is to strike a fair balance between these purposes and the need for efficient, economical, and effective government administration. The chapter is not meant to alter the substantive rights of any person or agency. Its impact is limited to procedural rights with the expectation that better substantive results will be achieved in the everyday conduct of state government by improving the process by which those results are attained.

History: *1990 c 422 s 1*

14.002 STATE REGULATORY POLICY.

The legislature recognizes the important and sensitive role for administrative rules in implementing policies and programs created by the legislature. However, the legislature finds that some regulatory rules and programs have become overly prescriptive and inflexible, thereby increasing costs to the state, local governments, and the regulated community and decreasing the effectiveness of the regulatory program. Therefore, whenever feasible, state agencies must develop rules and regulatory programs that emphasize superior achievement in meeting the agency's regulatory objectives and maximum flexibility for the regulated party and the agency in meeting those goals.

History: *1998 c 303 s 1*

14.01 CITATION.

Sections 14.001 to 14.69 may be cited as the Administrative Procedure Act.

History: *1957 c 806 s 1; 1961 c 136 s 1; 1963 c 633 s 1; 1969 c 9 s 6; 1969 c 599 s 1; 1975 c 380 s 1; 1976 c 2 s 1; 1977 c 430 s 1; 1977 c 443 s 1,8; 1978 c 674 s 2; 1979 c 50 s 2; 1979 c 332 art 1 s 8; 1980 c 615 s 2; 1981 c 253 s 3,47; 1982 c 424 s 130; 1987 c 384 art 2 s 1; 1990 c 422 s 10*

14.02 DEFINITIONS.

Subdivision 1. **Scope.** For the purposes of sections 14.001 to 14.69 the terms defined in this section have the meanings ascribed to them.

Subd. 2. **Agency.** "Agency" means any state officer, board, commission, bureau, division, department, or tribunal, other than a judicial branch court and the Tax Court, having a statewide jurisdiction and authorized by law to make rules or to adjudicate contested cases. "Agency" also means the Capitol Area Architectural and Planning Board.

Subd. 3. **Contested case.** "Contested case" means a proceeding before an agency in which the legal rights, duties, or privileges of specific parties are required by law or constitutional right to be determined after an agency hearing. "Contested case" does not include hearings held by the Department of Corrections involving the discipline or transfer of inmates or other hearings relating solely to inmate management.

Subd. 4. **Rule.** "Rule" means every agency statement of general applicability and future effect, including amendments, suspensions, and repeals of rules, adopted to implement or make specific the law enforced or administered by that agency or to govern its organization or procedure.

History: *1957 c 806 s 1; 1959 c 263 s 3; 1961 c 136 s 1; 1963 c 633 s 1; Ex1967 c 1 s 6; 1969 c 9 s 6; 1969 c 567 s 3; 1969 c 1129 art 2 s 1; art 3 s 1; 1973 c 254 s 3; 1973*

c 654 s 15; 1975 c 271 s 6; 1975 c 359 s 23; 1975 c 380 s 1; 1976 c 2 s 1; 1976 c 68 s 1,2; 1976 c 134 s 78; 1977 c 430 s 7; 1977 c 443 s 1; 1978 c 674 s 2,3; 1979 c 50 s 2; 1979 c 332 art 1 s 8; 1980 c 615 s 2; 1981 c 253 s 3,4,47; 1982 c 424 s 130; 1985 c 285 s 2; 1Sp1985 c 4 s 1; 1986 c 386 art 4 s 2; 1987 c 384 art 2 s 1,3; 1989 c 290 art 2 s 1; 1990 c 422 s 2,10

14.03 NONAPPLICABILITY.

Subdivision 1. **Administrative procedure generally.** The Administrative Procedure Act in sections 14.001 to 14.69 does not apply to (a) agencies directly in the legislative or judicial branches, (b) emergency powers in sections 12.31 to 12.37, (c) the Department of Military Affairs, (d) the Comprehensive Health Association provided in section 62E.10, (e) the Tax Court provided by section 271.06, or (f) the regents of the University of Minnesota.

Subd. 2. **Contested case procedures.** The contested case procedures of the Administrative Procedure Act provided in sections 14.57 to 14.69 do not apply to (a) proceedings under chapter 414, except as specified in that chapter, (b) the commissioner of corrections, (c) the unemployment insurance program and the Social Security disability determination program in the Department of Employment and Economic Development, (d) the commissioner of mediation services, (e) the Workers' Compensation Division in the Department of Labor and Industry, (f) the Workers' Compensation Court of Appeals, or (g) the Board of Pardons.

Subd. 3. **Rulemaking procedures.** (a) 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) an application deadline on a form; and the remainder of a form and instructions for use of the form to the extent that they do not impose substantive requirements other than requirements contained in statute or rule;

(3) the curriculum adopted by an agency to implement a statute or rule permitting or mandating minimum educational requirements for persons regulated by an agency, provided the topic areas to be covered by the minimum educational requirements are specified in statute or rule;

(4) procedures for sharing data among government agencies, provided these procedures are consistent with chapter 13 and other law governing data practices.

(b) The definition of a rule in section 14.02, subdivision 4, does not include:

(1) rules of the commissioner of corrections relating to the release, placement, term, and supervision of inmates serving a supervised release or conditional 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;

(2) 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;

(3) opinions of the attorney general;

(4) the data element dictionary and the annual data acquisition calendar of the Department of Education to the extent provided by section 125B.07;

(5) the occupational safety and health standards provided in section 182.655;

(6) revenue notices and tax information bulletins of the commissioner of revenue;

(7) uniform conveyancing forms adopted by the commissioner of commerce under section 507.09; or

(8) the interpretive guidelines developed by the commissioner of human services to the extent provided in chapter 245A.

Subd. 3a. **Policy for future exclusions.** The legislature will consider granting further exemptions from the rulemaking requirements of this chapter for rules that are necessary to comply with a requirement in federal law or that are necessary to avoid a denial of funds or services from the federal government that would otherwise be available to the state.

History: *1957 c 806 s 1; 1961 c 136 s 1; 1963 c 633 s 1; 1969 c 9 s 6; 1969 c 599 s 1; 1975 c 380 s 1; 1976 c 2 s 1; 1977 c 430 s 1; 1977 c 443 s 1,8; 1978 c 674 s 2; 1979 c 50 s 2; 1979 c 332 art 1 s 8; 1980 c 615 s 2; 1981 c 253 s 3,47; 1982 c 424 s 130; 1983 c 274 s 18; 1984 c 640 s 1; 1Sp1985 c 14 art 9 s 75; 1987 c 384 art 2 s 1; 1990 c 422 s 3; 1991 c 259 s 3; 1991 c 291 art 21 s 1; 1992 c 582 s 1; 1994 c 388 art 1 s 1; 1994 c 483 s 1; 1995 c 207 art 2 s 1; 1Sp1995 c 3 art 16 s 13; 1997 c 66 s 80; 1997 c 187 art 5 s 2,3; 1998 c 397 art 11 s 3; 1999 c 107 s 66; 2000 c 343 s 4; 2003 c 2 art 5 s 2; 2003 c 130 s 12; 1Sp2003 c 3 art 2 s 20; 2004 c 206 s 52; 2005 c 136 art 4 s 2*

14.04 AGENCY ORGANIZATION; GUIDEBOOK.

To assist interested persons dealing with it, each agency must, in a manner prescribed by the commissioner of administration, prepare a description of its organization, stating the general course and method of its operations and where and how the public may obtain information or make submissions or requests. The commissioner of administration must publish these descriptions at least once every four years commencing in 1981 in a guidebook of state agencies. Notice of the publication of the guidebook must be published in the State Register and given in newsletters, newspapers, or other publications, or through other means of communication. The commissioner must make an electronic version of the guidebook available on the Internet free of charge through the North Star information service.

History: *1957 c 806 s 2; 1974 c 344 s 1–3; 1975 c 380 s 2; 1975 c 413 s 1; 1976 c 138 s 1; 1977 c 443 s 2; 1980 c 615 s 3–7,9–11,39–50; 1981 c 253 s 5–19; 1981 c 357 s 25; 1Sp1981 c 4 art 2 s 1; 1982 c 424 s 130; 1987 c 365 s 4; 1995 c 233 art 2 s 5; 1998 c 366 s 17*

14.045 AGENCIES; LIMITS ON PENALTIES.

Subdivision 1. **Limit on penalties.** An agency may not, under authority of rule, levy a total fine or penalty of more than $700 for a single violation unless the agency has specific statutory authority to levy a fine in excess of that amount.

Subd. 2. **Criminal penalty.** An agency may not, by rule, establish a criminal penalty unless the agency has specific statutory authority to do so.

Subd. 3. **Factors.** (a) If a statute or rule gives an agency discretion over the amount of a fine, the agency must take the following factors into account in determining the amount of the fine:

(1) the willfulness of the violation;

(2) the gravity of the violation, including damage to humans, animals, and the natural resources of the state;

(3) the history of past violations;

(4) the number of violations;

(5) the economic benefit gained by the person by allowing or committing the violation; and

(6) other factors that justice may require.

(b) For a violation after an initial violation, the following factors must be considered in addition to the factors in paragraph (a):

(1) similarity of previous violations to the current violation to be penalized;

(2) time elapsed since the last violation;

(3) number of previous violations; and

(4) response of the person to the most recent previous violation identified.

Subd. 4. **Effect on other law.** This section does not affect the right of an agency to deny a permit, revoke a license, or take similar action, other than the imposition of a fine, even if the cost of the denial, revocation, or other action to the affected party exceeds $700.

Subd. 5. **Effective date.** Subdivisions 1, 2, and 4 apply only to fines and penalties imposed under rules for which notice of intent to adopt rules is published after July 1, 1996.

History: *1996 c 390 s 11*

PROVISIONS APPLICABLE TO ALL RULES

14.05 GENERAL AUTHORITY.

Subdivision 1. **Authority to adopt original rules restricted.** Each agency shall adopt, amend, suspend, or repeal its rules in accordance with the procedures specified in sections 14.001 to 14.69, and only pursuant to authority delegated by law and in full compliance with its duties and obligations. If a law authorizing rules is repealed, the rules adopted pursuant to that law are automatically repealed on the effective date of the law's repeal unless there is another law authorizing the rules. Except as provided in section 14.06, sections 14.001 to 14.69 shall not be authority for an agency to adopt, amend, suspend, or repeal rules.

Subd. 2. **Authority to modify proposed rule.** (a) An agency may modify a proposed rule in accordance with the procedures of the Administrative Procedure Act. However, an agency may not modify a proposed rule so that it is substantially different from the proposed rule in the notice of intent to adopt rules or notice of hearing.

(b) A modification does not make a proposed rule substantially different if:

(1) the differences are within the scope of the matter announced in the notice of intent to adopt or notice of hearing and are in character with the issues raised in that notice;

(2) the differences are a logical outgrowth of the contents of the notice of intent to adopt or notice of hearing and the comments submitted in response to the notice; and

(3) the notice of intent to adopt or notice of hearing provided fair warning that the outcome of that rulemaking proceeding could be the rule in question.

(c) In determining whether the notice of intent to adopt or notice of hearing provided fair warning that the outcome of that rulemaking proceeding could be the rule in question the following factors must be considered:

(1) the extent to which persons who will be affected by the rule should have understood that the rulemaking proceeding on which it is based could affect their interests;

(2) the extent to which the subject matter of the rule or issues determined by the rule are different from the subject matter or issues contained in the notice of intent to adopt or notice of hearing; and

(3) the extent to which the effects of the rule differ from the effects of the proposed rule contained in the notice of intent to adopt or notice of hearing.

Subd. 3. **Authority to withdraw proposed rule.** An agency may withdraw a rule any time before filing it with the secretary of state. An agency may withdraw a portion of a rule unless the remaining rule is substantially different from the rule as published. It shall publish notice that the rule has been withdrawn in the State Register. If a rule is withdrawn, the agency may again propose it for adoption, either in the original or modified form, but the agency shall comply with all procedures of sections 14.05 to 14.28, with the exception of section 14.101, if the noncompliance is approved by the chief administrative law judge.

Subd. 4. [Expired]

Subd. 5. **Review and repeal of rules.** By December 1 of each year, an agency must submit to the governor, the Legislative Coordinating Commission, the policy and funding committees and divisions with jurisdiction over the agency, and the revisor of statutes, a list of any rules or portions of rules that are obsolete, unnecessary, or duplicative of other state or federal statutes or rules. The list must also include an explanation of why the rule or portion of the rule is obsolete, unnecessary, or duplicative of other state or federal statutes or rules. By December 1, the agency must either report a timetable for repeal of the rule or portion of the rule, or must develop a bill for submission to the appropriate policy committee to repeal the obsolete, unnecessary, or duplicative rule. Such a bill must include proposed authorization to use the expedited procedures of section 14.389 to repeal or amend the obsolete, unnecessary, or duplicative rule. A report submitted under this subdivision must be signed by the person in the agency who is responsible for identifying and initiating repeal of obsolete rules. The report also must identify the status of any rules identified in the prior year's report as obsolete, unnecessary, or duplicative. If none of an agency's rules are obsolete, unnecessary, or duplicative, an agency's December 1 report must state that conclusion.

Subd. 6. **Veto of adopted rules.** The governor may veto all or a severable portion of a rule of an agency as defined in section 14.02, subdivisions 2 and 4, by submitting notice of the veto to the State Register within 14 days of receiving a copy of the rule from the secretary of state under section 14.16, subdivision 3, 14.26, subdivision 3, or 14.386 or the agency under section 14.389, subdivision 3, or section 14.3895. The veto is effective when the veto notice is submitted to the State Register. This authority applies only to the extent that the agency itself would have authority, through rulemaking, to take such action. If the governor vetoes a rule or portion of a rule under this section, the governor shall notify the chairs of the legislative committees having jurisdiction over the agency whose rule was vetoed.

History: *1957 c 806 s 2; 1974 c 344 s 1–3; 1975 c 380 s 2; 1975 c 413 s 1; 1976 c 138 s 1; 1977 c 443 s 2; 1980 c 615 s 3–7,9–11,39–50; 1981 c 253 s 5–19; 1981 c 357 s 25; 1Sp1981 c 4 art 2 s 1; 1982 c 424 s 130; 1987 c 384 art 2 s 1; 1990 c 422 s 10; 1995 c 233 art 2 s 6,7,56; 1997 c 98 s 5; 1998 c 303 s 2; 1999 c 129 s 1,6; 2001 c 106 s 1; 2001 c 179 s 1,10,11*

14.055 RULE VARIANCES; STANDARDS.

Subdivision 1. **Authority.** A person or entity may petition an agency for a variance from a rule adopted by the agency, as it applies to the circumstances of the petitioner.

Subd. 2. **General terms.** The following general terms apply to variances granted pursuant to this section:

(1) the agency may attach any conditions to the granting of a variance that the agency determines are needed to protect public health, safety, or the environment;

(2) a variance has prospective effect only;

(3) conditions attached to the granting of a variance are an enforceable part of the rule to which the variance applies; and

(4) the agency may not grant a variance from a statute or court order.

Subd. 3. **Mandatory variances.** An agency shall grant a variance from a rule as applied to the particular circumstances of the petitioner, if the agency finds that the application of the rule, as applied to the circumstances of that petitioner, would not serve any of the purposes of the rule.

Subd. 4. **Discretionary variances.** An agency may grant a variance if the agency finds that:

(1) application of the rule to the petitioner would result in hardship or injustice;

(2) variance from the rule would be consistent with the public interest; and

(3) variance from the rule would not prejudice the substantial legal or economic rights of any person or entity.

Subd. 5. **Rules.** An agency may adopt rules under section 14.389 establishing general standards for granting mandatory or discretionary variances from its rules. Section 14.389, subdivision 5, applies to these rules. An agency also may grant variances based on standards specified in other law.

Subd. 6. **When not applicable.** This section and section 14.056 do not apply if another state or federal law or rule authorizes or requires the granting of variances by an agency or in certain circumstances.

History: *2001 c 179 s 2*

14.056 RULE VARIANCES; PROCEDURES.

Subdivision 1. **Contents of variance petition.** A petition for a variance under section 14.055 must include the following information:

(1) the name and address of the person or entity for whom a variance is being requested;

(2) a description of and, if known, a citation to the specific rule for which a variance is requested;

(3) the variance requested, including the scope and duration of the variance;

(4) the reasons that the petitioner believes justify a variance, including a signed statement attesting to the accuracy of the facts asserted in the petition;

(5) a history of the agency's action relative to the petitioner, as relates to the variance request;

(6) information regarding the agency's treatment of similar cases, if known; and

(7) the name, address, and telephone number of any person the petitioner knows would be adversely affected by the grant of the petition.

Subd. 2. **Fees.** (a) An agency may charge a petitioner a variance fee. The fee is:

(1) $10, which must be submitted with the petition, and is not refundable; or

(2) the estimated cost for the agency to process the variance petition, if the agency estimates that the cost will be more than $20.

(b) If an agency intends to charge costs to the petitioner under paragraph (a), clause (2):

(1) the agency and the petitioner must agree on the costs and the timing and manner of payment;

(2) for purposes of the 60–day limit in subdivision 5, the petition is not complete until there is agreement with the petitioner on the costs and timing and manner of payment; and

(3) if the payment made by the petitioner exceeds the agency's actual costs, the agency must refund the overpayment to the petitioner. The payment is not otherwise refundable.

(c) Proceeds from fees charged under this subdivision are appropriated to the commissioner of finance. The commissioner of finance may transfer amounts to the fund and agency that supports the program that is the subject of the variance petition when the agency makes a request for the fee proceeds and the commissioner of finance determines the agency needs the fee proceeds to implement this section. Annually, the commissioner of finance must transfer proceeds from fees that are not transferred to agencies to the general fund.

Subd. 3. **Notice.** In addition to any notice required by other law, an agency shall make reasonable efforts to ensure that persons or entities who may be affected by the variance have timely notice of the request for a variance. The agency may require the petitioner to serve notice on any other person or entity in the manner specified by the agency.

Subd. 4. **Additional information.** Before granting or denying a variance petition, an agency may request additional information from the petitioner.

Subd. 5. **Order; timing.** An agency must issue a written order granting or denying a variance and specifying the scope and period of any variance granted. The order must contain an agency statement of the relevant facts and the reasons for the agency's action. The agency shall grant or deny a variance petition as soon as practicable, and within 60 days of receipt of the completed petition, unless the petitioner agrees to a later date. Failure of the agency to act on a petition within 60 days constitutes approval of the petition.

Subd. 6. **Order; delivery.** Within five days of issuing a variance order, the agency shall send the order to the petitioner and to any other person entitled to notice under other law.

Subd. 7. **Record.** An agency shall maintain a record of all orders granting and denying variances under section 14.055. The records must be indexed by rule and be available for public inspection to the extent provided in chapter 13.

History: *2001 c 179 s 3*

14.06 REQUIRED RULES.

(a) Each agency shall adopt rules, in the form prescribed by the revisor of statutes, setting forth the nature and requirements of all formal and informal procedures related to the administration of official agency duties to the extent that those procedures directly affect the rights of or procedures available to the public.

(b) Upon the request of any person, and as soon as feasible and to the extent practicable, each agency shall adopt rules to supersede those principles of law or policy lawfully declared by the agency as the basis for its decisions in particular cases it intends to rely on as precedents in future cases. This paragraph does not apply to the Public Utilities Commission.

History: *1957 c 806 s 2; 1974 c 344 s 1–3; 1975 c 380 s 2; 1975 c 413 s 1; 1976 c 138 s 1; 1977 c 443 s 2; 1980 c 615 s 3–7,9–11,39–50; 1981 c 253 s 5–19; 1981 c 357 s 25; 1Sp1981 c 4 art 2 s 1; 1982 c 424 s 130; 1995 c 233 art 2 s 8*

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 an emergency, exempt, or expedited rule, including a decision to amend or modify a proposed rule or proposed emergency, exempt, or expedited rule, is 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, to be conveniently available to the public. If the rule incorporates by reference other publications and documents, the rule must contain a statement of incorporation. The statement of incorporation by reference must include the words "incorporated by reference"; must identify by title, author, publisher, and date of publication the standard or material to be incorporated; must state whether the material is subject to frequent change; and must contain a statement 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. [Repealed, 1984 c 640 s 33]

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 14.28. 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: *1957 c 806 s 2; 1974 c 344 s 1–3; 1975 c 380 s 2; 1975 c 413 s 1; 1976 c 138 s 1; 1977 c 443 s 2; 1980 c 615 s 3–7,9–11,39–50,57; 1981 c 253 s 5–19,37–46; 1981 c 357 s 25; 1Sp1981 c 4 art 2 s 1; 1982 c 424 s 130; 1983 c 210 s 1; 1984 c 640 s 2,3; 1Sp1985 c 13 s 79,80; 1988 c 686 art 5 s 4,5; 1991 c 345 art 1 s 45,46; 1995 c 233 art 2 s 56; 2001 c 106 s 2*

14.08 APPROVAL OF RULE AND RULE FORM; COSTS.

(a) One copy of a rule adopted under section 14.26 must be submitted by the agency to the chief administrative law judge. The chief administrative law judge shall request from the revisor certified copies of the rule when it is submitted by the agency under section 14.26. Within five days after the request for certification of the rule is received by the revisor, excluding weekends and holidays, the revisor shall either return the rule with a certificate of approval of the form of the rule to the chief administrative law judge or notify the chief administrative law judge and the agency that the form of the rule will not be approved.

If the chief administrative law judge disapproves a rule, the agency may modify it and the agency shall submit one copy of the modified rule, approved as to form by the revisor, to the chief administrative law judge.

(b) One copy of a rule adopted after a public hearing must be submitted by the agency to the chief administrative law judge. The chief administrative law judge shall request from the revisor certified copies of the rule when it is submitted by the agency. Within five working days after receipt of the request, the revisor shall either return the rule with a certificate of approval to the chief administrative law judge or notify the chief administrative law judge and 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 must revise the rule so it is in the correct form.

(d) The chief administrative law judge shall assess an agency for the actual cost of processing rules under this section. Each agency shall include in its budget money to pay the assessments. Receipts from the assessment must be deposited in the administrative hearings account established in section 14.54.

History: *1957 c 806 s 2; 1974 c 344 s 1–3; 1975 c 380 s 2; 1975 c 413 s 1; 1976 c 138 s 1; 1977 c 443 s 2; 1980 c 615 s 3–7,9–11,39–50; 1981 c 253 s 5–19; 1981 c 357 s 25; 1Sp1981 c 4 art 2 s 1; 1982 c 424 s 130; 1983 c 210 s 2; 1984 c 640 s 4; 1Sp1985 c 13 s 81; 1987 c 404 s 70; 1988 c 686 art 5 s 6; 1991 c 345 art 1 s 47; 1995 c 233 art 2 s 9; 2001 c 106 s 3*

14.09 PETITION FOR ADOPTION OF RULE.

Any person may petition an agency requesting the adoption, amendment, or repeal of any rule. The petition shall be specific as to what action is requested and the need for the action. Upon receiving a petition an agency shall have 60 days in which to make a specific and detailed reply in writing as to its planned disposition of the request and the reasons for its planned disposition of the request. If the agency states its intention to hold a public hearing on the subject of the request, it shall proceed according to sections 14.05 to 14.28. The chief administrative law judge shall prescribe by rule the form for all petitions under this section and may prescribe further procedures for their submission, consideration, and disposition.

History: *1957 c 806 s 5; 1975 c 380 s 6; 1981 c 253 s 21; 1982 c 424 s 130; 1995 c 233 art 2 s 10*

14.091 PETITION; UNIT OF LOCAL GOVERNMENT.

(a) The elected governing body of a statutory or home rule city, a county, or a sanitary district may petition for amendment or repeal of a rule or a specified portion of a rule. The petition must be adopted by resolution of the elected governing body and must be submitted in writing to the agency and to the Office of Administrative Hearings, must specify what amendment or repeal is requested, and must demonstrate that one of the following has become available since the adoption of the rule in question:

(1) significant new evidence relating to the need for or reasonableness of the rule; or

(2) less costly or intrusive methods of achieving the purpose of the rule.

(b) Within 30 days of receiving a petition, an agency shall reply to the petitioner in writing stating either that the agency, within 90 days of the date of the reply, will give notice under section 14.389 of intent to adopt the amendment or repeal requested by the petitioner or that the agency does not intend to amend or repeal the rule and has requested the Office of Administrative Hearings to review the petition. If the agency intends to amend or repeal the rule in the manner requested by the petitioner, the agency must use the process under section 14.389 to amend or repeal the rule. Section 14.389, subdivision 5, applies.

(c) Upon receipt of an agency request under paragraph (b), the chief administrative law judge shall assign an administrative law judge, who was not involved when the rule or portion of a rule that is the subject of the petition was adopted or amended, to review the petition to determine whether the petitioner has complied with the requirements of paragraph (a). The petitioner, the agency, or any interested person, at the option of any of them, may submit written material for the assigned administrative law judge's consideration within ten days of the chief administrative law judge's receipt of the agency request. The administrative law judge shall dismiss the petition if the judge determines that:

(1) the petitioner has not complied with the requirements of paragraph (a);

(2) the rule is required to comply with a court order; or

(3) the rule is required by federal law or is required to maintain authority to administer a federal program.

(d) If the administrative law judge assigned by the chief administrative law judge determines that the petitioner has complied with the requirements of paragraph (a), the administrative law judge shall conduct a hearing and issue a decision on the petition within 120 days of its receipt by the Office of Administrative Hearings. The agency shall give notice of the hearing in the same manner required for notice of a proposed rule hearing under section 14.14, subdivision 1a. At the public hearing, the agency shall make an affirmative presentation of facts establishing the need for and reasonableness of the rule or portion of the rule in

question. If the administrative law judge determines that the agency has not established the continued need for and reasonableness of the rule or portion of the rule, the rule or portion of the rule does not have the force of law, effective 90 days after the administrative law judge's decision, unless the agency has before then published notice in the State Register of intent to amend or repeal the rule in accordance with paragraph (e).

(e) The agency may amend or repeal the rule in the manner requested by the petitioner, or in another manner that the administrative law judge has determined is needed and reasonable. Amendments under this paragraph may be adopted under the expedited process in section 14.389. Section 14.389, subdivision 5, applies to this adoption. If the agency uses the expedited process and no public hearing is required, the agency must complete the amendment or repeal of the rule within 90 days of the administrative law judge's decision under paragraph (d). If a public hearing is required, the agency must complete the amendment or repeal of the rule within 180 days of the administrative law judge's decision under paragraph (d). A rule or portion of a rule that is not amended or repealed in the time prescribed by this paragraph does not have the force of law upon expiration of the deadline. A rule that is amended within the time prescribed in this paragraph has the force of law, as amended.

(f) The chief administrative law judge shall report the decision under paragraph (d) within 30 days to the chairs of the house and senate committees having jurisdiction over governmental operations and the chairs of the house and senate committees having jurisdiction over the agency whose rule or portion of a rule was the subject of the petition.

(g) The chief administrative law judge shall assess a petitioner half the cost of processing a petition and conducting a public hearing under paragraph (d).

History: *1999 c 193 s 1; 2000 c 335 s 1; 1Sp2003 c 1 art 2 s 29*

14.10 [Repealed, 1995 c 233 art 2 s 57]

14.101 ADVICE ON POSSIBLE RULES.

Subdivision 1. **Required notice.** In addition to seeking information by other methods designed to reach persons or classes of persons who might be affected by the proposal, an agency, at least 60 days before publication of a notice of intent to adopt or a notice of hearing, shall solicit comments from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency by causing notice to be published in the State Register. The notice must include a description of the subject matter of the proposal and the types of groups and individuals likely to be affected, and must indicate where, when, and how persons may comment on the proposal and whether and how drafts of any proposal may be obtained from the agency.

This notice must be published within 60 days of the effective date of any new or amendatory law requiring rules to be adopted, amended, or repealed.

Subd. 2. **Advisory committees.** Each agency may also appoint committees to comment, before publication of a notice of intent to adopt or a notice of hearing, on the subject matter of a possible rulemaking under active consideration within the agency.

Subd. 3. **Effect of good faith compliance.** If an agency has made a good faith effort to comply with this section, a rule may not be invalidated on the grounds that the contents of this notice are insufficient or inaccurate.

Subd. 4. **Reduction of time period.** The chief administrative law judge shall reduce the time period before publication from 60 to 30 days for good cause.

History: *1995 c 233 art 2 s 11; 2001 c 106 s 4–6*

14.11 [Repealed, 1995 c 233 art 2 s 57]

14.111 FARMING OPERATIONS.

Before an agency adopts or repeals rules that affect farming operations, the agency must provide a copy of the proposed rule change to the commissioner of agriculture, no later than 30 days prior to publication of the proposed rule in the State Register.

A rule may not be invalidated for failure to comply with this section if an agency has made a good faith effort to comply.

History: *1995 c 233 art 1 s 1*

14.115 [Repealed, 1995 c 233 art 2 s 57]

14.116 NOTICE TO LEGISLATURE.

When an agency mails notice of intent to adopt rules under section 14.14 or 14.22, the agency must send a copy of the same notice and a copy of the statement of need and reasonableness to the chairs and ranking minority party members of the legislative policy and budget committees with jurisdiction over the subject matter of the proposed rules.

In addition, if the mailing of the notice is within two years of the effective date of the law granting the agency authority to adopt the proposed rules, the agency shall make reasonable efforts to send a copy of the notice and the statement to all sitting legislators who were chief house and senate authors of the bill granting the rulemaking authority. If the bill was amended to include this rulemaking authority, the agency shall make reasonable efforts to send the notice and the statement to the chief house and senate authors of the amendment granting rulemaking authority, rather than to the chief authors of the bill.

History: *1998 c 303 s 3; 2001 c 179 s 4*

14.12 [Repealed, 1995 c 233 art 2 s 57]

14.125 TIME LIMIT ON AUTHORITY TO ADOPT, AMEND, OR REPEAL RULES.

An agency shall publish a notice of intent to adopt rules or a notice of hearing within 18 months of the effective date of the law authorizing or requiring rules to be adopted, amended, or repealed. If the notice is not published within the time limit imposed by this section, the authority for the rules expires. The agency shall not use other law in existence at the time of the expiration of rulemaking authority under this section as authority to adopt, amend, or repeal these rules.

An agency that publishes a notice of intent to adopt rules or a notice of hearing within the time limit specified in this section may subsequently amend or repeal the rules without additional legislative authorization.

History: *1995 c 233 art 2 s 12*

14.126 COMMITTEE AUTHORITY OVER RULE ADOPTION.

Subdivision 1. **Delay action.** If the standing committee of the house of representatives and the standing committee of the senate with jurisdiction over the subject matter of a proposed rule both vote to advise an agency that a proposed rule should not be adopted as proposed, the agency may not adopt the rule until the legislature adjourns the annual legislative session that began after the vote of the committees. The speaker of the house of representatives and the president of the senate shall determine if a standing committee has jurisdiction over a rule before a committee may act under this section.

Subd. 2. **Vote.** A committee vote under this section must be by a majority of the committee. The vote may occur any time after the publication of the rulemaking notice under section 14.14, subdivision 1a, 14.22, 14.389, subdivision 2, or 14.3895, subdivision 3, and before notice of adoption is published in the State Register under section 14.18, 14.27, 14.389, subdivision 3, or 14.3895, subdivision 3. A committee voting under this section shall notify the agency, the revisor of statutes, and the chief administrative law judge of the vote as soon as possible. The committee shall publish notice of the vote in the State Register as soon as possible.

History: *2001 c 179 s 5*

14.127 LEGISLATIVE APPROVAL REQUIRED.

Subdivision 1. **Cost thresholds.** An agency must determine if the cost of complying with a proposed rule in the first year after the rule takes effect will exceed $25,000 for: (1) any

one business that has less than 50 full–time employees; or (2) any one statutory or home rule charter city that has less than ten full–time employees. For purposes of this section, "business" means a business entity organized for profit or as a nonprofit, and includes an individual, partnership, corporation, joint venture, association, or cooperative.

Subd. 2. **Agency determination.** An agency must make the determination required by subdivision 1 before the close of the hearing record, or before the agency submits the record to the administrative law judge if there is no hearing. The administrative law judge must review and approve or disapprove the agency determination under this section.

Subd. 3. **Legislative approval required.** If the agency determines that the cost exceeds the threshold in subdivision 1, or if the administrative law judge disapproves the agency's determination that the cost does not exceed the threshold in subdivision 1, any business that has less than 50 full–time employees or any statutory or home rule charter city that has less than ten full–time employees may file a written statement with the agency claiming a temporary exemption from the rules. Upon filing of such a statement with the agency, the rules do not apply to that business or that city until the rules are approved by a law enacted after the agency determination or administrative law judge disapproval.

Subd. 4. **Exceptions.** (a) Subdivision 3 does not apply if the administrative law judge approves an agency's determination that the legislature has appropriated money to sufficiently fund the expected cost of the rule upon the business or city proposed to be regulated by the rule.

(b) Subdivision 3 does not apply if the administrative law judge approves an agency's determination that the rule has been proposed pursuant to a specific federal statutory or regulatory mandate.

(c) This section does not apply if the rule is adopted under section 14.388 or under another law specifying that the rulemaking procedures of this chapter do not apply.

(d) This section does not apply to a rule adopted by the Public Utilities Commission.

(e) Subdivision 3 does not apply if the governor waives application of subdivision 3. The governor may issue a waiver at any time, either before or after the rule would take effect, but for the requirement of legislative approval. As soon as possible after issuing a waiver under this paragraph, the governor must send notice of the waiver to the speaker of the house of representatives and the president of the senate and must publish notice of this determination in the State Register.

Subd. 5. **Severability.** If an administrative law judge determines that part of a proposed rule exceeds the threshold specified in subdivision 1, but that a severable portion of a proposed rule does not exceed the threshold in subdivision 1, the administrative law judge may provide that the severable portion of the rule that does not exceed the threshold may take effect without legislative approval.

History: *2005 c 156 art 2 s 9*

RULES ADOPTED AFTER PUBLIC HEARING

14.13 [Repealed, 1984 c 640 s 33]

14.131 STATEMENT OF NEED AND REASONABLENESS.

By the date of the section 14.14, subdivision 1a, notice, the agency must prepare, review, and make available for public review a statement of the need for and reasonableness of the rule. The statement of need and reasonableness must be prepared under rules adopted by the chief administrative law judge and must include the following to the extent the agency, through reasonable effort, can ascertain this information:

(1) a description of the classes of persons who probably will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule;

(2) the probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues;

(3) a determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule;

(4) a description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule;

(5) the probable costs of complying with the proposed rule, including the portion of the total costs that will be borne by identifiable categories of affected parties, such as separate classes of governmental units, businesses, or individuals;

(6) the probable costs or consequences of not adopting the proposed rule, including those costs or consequences borne by identifiable categories of affected parties, such as separate classes of government units, businesses, or individuals; and

(7) an assessment of any differences between the proposed rule and existing federal regulations and a specific analysis of the need for and reasonableness of each difference.

The statement must describe how the agency, in developing the rules, considered and implemented the legislative policy supporting performance–based regulatory systems set forth in section 14.002.

The statement must also describe the agency's efforts to provide additional notification under section 14.14, subdivision 1a, to persons or classes of persons who may be affected by the proposed rule or must explain why these efforts were not made.

The agency must consult with the commissioner of finance to help evaluate the fiscal impact and fiscal benefits of the proposed rule on units of local government. The agency must send a copy of the statement of need and reasonableness to the Legislative Reference Library when the notice of hearing is mailed under section 14.14, subdivision 1a.

History: *1984 c 640 s 7,32; 1Sp1985 c 10 s 38; 1990 c 422 s 4; 1995 c 233 art 2 s 13; 1997 c 98 s 6; 1998 c 303 s 4; 1999 c 250 art 3 s 1; 2001 c 106 s 7; 2003 c 3 s 1; 2004 c 274 s 1*

14.1311 [Repealed, 1995 c 233 art 2 s 57]

14.14 HEARING ON RULE.

Subdivision 1. **Required hearing.** When a public hearing is required under section 14.25 or when an agency decides to proceed directly to a public hearing, the agency shall proceed under the provisions of sections 14.14 to 14.20 and hold a public hearing affording all affected interests an opportunity to participate.

Subd. 1a. **Notice of rule hearing.** (a) Each agency shall maintain a list of all persons who have registered with the agency for the purpose of receiving notice of rule proceedings. The agency may inquire as to whether those persons on the list wish to maintain their names on it and may remove names for which there is a negative reply or no reply within 60 days. The agency shall, at least 30 days before 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 must include either a copy of the proposed rule or an easily readable and understandable description of its nature and effect and an announcement that a free copy of the proposed rule is available on request from the agency. In addition, each agency shall make reasonable efforts to notify persons or classes of persons who may be significantly affected by the rule being proposed by giving 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 an easily readable and understandable summary of the overall nature and effect of the proposed rule, a citation to the most specific statutory authority for the proposed rule, a statement of the place, date, and time of the public hearing, a statement that persons may register with the agency for the purpose of receiving notice of rule proceedings and notice that the agency intends to adopt a rule and other information required by law or rule. When an entire rule is proposed to be repealed, the agency need only

publish that fact, along with an easily readable and understandable summary of the overall nature of the rules proposed for repeal, and a citation to the rule to be repealed.

(b) The chief administrative law judge may authorize an agency to omit from the notice of rule hearing the text of any proposed rule, the publication of which would be unduly cumbersome, expensive, or otherwise inexpedient if:

(1) knowledge of the rule is likely to be important to only a small class of persons;

(2) the notice of rule hearing states that a free copy of the entire rule is available upon request to the agency; and

(3) the notice of rule hearing states in detail the specific subject matter of the omitted rule, cites the statutory authority for the proposed rule, and details the proposed rule's purpose and motivation.

Subd. 1b. **Farming operations.** When a public hearing is conducted on a proposed rule that affects farming operations, at least one public hearing must be conducted in an agricultural area of the state.

Subd. 2. **Establishment of need and reasonableness of rule.** At the public hearing the agency shall make an affirmative presentation of facts establishing the need for and reasonableness of the proposed rule and fulfilling any relevant substantive or procedural requirements imposed on the agency by law or rule. The agency may, in addition to its affirmative presentation, rely upon facts presented by others on the record during the rule proceeding to support the rule adopted.

Subd. 2a. **Hearing procedure.** When a hearing is held on a proposed rule, it shall be conducted by an administrative law judge assigned by the chief administrative law judge. The administrative law judge shall ensure that all persons involved in the rule hearing are treated fairly and impartially. The agency shall submit into the record the jurisdictional documents, including the statement of need and reasonableness, and any written exhibits in support of the proposed rule. The agency may also present additional oral evidence. Interested persons may present written and oral evidence. The administrative law judge shall allow questioning of agency representatives or witnesses, or of interested persons making oral statements, in order to explain the purpose or intended operation of a proposed rule, or a suggested modification, or for other purposes if material to the evaluation or formulation of the proposed rule. The administrative law judge may limit repetitive or immaterial oral statements and questioning.

Subd. 3. **Hearing transcript.** If the agency, the chief administrative law judge, or the attorney general requests, the administrative law judge shall cause a transcript to be prepared of the hearing.

History: *1957 c 806 s 2; 1974 c 344 s 1–3; 1975 c 380 s 2; 1975 c 413 s 1; 1976 c 138 s 1; 1977 c 443 s 2; 1980 c 615 s 3–7,9–11,39–50; 1981 c 253 s 5–19; 1981 c 357 s 25; 1Sp1981 c 4 art 2 s 1; 1982 c 424 s 130; 1983 c 210 s 4; 1983 c 301 s 64; 1984 c 640 s 8,9,32; 1995 c 233 art 1 s 2; art 2 s 14; 1997 c 98 s 7; 2001 c 106 s 8*

14.15 ADMINISTRATIVE LAW JUDGE'S REPORT.

Subdivision 1. **Time of preparation.** After allowing a comment period during which written material may 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 administrative law judge, the administrative law judge assigned to the hearing shall write a report as provided for in section 14.50. Before writing the report, the administrative law judge shall allow the agency and interested persons a rebuttal period of five working days after the comment period ends to respond in writing to any new information submitted. During the comment period and five–day rebuttal period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. Additional evidence may not be submitted during this five–day rebuttal period. The written responses must be added to the rulemaking record.

Subd. 2. **Deadline to complete report; extensions.** The report shall be completed within 30 days after the close of the hearing record unless the chief administrative law judge, upon

written request of the agency or the administrative law judge, orders an extension. An extension shall not be granted if the chief administrative law judge determines that an extension would prohibit a rule from being adopted or becoming effective until after a date for adoption or effectiveness as required by statute. The report shall be available to all affected persons upon request for at least five working days before the agency takes any further action on the rule.

Subd. 3. **Finding of substantial difference.** If the report contains a finding that a rule has been modified in a way which makes it substantially different, as determined under section 14.05, subdivision 2, from that which was originally proposed, or that the agency has not met the requirements of sections 14.131 to 14.18, it shall be submitted to the chief administrative law judge for approval. If the chief administrative law judge approves the finding of the administrative law judge, the chief administrative law judge 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 administrative law judge determines that the defects have been corrected or, if applicable, that the agency has satisfied the rule requirements for the adoption of a substantially different rule.

Subd. 4. **Need or reasonableness not established.** If the chief administrative law judge 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 administrative law judge to correct that defect, then the agency shall submit the proposed rule to the legislative coordinating commission and to the house of representatives and senate policy committees with primary jurisdiction over state governmental operations for advice and comment. The agency may not adopt the rule until it has received and considered the advice of the commission and committees. However, the agency is not required to wait for advice for more than 60 days after the commission and committees have received the agency's submission.

Subd. 5. **Harmless errors.** The administrative law judge shall disregard any error or defect in the proceeding due to the agency's failure to satisfy any procedural requirement imposed by law or rule if the administrative law judge finds:

(1) that the failure did not deprive any person or entity of an opportunity to participate meaningfully in the rulemaking process; or

(2) that the agency has taken corrective action to cure the error or defect so that the failure did not deprive any person or entity of an opportunity to participate meaningfully in the rulemaking process.

History: *1957 c 806 s 2; 1974 c 344 s 1–3; 1975 c 380 s 2; 1975 c 413 s 1; 1976 c 138 s 1; 1977 c 443 s 2; 1980 c 615 s 3–7,9–11,39–50; 1981 c 253 s 5–19; 1981 c 357 s 25; 1Sp1981 c 4 art 2 s 1; 1982 c 424 s 130; 1983 c 210 s 5–7; 1984 c 640 s 10,32; 1987 c 384 art 2 s 1; 1992 c 494 s 3,4; 1995 c 233 art 2 s 15,16; 1997 c 98 s 8; 2000 c 469 s 2; 2001 c 106 s 9*

14.16 ADOPTION OF RULE; CHIEF ADMINISTRATIVE LAW JUDGE; FILING OF RULE.

Subdivision 1. **Review of modifications.** If the report of the administrative law judge finds no defects, the agency may proceed to adopt the rule. After receipt of the administrative law judge's report, if the agency makes any modifications to the rule, it must return the rule, approved as to form by the revisor, to the chief administrative law judge for a review of legality, including the issue of whether the rule as modified is substantially different, as determined under section 14.05, subdivision 2, from the rule as originally proposed. If the chief administrative law judge determines that the modified rule is substantially different from the rule that was originally proposed, the chief administrative law judge shall advise the agency of actions that will correct the defects. The agency may not adopt the modified rule until the chief administrative law judge determines that the defects have been corrected or, if applica-

ble, that the agency has satisfied the rule requirements for the adoption of a substantially different rule.

The agency shall give notice to all persons who requested to be informed that the rule has been adopted and filed with the secretary of state. This notice must be given on the same day that the rule is filed.

Subd. 2. **Correction of defects.** If the chief administrative law judge approves the administrative law judge's finding of a defect and advises the agency of actions which will correct the defect pursuant to subdivision 3 of section 14.15, the agency must either withdraw the rule or make the modifications required. The agency shall then resubmit the rule to the chief administrative law judge for a determination as to whether the defects have been corrected.

Subd. 3. **Filing.** After the agency has adopted the rule, the agency shall promptly file three copies of it in the Office of the Secretary of State. The secretary of state shall forward one copy of each rule filed to the revisor of statutes and to the governor.

History: *1957 c 806 s 2; 1974 c 344 s 1–3; 1975 c 380 s 2; 1975 c 413 s 1; 1976 c 138 s 1; 1977 c 443 s 2; 1980 c 615 s 3–7,9–11,39–50; 1981 c 253 s 5–19; 1981 c 357 s 25; 1Sp1981 c 4 art 2 s 1; 1982 c 424 s 130; 1984 c 640 s 11,32; 1995 c 233 art 2 s 17; 1999 c 129 s 2; 2001 c 106 s 10*

14.17 [Repealed, 1984 c 640 s 33]

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 section 14.126 or other 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 that differ from the proposed rule must 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 that comply with the form requirements of section 14.07, subdivision 7.

If the agency omitted from the notice of proposed rule adoption the text of the proposed rule, as permitted by section 14.14, subdivision 1a, paragraph (b), the chief administrative law judge may provide that the notice of the adopted rule need not include the text of any changes from the proposed rule. However, the notice of adoption must state in detail the substance of the changes made from the proposed rule, and must state that a free copy of the portion of the adopted rule that was the subject of the rulemaking proceeding, not including any material adopted by reference as permitted by section 14.07, is available upon request to the agency.

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: *1957 c 806 s 2; 1974 c 344 s 1–3; 1975 c 380 s 2; 1975 c 413 s 1; 1976 c 138 s 1; 1977 c 443 s 2; 1980 c 615 s 3–7,9–11,39–50; 1981 c 253 s 5–19; 1981 c 357 s 25; 1Sp1981 c 4 art 2 s 1; 1982 c 424 s 130; 1983 c 210 s 9; 1987 c 384 art 2 s 1; 1991 c 254 art 2 s 1; 1995 c 233 art 2 s 18; 1997 c 98 s 9; 2001 c 179 s 6*

14.19 DEADLINE TO COMPLETE RULEMAKING.

Within 180 days after issuance of the administrative law judge's report or that of the chief administrative law judge, the agency shall submit its notice of adoption, amendment, 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 may not adopt the withdrawn rules without again following the procedures of sections 14.05 to 14.28, with the exception of section 14.101, if the noncompliance is approved by the chief administrative law judge. The agency shall report to the Legislative Coordinating Commission, 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:

(1) any days used for review by the chief administrative law judge or the commission if the review is required by law;

(2) days during which the rule cannot be adopted, because of votes by legislative committees under section 14.126; or

(3) days during which the rule cannot be adopted because approval of the legislature is required under section 14.127.

History: *1957 c 806 s 2; 1974 c 344 s 1–3; 1975 c 380 s 2; 1975 c 413 s 1; 1976 c 138 s 1; 1977 c 443 s 2; 1980 c 615 s 3–7,9–11,39–50; 1981 c 253 s 5–19; 1981 c 357 s 25; 1Sp1981 c 4 art 2 s 1; 1982 c 424 s 130; 1983 c 210 s 10; 1984 c 640 s 32; 1995 c 233 art 2 s 19,56; 1997 c 98 s 10; 2001 c 106 s 11; 2001 c 179 s 7; 2005 c 156 art 2 s 10*

14.20 APPROVAL OF FORM.

No rule shall be filed with the secretary of state or published in the State Register unless the revisor of statutes has certified that the rule's form is approved.

History: *1957 c 806 s 2; 1974 c 344 s 1–3; 1975 c 380 s 2; 1975 c 413 s 1; 1976 c 138 s 1; 1977 c 443 s 2; 1980 c 615 s 3–7,9–11,39–50; 1981 c 253 s 5–19; 1981 c 357 s 25; 1Sp1981 c 4 art 2 s 1; 1982 c 424 s 130*

RULES ADOPTED WITHOUT PUBLIC HEARING

14.21 [Repealed, 1984 c 640 s 33]

14.22 NOTICE OF PROPOSED ADOPTION OF RULES.

Subdivision 1. **Contents.** (a) Unless an agency proceeds directly to a public hearing on a proposed rule and gives the notice prescribed in section 14.14, subdivision 1a, the agency shall give notice of its intention to adopt a rule without public hearing. The notice must be given by publication in the State Register and by United States mail to persons who have registered their names with the agency under section 14.14, subdivision 1a. The mailed notice must include either a copy of the proposed rule or an easily readable and understandable description of its nature and effect and an announcement that a free copy of the proposed rule is available on request from the agency. In addition, each agency shall make reasonable efforts to notify persons or classes of persons who may be significantly affected by the rule by giving 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 the amended rule in the form required by the revisor under section 14.07, an easily readable and understandable summary of the overall nature and effect of the proposed rule, a citation to the most specific statutory authority for the proposed rule, a statement that persons may register with the agency for the purpose of receiving notice of rule proceedings and notice that a rule has been submitted to the chief administrative law judge, and other information required by law or rule. When an entire rule is proposed to be repealed, the notice need only state that fact, along with an easily readable and understandable summary of the overall nature of the rules proposed for repeal, and a citation to the rule to be repealed. The notice must include a statement advising the public:

(1) that the public has 30 days in which to submit comment in support of or in opposition to the proposed rule and that comment is encouraged;

(2) that each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed;

(3) that if 25 or more persons submit a written request for a public hearing within the 30–day comment period, a public hearing will be held;

(4) of the manner in which persons must request a public hearing on the proposed rule;

(5) of the requirements contained in section 14.25 relating to a written request for a public hearing, and that the requester is encouraged to propose any change desired;

(6) that the proposed rule may be modified if the modifications are supported by the data and views submitted; and

(7) that if a hearing is not required, notice of the date of submission of the proposed rule to the chief administrative law judge for review will be mailed to any person requesting to receive the notice.

In connection with the statements required in clauses (1) and (3), the notice must also include the date on which the 30–day comment period ends.

(b) The chief administrative law judge may authorize an agency to omit from the notice of intent to adopt the text of any proposed rule, the publication of which would be unduly cumbersome, expensive, or otherwise inexpedient if:

(1) knowledge of the rule is likely to be important to only a small class of persons;

(2) the notice of intent to adopt states that a free copy of the entire rule is available upon request to the agency; and

(3) the notice of intent to adopt states in detail the specific subject matter of the omitted rule, cites the statutory authority for the proposed rule, and details the proposed rule's purpose and motivation.

Subd. 2. **Dual notices.** The agency may, at the same time notice is given under subdivision 1, give notice of a public hearing and of its intention to proceed under sections 14.14 to 14.20, if one is required under section 14.25. The notice must include a statement advising the public of its intention to cancel the public hearing if 25 or more persons do not request one. If a hearing is required, there must be at least ten calendar days between the last day for requesting a hearing and the day of the hearing.

History: *1957 c 806 s 2; 1974 c 344 s 1–3; 1975 c 380 s 2; 1975 c 413 s 1; 1976 c 138 s 1; 1977 c 443 s 2; 1980 c 615 s 3–7,9–11,39–50; 1981 c 253 s 5–19; 1981 c 357 s 25; 1Sp1981 c 4 art 2 s 1; 1982 c 424 s 130; 1983 c 210 s 12; 1984 c 640 s 12; 1992 c 494 s 5; 1995 c 233 art 2 s 20; 1997 c 98 s 11; 2001 c 106 s 12*

14.225 DUAL NOTICE RULES.

The chief administrative law judge shall adopt rules prescribing the form and content of the notice authorized by section 14.22, subdivision 2. The rules may provide for a consolidated notice that satisfies the requirements of sections 14.14, 14.22, and 14.50, and the requirements of the rules of the Office of Administrative Hearings.

History: *1992 c 494 s 9; 1997 c 98 s 12*

14.23 STATEMENT OF NEED AND REASONABLENESS.

By the date of the section 14.22 notice, the agency shall prepare a statement of need and reasonableness, which must be available to the public. The statement of need and reasonableness must include the analysis required in section 14.131. The statement must also describe the agency's efforts to provide additional notification under section 14.22 to persons or classes of persons who may be affected by the proposed rules or must explain why these efforts were not made. For at least 30 days following the notice, the agency shall afford the public an opportunity to request a public hearing and to submit data and views on the proposed rule in writing.

The agency shall send a copy of the statement of need and reasonableness to the Legislative Reference Library when the notice of intent to adopt is mailed.

History: *1957 c 806 s 2; 1974 c 344 s 1–3; 1975 c 380 s 2; 1975 c 413 s 1; 1976 c 138 s 1; 1977 c 443 s 2; 1980 c 615 s 3–7,9–11,39–50; 1981 c 253 s 5–19; 1981 c 357 s 25; 1Sp1981 c 4 art 2 s 1; 1982 c 424 s 130; 1984 c 640 s 13; 1990 c 422 s 6; 1995 c 233 art 2 s 21; 1997 c 98 s 13; 1999 c 250 art 3 s 2; 2001 c 106 s 13*

14.235 [Repealed, 1995 c 233 art 2 s 57]

14.24 MODIFICATIONS OF PROPOSED RULE.

The proposed rule may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantially different rule, as determined under section 14.05, subdivision 2, from the rule as originally proposed. An agency may adopt a substantially different rule after satisfying the rule requirements for the adoption of a substantially different rule.

History: *1957 c 806 s 2; 1974 c 344 s 1–3; 1975 c 380 s 2; 1975 c 413 s 1; 1976 c 138 s 1; 1977 c 443 s 2; 1980 c 615 s 3–7,9–11,39–50; 1981 c 253 s 5–19; 1981 c 357 s 25; 1Sp1981 c 4 art 2 s 1; 1982 c 424 s 130; 1995 c 233 art 2 s 22*

14.25 PUBLIC HEARING.

Subdivision 1. **Requests for hearing.** If, during the 30–day period allowed for comment, 25 or more persons submit to the agency a written request for a public hearing of the proposed rule, the agency shall proceed under the provisions of sections 14.14 to 14.20. The written request must include: (1) the name and address of the person requesting the public hearing; and (2) the portion or portions of the rule to which the person objects or a statement that the person opposes the entire rule. If not previously published under section 14.22, subdivision 2, a notice of the public hearing must be published in the State Register and mailed to those persons who submitted a written request for the public hearing. Unless the agency has modified the proposed rule, the notice need not include the text of the proposed rule but only a citation to the State Register pages where the text appears.

A written request for a public hearing that does not comply with the requirements of this section is invalid and may not be counted by the agency for purposes of determining whether a public hearing must be held.

Subd. 2. **Withdrawal of hearing requests.** If a request for a public hearing has been withdrawn so as to reduce the number of requests below 25, the agency must give written notice of that fact to all persons who have requested the public hearing. No public hearing may be canceled by an agency within three working days of the hearing. The notice must explain why the request is being withdrawn, and must include a description of any action the agency has taken or will take that affected or may have affected the decision to withdraw the requests. The notice must also invite persons to submit written comments within five working days to the agency relating to the withdrawal. The notice and any written comments received by the agency is part of the rulemaking record submitted to the administrative law judge under section 14.14 or 14.26. The administrative law judge shall review the notice and any comments received and determine whether the withdrawal is consistent with section 14.001, clauses (2), (4), and (5).

This subdivision applies only to a withdrawal of a hearing request that affects whether a public hearing must be held and only if the agency has taken any action to obtain the withdrawal of the hearing request.

History: *1957 c 806 s 2; 1974 c 344 s 1–3; 1975 c 380 s 2; 1975 c 413 s 1; 1976 c 138 s 1; 1977 c 443 s 2; 1980 c 615 s 3–7,9–11,39–50; 1981 c 253 s 5–19; 1981 c 357 s 25; 1Sp1981 c 4 art 2 s 1; 1982 c 424 s 130; 1984 c 640 s 14; 1990 c 422 s 8; 1995 c 233 art 2 s 23; 2001 c 106 s 14*

14.26 ADOPTION OF PROPOSED RULE; SUBMISSION TO ADMINISTRATIVE LAW JUDGE.

Subdivision 1. **Submission.** If no hearing is required, the agency shall submit to an administrative law judge assigned by the chief administrative law judge the proposed rule and

notice as published; the rule as adopted, 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 administrative law judge. This notice must be given on the same day that the record is submitted. If the proposed rule has been modified, the notice must state that fact, and must also state that a free copy of the proposed rule, as modified, is available upon request from the agency. The rule and these materials must be submitted to the administrative law judge within 180 days of the day that the comment period for the rule is over or the rule is automatically withdrawn. The agency may not adopt the withdrawn rules without again following the procedures of sections 14.05 to 14.28, with the exception of section 14.101, if the noncompliance is approved by the chief administrative law judge. The agency shall report its failure to adopt the rules and the reasons for that failure to the Legislative Coordinating Commission, other appropriate legislative committees, and the governor.

Subd. 2. **Resubmission.** Even if the 180–day period expires while the administrative law judge reviews the rule, if the administrative law judge 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 14.14 to 14.28.

Subd. 3. **Review.** (a) Within 14 days, the administrative law judge shall approve or disapprove the rule as to its legality and its form to the extent that the form relates to legality, including the issues of whether the rule if modified is substantially different, as determined under section 14.05, subdivision 2, from the rule as originally proposed, whether the agency has the authority to adopt the rule, and whether the record demonstrates a rational basis for the need for and reasonableness of the proposed rule. If the rule is approved, the administrative law judge shall promptly file four 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, one to the agency, and one to the governor. If the rule is disapproved, the administrative law judge shall state in writing the reasons for the disapproval and make recommendations to overcome the defects.

(b) The written disapproval must be submitted to the chief administrative law judge for approval. If the chief administrative law judge approves of the findings of the administrative law judge, the chief administrative law judge shall send the statement of the reasons for disapproval of the rule to the agency, the Legislative Coordinating Commission, the house of representatives and senate policy committees with primary jurisdiction over state governmental operations, and the revisor of statutes and advise the agency and the revisor of statutes of actions that will correct the defects. The rule may not be filed in the Office of the Secretary of State, nor be published, until the chief administrative law judge determines that the defects have been corrected or, if applicable, that the agency has satisfied the rule requirements for the adoption of a substantially different rule.

(c) If the chief administrative law judge determines that the need for or reasonableness of the rule has not been established, and if the agency does not elect to follow the suggested actions of the chief administrative law judge to correct that defect, then the agency shall submit the proposed rule to the Legislative Coordinating Commission and to the house of representatives and senate policy committees with primary jurisdiction over state governmental operations for advice and comment. The agency may not adopt the rule until it has received and considered the advice of the commission and committees. However, the agency need not wait for advice for more than 60 days after the commission and committees have received the agency's submission.

(d) The administrative law judge shall disregard any error or defect in the proceeding due to the agency's failure to satisfy any procedural requirements imposed by law or rule if the administrative law judge finds:

(1) that the failure did not deprive any person or entity of an opportunity to participate meaningfully in the rulemaking process; or

(2) that the agency has taken corrective action to cure the error or defect so that the failure did not deprive any person or entity of an opportunity to participate meaningfully in the rulemaking process.

Subd. 4. **Costs.** The Office of Administrative Hearings shall assess an agency for the actual cost of processing rules under this section. Each agency shall include in its budget money to pay the assessment. Receipts from the assessment must be deposited in the administrative hearings account created in section 14.54.

History: *1957 c 806 s 2; 1974 c 344 s 1–3; 1975 c 380 s 2; 1975 c 413 s 1; 1976 c 138 s 1; 1977 c 443 s 2; 1980 c 615 s 3–7,9–11,39–50; 1981 c 253 s 5–19; 1981 c 357 s 25; 1Sp1981 c 4 art 2 s 1; 1982 c 424 s 130; 1983 c 210 s 13; 1984 c 640 s 15,32; 1Sp1985 c 13 s 82; 1987 c 404 s 71; 1992 c 494 s 6; 1995 c 233 art 2 s 24; 1997 c 98 s 14,15; 1999 c 129 s 3; 2000 c 469 s 3; 2001 c 106 s 15,16*

14.27 PUBLICATION OF ADOPTED RULE; EFFECTIVE DATE.

The rule is effective upon publication of the notice of adoption in the State Register in the same manner as provided for adopted rules in section 14.18.

History: *1957 c 806 s 2; 1974 c 344 s 1–3; 1975 c 380 s 2; 1975 c 413 s 1; 1976 c 138 s 1; 1977 c 443 s 2; 1980 c 615 s 3–7,9–11,39–50; 1981 c 253 s 5–19; 1981 c 357 s 25; 1Sp1981 c 4 art 2 s 1; 1982 c 424 s 130*

14.28 APPROVAL OF FORM.

No rule shall be filed with the secretary of state or published in the State Register unless the revisor of statutes has certified that the rule is approved as to form.

History: *1957 c 806 s 2; 1974 c 344 s 1–3; 1975 c 380 s 2; 1975 c 413 s 1; 1976 c 138 s 1; 1977 c 443 s 2; 1980 c 615 s 3–7,9–11,39–50; 1981 c 253 s 5–19; 1981 c 357 s 25; 1Sp1981 c 4 art 2 s 1; 1982 c 424 s 130*

14.29 [Repealed, 1995 c 233 art 2 s 57]

14.30 [Repealed, 1995 c 233 art 2 s 57]

14.305 [Repealed, 1995 c 233 art 2 s 57]

14.31 [Repealed, 1995 c 233 art 2 s 57]

14.32 [Repealed, 1995 c 233 art 2 s 57]

14.33 [Repealed, 1995 c 233 art 2 s 57]

14.34 [Repealed, 1995 c 233 art 2 s 57]

14.35 [Repealed, 1995 c 233 art 2 s 57]

14.36 [Repealed, 1995 c 233 art 2 s 57]

RECORD–KEEPING REQUIREMENTS

14.365 OFFICIAL RULEMAKING RECORD.

The agency shall maintain the official rulemaking record for every rule adopted under sections 14.05 to 14.389. The record must be available for public inspection. The record required by this section constitutes the official and exclusive agency rulemaking record with respect to agency action on or judicial review of the rule. The record must contain:

(1) copies of all publications in the State Register pertaining to the rule;

(2) all written petitions, and all requests, submissions, or comments received by the agency or the administrative law judge after publication of the notice of intent to adopt or the notice of hearing in the State Register pertaining to the rule;

(3) the statement of need and reasonableness for the rule;

(4) the official transcript of the hearing if one was held, or the tape recording of the hearing if a transcript was not prepared;

(5) the report of the administrative law judge, if any;

(6) the rule in the form last submitted to the administrative law judge under sections 14.14 to 14.20 or first submitted to the administrative law judge under sections 14.22 to 14.28;

(7) the administrative law judge's written statement of required modifications and of approval or disapproval by the chief administrative law judge, if any;

(8) any documents required by applicable rules of the Office of Administrative Hearings;

(9) the agency's order adopting the rule;

(10) the revisor's certificate approving the form of the rule; and

(11) a copy of the adopted rule as filed with the secretary of state.

History: *1984 c 640 s 23,32; 1995 c 233 art 2 s 25; 2001 c 106 s 17*

14.366 PUBLIC RULEMAKING DOCKET.

(a) Each agency shall maintain a current, public rulemaking docket.

(b) The rulemaking docket must contain a listing of the precise subject matter of each possible proposed rule currently under active consideration within the agency for proposal, the name and address of agency personnel with whom persons may communicate with respect to the matter, and an indication of its present status within the agency.

(c) The rulemaking docket must list each pending rulemaking proceeding. A rulemaking proceeding is pending from the time it is begun, by publication of the notice of solicitation, the notice of intent to adopt, or notice of hearing, to the time it is terminated, by publication of a notice of withdrawal or the rule becoming effective. For each rulemaking proceeding, the docket must indicate:

(1) the subject matter of the proposed rule;

(2) a citation to all published notices relating to the proceeding;

(3) where written comments on the proposed rule may be inspected;

(4) the time during which written comments may be made;

(5) the names of persons who have made written requests for a public hearing, where those requests may be inspected, and where and when the hearing will be held;

(6) the current status of the proposed rule and any agency determinations with respect to the rule;

(7) any known timetable for agency decisions or other action in the proceeding;

(8) the date of the rule's adoption;

(9) the date the rule was filed with the secretary of state; and

(10) when the rule will become effective.

History: *1995 c 233 art 2 s 26*

14.3691 MS 2004 [Expired, 2000 c 469 s 4]

LEGAL STATUS OF RULES

14.37 EFFECT OF PUBLICATION.

Subdivision 1. **State Register publication.** The publication or citation of a rule or order in the State Register in a manner as required by sections 14.001 to 14.69 raises a rebuttable presumption that:

(1) the rule or order was duly adopted, issued, or promulgated;

(2) the rule or order was duly filed with the secretary of state and available for public inspection at the day and hour endorsed thereon; and

(3) the copy of the rule or order published in the State Register is a true copy of the original.

Judicial notice shall be taken of material published in the State Register.

Subd. 2. **Compiled rules.** The text of the rules in the first compilation published by the revisor is prima facie evidence of the text of the rules as against any previous documents. However, the previous documents may be used to construe the text of a rule. Except as provided in section 14.47, subdivision 6, the compilation shall not be construed as repealing any unpublished rule. The rules published in the compilation shall be construed as continuations of prior rules and not as new rules.

Any subsequent compilation or supplement published by the revisor and containing the revisor's certificate is prima facie evidence of the administrative rules in all courts and proceedings. Except as provided in section 14.47, subdivision 6, a compilation or supplement shall not be construed as repealing an unpublished rule. If there is any material inconsistency through omission or otherwise between the first compilation, a subsequent compilation or supplement, the State Register, and a rule filed with the secretary of state, and the omission or change was not due to the provisions of section 14.47, subdivision 6 or the correction of an obvious error or unintentional omission as required by subdivision 3, the rule filed with the secretary shall prevail.

History: *1945 c 590 s 4,5; 1975 c 380 s 10,11; 1977 c 443 s 6; 1980 c 615 s 57; 1981 c 253 s 37–46; 1982 c 424 s 130; 1986 c 444; 1987 c 384 art 2 s 1; 1990 c 422 s 10*

14.38 EFFECT OF ADOPTION OF RULES.

Subdivision 1. **Original rules.** Every rule, regardless of whether it might be known as a substantive, procedural, or interpretive rule, which is filed in the Office of the Secretary of State as provided in sections 14.05 to 14.28 shall have the force and effect of law five working days after its notice of adoption is published in the State Register unless a different date is required by statute or a later date is specified in the rule. The secretary of state shall keep a permanent record of rules filed with that office open to public inspection.

Subd. 2. **Retroactive application.** Every existing rule, regardless of whether it might be known as a substantive, procedural, or interpretive rule, has the force and effect of law retroactive to the date on which the rule became effective if:

(1) the rule was adopted in compliance with the provisions of the Administrative Procedure Act in effect at the time the rule was adopted;

(2) the rule was approved by the attorney general or Office of Administrative Hearings before becoming effective; and

(3) the adopting agency had statutory authority to adopt the rule.

Subd. 3. **Limitation.** Subdivisions 1 and 2 do not apply to any rule specifically held not to have the force and effect of law by the state Supreme Court before May 8, 1981.

Subd. 4. **Amendments; repealers; suspended rules.** Each rule hereafter amended, suspended, or repealed is amended, suspended, or repealed five working days after the appropriate notice is published in the State Register unless a later date is required by law or specified in the rule.

Subd. 5. [Repealed, 1997 c 187 art 5 s 36]

Subd. 6. [Repealed, 1997 c 187 art 5 s 36]

Subd. 7. [Repealed, 1997 c 187 art 5 s 36]

Subd. 8. [Repealed, 1997 c 187 art 5 s 36]

Subd. 9. [Repealed, 1997 c 187 art 5 s 36]

Subd. 10. **Previously filed rules; previously exempt agencies.** Rules excluded from the Administrative Procedure Act in Minnesota Statutes 1978, section 15.0411, subdivision 2, but included in the rulemaking provisions of the act in Minnesota Statutes 1980, section

15.0411, subdivision 2, have the force and effect of law and shall be published by the revisor of statutes pursuant to section 14.47, to the extent the rules are still in effect, if the rules were:

(1) adopted by an agency; and,

(2) filed with the secretary of state before April 25, 1980.

Subd. 11. **Unfiled rules; previously exempt agencies.** Rules excluded from the Administrative Procedure Act in Minnesota Statutes 1978, section 15.0411, subdivision 2, but included in the rulemaking provisions of the act in Minnesota Statutes 1980, section 15.0411, subdivision 2, shall have the force and effect of law and be published by the revisor of statutes pursuant to section 14.47, to the extent the rules are still in effect, if:

(1) the rules were adopted by an agency;

(2) the rules were not filed with the secretary of state before April 25, 1980; and,

(3) a copy of the rules which were effective on April 25, 1980, but unfiled with the secretary of state are filed with both the secretary of state and the revisor of statutes before September 1, 1981.

History: *1957 c 806 s 3; 1963 c 822 s 1; 1969 c 399 s 1; 1974 c 344 s 4–7; 1975 c 380 s 3–5; 1977 c 443 s 3; 1980 c 615 s 12,13,51; 1981 c 109 s 1–3; 1981 c 253 s 20; 1Sp1981 c 4 art 4 s 9; 1982 c 424 s 130; 1983 c 138 s 1; 1984 c 640 s 24; 1986 c 386 art 4 s 3; 1987 c 384 art 2 s 1; 1990 c 422 s 10; 1991 c 259 s 6; 1995 c 233 art 2 s 56; 2001 c 106 s 18*

14.381 UNADOPTED RULES.

Subdivision 1. **Petition.** (a) A person may petition the Office of Administrative Hearings seeking an order of an administrative law judge determining that an agency is enforcing or attempting to enforce a policy, guideline, bulletin, criterion, manual standard, or similar pronouncement as though it were a duly adopted rule. The petition must be supported by affidavit and must be served upon the agency. The agency shall respond in writing to the petition within ten working days. The administrative law judge may order oral argument on the petition, but only if necessary to a decision.

(b) An agency determination is not considered an unadopted rule when the agency enforces a law or rule by applying the law or rule to specific facts on a case–by–case basis.

Subd. 2. **Order.** The order of the administrative law judge must direct the agency to cease enforcement of the unadopted rule that is the subject of the petition. The order must be served upon the parties and the legislative coordinating commission by first class mail and must be published by the agency in the State Register. The decision of the administrative law judge may be appealed under sections 14.44 and 14.45.

Subd. 3. **Costs.** The agency is liable for all Office of Administrative Hearings costs associated with review of the petition. If the administrative law judge rules in favor of the agency, the agency may recover all or a portion of the costs from the petitioner unless the petitioner is entitled to proceed in forma pauperis under section 563.01 or the administrative law judge determines that the petition was brought in good faith and that an assessment of the costs would constitute an undue hardship for the petitioner. If an agency has reason to believe it will prevail in the consideration of a petition, and that an effort to recover costs from the petitioner will be unsuccessful, it may request the chief administrative law judge to require the petitioner to provide bond or a deposit to the agency in an amount the chief administrative law judge estimates will be the cost to the Office of Administrative Hearings to review the petition.

History: *2001 c 179 s 8*

EXEMPT RULES

14.385 EFFECT OF NONPUBLICATION OF EXEMPT RULES.

No rule, as defined in section 14.02, subdivision 4, which is exempt from the rulemaking provisions of this chapter has the force and effect of law as of January 1, 1985, unless prior to that date it has been submitted to the revisor for publication in Minnesota Rules.

The revisor has the same editorial powers over these rules as the revisor has over nonexempt rules.

History: *1984 c 640 s 25*

14.386 PROCEDURE FOR ADOPTING EXEMPT RULES; DURATION.

(a) A rule adopted, amended, or repealed by an agency, under a statute enacted after January 1, 1997, authorizing or requiring rules to be adopted but excluded from the rulemaking provisions of chapter 14 or from the definition of a rule, has the force and effect of law only if:

(1) the revisor of statutes approves the form of the rule by certificate;

(2) the person authorized to adopt the rule on behalf of the agency signs an order adopting the rule;

(3) the Office of Administrative Hearings approves the rule as to its legality within 14 days after the agency submits it for approval and files four copies of the rule with the revisor's certificate in the Office of the Secretary of State; and

(4) a copy is published by the agency in the State Register.

The secretary of state shall forward one copy of the rule to the governor.

A statute enacted after January 1, 1997, authorizing or requiring rules to be adopted but excluded from the rulemaking provisions of chapter 14 or from the definition of a rule does not excuse compliance with this section unless it makes specific reference to this section.

(b) A rule adopted under this section is effective for a period of two years from the date of publication of the rule in the State Register. The authority for the rule expires at the end of this two–year period.

(c) The chief administrative law judge shall adopt rules relating to the rule approval duties imposed by this section and section 14.388, including rules establishing standards for review.

(d) This section does not apply to:

(1) any group or rule listed in section 14.03, subdivisions 1 and 3, except as otherwise provided by law;

(2) game and fish rules of the commissioner of natural resources adopted under section 84.027, subdivision 13, or sections 97A.0451 to 97A.0459;

(3) experimental and special management waters designated by the commissioner of natural resources under sections 97C.001 and 97C.005;

(4) game refuges designated by the commissioner of natural resources under section 97A.085; or

(5) transaction fees established by the commissioner of natural resources for electronic or telephone sales of licenses, stamps, permits, registrations, or transfers under section 84.027, subdivision 15, paragraph (a), clause (3).

(e) If a statute provides that a rule is exempt from chapter 14, and section 14.386 does not apply to the rule, the rule has the force of law unless the context of the statute delegating the rulemaking authority makes clear that the rule does not have force of law.

History: *1995 c 233 art 2 s 27; 1Sp1995 c 3 art 16 s 13; 1996 c 410 s 1; 1997 c 187 art 5 s 4; 1999 c 129 s 4; 1999 c 231 s 19; 2001 c 106 s 19*

14.387 [Repealed, 1997 c 187 art 5 s 36]

14.388 GOOD CAUSE EXEMPTION.

Subdivision 1. **Requirements.** If an agency for good cause finds that the rulemaking provisions of this chapter are unnecessary, impracticable, or contrary to the public interest when adopting, amending, or repealing a rule to:

(1) address a serious and immediate threat to the public health, safety, or welfare;

(2) comply with a court order or a requirement in federal law in a manner that does not allow for compliance with sections 14.14 to 14.28;

(3) incorporate specific changes set forth in applicable statutes when no interpretation of law is required; or

(4) make changes that do not alter the sense, meaning, or effect of a rule,

the agency may adopt, amend, or repeal the rule after satisfying the requirements of subdivision 2 and section 14.386, paragraph (a), clauses (1) to (4). The agency shall incorporate its findings and a brief statement of its supporting reasons in its order adopting, amending, or repealing the rule.

After considering the agency's statement and any comments received, the Office of Administrative Hearings shall determine whether the agency has provided adequate justification for its use of this section.

Rules adopted, amended, or repealed under clauses (1) and (2) are effective for a period of two years from the date of publication of the rule in the State Register.

Rules adopted, amended, or repealed under clause (3) or (4) are effective upon publication in the State Register.

Subd. 2. **Notice.** An agency proposing to adopt, amend, or repeal a rule under this section must give electronic notice of its intent in accordance with section 16E.07, subdivision 3, and notice by United States mail or electronic mail to persons who have registered their names with the agency under section 14.14, subdivision 1a. The notice must be given no later than the date the agency submits the proposed rule to the Office of Administrative Hearings for review of its legality and must include:

(1) the proposed rule, amendment, or repeal;

(2) an explanation of why the rule meets the requirements of the good cause exemption under subdivision 1; and

(3) a statement that interested parties have five business days after the date of the notice to submit comments to the Office of Administrative Hearings.

Subd. 3. **Review by chief judge.** If a rule has been disapproved by an administrative law judge, the agency may ask the chief administrative law judge to review the rule. The agency must give notice of its request for review in accordance with subdivision 2. The notice must be given no later than the date the agency requests review by the chief judge and must include a summary of any information or arguments the agency intends to submit to the chief judge that were not submitted to the judge who disapproved the rule.

Subd. 4. **Costs.** The costs of any proceeding conducted by the Office of Administrative Hearings in accordance with this section must be paid by the agency seeking to adopt, amend, or repeal a rule under this section.

History: *1995 c 233 art 2 s 29; 2001 c 106 s 20; 2003 c 2 art 1 s 4; 1Sp2003 c 6 s 1*

14.389 EXPEDITED PROCESS.

Subdivision 1. **Application.** This section applies when a law requiring or authorizing rules to be adopted states that this section must or may be used to adopt the rules. When a law refers to this section, the process in this section is the only process an agency must follow for its rules to have the force and effect of law. Sections 14.19 and 14.366 apply to rules adopted under this section.

Subd. 2. **Notice and comment.** The agency must publish notice of the proposed rule in the State Register and must mail the notice to persons who have registered with the agency to receive mailed notices. The mailed notice must include either a copy of the proposed rule or a description of the nature and effect of the proposed rule and a statement that a free copy is available from the agency upon request. The notice in the State Register must include the proposed rule or the amended rule in the form required by the revisor under section 14.07, an easily readable and understandable summary of the overall nature and effect of the proposed rule, and a citation to the most specific statutory authority for the rule, including authority for the rule to be adopted under the process in this section. The agency must allow 30 days after publication in the State Register for comment on the rule.

Subd. 3. **Adoption.** The agency may modify a proposed rule if the modifications do not result in a substantially different rule, as defined in section 14.05, subdivision 2, paragraphs (b) and (c). If the final rule is identical to the rule originally published in the State Register, the agency must publish a notice of adoption in the State Register. If the final rule is different from the rule originally published in the State Register, the agency must publish a copy of the changes in the State Register. The agency must also file a copy of the rule with the governor. The rule is effective upon publication in the State Register.

Subd. 4. **Legal review.** Before publication of the final rule in the State Register, the agency must submit the rule to an administrative law judge in the Office of Administrative Hearings. The administrative law judge shall within 14 days approve or disapprove the rule as to its legality and its form to the extent the form relates to legality.

Subd. 5. **Option.** A law authorizing or requiring rules to be adopted under this section may refer specifically to this subdivision. If the law contains a specific reference to this subdivision, as opposed to a general reference to this section:

(1) the notice required in subdivision 2 must include a statement that a public hearing will be held if 100 or more people request a hearing. The request must be in the manner specified in section 14.25; and

(2) if 100 or more people submit a written request for a public hearing, the agency may adopt the rule only after complying with all of the requirements of chapter 14 for rules adopted after a public hearing.

History: *1997 c 187 art 5 s 5; 1999 c 129 s 5; 2001 c 106 s 21*

14.3895 PROCESS FOR REPEALING OBSOLETE RULES.

Subdivision 1. **Application.** An agency may use this section to repeal rules identified in the agency's annual obsolete rules report under section 14.05, subdivision 5, unless a law specifically requires another process or unless 25 requests are received under subdivision 4. Sections 14.19, 14.20, 14.365, and 14.366 apply to rules repealed under this section.

Subd. 2. **Notice plan; prior approval.** The agency shall draft a notice plan under which the agency will make reasonable efforts to notify persons or classes of persons who may be significantly affected by the rule repeal by giving notice of its intention in newsletters, newspapers, or other publications, or through other means of communication. Before publishing the notice in the State Register and implementing the notice plan, the agency shall obtain prior approval of the notice plan by the chief administrative law judge.

Subd. 3. **Notice and comment.** The agency shall publish notice of the proposed rule repeal in the State Register. The agency shall also mail the notice to persons who have registered with the agency to receive mailed notices and to the chairs and ranking minority party members of the legislative policy and budget committees with jurisdiction over the subject matter of the proposed rule repeal. The agency shall also give notice according to the notice plan approved under subdivision 2. The mailed notice must include either a copy of the rule proposed for repeal or a description of the nature and effect of the proposed rule repeal and a statement that a free copy is available from the agency upon request. The notice must include a statement that, if 25 or more people submit a written request, the agency will have to meet the requirements of sections 14.131 to 14.20 for rules adopted after a hearing or the requirements of sections 14.22 to 14.28 for rules adopted without a hearing, including the preparation of a statement of need and reasonableness and the opportunity for a hearing. The agency shall allow 60 days after publication in the State Register for comment on the proposed rule repeal.

Subd. 4. **Requests.** If 25 or more people submit a written request, the agency may repeal the rule only after complying with sections 14.131 to 14.20 or the requirements of sections 14.22 to 14.28. The requests must be in the manner specified in section 14.25.

Subd. 5. **Adoption.** If the final repeal is identical to the action originally published in the State Register, the agency shall publish a notice of repealers in the State Register. If the final action is different from the action originally published in the State Register, the agency shall

publish a copy of the changes in the State Register. The agency shall also file a copy of the repealed rule with the governor. The repeal is effective after it has been subjected to all requirements described in this section or sections 14.131 to 14.20 or 14.22 to 14.28 and five working days after the notice of repeal is published in the State Register unless a later date is required by law or specified in the rule repeal proposal.

Subd. 6. **Legal review.** Before publication of the final rule in the State Register, the agency shall submit the rule to the chief administrative law judge in the Office of Administrative Hearings. The chief administrative law judge shall within 14 days approve or disapprove the rule as to its legality and its form to the extent the form relates to legality.

History: *2001 c 179 s 9*

14.39 [Renumbered 3.841]

14.40 [Renumbered 3.842]

14.41 [Renumbered 3.843]

14.42 [Renumbered 3.844]

14.43 [Renumbered 3.845]

14.431 [Repealed, 1998 c 389 art 16 s 36]

JUDICIAL REVIEW

14.44 DETERMINATION OF VALIDITY OF RULE.

The validity of any rule may be determined upon the petition for a declaratory judgment thereon, addressed to the Court of Appeals, when it appears that the rule, or its threatened application, interferes with or impairs, or threatens to interfere with or impair the legal rights or privileges of the petitioner. The agency shall be made a party to the proceeding. The declaratory judgment may be rendered whether or not the petitioner has first requested the agency to pass upon the validity of the rule in question, and whether or not the agency has commenced an action against the petitioner to enforce the rule.

History: *1957 c 806 s 6; 1982 c 424 s 130; 1984 c 640 s 26*

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 Court of Appeals to the Supreme Court as in other civil cases.

History: *1957 c 806 s 7; 1977 c 443 s 4; 1982 c 424 s 130; 1983 c 247 s 7; 1984 c 640 s 27*

PUBLIC ACCESS

14.46 PUBLICATION IN STATE REGISTER.

Subdivision 1. **Contents.** The commissioner of administration shall publish a State Register containing all notices for hearings concerning rules, giving time, place and purpose of the hearing and the full text of the action being proposed. Further, the register shall contain all rules, amendments, suspensions, or repeals thereof, pursuant to the provisions of this chapter. The commissioner shall further publish any executive order issued by the governor which shall become effective 15 days after publication except as provided in section 4.035, subdivision 2. The commissioner shall further publish any official notices in the register which a state agency requests to be published. Such notices shall include, but shall not be limited to, the date on which a new agency becomes operational, the assumption of a new function by an existing state agency, or the appointment of commissioners. The commission-

er may prescribe the form, excluding the form of the rules, and manner in which agencies submit any material for publication in the State Register and may withhold publication of any material not submitted according to the form or procedures prescribed.

The commissioner of administration may organize and distribute the contents of the register according to such categories as will provide economic publication and distribution and will offer easy access to information by any interested party.

Subd. 2. **Form and manner.** The commissioner of administration shall publish the State Register whenever necessary, except that no material properly submitted for publication shall remain unpublished for more than ten working days.

The State Register shall have a distinct and permanent masthead with the title "State Register" and the words "state of Minnesota" prominently displayed. All issues of the State Register shall be numbered and dated.

To the extent that editing, composition, printing, distribution or other work on the State Register cannot be performed in the Department of Administration, or it is uneconomical to do so, the commissioner shall obtain competitive bids and enter into contracts to have the services performed by the lowest responsible bidder. The duration of any contracts shall not exceed the end of the state's fiscal biennium.

Subd. 3. **Submission of items for publication.** Any state agency which desires to publish a notice of hearing, rule or change thereof shall submit a copy of the entire document, including dates when adopted, and filed with the secretary of state, to the commissioner of administration in addition to any other copies which may be required to be filed with the commissioner by other law.

The revisor of statutes shall provide assistance to the commissioner if requested. Alternatively, the commissioner may designate a contract compositor to whom the assistance is to be supplied. The assistance, in either case, shall consist of furnishing a machine readable computer tape, or similar services, for rules which are available in the revisor's computer data base and for which a written copy has been submitted by an agency to the commissioner for publication in the State Register.

Subd. 4. **Cost; distribution.** When an agency properly submits a rule, proposed rule, notice, or other material to the commissioner of administration, the commissioner must then be accountable for the publication of the same in the State Register. The commissioner of administration must require each agency which requests the publication of rules, proposed rules, notices, or other material in the State Register to pay its proportionate cost of the State Register unless other funds are provided and are sufficient to cover the cost of the State Register.

The State Register must be offered for public sale at a location centrally located as determined by the commissioner of administration and at a price as the commissioner of administration determines. The commissioner of administration must further provide for the mailing of the State Register to any person, agency, or organization if so requested, provided that reasonable costs are borne by the requesting party. The supply and expense appropriation to any state agency is deemed to include funds to purchase the State Register. Ten copies of each issue of the State Register, however, must be provided without cost to the Legislative Reference Library and ten copies to the State Law Library. One copy must be provided without cost to a public library in each county seat in the state or, if there is no public library in a county seat, to a public library in the county as designated by the county board. The commissioner must advise the recipient libraries of the significance and content of the State Register and encourage efforts to promote its usage.

The commissioner must make an electronic version of the State Register available on the Internet free of charge through the North Star information service.

Subd. 5. **Publication account.** A State Register publication account is created in the state treasury. All receipts from the sale of the State Register shall be deposited in the account. All funds in the State Register publication account in the state treasury are appro-

priated annually to the commissioner of administration to carry out the provisions of subdivisions 1 to 4.

History: *1974 c 344 s 8; 1975 c 380 s 12–15; 1977 c 305 s 3,4; 1977 c 323 s 1; 1977 c 443 s 7; 1980 c 615 s 25,52–54; 1982 c 424 s 130; 1985 c 248 s 70; 1986 c 444; 1998 c 366 s 18*

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, other rules, adopted pursuant to the Administrative Procedure Act or filed pursuant to the provisions of section 14.38, subdivisions 5 to 9 or section 14.386 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, other rules, adopted pursuant to the Administrative Procedure Act or filed pursuant to the provisions of section 14.38, subdivisions 5 to 9 or section 14.386 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.

Subd. 2. **Restrictions on compilation.** The revisor of statutes shall not:

(1) alter the sense, meaning, or effect of any rule in the course of compiling or publishing it;

(2) aid an agency in the preparation of any statement concerning the need for or reasonableness of a rule except as provided by section 14.07, subdivision 6;

(3) act as legal counsel for an agency before an administrative law judge except as provided by section 14.07, subdivision 6.

Subd. 3. **Source of text.** In order to ensure that the complete text of rules is included in the first compilation published pursuant to subdivision 1, clause (2), and containing the revisor's certificate, the revisor may use the Minnesota Code of Agency Rules, the State Register, the rule files of the secretary of state, the files of individual agencies, the records of the administrative law judge's office, and the records of the attorney general. The revisor is not required to compare the text of a rule as shown by the other possible source documents with the text of the rule in the secretary of state's file.

If any comparison of documents shows there is a material discrepancy in the text of the rule, the revisor shall include in Minnesota Rules the text in the secretary of state's files unless the discrepancy between the secretary of state's files and any of the other documents is the result of an obvious unintentional omission or clerical error. The text published by the revisor shall correct those omissions and errors. The revisor shall add an appropriate footnote describing the apparent discrepancy in text. Before publication of Minnesota Rules, the revisor shall also notify the agency whose rules are affected, the attorney general, the chief administrative law judge, and the Legislative Coordinating Commission about the omission or error.

If any comparison of documents shows that a rule has been filed with the secretary of state but apparently has not been published in the State Register as required by law the revisor may, unless the attorney general objects, include the rule in Minnesota Rules or omit the rule if the rule was a repeal but shall add an appropriate footnote describing the apparent fault. Before publication of Minnesota Rules, the revisor shall notify the agency whose rules are affected, the attorney general, the chief administrative law judge, and the Legislative Commission to Review Administrative Rules about the apparent lack of publication.

If a comparison of documents shows that a rule as adopted in the State Register has apparently not been filed with the secretary of state, the revisor may not publish the rule in Minnesota Rules unless the attorney general approves the publication. Before publication of Minnesota Rules the revisor shall notify the agency affected, the attorney general, the chief administrative law judge and the Legislative Commission to Review Administrative Rules of the apparent lack of filing of the rule. If the revisor publishes the rule, the revisor shall add an appropriate footnote describing the apparent lack of filing.

Subd. 4. **Certification and filing of compilation.** The revisor of statutes shall file with the secretary of state one copy of each compilation or supplement which is published. The first compilation shall contain the revisor's certificate that the rules contained in it have been incorporated into the compilation in the manner required by law and that the incorporation is correct. Each copy thereafter shall contain the revisor's certificate that the rules added to the compilation or supplement have been compared to the original rules filed with the secretary of state and are correctly incorporated into the compilation.

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.

Subd. 6. **Omission of text.** (a) For purposes of any compilation or publication of the rules, the revisor, unless the attorney general objects, may omit any extraneous descriptive or informative text that is not an operative portion of the rule. The revisor may also omit effective date provisions, statements that a rule is repealed, prefaces, appendices, guidelines, organizational descriptions, explanations of federal or state law, and similar material. The revisor shall consult with the agency, the attorney general, the Legislative Coordinating Commission, and the chief administrative law judge before omitting text from publication.

(b) For the purposes of any compilation or publication of the rules, the revisor, unless the attorney general objects, may omit any rules that, by their own terms, are no longer effective or have been repealed directly by the agency, repealed by the legislature, or declared unconstitutional or otherwise void by a court of last resort. The revisor shall consult the agency involved, the attorney general, the chief administrative law judge, and the legislative coordinating commission before omitting a rule from publication.

Subd. 7. **Equipment used by revisor.** Insofar as economically feasible, the revisor shall utilize the same equipment, computer assistance and procedures for drafting agency rules and publishing compilations and supplements as for preparing bill drafts and statutory publications.

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 without charge copies of each edition of any compilation, reissue, or supplement to the persons or bodies listed in this subdivision. Those copies must be marked with the words "State Copy" and kept for the use of the office. The revisor shall distribute:

(a) 25 copies to the Office of the Attorney General;

(b) two copies to the leader of each caucus in the house of representatives and the senate, two copies to the Legislative Reference Library, and one copy each to the House of Representatives Research Department and the Office of Senate Counsel and Research;

(c) three copies to the revisor of statutes for transmission to the Library of Congress for copyright and depository purposes;

(d) 150 copies to the State Law Library;

(e) ten copies to the law school of the University of Minnesota;

(f) one copy of any compilation or supplement to each county library maintained pursuant to section 134.12 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, the copy will be provided to any public library in the county upon its request; and

(g) three copies to the Office of Administrative Hearings.

Subd. 9. **Contracting for publication of Minnesota Rules.** Notwithstanding any provision of law to the contrary, the revisor of statutes may obtain competitive bids from and enter into contracts with the lowest responsible bidder for compiling, editing, indexing, composition, printing, binding, distribution, or other services, if the work either cannot be performed by the revisor or it is uneconomical for the revisor to do so.

History: *1980 c 615 s 57,58; 1981 c 253 s 37–46; 1982 c 424 s 130; 1983 c 210 s 15–17; 1984 c 640 s 32; 1985 c 248 s 5; 1985 c 265 art 13 s 1; 1Sp1985 c 13 s 85; 1988 c 686 art 5 s 7; 1991 c 199 art 1 s 2; 1996 c 305 art 2 s 1; 1997 c 98 s 16; 1997 c 187 art 5 s 6; 1997 c 202 art 2 s 8; 1998 c 254 art 1 s 4; 2005 c 16 s 1*

OFFICE OF ADMINISTRATIVE HEARINGS

14.48 OFFICE OF ADMINISTRATIVE HEARINGS.

Subdivision 1. **Creation.** A state Office of Administrative Hearings is created.

Subd. 2. **Chief administrative law judge.** The office shall be under the direction of a chief administrative law judge 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 administrative law judge shall be as provided by section 15.066. The chief administrative law judge may hear cases and shall appoint additional administrative law judges and compensation judges to serve in the office as necessary to fulfill the duties prescribed in chapters 14 and 176. The chief administrative law judge may delegate to a subordinate employee the exercise of a specified statutory power or duty as deemed advisable, subject to the control of the chief administrative law judge. Every delegation must be by written order filed with the secretary of state. The chief administrative law judge is subject to the provisions of the Minnesota Constitution, article VI, section 6, the jurisdiction of the Board on Judicial Standards, and the provisions of the Code of Judicial Conduct.

Subd. 3. **Administrative law judges and compensation judges.** (a) All administrative law judges and compensation judges shall be in the classified service except that the chief administrative law judge shall be in the unclassified service, but may be removed only for cause.

(b) All administrative law judges and workers' compensation judges must be learned in the law and must be free of any political or economic association that would impair their ability to function in a fair and impartial manner. Administrative law judges shall have demonstrated knowledge of administrative procedures and workers' compensation judges shall have demonstrated knowledge of workers' compensation laws.

(c) The appointment of individuals as workers' compensation judges or as administrative law judges does not preclude the chief administrative law judge from establishing a system of training to enable them to acquire demonstrable knowledge and to become qualified to conduct hearings in the area other than the area of their original appointment. Conducting hearings in the other area does not affect an administrative law judge's or workers' compensation judge's job class established pursuant to section 43A.07 or seniority within that job class. The chief administrative law judge shall annually notify the Department of Finance of the amount of credit payable to the workers' compensation special fund for time spent by workers' compensation judges on noncompensation proceedings.

(d) Administrative law judges and compensation judges are subject to the provisions of the Code of Judicial Conduct. Administrative law and compensation judges may, however, serve as a member of a governmental board when so directed by the legislature. The chief administrative law judge shall provide training to administrative law and compensation judges about the requirements of the code and shall apply the provisions of the code to their actions. Only administrative law judges serving as temporary judges under a written contract are considered to be part-time judges for purposes of the code. Reports required to be filed by the code must be filed with the chief administrative law judge. The chief administrative law judge shall apply the provisions of the Code of Judicial Conduct, to the extent applicable, to the other administrative law and compensation judges in a manner consistent with interpretations made by the Board on Judicial Standards. The chief administrative law judge shall follow the procedural requirements of the commissioner's plan for state employees if any adverse personnel action is taken based in whole or in part as a violation of the Code of Judicial Conduct.

(e) In addition to other duties provided by law, workers' compensation and administrative law judges may mediate, arbitrate, or take other appropriate action on matters referred to the Office of Administrative Hearings by any member of the federal or state judicial branch or by the Workers' Compensation Court of Appeals.

Subd. 4. **Mandatory retirement.** An administrative law judge and compensation judge must retire upon attaining age 70. The chief administrative law judge may appoint a retired administrative law judge or compensation judge to hear any proceeding that is properly assignable to an administrative law judge or compensation judge. When a retired administrative law judge or compensation judge undertakes this service, the retired judge shall receive pay and expenses in the amount payable to temporary administrative law judges or compensation judges serving under section 14.49.

History: *1975 c 380 s 16; 1977 c 443 s 9,10; 1980 c 509 s 2; 1980 c 615 s 26–33; 1981 c 346 s 2–6; 1Sp1981 c 4 art 4 s 40; 1982 c 424 s 130; 1983 c 305 s 5; 1984 c 640 s 32; 1Sp1985 c 13 s 86; 1986 c 444; 1987 c 332 s 1; 1995 c 233 art 2 s 30; 2000 c 355 s 1; 1Sp2003 c 1 art 2 s 30*

14.49 TEMPORARY ADMINISTRATIVE LAW JUDGES.

When regularly appointed administrative law judges or compensation judges are not available, the chief administrative law judge may contract with qualified individuals to serve as administrative law judges or compensation judges. Such temporary administrative law judges or compensation judges shall not be employees of the state.

History: *1975 c 380 s 16; 1977 c 443 s 9,10; 1980 c 509 s 2; 1980 c 615 s 26–33; 1981 c 346 s 2–6; 1Sp1981 c 4 art 4 s 40; 1982 c 424 s 130; 1984 c 640 s 32*

14.50 HEARINGS BEFORE ADMINISTRATIVE LAW JUDGE.

All hearings of state agencies required to be conducted under this chapter shall be conducted by an administrative law judge assigned by the chief administrative law judge or by a workers' compensation judge assigned by the chief administrative law judge as provided in section 14.48. All hearings required to be conducted under chapter 176 shall be conducted by a compensation judge assigned by the chief administrative law judge or by an administrative law judge assigned by the chief administrative law judge as provided in section 14.48. In assigning administrative law judges or compensation judges to conduct such hearings, the chief administrative law judge shall attempt to utilize personnel having expertise in the subject to be dealt with in the hearing. It shall be the duty of the judge to: (1) advise an agency as to the location at which and time during which a hearing should be held so as to allow for participation by all affected interests; (2) conduct only hearings for which proper notice has been given; (3) see to it that all hearings are conducted in a fair and impartial manner. Except in the case of workers' compensation hearings involving claims for compensation it shall also be the duty of the judge to make a report on each proposed agency action in which the administrative law judge functioned in an official capacity, stating findings of fact and conclusions and recommendations, taking notice of the degree to which the agency has (i) documented its statutory authority to take the proposed action, (ii) fulfilled all relevant procedural requirements of law or rule, and (iii) in rulemaking proceedings, demonstrated the need for and reasonableness of its proposed action with an affirmative presentation of facts.

History: *1975 c 380 s 16; 1977 c 443 s 9,10; 1980 c 509 s 2; 1980 c 615 s 26–33; 1981 c 346 s 2–6; 1Sp1981 c 4 art 4 s 40; 1982 c 424 s 130; 1984 c 640 s 32; 1986 c 444; 2000 c 355 s 2; 2005 c 16 s 2*

14.51 PROCEDURAL RULES.

The chief administrative law judge shall adopt rules to govern: (1) the procedural conduct of all hearings, relating to both rule adoption, amendment, suspension or repeal hearings, contested case hearings, and workers' compensation hearings, and to govern the conduct of voluntary mediation sessions for rulemaking and contested cases other than those within the jurisdiction of the Bureau of Mediation Services; and (2) the review of rules adopted without a public hearing. The chief administrative law judge may adopt rules to govern the procedural conduct of other hearings conducted by the Office of Administrative Hearings. The procedural rules shall be binding upon all agencies and shall supersede any

other agency procedural rules with which they may be in conflict. The procedural rules shall include in addition to normal procedural matters provisions relating to the procedure to be followed when the proposed final rule of an agency is substantially different, as determined under section 14.05, subdivision 2, from that which was proposed. The procedural rules shall establish a procedure whereby the proposed final rule of an agency shall be reviewed by the chief administrative law judge on the issue of whether the proposed final rule of the agency is substantially different than that which was proposed or failure of the agency to meet the requirements of chapter 14. The rules must also provide: (1) an expedited procedure, consistent with section 14.001, clauses (1) to (5), for the adoption of substantially different rules by agencies; and (2) a procedure to allow an agency to receive prior binding approval of its plan regarding the additional notice contemplated under sections 14.101, 14.131, 14.14, 14.22, and 14.23. Upon the chief administrative law judge's own initiative or upon written request of an interested party, the chief administrative law judge may issue a subpoena for the attendance of a witness or the production of books, papers, records or other documents as are material to any matter being heard by the Office of Administrative Hearings. The subpoenas shall be enforceable through the district court in the district in which the subpoena is issued.

History: *1975 c 380 s 16; 1977 c 443 s 9,10; 1980 c 509 s 2; 1980 c 615 s 26–33; 1981 c 346 s 2–6; 1Sp1981 c 4 art 4 s 40; 1982 c 424 s 130; 1984 c 640 s 32; 1Sp1985 c 13 s 87; 1986 c 444; 1987 c 384 art 2 s 1; 1995 c 233 art 2 s 31; 2005 c 16 s 3*

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 administrative law judge directs. Unless the chief administrative law judge 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 administrative law judge 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 administrative law judge determines that the use of a court reporter is more appropriate. If the chief administrative law judge 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 administrative law judge 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 administrative law judge'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 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 the individual's employment with the Office of Administrative Hearings.

History: *1975 c 380 s 16; 1977 c 443 s 9,10; 1980 c 509 s 2; 1980 c 615 s 26–33; 1981 c 346 s 2–6; 1Sp1981 c 4 art 4 s 40; 3Sp1981 c 2 art 1 s 10; 1982 c 424 s 130; 1982 c 568 s 11; 1983 c 210 s 18; 1984 c 640 s 32; 1986 c 444*

14.53 COSTS ASSESSED.

Except as otherwise specifically provided by statute, the chief administrative law judge, in consultation with the commissioner of finance, shall assess agencies the cost of services rendered to them. All agencies shall include in their budgets provisions for such assessments.

History: *1975 c 380 s 16; 1977 c 443 s 9,10; 1980 c 509 s 2; 1980 c 615 s 26–33; 1981 c 346 s 2–6; 1Sp1981 c 4 art 4 s 40; 1982 c 424 s 130; 1984 c 640 s 32; 2005 c 16 s 4*

14.54 ADMINISTRATIVE HEARINGS ACCOUNT.

A state office of administrative hearings account is hereby created in the state treasury. All receipts from services rendered by the state Office of Administrative Hearings shall be deposited in the account, and all funds in the account shall be annually appropriated to the state Office of Administrative Hearings for carrying out the duties specified in sections 14.48 to 14.56.

History: *1975 c 380 s 16; 1977 c 443 s 9,10; 1980 c 509 s 2; 1980 c 615 s 26–33; 1981 c 346 s 2–6; 1Sp1981 c 4 art 4 s 40; 1982 c 424 s 130*

14.55 CONTRACTS WITH POLITICAL SUBDIVISIONS.

The chief administrative law judge may enter into contracts with political subdivisions of the state and such political subdivisions of the state may contract with the chief administrative law judge for the purpose of providing administrative law judges and reporters for administrative proceedings or informal dispute resolution. The contract may define the scope of the administrative law judge's duties, which may include the preparation of findings, conclusions, or a recommendation for action by the political subdivision. For such services there shall be an assessment in the manner provided in section 14.53.

History: *1975 c 380 s 16; 1977 c 443 s 9,10; 1980 c 509 s 2; 1980 c 615 s 26–33; 1981 c 346 s 2–6; 1Sp1981 c 4 art 4 s 40; 1982 c 424 s 130; 1984 c 640 s 32; 1Sp1985 c 13 s 88*

14.56 EMPLOYEES TRANSFERRED.

In consultation and agreement with the chief administrative law judge, the commissioner of administration shall pursuant to authority given in section 16B.37, transfer from state agencies, such employees as the commissioner deems necessary to the state Office of Administrative Hearings. Such action shall include the transfer of any state employee currently employed as an administrative law judge, if the employee qualifies under sections 14.48 to 14.56.

History: *1975 c 380 s 16; 1977 c 443 s 9,10; 1980 c 509 s 2; 1980 c 615 s 26–33; 1981 c 346 s 2–6; 1Sp1981 c 4 art 4 s 40; 1982 c 424 s 130; 1984 c 544 s 89; 1984 c 640 s 32; 1986 c 444*

CONTESTED CASE PROCEDURES

14.57 INITIATION; DECISION; AGREEMENT TO ARBITRATE.

(a) An agency shall initiate a contested case proceeding when one is required by law. Unless otherwise provided by law, an agency shall decide a contested case only in accordance with the contested case procedures of the Administrative Procedure Act. Upon initiation of a contested case proceeding, an agency may, by order, provide that the report or order of the administrative law judge constitutes the final decision in the case.

(b) As an alternative to initiating or continuing with a contested case proceeding, the parties, subsequent to agency approval, may enter into a written agreement to submit the issues raised to arbitration by an administrative law judge according to sections 572.08 to 572.30.

History: *1957 c 806 s 8; 1976 c 68 s 3; 1980 c 615 s 14; 1982 c 424 s 130; 2002 c 251 s 1*

14.58 NOTICE AND HEARING.

In any contested case all parties shall be afforded an opportunity for hearing after reasonable notice. The notice shall state the time, place and issues involved, but if, by reason of

the nature of the case, the issues cannot be fully stated in advance of the hearing, or if subsequent amendment of the issues is necessary, they shall be fully stated as soon as practicable, and opportunity shall be afforded all parties to present evidence and argument with respect thereto. Prior to assignment of a case to an administrative law judge as provided by sections 14.48 to 14.56, all papers shall be filed with the agency. Subsequent to assignment of the case, the agency shall certify the official record to the Office of Administrative Hearings, and thereafter, all papers shall be filed with that office. The Office of Administrative Hearings shall maintain the official record which shall include subsequent filings, testimony and exhibits. All filings are deemed effective upon receipt. The record shall contain a written transcript of the hearing only if preparation of a transcript is requested by the agency, a party, or the chief administrative law judge. The agency or party requesting a transcript shall bear the cost of preparation. When the chief administrative law judge requests preparation of the transcript, the agency shall bear the cost of preparation. Upon issuance of the administrative law judge's report, the official record shall be certified to the agency.

History: *1957 c 806 s 8; 1976 c 68 s 3; 1980 c 615 s 14; 1982 c 424 s 130; 1984 c 640 s 32*

14.59 INFORMAL DISPOSITION.

Informal disposition may also be made of any contested case by arbitration, stipulation, agreed settlement, consent order or default.

History: *1957 c 806 s 8; 1976 c 68 s 3; 1980 c 615 s 14; 1982 c 424 s 130; 2002 c 251 s 2*

14.60 EVIDENCE IN CONTESTED CASE HEARINGS.

Subdivision 1. **Admissibility.** In contested cases agencies may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonable prudent persons in the conduct of their affairs. They shall give effect to the rules of privilege recognized by law. They may exclude incompetent, irrelevant, immaterial and repetitious evidence.

Subd. 2. **Made part of record.** All evidence, including records and documents containing information classified by law as not public, in the possession of the agency of which it desires to avail itself or which is offered into evidence by a party to a contested case proceeding, shall be made a part of the hearing record of the case. No factual information or evidence shall be considered in the determination of the case unless it is part of the record. Documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference. When the hearing record contains information which is not public, the administrative law judge or the agency may conduct a closed hearing to discuss the information, issue necessary protective orders, and seal all or part of the hearing record.

Subd. 3. **Cross–examination of witnesses.** Every party or agency shall have the right of cross–examination of witnesses who testify, and shall have the right to submit rebuttal evidence.

Subd. 4. **Official notice.** Agencies may take notice of judicially cognizable facts and in addition may take notice of general, technical, or scientific facts within their specialized knowledge. Parties shall be notified in writing either before or during hearing, or by reference in preliminary reports or otherwise, or by oral statement in the record, of the material so noticed, and they shall be afforded an opportunity to contest the facts so noticed. Agencies may utilize their experience, technical competence, and specialized knowledge in the evaluation of the evidence in the hearing record.

History: *1957 c 806 s 9; 1980 c 615 s 15–17; 1982 c 424 s 130; 1984 c 640 s 32*

14.61 FINAL DECISION IN CONTESTED CASE.

Subdivision 1. **Filing of exceptions.** In all contested cases the decision of the officials of the agency who are to render the final decision shall not be made until the report of the admin-

istrative law judge as required by sections 14.48 to 14.56, has been made available to parties to the proceeding for at least ten days and an opportunity has been afforded to each party adversely affected to file exceptions and present argument to a majority of the officials who are to render the decision. This section does not apply to a contested case under which the report or order of the administrative law judge constitutes the final decision in the case.

Subd. 2. **Closure of record.** In all contested cases where officials of the agency render the final decision, the contested case record must close upon the filing of any exceptions to the report and presentation of argument under subdivision 1 or upon expiration of the deadline for doing so. The agency shall notify the parties and the presiding administrative law judge of the date when the hearing record closed. In all contested cases where the report or order of the administrative law judge constitutes the final decision in the case, the hearing record must close as ordered in writing by the presiding administrative law judge.

History: *1957 c 806 s 10; 1975 c 380 s 7; 1982 c 424 s 130; 1984 c 640 s 32; 1995 c 264 art 9 s 1; 2002 c 251 s 3*

14.62 DECISIONS, ORDERS.

Subdivision 1. **Writing required.** Every decision and order rendered by an agency in a contested case shall be in writing, shall be based on the record and shall include the agency's findings of fact and conclusions on all material issues. A decision or order that rejects or modifies a finding of fact, conclusion, or recommendation contained in the report of the administrative law judge required under sections 14.48 to 14.56, must include the reasons for each rejection or modification. A copy of the decision and order shall be served upon each party or the party's representative and the administrative law judge by first class mail.

Subd. 2. [Repealed, 2002 c 251 s 7]

Subd. 2a. **Administrative law judge decision final; exception.** Unless otherwise provided by law, the report or order of the administrative law judge constitutes the final decision in the case unless the agency modifies or rejects it under subdivision 1 within 90 days after the record of the proceeding closes under section 14.61. When the agency fails to act within 90 days on a licensing case, the agency must return the record of the proceeding to the administrative law judge for consideration of disciplinary action. In all contested cases where the report or order of the administrative law judge constitutes the final decision in the case, the administrative law judge shall issue findings of fact, conclusions, and an order within 90 days after the hearing record closes under section 14.61. Upon a showing of good cause by a party or the agency, the chief administrative law judge may order a reasonable extension of either of the two 90–day deadlines specified in this subdivision.

Subd. 3. **Award of fees and other expenses.** Fees and expenses must be awarded as provided in sections 15.471 to 15.474.

Subd. 4. **Applicability.** This section does not apply to a contested case under which the report or order of the administrative law judge constitutes the final decision in the case.

History: *1957 c 806 s 11; 1980 c 615 s 18; 1982 c 424 s 130; 1983 c 247 s 8; 1984 c 640 s 32; 1986 c 377 s 6; 1986 c 444; 1995 c 264 art 9 s 2; 1997 c 7 art 2 s 68; 2002 c 251 s 4,5; 2005 c 16 s 5*

JUDICIAL REVIEW OF CONTESTED CASES

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. Sections 572.08 to 572.30 govern judicial review of arbitration awards entered under section 14.57.

History: *1963 c 809 s 1; 1965 c 698 s 3; Ex1967 c 1 s 6; 1969 c 567 s 3; 1969 c 1129 art 2 s 1; 1971 c 25 s 67; 1973 c 254 s 3; 1975 c 271 s 6; 1975 c 359 s 23; 1976 c 134 s 78; 1977 c 307 s 29; 1977 c 430 s 25 subd 1; 1978 c 674 s 60; 1980 c 615 s 19–21; 1982 c 424 s 130; 1983 c 247 s 9; 2002 c 251 s 6*

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: *1963 c 809 s 1; 1965 c 698 s 3; Ex1967 c 1 s 6; 1969 c 567 s 3; 1969 c 1129 art 2 s 1; 1971 c 25 s 67; 1973 c 254 s 3; 1975 c 271 s 6; 1975 c 359 s 23; 1976 c 134 s 78; 1977 c 307 s 29; 1977 c 430 s 25 subd 1; 1978 c 674 s 60; 1980 c 615 s 19–21; 1982 c 424 s 130; 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: *1963 c 809 s 1; 1965 c 698 s 3; Ex1967 c 1 s 6; 1969 c 567 s 3; 1969 c 1129 art 2 s 1; 1971 c 25 s 67; 1973 c 254 s 3; 1975 c 271 s 6; 1975 c 359 s 23; 1976 c 134 s 78; 1977 c 307 s 29; 1977 c 430 s 25 subd 1; 1978 c 674 s 60; 1980 c 615 s 19–21; 1982 c 424 s 130; 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: *1963 c 809 s 1; 1965 c 698 s 3; Ex1967 c 1 s 6; 1969 c 567 s 3; 1969 c 1129 art 2 s 1; 1971 c 25 s 67; 1973 c 254 s 3; 1975 c 271 s 6; 1975 c 359 s 23; 1976 c 134 s 78; 1977 c 307 s 29; 1977 c 430 s 25 subd 1; 1978 c 674 s 60; 1980 c 615 s 19–21; 1982 c 424 s 130; 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 court, to become a part of the record, the additional evidence, together with any modifications or new findings or decision.

History: *1963 c 809 s 1; 1965 c 698 s 3; Ex1967 c 1 s 6; 1969 c 567 s 3; 1969 c 1129 art 2 s 1; 1971 c 25 s 67; 1973 c 254 s 3; 1975 c 271 s 6; 1975 c 359 s 23; 1976 c 134 s 78; 1977 c 307 s 29; 1977 c 430 s 25 subd 1; 1978 c 674 s 60; 1980 c 615 s 19–21; 1982 c 424 s 130; 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: *1963 c 809 s 1; 1965 c 698 s 3; Ex1967 c 1 s 6; 1969 c 567 s 3; 1969 c 1129 art 2 s 1; 1971 c 25 s 67; 1973 c 254 s 3; 1975 c 271 s 6; 1975 c 359 s 23; 1976 c 134 s 78; 1977 c 307 s 29; 1977 c 430 s 25 subd 1; 1978 c 674 s 60; 1980 c 615 s 19–21; 1982 c 424 s 130; 1983 c 247 s 14*

14.69 SCOPE OF JUDICIAL REVIEW.

In a judicial review under sections 14.63 to 14.68, the court may affirm the decision of the agency or remand the case for further proceedings; or it may reverse or modify the decision if the substantial rights of the petitioners may have been prejudiced because the administrative finding, inferences, conclusion, or decisions are:

(a) in violation of constitutional provisions; or

(b) in excess of the statutory authority or jurisdiction of the agency; or

(c) made upon unlawful procedure; or

(d) affected by other error of law; or

(e) unsupported by substantial evidence in view of the entire record as submitted; or

(f) arbitrary or capricious.

History: *1963 c 809 s 2; 1980 c 615 s 22; 1982 c 424 s 130*

14.70 [Repealed, 1983 c 247 s 219]