

## CHAPTER 2010

### OFFICE OF THE ATTORNEY GENERAL

### RULES REVIEW

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#### 2010.0200 AUTHORITY.

Parts 2010.0200 to 2010.1400 govern the submittal to and review by the attorney general of rules adopted without a public hearing pursuant to Minnesota Statutes, sections 14.22 to 14.28 and emergency rules adopted pursuant to Minnesota Statutes, sections 14.29 to 14.36 by agencies pursuant to the Administrative Procedure Act, Minnesota Statutes, chapter 14.

**Statutory Authority:** *MS s 14.06; 14.09*

**History:** *11 SR 618*

#### 2010.0300 DOCUMENTS NECESSARY FOR REVIEW OF A RULE ADOPTED WITHOUT A PUBLIC HEARING.

To submit a rule adopted without a public hearing to the attorney general for review and approval pursuant to Minnesota Statutes, section 14.26, the agency must submit to the attorney general the following documents:

A. A copy or photocopy of the notice of solicitation of outside information or opinions as published in the State Register, if the agency sought to obtain information or opinions in preparing to propose a rule from sources outside the agency as provided by Minnesota Statutes, section 14.10. For the recommended format of the notice, see part 2010.9900.

B. A copy of the petition for adoption, suspension, amendment, or repeal of a rule if the agency has adopted the rule in response to a petition filed pursuant to Minnesota Statutes, section 14.09 and part 2010.0600. For the prescribed format of the petition, see part 2010.9905.

C. If the agency is a multimember agency as provided in Minnesota Statutes, section 15.0597, subdivision 1a, the certificate of the multimember agency's authorizing resolution or a copy of a delegation of authority. The resolution must direct and delegate to an individual the authority to sign and to give the notice of the agency's intent to adopt the rule with-

out a public hearing. The delegation of authority must expressly authorize an individual to sign and to give the notice of the agency's intent to adopt a rule without a public hearing. The resolution or delegation of authority must be adopted at a meeting duly called and attended by a quorum. For the recommended format of the resolution, see part 2010.9910.

D. A copy of the proposed rule with a certificate of approval as to form by the revisor of statutes attached.

E. The statement of need and reasonableness complying with part 2010.0700 in support of the proposed rule. The statement of need and reasonableness must be prepared before the date that the notice of intent to adopt a rule without a public hearing is published in the State Register and mailed.

F. Evidence that the agency sent a copy of the statement of need and reasonableness to the legislative commission to review administrative rules when it became available to the public as required by Minnesota Statutes, section 14.23. The evidence must be in the form of a copy of the dated correspondence to the legislative commission to review administrative rules or an affidavit of the mailing. For the recommended format of the affidavit, see part 2010.9913.

G. The notice of intent to adopt a rule without a public hearing as mailed. The notice must be mailed at least 33 days before the end of the comment period and must contain the following:

(1) A statement that the agency intends to adopt a rule without a public hearing and is following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minnesota Statutes, sections 14.22 to 14.28.

(2) A citation to the specific statutory authority for the proposed rule.

(3) A statement that the public has 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the proposed rule and that comment is encouraged. The statement must specify the calendar date of the last day of the comment period. In calculating the comment period, the date of publication in the State Register or the date of mailing, whichever is later, is not included. Saturdays, Sundays, and legal holidays are included in the calculation. The last day of the period so calculated is included unless it is a Saturday, Sunday, or legal holiday, in which event, the period runs until the next day which is not a Saturday, Sunday, or legal holiday. The State Register is published on Mondays except when the Monday is a legal holiday in which case it is published on a Tuesday.

(4) A statement that each comment should identify the portion of the proposed rule addressed, the reason for the comment and any change proposed.

(5) A statement 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 unless a sufficient number withdraw their request in writing.

(6) A statement of the manner in which persons may submit comments or requests for a public hearing.

(7) A statement that any person requesting a public hearing must include his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed.

(8) A statement that if a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.

(9) A statement that the proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

(10) A statement that if no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the attorney general for review as to legality and form to the extent form relates to legality; a statement that any person may request notification of the date of submission to the attorney general and a copy of the attorney general decision; and a statement of the manner in which the request must be made.

(11) If an entire rule is proposed to be repealed, a statement stating that fact and citing the rule to be repealed.

(12) A statement that the proposed rule is attached to the notice; or if the proposed rule is not attached to the notice sent to persons on the agency rulemaking mailing list, a statement describing the nature and effect of the proposed rule and the manner in which a free copy may be requested.

(13) A statement that the statement of need and reasonableness is available to the public and the manner in which that document may be requested.

(14) If required by Minnesota Statutes, section 14.11, subdivision 1, a statement relating to the expenditure of public money by local public bodies.

(15) If the agency elects to comply with Minnesota Statutes, section 14.115, subdivision 4, by following paragraph (a) of the statute, a statement that the proposed rule will have an impact on small businesses and a description of the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons as provided by Minnesota Statutes, section 14.115, subdivision 4, paragraph (a).

(16) Any other notices required by law or rule to be included in the notice of intent to adopt a rule without a public hearing.

(17) The signature of the person authorized to adopt the rule or authorized to sign and give notice of the intent to adopt the rule without a public hearing.

For the recommended format of the notice, see part 2010.9916.

H. If the proposed rule establishes or adjusts fees, evidence that the agency sent a copy of the notice of intent and the proposed rule to the appropriate legislative committees before the agency submitted the notice of intent to the State Register as required by Minnesota Statutes, section 16A.128, subdivision 2a. Evidence shall be in the form of the dated correspondence to the chairs or an affidavit of mailing. For the recommended format of the affidavit, see part 2010.9913.

I. If the agency did not publish an appropriate notice of intent to adopt the rule within 180 days after the effective date of the law requiring the rule to be adopted, a copy of the correspondence to the legislative commission to review administrative rules, other appropriate committees of the legislature, and the governor as required by Minnesota Statutes, section 14.12.

J. The affidavit of mailing the notice of intent to adopt a rule without a public hearing. The notice must be mailed at least 33 days before the end of the comment period. The affidavit or affidavits must state that:

(1) the mailing list maintained by the agency pursuant to Minnesota Statutes, sections 14.22 and 14.14, subdivision 1a, is accurate, complete, and current; and

(2) the notice of intent to adopt the rule without a public hearing was mailed to all persons and groups whose names appear on the list.

For the recommended format of the affidavit, see part 2010.9920.

K. A copy or photocopy of the notice of intent to adopt the rule without a public hearing as published in the State Register. The publication date must be at least 30 days before the end of the comment period. The notice as published must contain the statements required by item G.

L. Three copies of the rule as adopted. Any modification made to the proposed rule must be reflected on the rule as adopted and be approved as to form by the revisor of statutes.

M. If the agency is a multimember agency as provided in Minnesota Statutes, section 15.0597, subdivision 1a, the certificate of the multimember agency's resolution adopting the rule. The resolution must be adopted at a meeting duly called and attended by a quorum.

The resolution must approve and adopt the rule and authorize a named individual to sign the findings of fact, conclusions, and order adopting the rule and perform the necessary acts to provide that the rule has the force and effect of law. If the multimember agency is so empowered, the resolution may also authorize the named person to modify the rule under stated circumstances or as necessary to obtain the approval of the rule by the attorney general. For the recommended format of the resolution, see part 2010.9925.

N. The findings of fact, conclusions, and order adopting the rule which must contain the following:

(1) a statement that proper notice of intent to adopt a rule without a public hearing was given;

(2) a statement that the statement of need and reasonableness was prepared before the notice of intent to adopt a rule without a public hearing was mailed to all persons on the rulemaking mailing list and published in the State Register and was available to the public;

(3) a statement that all notice and procedural requirements have been complied with;

(4) a statement that all persons were given the opportunity to submit comment on the proposed rule for 30 days after the notice of intent to adopt a rule without a public hearing was given;

(5) a statement of the number of persons that requested a public hearing, the number of persons that requested a public hearing and withdrew their request, and the number of requests for notice of submission to the attorney general and whether any written comments on the rule were received;

(6) if any changes were made between the rule as proposed and the rule as adopted, findings of fact and conclusions supporting the reasons for the changes and explaining why the changes do not constitute substantial changes as provided in the attorney general rules, part 2010.1000, item D;

(7) a statement that the rule as adopted is needed and reasonable and that the rule is hereby ordered to be adopted; and

(8) the signature of the person authorized to adopt the rule or authorized to sign the findings of fact, conclusions, and order adopting the rule and the date on which the order is signed.

For the recommended format of the findings of fact, conclusions, and order, see part 2010.9930.

O. All written requests, withdrawals of requests for a hearing, submissions, or comments on the rule received by the agency except requests solely for copies of the rule or of the statement of need and reasonableness.

P. The declaration of the attorney in the attorney general's office who represents the agency. The declaration must state:

(1) that the attorney has examined the rule and the rulemaking record;

(2) that the Administrative Procedure Act and this chapter have been followed with a listing of any exceptions; and

(3) for attorney general billing purposes, the four-digit docket client code is \_\_\_\_\_. For the recommended format, see part 2010.9935.

Q. If any persons requested to be informed that the rule has been submitted to the attorney general, the notice of submission that was sent to those persons as required by Minnesota Statutes, section 14.26. The notice must be mailed on the same day the rule is submitted to the attorney general. The notice must contain the following:

(1) the date of submission of the rule to the attorney general;

(2) if the proposed rule has been modified, the notice must state that fact and must state that a free copy of the rule as modified is available upon request from the agency or that a copy of the rule as modified is enclosed with this notice;

(3) the attorney general rule review time period of 14 calendar days;

(4) a statement that comments may be submitted to the attorney general and that any comments submitted must address only the issue of legality of the rule or the legality of the specific parts or subparts of the rule and make a reference to the attorney general standards of review as set forth in part 2010.1000;

(5) the length of the period for submitting comments to the attorney general and the calendar date of the last day of the eight calendar day comment period. In calculating the comment period, the date the documents were submitted to the attorney general is not included. Saturdays, Sundays, and legal holidays are included. The last day of the period so calculated is included unless it is a Saturday, Sunday, or legal holiday, in which event, the period runs until the next day which is not a Saturday, Sunday, or legal holiday;

(6) a statement that upon written request to the attorney general a copy of the attorney general decision will be provided;

(7) the address of the attorney general division where comments and requests must be submitted; and

(8) a statement that any written comments to the attorney general must also be submitted simultaneously to a named person for the agency and the address of that person.

For the recommended format of the statement, see part 2010.9940.

R. If the agency sent out the notice of submission of the rule to the attorney general as required by Minnesota Statutes, section 14.26, the affidavit of mailing notice of submission of the rule to the attorney general. The affidavit must state that a copy of the notice of submission of the rule to the attorney general was mailed to all persons and associations who requested the notification. For the recommended format of the affidavit, see part 2010.9945.

**Statutory Authority:** *MS s 14.06; 14.09; 14.225; 14.26; 14.32; 14.365 cl (8)*

**History:** *11 SR 618; 13 SR 1376; 17 SR 1881*

## 2010.0400 DOCUMENTS NECESSARY FOR REVIEW OF EMERGENCY RULE.

To submit an emergency rule to the attorney general for review and approval pursuant to Minnesota Statutes, section 14.32, the agency must submit to the attorney general the following documents:

A. A copy or photocopy of the notice of solicitation of outside information or opinions, as published in the State Register, if the agency sought to obtain information or opinions in preparing to propose a rule from sources outside the agency as provided by Minnesota Statutes, section 14.10. For the recommended format of the notice, see part 2010.9900.

B. A copy of the petition for adoption, suspension, amendment, or repeal of a rule if the agency has adopted the rule in response to a petition filed pursuant to Minnesota Statutes, section 14.09 and part 2010.0600. For the prescribed format of the petition, see part 2010.9905.

C. If the agency is a multimember agency as provided in Minnesota Statutes, section 15.0597, subdivision 1a, the certificate of the multimember agency's authorizing resolution or a copy of a delegation of authority. The resolution must direct and delegate to an individual the authority to sign and to give the notice of the multimember agency's intent to adopt the emergency rule. The delegation of authority must expressly authorize an individual to sign and to give the notice of the agency's intent to adopt the emergency rule. The resolution or delegation of authority must be adopted at a meeting duly called and attended by a quorum. For the recommended format of the resolution, see part 2010.9910.

D. A copy of the proposed emergency rule with a certificate of approval as to form by the revisor of statutes attached.

E. The notice of intent to adopt the emergency rule as mailed. The notice must be mailed at least 28 days before the end of the comment period and must contain the following:

(1) A statement that the agency intends to adopt the emergency rule following the procedures in the Administrative Procedure Act for adopting emergency rules in Minnesota Statutes, sections 14.29 to 14.36.

(2) A citation to the specific statutory authority to adopt the emergency rule.

(3) A statement that all persons have 25 days after publication, or a longer period of time as specified in the notice, to submit data and views on the proposed emergency rule or any part or subpart of the rule in writing. The statement must include the calendar date of the last day of the comment period. In calculating the comment period, the date of the publication in the State Register or the date of mailing, whichever is later, is not included. Saturdays, Sundays, and legal holidays are included in the calculation. The last day of the period so calculated is included unless it is a Saturday, Sunday, or legal holiday, in which event the period runs until the next day which is not a Saturday, Sunday, or legal holiday. The State Register is published on Mondays except when Monday is a legal holiday in which case it is published on a Tuesday.

(4) A statement of the manner in which persons may submit written comments to the agency.

(5) A statement that the proposed emergency rule is attached to the notice; or, if the proposed rule is not attached to the notice sent to persons on the agency rulemaking mailing list, a statement describing the nature and effect of the proposed rule.

(6) A statement that a free copy of the proposed emergency rule is available upon request from the agency and the manner in which the request may be made.

(7) A statement that the proposed emergency rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed emergency rule as noticed.

(8) A statement that the emergency rule and its supporting documents will be submitted to the attorney general for review as to legality and form to the extent form relates to legality; a statement that any person may request notification of the date of submission to the attorney general; and a statement of the manner in which the request must be made.

(9) A statement of the effective period of the proposed emergency rule in accordance with Minnesota Statutes, section 14.35.

(10) If required by Minnesota Statutes, section 14.11, subdivision 1, a statement relating to the expenditure of public money by local public bodies.

(11) Any other notices required by law or rule to be included in the notice of intent to adopt an emergency rule.

(12) The signature of the person authorized to adopt the emergency rule or authorized to sign and give notice of the intent to adopt the emergency rule.

For the recommended format of the notice, see part 2010.9951.

F. If the emergency rule establishes or adjusts fees, evidence that the agency sent a copy of the notice of intent and the proposed rule to the appropriate legislative committees before the agency submitted the notice of intent to the State Register as required by Minnesota Statutes, section 16A.128, subdivision 2a. Evidence shall be in the form of the dated correspondence to the chairs or an affidavit of mailing. For the recommended format of the affidavit, see the second paragraph in part 2010.9913.

G. The affidavit of mailing the notice of intent to adopt the emergency rule. The notice must be mailed at least 28 days before the end of the comment period. The affidavit or affidavits must state that the mailing list maintained by the agency pursuant to Minnesota Statutes, section 14.30 is accurate, complete, and current and that the notice of intent to adopt the emergency rule was mailed to all persons and groups whose names appear on the list. If the person who mailed the notice is not the same person who can attest to the accuracy of the mailing list, separate affidavits signed by the appropriate person must be submitted. For the recommended format of the affidavit, see part 2010.9920.

H. A copy or photocopy of the notice of intent to adopt the emergency rule as published in the State Register. The publication date must be at least 25 days before the end of the comment period. The notice as published must contain the statements required by item E.

I. Three copies of the emergency rule as adopted. Any modifications made to the proposed rule must be reflected on the rule as adopted and be approved as to form by the revisor of statutes.

J. If the agency is a multimember agency as provided in Minnesota Statutes, section 15.0597, subdivision 1a, the certificate of the multimember agency's resolution adopting the emergency rule. The resolution must be adopted at a meeting duly called and attended by a quorum.

The resolution must approve and adopt the rule and authorize a named individual to sign the findings of fact, conclusions, and order adopting the rule and perform the necessary acts to provide that the emergency rule has force and effect of law. If the multimember agency is so empowered, the resolution may also authorize the named person to modify the rule under stated circumstances or as necessary to obtain approval of the rule by the attorney general. For the recommended format of the resolution, see part 2010.9925.

K. The findings of fact, conclusions, and order adopting the emergency rule which must contain the following:

(1) a statement that proper notice of intent to adopt a rule was given;

(2) a statement that all notice and procedural requirements have been complied with;

(3) a statement that all persons were given the opportunity to submit written comment for at least 25 days after publication of the notice of intent to adopt the emergency rule;

(4) a statement of the number of requests for notice of submission of the adopted emergency rule to the attorney general and whether any written comments were received;

(5) if any changes were made between the emergency rule as proposed and the emergency rule as adopted, findings of fact and conclusions supporting the reasons for the changes and explaining why the changes do not constitute substantial changes as provided in attorney general rule part 2010.1000, item D;

(6) a statement that the authority for use of emergency rule procedures has not expired pursuant to Minnesota Statutes, section 14.29;

(7) a statement that the emergency rule is hereby ordered to be adopted; and

(8) the signature of the person authorized to adopt the emergency rule or authorized to sign the findings of fact, conclusions, and order adopting the emergency rule and the date on which the order is signed.

For the recommended format of the findings of fact, conclusions, and order, see part 2010.9955.

L. All written requests, submissions, and comments on the rule received by the agency except requests solely for copies of the rule.

M. The declaration of the attorney in the attorney general's office who represents the agency. The declaration must state:

(1) that the attorney has examined the rule and the rulemaking record;

(2) that the Administrative Procedure Act and chapter 2010 have been followed with a listing of any exceptions; and

(3) for attorney general billing purposes, the four-digit docket client code is \_\_\_\_\_. For the recommended format, see part 2010.9935.

N. If any persons requested to be informed that the rule has been submitted to the attorney general, the notice of submission of the emergency rule as required by Minnesota Statutes, section 14.32. The notice must be mailed on the same day the rule is submitted to the attorney general. The notice must contain the following:

(1) the date of submission of the emergency rule to the attorney general;

(2) if the proposed emergency rule has been modified, the notice must state that fact and must state that a free copy of the emergency rule as modified is available upon request from the agency or that a copy of the rule as modified is enclosed with this notice;

(3) the attorney general rule review time period of ten working days;

(4) a statement that comments may be submitted to the attorney general and that any comments submitted must address only the issue of legality of the rule or the legality of the specific parts or subparts of the rule and make a reference to the attorney general standards of review as set forth in part 2010.1000;

(5) the length of the period for submitting comments to the attorney general and the calendar date of the last day of the seven working day comment period. In calculating the comment period, the date the documents were submitted to the attorney general is not included. Saturdays, Sundays, and legal holidays are not included in the calculation. The last day of the comment period so calculated is included;

(6) a statement that upon written request to the attorney general a copy of the attorney general decision will be provided;

(7) the address of the attorney general division where comments and requests must be submitted; and

(8) a statement that any written comments to the attorney general must also be submitted simultaneously to a named person for the agency and the address of that person.

For the recommended format of the statement, see part 2010.9960.

O. If the agency sent out the notice of submission of the emergency rule to the attorney general as required by Minnesota Statutes, section 14.32, the affidavit of mailing the

notice of submission of the emergency rule to the attorney general. The affidavit must state that a copy of the notice of submission of the rule to the attorney general was mailed to all persons and associations who requested the notification. For the recommended format of the affidavit, see part 2010.9945.

**Statutory Authority:** *MS s 14.06; 14.09; 14.225*

**History:** *11 SR 618; 17 SR 1881*

## **2010.0500 RULE SUBMISSION AND AGENCY FAILURE TO SUBMIT REQUIRED DOCUMENTS.**

**Subpart 1. Rule submission.** A rule is considered submitted to the attorney general when the rule and the record consisting of the required documents are received at the Office of the Attorney General, Public Finance Division located at 525 Park Street, Suite 500, Saint Paul, Minnesota 55103.

**Subp. 2. Failure to submit required documents.** Failure to submit all the required documents makes a submission incomplete. The attorney general must promptly inform the agency of the missing documents. If the missing documents include the required three copies of the rule as adopted, findings of fact, conclusions and order, declaration of the attorney in the attorney general's office who represents the agency, or the statement of need and reasonableness for a rule adopted without a public hearing, the rule review period will not be initiated. For other missing documents, if the agency submits the missing documents to the attorney general within the attorney general review period, the submission shall be deemed complete and the period of review shall continue to run. If the missing documents are not submitted within the review period, the rule must either be withdrawn from review or rejected by the attorney general.

**Statutory Authority:** *MS s 14.06; 14.09; 14.225; 14.26; 14.32; 14.365 cl (8)*

**History:** *11 SR 618; 13 SR 1376; 17 SR 1881*

## **2010.0600 PETITION FOR ADOPTION OF RULE.**

**Subpart 1. Contents.** Petitions to an agency requesting the adoption, suspension, amendment, or repeal of a rule pursuant to Minnesota Statutes, section 14.09 must contain the following:

A. the name and address of the petitioner and, if applicable, the title or the group represented;

B. a statement that the petitioner requests the agency to:

- (1) adopt a new rule governing \_\_\_\_\_;
- (2) amend Minnesota Rules, part \_\_\_\_\_;
- (3) suspend Minnesota Rules, part \_\_\_\_\_; or
- (4) repeal Minnesota Rules, part \_\_\_\_\_;

C. a statement explaining the need or reason for the rulemaking request; and

D. for a new rule, the petitioner's proposed language for the new rule. For amendments to an existing rule, the rule text must be repeated, proposed deletions stricken and substituted or added language underscored. If the petitioner is unable to propose new rule language, he or she may provide a detailed description of the rule desired.

For the prescribed format of the petition, see part 2010.9905.

**Subp. 2. Service of petition.** The petition must be served on the agency head or executive director of the affected agency personally or by United States mail at the business address of the agency.

**Subp. 3. Agency response.** The agency must reply within 60 days from the receipt of the petition. The reply must be in writing, respond specifically to all issues raised in the petition and detail its planned disposition of the request. The response must be signed by an individual authorized to adopt a rule or if the agency is a multimember agency as provided in Minnesota Statutes, section 15.0597, subdivision 1a, by a member or officer of the multimember agency. If the agency adopts the rule pursuant to the petition, a copy of the petition



must be submitted by the agency to the attorney general in accordance with part 2010.0300, item B or 2010.0400, item B.

**Statutory Authority:** *MS s 14.06; 14.09*

**History:** *11 SR 618*

#### 2010.0700 STATEMENT OF NEED AND REASONABLENESS.

The statement of need and reasonableness must contain a summary of the evidence and arguments that support both the need for and reasonableness of the proposed agency action of adopting a rule without a public hearing. In justifying the need for and reasonableness of the action, the agency must explain what circumstances have created the need for the rule or its amendment which required administrative action and why the proposed rulemaking action is an appropriate solution for meeting the need. The statement must explain the evidence relied upon and how that evidence rationally relates to the choice of action taken. A general statement of statutory implementation or restating the proposed rule will not suffice. The statement of need and reasonableness must also contain the following:

A. if required by Minnesota Statutes, section 14.115, a statement documenting the agency's consideration of methods for reducing the impact of the rule on small businesses and the results pursuant to Minnesota Statutes, section 14.115, subdivision 2. If the small business considerations in the rulemaking section are not applicable, the basis for the agency's exemption must be stated in the statement of need and reasonableness;

B. if the agency's notice of intent to adopt the rule does not contain the statement of estimated costs to local public bodies pursuant to Minnesota Statutes, section 14.11, subdivision 1, because the reasonable estimate of the total cost to public bodies to implement the rule for the two years following the adoption of the rule is less than \$100,000, a statement that Minnesota Statutes, section 14.11, is not applicable and the basis for that statement;

C. if required by Minnesota Statutes, section 16A.128, subdivision 1, the approval of the commissioner of finance if the rule sets or adjusts a fee charged;

D. the signature of the person authorized to adopt the rule pursuant to statute or pursuant to the certificate of authorizing resolution and the date the statement was signed; and

E. any information required by any other law or rule to be included in the statement of need and reasonableness.

**Statutory Authority:** *MS s 14.06; 14.09; 14.225*

**History:** *11 SR 618; 17 SR 1881*

#### 2010.0800 RULE REVIEW TIME PERIOD.

**Subpart 1. Rule adopted without public hearing.** The attorney general must approve or disapprove the rule adopted without a public hearing within 14 calendar days after submission. In computing the calendar day time period, the day of the submission of the rule to the attorney general is not included. Saturdays, Sundays, and legal holidays are included in the computation. The last day of the period so computed is included unless it is a Saturday, Sunday, or legal holiday, in which event, the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday. The attorney general may not approve a rule adopted without a public hearing for eight calendar days after submission to the attorney general to assure persons time to comment on the legality of the rule. The eight-day minimum review period does not apply to a rule being resubmitted to the attorney general unless the resubmitted rule raises significant new legal issues. For resubmission of rules, see part 2010.1300.

**Subp. 2. Emergency rule.** The attorney general must approve or disapprove the emergency rule on the tenth working day after submission to the attorney general. In computing working day time period, the day of the submission to the attorney general is not included. Saturdays, Sundays, and legal holidays are not included in the computation. The last day of the period so computed is included.

**Statutory Authority:** *MS s 14.06; 14.09*

**History:** *11 SR 618*

**2010.0900 WRITTEN COMMENTS TO THE ATTORNEY GENERAL.**

Subpart 1. **Written comments.** Any person or association may submit written comments concerning the legality of a rule. Comments to the attorney general must address the specific rule or part or subparts of the rule and must address the issue of legality only. Persons or associations submitting written comments to the attorney general must simultaneously submit a copy of their comments to the named person in the notice of submission for the agency. The agency may respond to the comments within the limits of the statutory rule review period. If the agency submits a written response to the attorney general, the agency must simultaneously submit a copy of its response to the person or associations that submitted the comments to the attorney general.

Subp. 2. **Comment period.** Written comments concerning a rule adopted without a public hearing must be received by the attorney general within eight calendar days after submission to the attorney general to assure time for the agency to respond. Written comments concerning an emergency rule must be received by the attorney general within seven working days after submission to the attorney general to assure time for the agency to respond. The address to submit comments to the attorney general is the same as set out in part 2010.0500 and the computation for the comment period is the same as for the rule review period computation in part 2010.0800.

**Statutory Authority:** *MS s 14.06; 14.09*

**History:** *11 SR 618*

**2010.1000 STANDARDS OF REVIEW.**

A rule must be disapproved by the attorney general if:

A. The rule as submitted is not a statement of general applicability and future effect adopted to implement or make specific the law enforced or administered by that agency or to govern its organization or procedures.

B. The agency has failed to comply with the applicable provisions of the Administrative Procedure Act, Minnesota Statutes, chapter 14, the agency's enabling statute, the attorney general rule parts 2010.0200 to 2010.1400 or other applicable law unless the error or omission is a harmless error as defined in Minnesota Statutes, section 14.26, subdivision 3, or 14.32, subdivision 2.

C. The rule exceeds the statutory authority conferred on the agency or conflicts with the statutes or any other relevant law.

D. There is a substantial change in the rule as adopted from the proposed rule as noticed. A change, by additions or deletions or other modifications to a proposed rule, is substantial if it:

(1) affects classes of persons who could not reasonably have been expected to comment on the proposed rule as originally noticed;

(2) introduces significant new subject matter which a reasonable person, on the basis of the proposed rule as originally noticed, would not have anticipated would occur during the rulemaking proceeding; or

(3) makes a major substantive change that was not raised by the proposed rule as originally noticed in such a way as to invite reaction.

E. For a rule adopted without a public hearing, the record does not demonstrate a rational basis for the need for and reasonableness of the proposed rule. This criterion does not apply to emergency rules.

F. The rule grants the agency discretion beyond that permitted by its enabling legislation.

G. The rule improperly delegates the agency's powers to another agency, person, or body.

H. The rule is unreasonable because it is not rationally related to the objective sought to be achieved.

I. The rule is vague or ambiguous in violation of the constitutional principles of due process or equal protection.

J. The rule, by its terms, cannot have the force and effect of law.

K. The rule is unconstitutional or illegal.

**Statutory Authority:** *MS s 14.06; 14.09; 14.225*

**History:** *11 SR 618; 17 SR 1881*

#### **2010.1100 WITHDRAWAL OF RULE FROM REVIEW BY ATTORNEY GENERAL.**

The agency may withdraw a rule from review by the attorney general. To withdraw a rule after it has been submitted to the attorney general, a written order of withdrawal of the rule from review must be submitted to the attorney general. The written order must state the date of withdrawal and be signed by a person authorized to adopt the rule or sign the findings of fact, conclusions, and order adopting the rule. Upon receipt of the written order of withdrawal, the attorney general shall return the submitted documents to the agency.

**Statutory Authority:** *MS s 14.06; 14.09; 14.225*

**History:** *11 SR 618; 17 SR 1881*

#### **2010.1200 DISAPPROVAL.**

If a rule is disapproved, the attorney general must state in writing the reasons for disapproval and make recommendations to overcome the deficiencies. The statement of the reasons for disapproval must be sent to the agency, the chief administrative law judge, the legislative commission to review administrative rules, the revisor of statutes, and persons who requested to receive a copy of the decision. Upon disapproval, the review period terminates and the rule must neither be filed in the office of the secretary of state nor published unless the rule is resubmitted and approved upon resubmission. Upon disapproval, the attorney general shall return the submitted documents to the agency.

**Statutory Authority:** *MS s 14.06; 14.09; 14.225*

**History:** *11 SR 618; 17 SR 1881*

#### **2010.1300 RESUBMISSION.**

Subpart 1. **Resubmission.** To resubmit a rule which was withdrawn or disapproved by the attorney general, the following documents must be submitted:

A. All documents that were previously submitted to the attorney general for review that were returned to the agency upon withdrawal or disapproval.

B. A supplemental findings of fact, conclusions, and order adopting the rule. The order must be signed by a person authorized to adopt the rule or authorized to sign the findings of fact, conclusion, and order adopting the rule. If any modifications were made to the rule since the rule was withdrawn or disapproved, findings of facts and conclusions must be set forth supporting the reasons for the changes and explaining why the changes do not constitute substantial changes.

C. A supplemental certificate of the multimember agency's resolution if:

(1) the agency is a multimember agency as provided in Minnesota Statutes, section 15.0597, subdivision 1a;

(2) modifications were made to the rule since the rule was withdrawn or disapproved; and

(3) the certificate of the agency's resolution submitted in accordance with part 2010.0300, item M, or 2010.0400, item J does not authorize the modification by the person who signed the supplemental findings of fact, conclusions, and order. The supplemental certificate of the agency's resolution must be in accordance with part 2010.0300, item M or 2010.0400, item J.

D. If any modifications were made to the rule as adopted since the rule was withdrawn or disapproved, three copies of the rule as adopted with the modifications reflected and approved as to form by the revisor of statutes.

E. A new notice of submission of the rule to the attorney general mailed to any persons who requested notification pursuant to Minnesota Statutes, section 14.26 or 14.32. The notice of submission to the attorney general must comply with part 2010.0300, item Q or 2010.0400, item N.

F. The affidavit of mailing for the notice of submission of the rule to the attorney general, if applicable. The affidavit must comply with part 2010.0300, item R or 2010.0400, item O.

G. Any other documents necessary to demonstrate that the procedural or substantive deficiencies have been remedied.

Subp. 2. **Resubmission review time period.** The attorney general review period for resubmission is the same as for the initial submission of the rule with one exception. If the resubmitted rule was adopted without a public hearing and does not raise significant new legal issues, the eight-day minimum review period does not apply. For the general review period, see part 2010.0800.

**Statutory Authority:** *MS s 14.06; 14.09; 14.225*

**History:** *11 SR 618; 17 SR 1881*

#### 2010.1400 APPROVAL OF RULE.

Subpart 1. **Approval.** If the rule is approved, the attorney general shall promptly file two copies of the rule with the secretary of state. The attorney general shall send a copy of the approval memo and the approved rule to the agency. The attorney general shall also send a copy of the approval memo to the chief administrative law judge, the legislative commission to review administrative rules, and persons who requested to receive a copy of the decision.

Subp. 2. **Return of record.** Upon approval of a rule, the attorney general shall return the submitted documents to the agency. The agency is required pursuant to Minnesota Statutes, section 14.365, to maintain the official rulemaking record for every rule adopted.

**Statutory Authority:** *MS s 14.06; 14.09; 14.225*

**History:** *11 SR 618; 17 SR 1881*

#### 2010.9900 RECOMMENDED NOTICE OF SOLICITATION OF OUTSIDE INFORMATION OR OPINIONS.

Department of \_\_\_\_\_  
\_\_\_\_\_ Division

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rule Governing \_\_\_\_\_

Notice is hereby given that the State \_\_\_\_\_ [name of agency] is seeking information or opinions from sources outside the agency in preparing to propose the [adoption] [amendment] [suspension] [repeal] of the rule governing \_\_\_\_\_. The adoption of the rule is authorized by Minnesota Statutes, section \_\_\_\_\_, which [permits] [requires] the agency to \_\_\_\_\_.

The State \_\_\_\_\_ requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to: [name and address] \_\_\_\_\_.

\_\_\_\_\_ Oral statements will be received during regular business hours over the telephone at \_\_\_\_\_ and in person at the above address.

All statements of information and opinions shall be accepted until \_\_\_\_\_. Any written material received by the State \_\_\_\_\_ shall become part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event that the rule is adopted.

\_\_\_\_\_  
Date

\_\_\_\_\_  
[Name]

\_\_\_\_\_  
[Title]

**Statutory Authority:** *MS s 14.06; 14.09*

**History:** *11 SR 618*

# MINNESOTA RULES 1995

## 2010.9905 RULES REVIEW

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### 2010.9905 PETITION FOR ADOPTION OF RULE.

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

PETITION FOR  
PROPOSED RULE,  
OR RULE CHANGE

NAME \_\_\_\_\_  
GROUP REPRESENTED OR TITLE (if applicable) \_\_\_\_\_  
ADDRESS \_\_\_\_\_

I hereby request that the Agency named above: (Check one)

☐ Adopt a new rule governing \_\_\_\_\_  
☐ Amend Minnesota Rules, part \_\_\_\_\_  
☐ Suspend Minnesota Rules, part \_\_\_\_\_  
☐ Repeal Minnesota Rules, part \_\_\_\_\_

Explanation of the need or reason for the rulemaking action: (the agency will use your reasons as part of the basis for its decision, so your explanation must be in detail as much as possible).

(Use additional pages if necessary.)

For a new rule, if possible, state the proposed new language of the rule. For amendments, if possible, repeat the text of the rule, strike through any deletions and underscore substituted or added language. If you are unable to propose new rule language, provide a detailed description of the rule desired.

(Use additional pages if necessary.)

This petition must be served on the agency head or the executive director of the agency personally or by United States mail. Pursuant to Minnesota Rules, part 2010.0600, subpart 3 the agency must respond in writing within 60 days of receipt of the petition.

\_\_\_\_\_  
Date

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

**Statutory Authority:** *MS s 14.06; 14.09*

**History:** *11 SR 618*

### 2010.9910 RECOMMENDED CERTIFICATE OF AUTHORIZING RESOLUTION FOR RULE WITHOUT A PUBLIC HEARING OR EMERGENCY RULE.

#### CERTIFICATE OF THE \_\_\_\_\_ AUTHORIZING RESOLUTION

I, \_\_\_\_\_, do hereby certify that I am a member and the \_\_\_\_\_  
(office), of the \_\_\_\_\_, a [board] [commission] duly authorized  
under the laws of the State of Minnesota, and that the following is a true, complete, and cor-  
rect copy of a resolution adopted at a meeting of the \_\_\_\_\_ duly and  
properly called and held on the \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, that a quorum was  
present, and that a majority of those present voted for the resolution which has not been re-  
scinded or modified.

"RESOLVED, that \_\_\_\_\_, [the executive director] [a member] of the  
\_\_\_\_\_, is hereby granted the authority and directed to sign the  
statement of need and reasonableness and sign and give the Notice of the [Board's]  
[Commission's] Intent to Adopt [a rule without a public hearing] [an Emergency  
rule] governing \_\_\_\_\_ (describe nature of the rule) to all per-  
sons who have registered their names with the [Board] [Commission] for that pur-  
pose and publish the Notice and rule in the State Register, and to perform any nec-  
essary acts to initiate the rulemaking comment period."

IN WITNESS WHEREOF, I have hereunto subscribed my name this \_\_\_\_ day of \_\_\_\_\_, 19\_\_.

(Officer of the Board)

Attest by one other Board member

**Statutory Authority:** *MS s 14.06; 14.09; 14.225*

**History:** *11 SR 618; 17 SR 1881*

**2010.9913 RECOMMENDED AFFIDAVIT OF MAILING THE STATEMENT OF NEED AND REASONABLENESS TO THE LEGISLATIVE COMMISSION TO REVIEW ADMINISTRATIVE RULES AND MAILING THE FEE NOTICE TO COMMITTEE CHAIRS.**

NOTE: The following affidavit may be used when the same person mailed both the statement of need and reasonableness to the legislative commission to review administrative rules and the fee notice pursuant to Minnesota Statutes, section 16A.128, subdivision 2, paragraph (a). If different persons mailed the two notices, the two paragraphs must be split into separate affidavits signed by the appropriate persons. If the proposed rule does not establish or adjust fees, do not use the second paragraph. For emergency rules, do not use the first paragraph as it is inapplicable.

In the Matter of the Proposed Adoption  
of the Rule of the State \_\_\_\_\_  
Governing \_\_\_\_\_

**AFFIDAVIT OF  
MAILING THE  
STATEMENT OF NEED  
AND REASONABLENESS  
TO THE LEGISLATIVE  
COMMISSION TO REVIEW  
ADMINISTRATIVE RULES  
AND THE FEE NOTICE  
TO COMMITTEE CHAIRS**

STATE OF MINNESOTA )  
 )ss.  
COUNTY OF [ ] )

\_\_\_\_\_, being sworn says:

That on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, when the Statement of Need and Reasonableness became available to the public, I mailed the Statement of Need and Reasonableness to the Legislative Commission to Review Administrative Rules by depositing in the [United States mail, with postage prepaid] [State of Minnesota Interoffice Mail System], a copy thereof.

NOTE: The following paragraph is applicable only if the rule establishes or adjusts fees.

\_\_\_\_\_, being sworn says:

That on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before this agency submitted notice to the State Register of intent to adopt a rule that establishes or adjusts fees, I mailed a copy of the notice of intent and the proposed rule to the chairs of the appropriate committees by depositing in the [United States mail, with postage prepaid] [State of Minnesota Interoffice Mail System], a copy thereof.

Subscribed and sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

[Name]

[Title]

**Notary Public**

**Statutory Authority:** *MS s 14.06; 14.225*

**History:** 17 SR 1881

# MINNESOTA RULES 1995

## 2010.9916 RULES REVIEW

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**2010.9915** [Repealed, 17 SR 1881]

### **2010.9916 RECOMMENDED NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING.**

STATE OF MINNESOTA

DEPARTMENT OF \_\_\_\_\_

In the Matter of the Proposed Adoption  
of the Rule of the State \_\_\_\_\_  
Governing \_\_\_\_\_

NOTICE OF INTENT  
TO ADOPT A RULE  
WITHOUT A  
PUBLIC HEARING

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

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

[Name, agency, address, telephone number, and  
Fax number (Fax number is optional)]

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

**Comments.** You have until \_\_\_\_ p.m., \_\_\_\_\_ [calendar date of the end of the 30-day comment period; see part 2010.0300, item G, subitem (3), for how to count the days] to submit written comment in support of or in opposition to the proposed rule and any part or subpart of the rule. Your comment must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

**Request for a Hearing.** In addition to submitting comments, you may also request that a hearing be held on the rule. Your request for a public hearing must be in writing and must be received by the agency contact person by \_\_\_\_ p.m. on \_\_\_\_\_. Your written request for a public hearing must include your name and address. You are encouraged to identify the portion of the proposed rule which caused your request, the reason for the request, and any changes you want made to the proposed rule. If 25 or more persons submit a written request for a hearing, a public hearing will be held unless a sufficient number withdraw their requests in writing. If a public hearing is required, the agency will follow the procedures in Minnesota Statutes, sections 14.131 to 14.20.

**Modifications.** The proposed rule may be modified as a result of public comment. The modifications must be supported by data and views submitted to the agency and may not result in a substantial change in the proposed rule as [attached and] printed in the State Register. If the proposed rule affects you in any way, you are encouraged to participate in the rulemaking process.

**Statement of Need and Reasonableness.** A statement of need and reasonableness is now available from the agency contact person. This statement describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule.

**Small Business Considerations.** [If applicable and selected, see Minnesota Statutes, section 14.115, subdivision 4.]

**Expenditure of Public Money by Local Public Bodies.** [If applicable, see Minnesota Statutes, section 14.11, subdivision 1.]

**Impact on Agriculture Lands.** [If applicable, see Minnesota Statutes, section 14.11, subdivision 2.]

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

**Adoption and Review of Rule.** If no hearing is required, after the end of the comment period the agency may adopt the rule. The rule and supporting documents will then be submitted to the attorney general for review as to legality and form to the extent form relates to legality. You may request to be notified of the date the rule is submitted to the attorney general or be notified of the attorney general's decision on the rule. If you wish to be so notified, or wish to receive a copy of the adopted rule, submit your request to the agency contact person listed above.

[Name] \_\_\_\_\_

[Title] \_\_\_\_\_

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

**Statutory Authority:** *MS s 14.06; 14.225*

**History:** *17 SR 1881*

## 2010.9920 RECOMMENDED AFFIDAVIT OF MAILING THE NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING OR AN EMERGENCY RULE AND CERTIFICATE OF MAILING LIST.

NOTE: If the person who can attest to the accuracy of the mailing list is not the same person who mailed the notices of intent, then the two paragraphs in this recommended form must be separated into two affidavits signed by the appropriate persons.

In the Matter of the Proposed Adoption  
of the Rule of the State \_\_\_\_\_  
Governing \_\_\_\_\_

AFFIDAVIT OF  
MAILING THE  
NOTICE OF INTENT  
TO ADOPT [A  
RULE WITHOUT  
A PUBLIC HEARING]  
[AN EMERGENCY  
RULE] AND  
CERTIFICATE OF  
MAILING LIST

STATE OF MINNESOTA )  
 )ss.  
COUNTY OF [\_\_\_\_\_] )

\_\_\_\_\_, being sworn says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 or 14.30, that their names be placed on the state \_\_\_\_\_ rulemaking mailing list is accurate, complete, and current as of this \_\_\_\_ day of \_\_\_\_\_, 19\_\_.

That on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_, at least [33 days for rules without a public hearing] [28 days for emergency rules] prior to the end of the comment period, at the City of [\_\_\_\_\_] , County of [\_\_\_\_\_] , State of Minnesota, I mailed the \_\_\_\_\_ (state what was mailed, for example: (1) Notice of Intent and (2) the proposed rule) by depositing in the [State of Minnesota Central Mail System for United States mailing] [United States mail], a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

[Name] \_\_\_\_\_

Subscribed and sworn to before me  
this \_\_\_\_ day of \_\_\_\_\_, 19\_\_.

[Title] \_\_\_\_\_

\_\_\_\_\_  
Notary Public

**Statutory Authority:** *MS s 14.06; 14.09; 14.225*

**History:** *11 SR 618; 17 SR 1881*



# MINNESOTA RULES 1995

2010.9925 RULES REVIEW

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## 2010.9925 RECOMMENDED CERTIFICATE OF RESOLUTION ADOPTING THE [RULE WITHOUT A PUBLIC HEARING] [EMERGENCY RULE].

### CERTIFICATE OF THE

#### RESOLUTION ADOPTING THE RULE

I, \_\_\_\_\_, do hereby certify that I am a member and the \_\_\_\_\_ (office) of the \_\_\_\_\_, a [board] [commission] duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the \_\_\_\_\_, duly and properly called and held on the \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, that a quorum was present, and that a majority of those present voted for the resolution which has not been rescinded or modified.

"RESOLVED, that the rule relating to \_\_\_\_\_ is approved and adopted, pursuant to authority vested in the \_\_\_\_\_ by Minnesota Statutes \_\_\_\_\_, the \_\_\_\_\_ [executive director] [a member] of the \_\_\_\_\_, is authorized to sign the findings of fact, conclusions, and order adopting the rule and [(optional authorization:) further is authorized to modify the rule if necessary to obtain the approval of the rule by the attorney general (or other stated circumstances) and] to perform the necessary acts to provide that the rule shall have the force and effect of law."

IN WITNESS WHEREOF, I have hereunto subscribed my name this \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Officer of the Board

\_\_\_\_\_  
Attest by one other Board member

**Statutory Authority:** *MS s 14.06; 14.09*

**History:** *11 SR 618*

## 2010.9930 RECOMMENDED FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING THE RULE WITHOUT PUBLIC HEARING.

### STATE OF MINNESOTA

#### DEPARTMENT OF \_\_\_\_\_

In the Matter of the Proposed Adoption  
of the Rule of the State \_\_\_\_\_  
Governing \_\_\_\_\_

FINDINGS OF FACT,  
CONCLUSIONS, AND  
ORDER ADOPTING  
RULE WITHOUT  
PUBLIC HEARING

#### FINDINGS

1. Notice of the [Commissioner's] [Board's] [Commission's] intent to adopt the above-entitled rule was published in the State Register on \_\_\_\_\_, 19\_\_\_\_ and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 on \_\_\_\_\_, 19\_\_\_\_.

2. The statement of need and reasonableness was prepared before the notice of intent to adopt a rule without a public hearing was mailed to all persons on the rulemaking mailing list and published in the State Register and was available to the public.

3. All of the notice and procedural requirements in Minnesota Statutes, chapter 14, and other applicable law have been complied with.

4. All persons were given the opportunity to submit comment on the rule for 30 days after notice of proposed rulemaking. The 30-day comment period expired on \_\_\_\_\_.

5. The agency received [written comments] [no written comments] and submissions on the rule. The agency received \_\_\_\_\_ requests for notice of submission to the attorney gener-

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al. [Number] individuals requested a public hearing [, of which \_\_\_\_ were subsequently withdrawn]. Therefore, there are not 25 or more outstanding requests for a public hearing.

[If any changes were made between the rule as proposed and the rule as adopted, findings of fact and conclusions supporting the reasons for the changes and explaining why the changes do not constitute substantial changes as provided in the attorney general rules, part 2010.1000, item D must be set forth.]

6. The statement of need and reasonableness together with these findings, establish and justify the rational basis for the need for and reasonableness of the rule [as amended].

## CONCLUSIONS

1. The \_\_\_\_\_ duly acquired and has jurisdiction over this proceeding.
2. The \_\_\_\_\_ published and served timely and adequate notice of intent to adopt the rule without a public hearing.
3. All relevant legal and procedural requirements of statute and rule have been complied with.
4. [If the proposed rule was amended] The modifications to the proposed rule are supported by the record and do not result in a substantial change.
5. The rule [as amended] is needed and reasonable.

NOW, THEREFORE, IT IS ORDERED that the rule identified as \_\_\_\_\_  
\_\_\_\_\_ [as modified] is adopted this \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_,  
pursuant to authority vested in [me] [the Board] [the Commission] by Minnesota Statutes,  
section \_\_\_\_\_.

[Name] \_\_\_\_\_

[Title] \_\_\_\_\_

**Statutory Authority:** *MS s 14.06; 14.09; 14.225*

**History:** *11 SR 618; 17 SR 1881*

## 2010.9935 RECOMMENDED DECLARATION OF COUNSEL.

In the Matter of the Adoption  
of the Rule of the State \_\_\_\_\_  
Governing \_\_\_\_\_

DECLARATION  
OF COUNSEL

I, \_\_\_\_\_, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rule, and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules, chapter 2010 have been followed. Any exceptions are listed below. For Attorney General billing purposes, the four-digit docket client code is \_\_\_\_\_.

\_\_\_\_\_  
(Attorney's Name)  
Special Assistant  
Attorney General

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

**Statutory Authority:** *MS s 14.06; 14.09*

**History:** *11 SR 618*

# MINNESOTA RULES 1995

2010.9940 RULES REVIEW

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## 2010.9940 RECOMMENDED NOTICE OF SUBMISSION OF RULE ADOPTED WITHOUT PUBLIC HEARING TO ATTORNEY GENERAL.

STATE OF MINNESOTA

DEPARTMENT OF \_\_\_\_\_

In the Matter of the Proposed Adoption  
of the Rule of the State \_\_\_\_\_  
Governing \_\_\_\_\_

NOTICE OF  
SUBMISSION OF  
RULE ADOPTED  
WITHOUT PUBLIC  
HEARING TO THE  
ATTORNEY GENERAL

Pursuant to your request and in accordance with Minnesota Statutes, section 14.26:

PLEASE TAKE NOTICE that the above-captioned rule as adopted will be submitted to the Office of the Attorney General on the date of this notice, \_\_\_\_\_, 19\_\_\_\_, for review as to legality and form to the extent form relates to legality. The proposed rule, the rule as adopted, all the notices, the Statement of Need and Reasonableness, all written comments and requests for a hearing received, and other required documents also will be submitted to the Attorney General.

[(If the proposed rule has been modified:) The proposed rule which was published in the State Register and mailed to interested persons on \_\_\_\_\_, 19\_\_\_\_, has been modified. A free copy of the rule as modified as well as the findings of fact, conclusions, and order explaining the amendments and adopting the rule are available upon request from \_\_\_\_\_. (or) A copy of the rule as modified and the findings of fact, conclusions, and order are enclosed with this notice.]

The rule must be approved or disapproved by the Attorney General within 14 calendar days of the date of submission to the Attorney General. You may submit written comments to the Attorney General on the legality of the rule. Any written comments must be submitted by 4:30 p.m., \_\_\_\_\_ (date,) 19\_\_\_\_, (which is eight calendar days after the date of submission of the rule to the Attorney General). Your comments must address only the issue of legality of the rule or the legality of the specific parts or subparts of the rule. The Attorney General standards for review are set forth in Minnesota Rules, part 2010.1000. You may receive a copy of the Attorney General decision upon written request to the Attorney General. Your comments or requests for the decision must be directed to:

The Office of the Attorney General  
Public Finance Division  
525 Park Street, Suite 500  
Saint Paul, Minnesota 55103  
Telephone Number: (612) 297-2040  
Fax Number: (612) 297-2576

Any written comments submitted to the Attorney General must be submitted simultaneously to:

[Name, address, telephone number, and  
Fax number (Fax number is optional)  
of appropriate person in the agency]

[Name] \_\_\_\_\_

[Title] \_\_\_\_\_

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

**Statutory Authority:** *MS s 14.06; 14.09; 14.225; 14.26; 14.32; 14.365 cl (8)*

**History:** *13 SR 1376; 17 SR 1881*

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RULES REVIEW 2010.9946

## 2010.9945 RECOMMENDED AFFIDAVIT OF MAILING THE NOTICE OF SUBMISSION OF RULE ADOPTED WITHOUT PUBLIC HEARING OR EMERGENCY RULE TO ATTORNEY GENERAL.

In the Matter of the Proposed Adoption  
of the [Emergency] Rule of the  
State \_\_\_\_\_  
Governing \_\_\_\_\_

AFFIDAVIT OF  
MAILING THE NOTICE  
OF SUBMISSION OF  
[RULE ADOPTED  
WITHOUT PUBLIC  
HEARING]  
[EMERGENCY RULE]  
TO THE ATTORNEY  
GENERAL

STATE OF MINNESOTA )  
 )SS.  
COUNTY OF [\_\_\_\_\_] )

\_\_\_\_\_, being sworn says:

That on the \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, in the City of  
[\_\_\_\_], County of [\_\_\_\_], State of Minnesota, I mailed the Notice of Submis-  
sion to the Attorney General by depositing in the [State of Minnesota Central Mail System  
for United States mailing] [United States mail], a copy thereof, with postage prepaid, to all  
persons and associations who requested notice that the rule in the above-entitled matter has  
been submitted to the Attorney General.

Subscribed and sworn to before me  
this \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
[Name]

\_\_\_\_\_  
[Title]

\_\_\_\_\_  
Notary Public

**Statutory Authority:** *MS s 14.06; 14.09; 14.225*

**History:** *11 SR 618; 17 SR 1881*

## 2010.9946 RECOMMENDED DUAL NOTICE.

STATE OF MINNESOTA

DEPARTMENT OF \_\_\_\_\_

In the Matter of the Proposed Adoption  
of the Rule of the State \_\_\_\_\_  
Governing \_\_\_\_\_

### DUAL NOTICE:

NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING  
UNLESS 25 OR MORE PERSONS REQUEST A HEARING, AND  
NOTICE OF HEARING IF 25 OR MORE REQUESTS FOR HEARING ARE  
RECEIVED

**Introduction.** The [agency name] intends to adopt a permanent rule without a public  
hearing following the procedures set forth in the Administrative Procedure Act, Minnesota  
Statutes, sections 14.22 to 14.28. If, however, 25 or more persons submit a written request for  
a hearing on the rule within 30 days or by [date of the end of the 30-day comment period], a  
public hearing will be held on [scheduled hearing date]. To find out whether the rule will be  
adopted without a hearing or if the hearing will be held, you should contact the agency con-  
tact person after [date 1, end of the 30-day comment period] and before [date 2, the sched-  
uled hearing date].

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

[Name, agency, address, telephone number, and  
Fax number (Fax number is optional)]

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

**Comments.** You have until \_\_\_\_\_ p.m. on \_\_\_\_\_ to submit written comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Your comment must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comments should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

**Request for a Hearing.** In addition to submitting comments, you may also request that a hearing be held on the rule. Your request for a public hearing must be in writing and must be received by the agency contact person by \_\_\_\_\_ p.m. on \_\_\_\_\_. Your written request for a public hearing must include your name, address, and telephone number. You are encouraged to identify the portion of the proposed rule which caused your request, the reason for the request, and any changes you want made to the proposed rule. If 25 or more persons submit a written request for a hearing, a public hearing will be held unless a sufficient number withdraw their requests in writing.

**Modifications.** The proposed rule may be modified, either as a result of public comment or as a result of the rule hearing process. Modifications must not result in a substantial change in the proposed rule as [attached and] printed in the State Register and must be supported by data and views submitted to the agency or presented at the hearing. If the proposed rule affects you in any way, you are encouraged to participate in the rulemaking process.

**Cancellation of Hearing.** The hearing scheduled for [date] will be canceled if the agency does not receive requests from 25 or more persons that a hearing be held on the rule. If you requested a public hearing, the agency will notify you before the scheduled hearing whether or not the hearing will be held. You may also call [agency contact person] at [telephone number] after [date after the end of the 30-day comment period] to find out whether the hearing will be held.

**Notice of Hearing.** If 25 or more persons submit written requests for a public hearing on the rule, a hearing will be held following the procedures in Minnesota Statutes, sections 14.14 to 14.20. The hearing will be held on [date] in the [place] beginning at [time] and will continue until all interested persons have been heard. The hearing will continue, if necessary, at additional times and places as determined during the hearing by the administrative law judge. The administrative law judge assigned to conduct the hearing is [name]. Judge [name] can be reached at the Office of Administrative Hearings, [current address and telephone number].

**Hearing Procedure.** If a hearing is held, you and all interested or affected persons including representatives of associations or other interested groups, will have an opportunity to participate. You may present your views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should relate to the proposed rule. You may also mail written material to the administrative law judge to be recorded in the hearing record for five working days after the public hearing ends. This five-day comment period may be extended for a longer period not to exceed 20 calendar days if ordered by the administrative law judge at the hearing. Comments received during this period will be available for review at the Office of Administrative Hearings. You and the agency may respond in writing within five business days after the submission period ends to any new information submitted. All written materials and responses submitted to the administrative law judge must be received at the Office of Administrative Hearings no later than 4:30 p.m. on the due date. No additional evidence may be submitted during the five-day period. This rule hearing procedure is governed by Minnesota Rules, parts 1400.0200 to 1400.1200 and Minnesota Statutes, sections 14.14 to 14.20. Questions about procedure may be directed to the administrative law judge.

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**Statement of Need and Reasonableness.** A statement of need and reasonableness is now available from the agency contact person. This statement describes the need for and reasonableness of each provision of the proposed rule. It also includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing, if one is held. The statement may also be reviewed and copies obtained at the cost of reproduction from the Office of Administrative Hearings.

**Small Business Considerations.** [If applicable and selected, see Minnesota Statutes, section 14.115, subdivision 4.]

**Expenditure of Public Money by Local Public Bodies.** [If applicable, see Minnesota Statutes, section 14.11, subdivision 1.]

**Impact on Agriculture Lands.** [If applicable, see Minnesota Statutes, section 14.11, subdivision 2.]

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

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

**Adoption Procedure if No Hearing.** If no hearing is required, after the end of the comment period the agency may adopt the rule. The rule and supporting documents will then be submitted to the attorney general for review as to legality and form to the extent form relates to legality. You may request to be notified of the date the rule is submitted to the attorney general or be notified of the attorney general's decision on the rule. If you want to be so notified, or wish to receive a copy of the adopted rule, submit your request to [agency contact person] listed above.

**Adoption Procedure After the Hearing.** If a hearing is held, after the close of the hearing record, the administrative law judge will issue a report on the proposed rule. You may request to be notified of the date on which the administrative law judge's report will be available, after which date the agency may not take any final action on the rule for a period of five working days. If you want to be notified about the report, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the administrative law judge. You may also request notification of the date on which the rule is adopted and filed with the Secretary of State. The agency's notice of adoption must be mailed on the same day that the rule is filed. If you want to be notified of the adoption, you may so indicate at the hearing or send a request in writing to the agency contact person at any time prior to the filing of the rule with the Secretary of State.

Date: \_\_\_\_\_

\_\_\_\_\_  
[Name]

\_\_\_\_\_  
[Title]

**Statutory Authority:** *MS s 14.06; 14.225*

**History:** *17 SR 1881*

**2010.9950** [Repealed, 17 SR 1881]

**2010.9951 RECOMMENDED NOTICE OF INTENT TO ADOPT AN EMERGENCY RULE.**

STATE OF MINNESOTA

DEPARTMENT OF \_\_\_\_\_

In the Matter of the Proposed Adoption  
of Emergency Rule of the State \_\_\_\_\_  
Governing \_\_\_\_\_

NOTICE OF INTENT  
TO ADOPT AN  
EMERGENCY RULE

The [agency name] intends to adopt an emergency rule following the procedures set forth in the Administrative Procedure Act, Minnesota Statutes, sections 14.29 to 14.36. You may submit written comments on the proposed emergency rule within 25 days.

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**Agency Contact Person.** Comments or questions on the rule must be submitted to:

[Name, agency, address, telephone number, and  
Fax number (Fax number is optional)]

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

**Comments.** You have until \_\_\_\_ p.m., \_\_\_\_ [calendar date of the end of the 25-day comment period; see part 2010.0400, item E, subitem (3), for how to count the days] to submit written data and views on the proposed emergency rule or any part or subpart of the emergency rule. Your comment must be in writing and received by the agency contact person by the due date.

**Modifications.** The proposed emergency rule may be modified as a result of public comment. The modifications must be supported by data and views submitted to the agency and may not result in a substantial change in the proposed emergency rule as [attached and] printed in the State Register. If the proposed emergency rule affects you in any way, you are encouraged to participate in the rulemaking process.

**Expenditure of Public Money by Local Public Bodies.** [If applicable, see Minnesota Statutes, section 14.11, subdivision 1.]

**Impact on Agriculture Lands.** [If applicable, see Minnesota Statutes, section 14.11, subdivision 2.]

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

**Adoption and Review of Emergency Rule.** After the end of the comment period, the agency may adopt the emergency rule. The rule and supporting documents will then be submitted to the attorney general for review as to legality and form to the extent form relates to legality. You may request to be notified of the date the rule is submitted to the attorney general or be notified of the attorney general's decision on the rule. If you wish to be so notified, or wish to receive a copy of the adopted rule, submit your request to the agency contact person listed above.

**Effective Period for Emergency Rule.** The emergency rule will take effect five working days after approval by the attorney general and be effective for \_\_\_\_ days. The emergency rule will be continued in effect for an additional \_\_\_\_ days if the agency gives notice of continuation in accordance with Minnesota Statutes, section 14.35.

\_\_\_\_\_  
[Name]

\_\_\_\_\_  
[Title]

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

**Statutory Authority:** *MS s 14.06; 14.225*

**History:** *17 SR 1881*

### 2010.9955 RECOMMENDED FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING EMERGENCY RULE.

STATE OF MINNESOTA  
DEPARTMENT OF \_\_\_\_\_

In the Matter of the Proposed Adoption  
of the [Emergency] Rule of the  
State \_\_\_\_\_  
Governing \_\_\_\_\_

FINDINGS OF FACT,  
CONCLUSIONS, AND  
ORDER ADOPTING  
EMERGENCY RULE

#### FINDINGS

1. Notice of the [Commissioner's] [Board's] [Commission's] intent to adopt the above-entitled emergency rule was published in the State Register on \_\_\_\_\_, 19\_\_\_\_, and

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was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes, section 14.30 on \_\_\_\_\_, 19\_\_\_\_.

2. All of the notice and procedural requirements in Minnesota Statutes, chapter 14, and other applicable law have been complied with.

3. All persons were given the opportunity to submit written comment on the rule for at least 25 days after notice of proposed rulemaking. The 25-day comment period expired on \_\_\_\_\_.

4. The agency received [written comments] [no written comments] and submissions on the rule. The agency received \_\_\_\_\_ requests for notice of submission to the attorney general.

[If any changes were made between the rule as proposed and the rule as adopted, findings of fact and conclusions supporting the reasons for the changes, and explaining why the changes do not constitute substantial changes as provided in the attorney general rules part 2010.1000, item D must be set forth.]

## CONCLUSIONS

1. The \_\_\_\_\_ duly acquired and has jurisdiction over this proceeding.

2. The authority for use of emergency rule procedures has not expired pursuant to Minnesota Statutes, section 14.29.

3. The \_\_\_\_\_ published and served timely and adequate notice of intent to adopt the emergency rules.

4. All relevant legal and procedural requirements of statute and rule have been complied with.

5. [If the proposed rule was amended] The modifications to the proposed rule are supported by the record and do not result in a substantial change.

NOW, THEREFORE, IT IS ORDERED that the rule identified as \_\_\_\_\_ [as modified] is adopted this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, pursuant to authority vested in [me] [the Board] [the Commission] by Minnesota Statutes, section \_\_\_\_\_.

[Name] \_\_\_\_\_

[Title] \_\_\_\_\_

**Statutory Authority:** *MS s 14.06; 14.09; 14.225*

**History:** *11 SR 618; 17 SR 1881*

## 2010.9960 RECOMMENDED NOTICE OF SUBMISSION OF THE EMERGENCY RULE TO ATTORNEY GENERAL.

STATE OF MINNESOTA

DEPARTMENT OF \_\_\_\_\_

In the Matter of the Proposed Adoption  
of the [Emergency] Rule of the  
State \_\_\_\_\_  
Governing \_\_\_\_\_

NOTICE OF  
SUBMISSION OF  
EMERGENCY RULE  
TO THE ATTORNEY  
GENERAL

Pursuant to your request and in accordance with Minnesota Statutes, section 14.32:

PLEASE TAKE NOTICE that the above-captioned emergency rule as adopted will be submitted to the Office of the Attorney General on the date of this notice, \_\_\_\_\_, 19\_\_\_\_, for review as to legality and form to the extent form relates to legality. The proposed emergency rule, the rule as adopted, all the notices, all written comments received and other required documents also will be submitted to the Attorney General.

[(If the proposed emergency rule has been modified:) The proposed emergency rule which was published in the State Register and mailed to interested persons on \_\_\_\_\_, 19\_\_\_\_, has been modified. A free copy of the emergency rule as modified



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as well as the findings of fact, conclusions, and order explaining the amendments and adopting the rule are available upon request from \_\_\_\_\_. (or) A copy of the rule as modified and the findings of fact, conclusions, and order are enclosed with this notice.]

The rule must be approved or disapproved by the Attorney General on the tenth working day following date of receipt of the rule. You may submit written comments to the Attorney General. Any written comments must be submitted by 4:30 p.m. \_\_\_\_\_, 19\_\_\_\_, seven working days after the date of this notice. Your comments must address only the issue of legality of the rule or the legality of the specific parts or subparts of the rule. The Attorney General standards for review are set forth in Minnesota Rules, part 2010.1000. You may receive a copy of the Attorney General decision upon written request to the attorney general. Your comments or requests for the decision must be directed to:

The Office of the Attorney General  
Public Finance Division  
525 Park Street, Suite 500  
Saint Paul, Minnesota 55103  
Telephone: (612) 297-2040  
Fax Number: (612) 297-2576

Any written comments submitted to the Attorney General must be submitted simultaneously to:

[Name, address, telephone number,  
and Fax number (Fax number is optional)  
of appropriate person in the agency]

\_\_\_\_\_  
[Name]

\_\_\_\_\_  
[Title]

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

**Statutory Authority:** *MS s 14.06; 14.09; 14.225; 14.26; 14.32; 14.365 cl (8)*

**History:** *13 SR 1376; 17 SR 1881*