

**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 without 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 notice of intent to adopt a rule without a public hearing as mailed. The notice must be signed by a person authorized to adopt the rule or authorized to sign and give notice of the intent to adopt the rule without a public hearing and must contain the following:

(1) A statement that the agency intends to adopt a rule without a public hearing pursuant to the authority of [citation to the specific statutory authority for the proposed rule] 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 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.

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

(4) 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. If the agency is fixing fees by rulemaking pursuant to Minnesota Statutes, section 16A.128, subdivision 2a, on or before July 1, 1987, subitem (15) is applicable.

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

(6) A statement that any person requesting a public hearing should state 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.

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

(8) 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.

(9) 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 statement of the manner in which the request must be made.

(10) If an entire rule is proposed to be repealed, a statement stating that fact and citing the rule to be repealed.

(11) 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.

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

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

(14) 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).

(15) If the agency is fixing fees by rulemaking without a public hearing pursuant to Minnesota Statutes, section 16A.128, subdivision 2a, on or before July 1, 1987, subitem (4) of this subpart is inapplicable and is substituted with a statement that no public hearing need be held unless 20 percent of the persons who will be required to pay the fee submit to the agency during the 30-day period allowed for comment a written request for a public hearing on the proposed rule. For fees established or adjusted after July 1, 1987, subitem (4) is applicable.

(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.

For the recommended format of the notice, see part 2010.9915.

F. The statement of need and reasonableness in support of the proposed rule complying with part 2010.0700.

G. The affidavit of mailing the notice of intent to adopt a rule without a public hearing. The affidavit or affidavits must state that 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 that 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. 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 rule without a public hearing as published in the State Register. The notice as published must contain the statements required by part 2010.0300, item E.

I. Four 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.

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 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 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.

K. 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) for rules that establish or adjust fees after July 1, 1987, a statement that before the notice of intent to adopt rules was submitted to the State Register, a copy of the notice and the proposed rule was sent to the chairs of the house appropriations committee and senate finance committee;

(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;

(5) a statement of the number of persons that requested a public hearing and the number of persons that requested a public hearing and withdrew their request;

(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) if the agency received no requests for a hearing, or received no submissions or comments on the rule required to be submitted to the attorney general by item L, or received no requests for notice of submission of the adopted rule to the attorney general, an applicable statement to that effect; and

(8) a statement that the rule as adopted is needed and reasonable and that the rule is hereby ordered to be adopted and the date on which the order is signed.

The findings of fact, conclusions, and order adopting the rule must be signed by a person authorized to adopt the rule or authorized to sign the findings of fact, conclusions, and order adopting the rule. For the recommended format of the findings of fact, conclusions, and order, see part 2010.9930.

L. All written requests, 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.

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. The notice of submission of the rule to the attorney general, if applicable. If any persons requested notification of the date of submission of the rule to the attorney general, the notice must be given 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;

(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 comment period;
- (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.

O. The affidavit of mailing notice of submission of the rule to the attorney general, if applicable. 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*

**History:** *11 SR 618*

#### **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 signed by a person authorized to adopt the rule or authorized to sign and give notice of the intent to adopt the emergency rule and must contain the following:

(1) A statement that the agency intends to adopt the emergency rule pursuant to authority of [citation to the specific statutory authority to adopt the emergency rule] and is following the procedures set forth in the Administrative Procedure Act for adopting emergency rules in Minnesota Statutes, sections 14.29 to 14.36.

(2) 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.

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

(4) 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.

(5) 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.

(6) 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.

(7) 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.

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

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

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

For the recommended format of the notice, see part 2010.9950.

F. The affidavit of mailing the notice of intent to adopt the emergency rule. 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.

G. A copy or photocopy of the notice of intent to adopt the emergency rule as published in the State Register. The notice as published must contain the statements required by part 2010.0400, item E.

H. Four 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.

I. 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 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.

J. 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 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;

(3) 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;

(4) if the agency received no submissions or comments on the rule required to be submitted to the attorney general pursuant to item K, or received no requests for notice of submission of the adopted emergency rule to attorney general; an applicable statement to that effect; and

(5) a statement that the emergency rule is hereby ordered to be adopted and the date on which the order is signed.

The findings of fact, conclusion, and order adopting the emergency rule must be signed by a person authorized to adopt the emergency rule or authorized to sign the findings of fact, conclusions, and order adopting the emergency rule. For the recommended format of the findings of fact, conclusions, and order, see part 2010.9955.

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

L. 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.

M. The notice of submission of the emergency rule to the attorney general, if applicable. If any persons requested notification of the date of submission of the emergency rule to the attorney general, 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;

(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 comment period;

(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.

N. The affidavit of mailing the notice of submission of the emergency rule to the attorney general, if applicable. 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*

**History:** *11 SR 618*

### **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, Administrative/Finance Division located at 204 Administration Building, 50 Sherburne Avenue, Saint Paul, Minnesota 55155.

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 four copies of the rule as adopted, findings of fact, conclusions and order, 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*

**History:** *11 SR 618*

### **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;

B. 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; and

C. 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*

**History:** *11 SR 618*

#### **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 the agency or to govern the agency's 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.

C. The rule exceeds the statutory authority conferred on the agency, conflicts with the statutes or any other relevant law, or has no reasonable relationship to statutory purposes.

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 vague or ambiguous in violation of the constitutional principles of due process or equal protection.

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

J. The rule is unconstitutional or, in the case of emergency rules, is unreasonable.

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

**History:** *11 SR 618*

#### **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.

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

**History:** *11 SR 618*

#### **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.

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

**History:** *11 SR 618*

#### **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. 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 explain why the changes do not constitute substantial changes.

B. 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 J, or 2010.0400, item I 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 J or 2010.0400, item I.

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

D. A new notice of submission of the rule to the attorney general mailed to any persons who requested notification pursuant to Minnesota Statutes, sec-

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tion 14.26 or 14.32. The notice of submission to the attorney general must comply with part 2010.0300, item N or 2010.0400, item M.

E. 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 O or 2010.0400, item N.

F. 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*

**History:** *11 SR 618*

## 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. A copy of the approval memo must be sent to the agency, 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 to the agency one approved copy of the rule, any extra copies of documents and any petitions, requests, submissions, or comments directed to the agency.

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

**History:** *11 SR 618*

## 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]

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

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

**History:** *11 SR 618*

**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 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.

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“RESOLVED, that \_\_\_\_\_, [the executive director] [a member] of the \_\_\_\_\_, is hereby granted the authority and directed to sign and to 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 persons who have registered their names with the [Board] [Commission] for that purpose and publish the Notice and rule in the State Register, and to perform any and all acts incidental thereto.”

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*

## 2010.9915 RECOMMENDED NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING.

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

Notice is hereby given that the State \_\_\_\_\_ intends to adopt the above-entitled rule without a public hearing 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. The statutory authority to adopt the rule is [specific statutory citation.]

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. 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. Any person requesting a public hearing should state 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. If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to:

[Name, address, and telephone number]

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.

[A copy of the proposed rule is attached to this notice.]

or

[The rule proposed for adoption relates to the following matters (informative statement describing the nature and effect of the proposed rule). A free copy of the rule is available upon request from \_\_\_\_\_.]



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Statutory Authority: MS s 14.06; 14.09

History: 11 SR 618

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

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\_\_\_. 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



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and was available to the public. [For rules that establish or adjust fees after July 1, 1987: Before the notice was submitted to the State Register, a copy of the notice of intent to adopt rules without a public hearing and the proposed rule was sent to the chairs of the house appropriations committee and senate finance committee.]

All persons were given the opportunity to submit comment on the rule for 30 days after notice of proposed rulemaking. [The agency received \_\_\_ requests for a public hearing [, of which \_\_\_ were subsequently withdrawn]. Therefore, the agency did not receive request for a public hearing from 25 or more persons which were not withdrawn.] or [No requests for a public hearing on the rule were received by the agency.]

[If applicable: No submissions or comments on the rule were received by the agency. No requests for notice of submission to the attorney general were received by the agency.]

Based on the comments and evidence in the record before the agency, I find the following:

[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 explanations why the changes do not constitute substantial changes as provided in the attorney general rules, part 2010.1000, item D must be set forth.]

The above-captioned rule 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*

History: *11 SR 618*

**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*

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

STATE OF MINNESOTA

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

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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 has been 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 have been submitted to the Attorney General.

[(If the proposed rule has been modified:) The proposed rule which was published in the State Register and made available to the public 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 is available upon request from \_\_\_\_\_. (or) A copy of the rule as modified is 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 within eight calendar days of 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  
204 Administration Building  
50 Sherburne Avenue  
Saint Paul, Minnesota 55155  
Telephone Number: (612) 296-1288

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

[Name, address, and phone number of

appropriate person in the agency]

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

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

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

Statutory Authority: *MS s 14.06; 14.09*

History: *11 SR 618*

**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 Rule of the State \_\_\_\_\_  
Governing \_\_\_\_\_

AFFIDAVIT OF  
MAILING THE NOTICE  
OF SUBMISSION OF



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for review as to legality and form to the extent form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to \_\_\_\_\_.

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.

[If applicable, other notices which are required to be inserted in the Notice of Intent to Adopt Emergency Rules must be inserted.]

\_\_\_\_\_  
Date

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

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

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

**History:** *11 SR 618*

**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 Rule of the State \_\_\_\_\_  
Governing \_\_\_\_\_

FINDINGS OF FACT,  
CONCLUSIONS, AND  
ORDER ADOPTING  
EMERGENCY RULE

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 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\_\_.

All persons were given the opportunity to submit written comment on the rule for at least 25 days after notice of proposed rulemaking.

[If applicable: No submissions or comments on the rule were received by the agency. No requests for notice of submission to the attorney general were received by the agency].

[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 explanations why the changes do not constitute substantial changes as provided in the attorney general rules part 2010.1000, item D must be set forth.]

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*

**History:** *11 SR 618*

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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 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 has been 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 have been 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 made available to the public on \_\_\_\_\_, 19\_\_\_\_, has been modified. A free copy of the emergency rule as modified as well as the findings of fact, conclusions, and order explaining the amendments and adopting the rule is available upon request from \_\_\_\_\_. (or) A copy of the rule as modified is 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 within seven working days of 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
204 Administration Building
50 Sherburne Avenue
Saint Paul, Minnesota 55155
Telephone: (612) 296-1288

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

[Name, address, and phone number of appropriate person in the agency]

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

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

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

Statutory Authority: MS s 14.06; 14.09

History: 11 SR 618