

1 Attorney General

2

3 Adopted Permanent Rules Relating to Rule Review

4

5 Rules as Adopted

6 2010.0300 DOCUMENTS NECESSARY FOR REVIEW OF A RULE ADOPTED

7 WITHOUT A PUBLIC HEARING.

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

12 [For text of items A to D, see M.R.]

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

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

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

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

35 (2) A citation to the specific statutory

1 authority for the proposed rule.

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

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

19 (5) A statement that if 25 or more persons submit
20 a written request for a public hearing within the 30-day comment
21 period, a public hearing will be held unless a sufficient number
22 withdraw their request in writing.

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

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

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

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

36 (10) A statement that if no hearing is required,

1 upon adoption of the rule, the rule and the required supporting
2 documents will be submitted to the attorney general for review
3 as to legality and form to the extent form relates to legality;
4 a statement that any person may request notification of the date
5 of submission to the attorney general and a copy of the attorney
6 general decision; and a statement of the manner in which the
7 request must be made.

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

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

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

20 (14) If required by Minnesota Statutes, section
21 14.11, subdivision 1, a statement relating to the expenditure of
22 public money by local public bodies.

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

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

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

1 For the recommended format of the notice, see part
2 2010.9916.

3 H. If the proposed rule establishes or adjusts fees,
4 evidence that the agency sent a copy of the notice of intent and
5 the proposed rule to the ~~chairs-of-the-house-appropriations~~
6 ~~committee-and-senate-finance-committee~~ appropriate legislative
7 committees before the agency submitted the notice of intent to
8 the State Register as required by Minnesota Statutes, section
9 16A.128, subdivision 2a. Evidence shall be in the form of the
10 dated correspondence to the chairs or an affidavit of mailing.
11 For the recommended format of the affidavit, see part 2010.9913.

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

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

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

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

29 For the recommended format of the affidavit, see part
30 2010.9920.

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

36 L. Three copies of the rule as adopted. Any

1 modification made to the proposed rule must be reflected on the
2 rule as adopted and be approved as to form by the revisor of
3 statutes.

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

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

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

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

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

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

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

33 (5) a statement of ~~the-number-of-written-letters~~
34 ~~with-comments-received~~, the number of persons that requested a
35 public hearing, the number of persons that requested a public
36 hearing and withdrew their request, and the number of requests

1 for notice of submission to the attorney general and whether any
2 written comments on the rule were received;

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

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

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

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

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

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

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

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

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

33 Q. If any persons requested to be informed that the
34 rule has been submitted to the attorney general, the notice of
35 submission that was sent to those persons as required by
36 Minnesota Statutes, section 14.26. The notice must be given

1 mailed on the same day the rule is submitted to the attorney
2 general. The notice must contain the following:

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

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

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

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

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

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

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

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

35 For the recommended format of the statement, see part
36 2010.9940.

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

9 2010.0400 DOCUMENTS NECESSARY FOR REVIEW OF EMERGENCY RULE.

10 To submit an emergency rule to the attorney general for
11 review and approval pursuant to Minnesota Statutes, section
12 14.32, the agency must submit to the attorney general the
13 following documents:

14 [For text of items A to D, see M.R.]

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

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

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

24 (3) A statement that all persons have 25 days
25 after publication, or a longer period of time as specified in
26 the notice, to submit data and views on the proposed emergency
27 rule or any part or subpart of the rule in writing. The
28 statement must include the calendar date of the last day of the
29 comment period. In calculating the comment period, the date of
30 the publication in the State Register or the date of mailing,
31 whichever is later, is not included. Saturdays, Sundays, and
32 legal holidays are included in the calculation. The last day of
33 the period so calculated is included unless it is a Saturday,
34 Sunday, or legal holiday, in which event the period runs until
35 the ~~end-of-the~~ next day which is not a Saturday, Sunday, or

1 legal holiday. The State Register is published on Mondays
2 except when Monday is a legal holiday in which case it is
3 published on a Tuesday.

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

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

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

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

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

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

27 (10) If required by Minnesota Statutes, section
28 14.11, subdivision 1, a statement relating to the expenditure of
29 public money by local public bodies.

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

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

35 For the recommended format of the notice, see part
36 2010.9951.

1 F. If the emergency rule establishes or adjusts fees,
2 evidence that the agency sent a copy of the notice of intent and
3 the proposed rule to the ~~chairs-of-the-house-appropriations~~
4 ~~committee-and-senate-finance-committee~~ appropriate legislative
5 committees before the agency submitted the notice of intent to
6 the State Register as required by Minnesota Statutes, section
7 16A.128, subdivision 2a. Evidence shall be in the form of the
8 dated correspondence to the chairs or an affidavit of mailing.
9 For the recommended format of the affidavit, see the second
10 paragraph in part 2010.9913.

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

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

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

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

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

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

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

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

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

19 (4) a statement of ~~the number of written letters~~
20 ~~with comments received and~~ the number of requests for notice of
21 submission of the adopted emergency rule to the attorney general
22 and whether any written comments were received;

23 (5) if any changes were made between the
24 emergency rule as proposed and the emergency rule as adopted,
25 findings of fact and conclusions supporting the reasons for the
26 changes and explaining why the changes do not constitute
27 substantial changes as provided in attorney general rule part
28 2010.1000, item D;

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

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

34 (8) the signature of the person authorized to
35 adopt the emergency rule or authorized to sign the findings of
36 fact, conclusions, and order adopting the emergency rule and the

1 date on which the order is signed.

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

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

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

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

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

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

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

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

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

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

33 (4) a statement that comments may be submitted to
34 the attorney general and that any comments submitted must
35 address only the issue of legality of the rule or the legality
36 of the specific parts or subparts of the rule and make a

1 reference to the attorney general standards of review as set
2 forth in part 2010.1000;

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

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

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

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

19 For the recommended format of the statement, see part
20 2010.9960.

21 O. If the agency sent out the notice of submission of
22 the emergency rule to the attorney general as required by
23 Minnesota Statutes, section 14.32, the affidavit of mailing the
24 notice of submission of the emergency rule to the attorney
25 general. The affidavit must state that a copy of the notice of
26 submission of the rule to the attorney general was mailed to all
27 persons and associations who requested the notification. For
28 the recommended format of the affidavit, see part 2010.9945.

29 2010.0500 RULE SUBMISSION AND AGENCY FAILURE TO SUBMIT REQUIRED
30 DOCUMENTS.

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

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

17 2010.0700 STATEMENT OF NEED AND REASONABLENESS.

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

32 A. if required by Minnesota Statutes, section 14.115,
33 a statement documenting the agency's consideration of methods
34 for reducing the impact of the rule on small businesses and the
35 results pursuant to Minnesota Statutes, section 14.115,

1 subdivision 2. If the small business considerations in the
2 rulemaking section are not applicable, the basis for the
3 agency's exemption must be stated in the statement of need and
4 reasonableness;

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

13 C. if required by Minnesota Statutes, section
14 16A.128, subdivision 1, the approval of the commissioner of
15 finance if the rule sets or adjusts a fee charged;

16 D. the signature of the person authorized to adopt
17 the rule pursuant to statute or ~~authorized-to-adopt-the-rule~~
18 pursuant to the certificate of authorizing resolution and the
19 date the statement was signed; and

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

22 2010.1000 STANDARDS OF REVIEW.

23 A rule must be disapproved by the attorney general if:

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

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

35 C. The rule exceeds the statutory authority conferred

1 on the agency, or conflicts with the statutes or any other
2 relevant law, ~~or has no reasonable relationship to statutory~~
3 ~~purposes.~~

4 [For text of items D to G, see M.R.]

5 H. The rule is unreasonable ~~by failing to comport~~
6 ~~with substantive due process~~ because it is not rationally
7 related to the objective sought to be achieved.

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

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

12 K. The rule is unconstitutional or illegal.

13 2010.1100 WITHDRAWAL OF RULE FROM REVIEW BY ATTORNEY GENERAL.

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

23 2010.1200 DISAPPROVAL.

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

1 2010.1300 RESUBMISSION.

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

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

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

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

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

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

22 (3) the certificate of the agency's resolution
23 submitted in accordance with part 2010.0300, item M, or
24 2010.0400, item J does not authorize the modification by the
25 person who signed the supplemental findings of fact,
26 conclusions, and order. The supplemental certificate of the
27 agency's resolution must be in accordance with part 2010.0300,
28 item M or 2010.0400, item J.

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

33 E. A new notice of submission of the rule to the
34 attorney general mailed to any persons who requested
35 notification pursuant to Minnesota Statutes, section 14.26 or

1 14.32. The notice of submission to the attorney general must
2 comply with part 2010.0300, item Q or 2010.0400, item N.

3 F. The affidavit of mailing for the notice of
4 submission of the rule to the attorney general, if applicable.
5 The affidavit must comply with part 2010.0300, item R or
6 2010.0400, item O.

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

9 [For text of subp 2, see M.R.]

10 2010.1400 APPROVAL OF RULE.

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

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

24 2010.9910 RECOMMENDED CERTIFICATE OF AUTHORIZING RESOLUTION FOR
25 RULE WITHOUT A PUBLIC HEARING OR EMERGENCY RULE.

26 CERTIFICATE OF THE

27 _____
28 AUTHORIZING RESOLUTION

29 I, _____, do hereby certify that I am a member
30 and the _____ (office), of the _____
31 _____, a [board] [commission] duly authorized under
32 the laws of the State of Minnesota, and that the following is a
33 true, complete, and correct copy of a resolution adopted at a
34 meeting of the _____ duly and properly called
35 and held on the ___ day of _____, 19___, that a

1 quorum was present, and that a majority of those present voted
2 for the resolution which has not been rescinded or modified.

3 "RESOLVED, that _____, [the executive
4 director] [a member] of the _____, is
5 hereby granted the authority and directed to sign the
6 statement of need and reasonableness and sign and to
7 give the Notice of the [Board's] [Commission's] Intent
8 to Adopt [a rule without a public hearing] [an
9 Emergency rule] governing _____
10 (describe nature of the rule) to all persons who have
11 registered their names with the [Board] [Commission]
12 for that purpose and publish the Notice and rule in
13 the State Register, and to perform any ~~and all~~
14 necessary acts incidental thereto to initiate the
15 rulemaking comment period."

16 IN WITNESS WHEREOF, I have hereunto subscribed my name this
17 ___ day of _____, 19__.

18 _____
19 (Officer of the Board)
20

21 _____
22 Attest by one other Board member

23 2010.9913 RECOMMENDED AFFIDAVIT OF MAILING THE STATEMENT OF NEED
24 AND REASONABLENESS TO THE LEGISLATIVE COMMISSION TO REVIEW
25 ADMINISTRATIVE RULES AND MAILING THE FEE NOTICE TO COMMITTEE
26 CHAIRS.

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

37 In the Matter of the Proposed Adoption AFFIDAVIT OF
38 of the Rule of the State _____ MAILING THE
39 Governing _____ 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 house-appropriations-committee-and-senate-finance-committee~~
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 _____ [Name]
this _____ day of _____, 19__. _____ [Title]

Notary Public

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

1 to 14.28. You have 30 days to submit written comments on the
2 proposed rule and may also submit a written request that a
3 hearing be held on the rule.

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

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

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

19 **Comments.** You have until ____ p.m., _____ [calendar
20 date of the end of the 30-day comment period; see part
21 2010.0300, item G, subitem (3), for how to count the days] to
22 submit written comment in support of or in opposition to the
23 proposed rule and any part or subpart of the rule. Your comment
24 must be in writing and received by the agency contact person by
25 the due date. Comment is encouraged. Your comment should
26 identify the portion of the proposed rule addressed, the reason
27 for the comment, and any change proposed.

28 **Request for a Hearing.** In addition to submitting comments,
29 you may also request that a hearing be held on the rule. Your
30 request for a public hearing must be in writing and must be
31 received by the agency contact person by ____ p.m. on
32 _____. Your written request for a public hearing must
33 include your name and address. You are encouraged to identify
34 the portion of the proposed rule which caused your request, the
35 reason for the request, and any changes you want made to the
36 proposed rule. If 25 or more persons submit a written request

1 for a hearing, a public hearing will be held unless a sufficient
2 number withdraw their requests in writing. If a public hearing
3 is required, the agency will follow the procedures in Minnesota
4 Statutes, sections 14.131 to 14.20.

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

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

18 **Small Business Considerations.** [If applicable and
19 selected, see Minnesota Statutes, section 14.115, subdivision
20 4.]

21 **Expenditure of Public Money by Local Public Bodies.** [If
22 applicable, see Minnesota Statutes, section 14.11, subdivision
23 1.]

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

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

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

1 person listed above.

2

3

[Name]

4

5

[Title]

6

Dated: _____

7

2010.9920 RECOMMENDED AFFIDAVIT OF MAILING THE NOTICE OF INTENT

8

TO ADOPT A RULE WITHOUT A PUBLIC HEARING OR AN EMERGENCY RULE

9

AND CERTIFICATE OF MAILING LIST.

10

NOTE: If the person who can attest to the accuracy of the

11

mailing list is not the same person who mailed the notices of

12

intent, then the two paragraphs in this recommended form must be

13

separated into two affidavits signed by the appropriate persons.

14

In the Matter of the Proposed Adoption

AFFIDAVIT OF

15

of the Rule of the State _____

MAILING THE

16

Governing _____

NOTICE OF INTENT

17

TO ADOPT [A

18

RULE WITHOUT

19

A PUBLIC HEARING]

20

[AN EMERGENCY

21

RULE] AND

22

CERTIFICATE OF

23

MAILING LIST

24

STATE OF MINNESOTA)

25

)ss.

26

COUNTY OF [_____])

27

_____, being sworn says:

28

I hereby certify that the list of persons and associations

29

who have requested, pursuant to Minnesota Statutes, sections

30

14.14, subdivision 1a and 14.22 or 14.30, that their names be

31

placed on the state _____ rulemaking mailing list is

32

accurate, complete, and current as of this ___ day of

33

_____, 19__.

34

That on the _____ day of _____, 19__, at least

35

[33 days for rules without a public hearing] [28 days for

36

emergency rules] prior to the end of the comment period, at the

37

City of [_____], County of [_____], State of Minnesota, I

38

mailed the _____ (state what was mailed, for

39

example: (1) Notice of Intent and (2) the proposed rule) by

40

depositing in the [State of Minnesota Central Mail System for

41

United States mailing] [United States mail], a copy thereof,

42

with postage prepaid, to all persons and associations on the

43

aforementioned mailing list.

44

45

[Name]

1 Subscribed and sworn to before me _____
2 this ____ day of _____, 19___. [Title]

3
4
5 Notary Public

6 2010.9930 RECOMMENDED FINDINGS OF FACT, CONCLUSIONS, AND ORDER
7 ADOPTING THE RULE WITHOUT PUBLIC HEARING.

8 STATE OF MINNESOTA

9 DEPARTMENT OF _____

10 In the Matter of the Proposed Adoption FINDINGS OF FACT,
11 of the Rule of the State _____ CONCLUSIONS, AND
12 Governing _____ ORDER ADOPTING
13 RULE WITHOUT
14 PUBLIC HEARING

15 FINDINGS

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

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

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

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

33 5. The agency received ~~letters of~~ [written comments]
34 [no written comments] and submissions on the rule. The agency
35 received _____ requests for notice of submission to the attorney
36 general. ~~The agency received~~ ~~requests for~~ [Number]
37 individuals requested a public hearing [, of which _____ were
38 subsequently withdrawn]. Therefore, there are not 25 or more
39 outstanding requests for a public hearing.

40 [If any changes were made between the rule as proposed and

1 the rule as adopted, findings of fact and conclusions supporting
2 the reasons for the changes and explaining why the changes do
3 not constitute substantial changes as provided in the attorney
4 general rules, part 2010.1000, item D must be set forth.]

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

8 CONCLUSIONS

9 1. The _____ duly acquired and has jurisdiction over
10 this proceeding.

11 2. The _____ published and served timely and adequate
12 notice of intent to adopt the rule without a public hearing.

13 3. All relevant legal and procedural requirements of
14 statute and rule have been complied with.

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

18 5. The rule [as amended] is needed and reasonable.

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

24 [Name] _____

25 [Title] _____

26 2010.9940 RECOMMENDED NOTICE OF SUBMISSION OF RULE ADOPTED
27 WITHOUT PUBLIC HEARING TO ATTORNEY GENERAL.

28 STATE OF MINNESOTA

29 DEPARTMENT OF _____

30 In the Matter of the Proposed Adoption of the Rule of the State
31 Governing _____ NOTICE OF SUBMISSION OF
32 RULE ADOPTED WITHOUT PUBLIC
33 HEARING TO THE ATTORNEY GENERAL
34 Pursuant to your request and in accordance with Minnesota

35 Statutes, section 14.26:

36 PLEASE TAKE NOTICE that the above-captioned rule as adopted

1 will be submitted to the Office of the Attorney General on the
 2 date of this notice, _____, 19__, for review
 3 as to legality and form to the extent form relates to legality.
 4 The proposed rule, the rule as adopted, all the notices, the
 5 Statement of Need and Reasonableness, all written comments and
 6 requests for a hearing received, and other required documents
 7 also ~~have-been~~ will be submitted to the Attorney General.

8 [(If the proposed rule has been modified:) The proposed
 9 rule which was published in the State Register and ~~made~~
 10 ~~available~~ mailed to ~~the-public~~ interested persons on
 11 _____, 19__, has been modified. A free copy of the
 12 rule as modified as well as the findings of fact, conclusions,
 13 and order explaining the amendments and adopting the rule are
 14 available upon request from _____. (or) A
 15 copy of the rule as modified and the findings of fact,
 16 conclusions, and order are enclosed with this notice.]

17 The rule must be approved or disapproved by the Attorney
 18 General within 14 calendar days of the date of submission to the
 19 Attorney General. You may submit written comments to the
 20 Attorney General on the legality of the rule. Any written
 21 comments must be submitted by 4:30 p.m., _____ (date,) ~~of~~
 22 19__, (which is eight calendar days ~~of~~ after the date of
 23 submission of the rule to the Attorney General). Your comments
 24 must address only the issue of legality of the rule or the
 25 legality of the specific parts or subparts of the rule. The
 26 Attorney General standards for review are set forth in Minnesota
 27 Rules, part 2010.1000. You may receive a copy of the Attorney
 28 General decision upon written request to the Attorney General.
 29 Your comments or requests for the decision must be directed to:

30 The Office of the Attorney General
 31 Public Finance Division
 32 525 Park Street, Suite 500
 33 Saint Paul, Minnesota 55103
 34 Telephone Number: (612) 297-2040
 35 Fax Number: (612) 297-2576
 36 Any written comments submitted to the Attorney General must

37 be submitted simultaneously to:
 38 [Name, address, telephone number, and
 39 Fax number (Fax number is optional)]

1 of appropriate person in the agency]

2 [Name] _____

3

4 [Title] _____

5 Dated: _____

6 2010.9945 RECOMMENDED AFFIDAVIT OF MAILING THE NOTICE OF
7 SUBMISSION OF RULE ADOPTED WITHOUT PUBLIC HEARING OR EMERGENCY
8 RULE TO ATTORNEY GENERAL.

9 In the Matter of the Proposed Adoption AFFIDAVIT OF
10 of the [Emergency] Rule of the MAILING THE NOTICE
11 State OF SUBMISSION OF
12 Governing _____ [RULE ADOPTED
13 WITHOUT PUBLIC
14 HEARING]
15 [EMERGENCY RULE]
16 TO THE ATTORNEY
17 GENERAL

18 STATE OF MINNESOTA)
19)ss.
20 COUNTY OF [_____])

21
22 _____, being sworn says:

23 That on the _____ day of _____, 19__, in
24 the City of [_____], County of [_____], State of Minnesota,
25 I mailed the Notice of Submission to the Attorney General by
26 depositing in the [State of Minnesota Central Mail System for
27 United States mailing] [United States mail], a copy thereof,
28 with postage prepaid, to all persons and associations who
29 requested notice that the rule in the above-entitled matter has
30 been submitted to the Attorney General.

31
32 _____ [Name]
33 Subscribed and sworn to before me
34 this ____ day of _____, 19__. [Title]
35

36
37 Notary Public

38 2010.9946 RECOMMENDED DUAL NOTICE.

39 STATE OF MINNESOTA

40 DEPARTMENT OF _____

41 In the Matter of the Proposed Adoption
42 of the Rule of the State _____
43 Governing _____

44 DUAL NOTICE:

45 NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC
46 HEARING UNLESS 25 OR MORE PERSONS REQUEST A HEARING,

1 AND
2 NOTICE OF HEARING IF 25 OR MORE REQUESTS FOR HEARING
3 ARE RECEIVED

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

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

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

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

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

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

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

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

28 **Notice of Hearing.** If 25 or more persons submit written
29 requests for a public hearing on the rule, a hearing will be
30 held following the procedures in Minnesota Statutes, sections
31 14.14 to 14.20. The hearing will be held on [date] in the
32 [place] beginning at [time] and will continue until all
33 interested persons have been heard. The hearing will continue,
34 if necessary, at additional times and places as determined
35 during the hearing by the administrative law judge. The
36 administrative law judge assigned to conduct the hearing is

1 [name]. Judge [name] can be reached at the Office of
2 Administrative Hearings, [current address and telephone number].

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

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

34 **Small Business Considerations.** [If applicable and
35 selected, see Minnesota Statutes, section 14.115, subdivision
36 4.]

1 **Expenditure of Public Money by Local Public Bodies.** [If
2 applicable, see Minnesota Statutes, section 14.11, subdivision
3 1.]

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

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

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

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

23 **Adoption Procedure After the Hearing.** If a hearing is
24 held, after the close of the hearing record, the administrative
25 law judge will issue a report on the proposed rule. You may
26 request to be notified of the date on which the administrative
27 law judge's report will be available, after which date the
28 agency may not take any final action on the rule for a period of
29 five working days. If you want to be notified about the report,
30 you may so indicate at the hearing. After the hearing, you may
31 request notification by sending a written request to the
32 administrative law judge. You may also request notification of
33 the date on which the rule is adopted and filed with the
34 Secretary of State. The agency's notice of adoption must be
35 mailed on the same day that the rule is filed. If you want to
36 be notified of the adoption, you may so indicate at the hearing

1 or send a request in writing to the agency contact person at any
2 time prior to the filing of the rule with the Secretary of State.

3 Date: _____
4 [Name]
5 _____
6 [Title]
7

8 2010.9951 RECOMMENDED NOTICE OF INTENT TO ADOPT AN EMERGENCY
9 RULE.

10 STATE OF MINNESOTA

11 DEPARTMENT OF _____

12 In the Matter of the Proposed Adoption NOTICE OF INTENT
13 of Emergency Rule of the State _____ TO ADOPT AN
14 Governing _____ EMERGENCY RULE
15

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

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

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

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

35 **Comments.** You have until _____ p.m., _____ [calendar
36 date of the end of the 25-day comment period; see part
37 2010.0400, item E, subitem (3), for how to count the days] to
38 submit written data and views on the proposed emergency rule or
39 any part or subpart of the emergency rule. Your comment must be
40 in writing and received by the agency contact person by the due

1 date.

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

9 **Expenditure of Public Money by Local Public Bodies.** [If
10 applicable, see Minnesota Statutes, section 14.11, subdivision
11 1.]

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

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

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

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

32 _____
33 [Name]
34 _____
35 [Title]

36 Dated: _____

37 2010.9955 RECOMMENDED FINDINGS OF FACT, CONCLUSIONS, AND ORDER
38 ADOPTING EMERGENCY RULE.

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STATE OF MINNESOTA

DEPARTMENT OF _____

In the Matter of the Proposed Adoption FINDINGS OF FACT,
of the [Emergency] Rule of the CONCLUSIONS, AND
State _____ ORDER ADOPTING
Governing _____ 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 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 ~~letters of~~ [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.

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

4 NOW, THEREFORE, IT IS ORDERED that the rule identified as
5 _____ [as modified] is adopted this
6 _____ day of _____, 19__, pursuant to authority
7 vested in [me] [the Board] [the Commission] by Minnesota
8 Statutes, section _____.

9
10 [Name] _____
11
12 [Title] _____

13 2010.9960 RECOMMENDED NOTICE OF SUBMISSION OF THE EMERGENCY RULE
14 TO ATTORNEY GENERAL.

15 STATE OF MINNESOTA

16 DEPARTMENT OF _____

17 In the Matter of the Proposed Adoption of the [Emergency] Rule of the State Governing _____
18 of the [Emergency] Rule of the State Governing _____
19 State _____
20 Governing _____
21 NOTICE OF SUBMISSION OF EMERGENCY RULE TO THE ATTORNEY GENERAL

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

24 PLEASE TAKE NOTICE that the above-captioned emergency rule
25 as adopted will be submitted to the Office of the Attorney
26 General on the date of this notice, _____, 19__, for
27 review as to legality and form to the extent form relates to
28 legality. The proposed emergency rule, the rule as adopted, all
29 the notices, all written comments received and other required
30 documents also ~~have-been~~ will be submitted to the Attorney
31 General.

32 [(If the proposed emergency rule has been modified:) The
33 proposed emergency rule which was published in the State
34 Register and ~~made-available~~ mailed to the public interested
35 persons on _____, 19__, has been modified. A free copy
36 of the emergency rule as modified as well as the findings of
37 fact, conclusions, and order explaining the amendments and
38 adopting the rule are available upon request from
39 _____. (or) A copy of the rule as modified and the
40 findings of fact, conclusions, and order are enclosed with this

1 notice.]

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

14 The Office of the Attorney General
 15 Public Finance Division
 16 525 Park Street, Suite 500
 17 Saint Paul, Minnesota 55103
 18 Telephone: (612) 297-2040
 19 Fax Number: (612) 297-2576

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

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

25 _____
 26 [Name]
 27 _____
 28 [Title]

29 Dated: _____

30 REPEALER. Minnesota Rules, parts 2010.9915; and 2010.9950, are
31 repealed.