

## Rulemaking Record Items

The following is a distinct list of items that could be in an official rulemaking record. Some items, however, are actually:

1. Items that are part of another item
2. Items that are not formally part of the record, but might be added at the Agency's discretion (e.g. informal comments).

*Rulemaking items are defined in 14.365 + according to clause (8): 1400.2220 (hearing) + 1400.2310 (no hearing) + 1400.2400 (exempt) + 1400.2410 (expedited). 1400.2220, subp 1, item K is a "catch all."*

## RULEMAKING PROCEEDING TYPES

1. GENERAL RULEMAKING
  - 14.22-28 WITHOUT HEARING
  - 14.14-14.20 WITH
2. EXPEDITED RULEMAKING
  - 14.389
3. EXEMPT RULEMAKING
  - 14.386
4. DNR EXEMPT EMERGENCY RULEMAKING
  - 84.027, subd. 13 and 13a
5. GOOD CAUSE EXEMPT RULEMAKING
  - 14.388
6. SPECIAL EXEMPT RULEMAKING
  - Statute citation is per-exemption
7. OBSOLETE REPEAL RULEMAKING
  - 14.3895
8. DOLI OSHA RULEMAKING
  - 182.655

Category (To group like / related items)	Responsible Entity (for submission)	Label (for easy reference of the item)	Rulemaking Record Item	Statutory or Rule Citation	Applicable to which rulemaking proceeding types? (see above #s)
Hearing	Agency	Exhibits	Exhibits/attachments/materials for a hearing	1400.2220 Subp 1 (K)	1 – with a hearing or after 25 requests for hearing. 2 – (100 requests), 7
Hearing	Agency	OAH Hearing	Hearing transcript and/or Audio	14.365 clause (4)	1 – with a hearing or after 25 requests for hearing. 2 – (100 requests), 7

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Interested or Affected	Agency	Interested or Affected	List of persons registered with the Agency to receive notice	APA requirement 1400.2550 (see certificate of mailing list and certificate of accuracy of mailing list)	ALL
Mods	Agency	Agency Mods	Proposed modifications per the Agency after a rule is proposed.	14.365 clause (6) 14.26	ALL
Mods	OAH	OAH Mods	Proposed modifications per OAH (ALJ or Chief Judge) after a rule is proposed.	14.365 clause (7)	ALL
Notice (in State Register)	Agency	Request for Comments	Notice of Request for Comments on subject matter of possible rulemaking	14.365 (1) 1400.2220, subp. 1, item A 1400.2310, item A	1 – with and without a hearing
Notice (in State Register)	Agency	Dual Notice	Dual Notice (as published in State Register and as mailed)	14.365 (1) 1400.2220, subp. 1, item F	1 – in the case of without a hearing and proceeding with dual notice
Notice (in State Register)	Agency	Notice - Adoption	Notice of Adoption	14.365 (1) 1400.2310, item N	All
				DOLI – does requirement to publish a notice of intent to adopt for exempt. So, add this specific case.	
Notice (in State Register)	Agency	Notice – Expedited	Notice of Intent to Adopt Expedited Rules	14.365 (1)	2
Notice (in State Register)	Agency	Notice – Hearing	Notice of Intent to Adopt Rules with a Hearing (this notice should include rules according to the APA and the file must include both mailed and published copies)	14.365 (1) 1400.2220, subp. 1, item F	1 – with a hearing

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Notice (in State Register)	Agency	Notice – No Hearing	Notice of Intent to Adopt Rules Without a Hearing (this notice should include rules according to the APA and the file must include both mailed and published copies)	14.365 (1) 1400.2310, item E	1 – without a hearing
Notice (in State Register)	Agency	Notice – Repeal	Notice of Intent to Repeal Rules (Might be the same as the Notice – Repealed Obsolete noted in the rule manual on pg. 324.)	14.365 (1)	7
Notice	Agency	Notice of Hearing	Notice of Hearing	1400.2220, subp. 1, item G 1400.2310, item G	1, 2, 7 – with a hearing or after 25 requests for a hearing
Notice (in State Register)	Agency	Notice of Withdrawal		14.365 clause (1)	ALL – before final adoption
Notice	Agency	Additional Notice Plan	Additional Notice Plan (This probably shouldn't be under Notice; the Agency doesn't give notice of this plan. The Agency submits it to OAH for review/approval).	1400.2060	1, 2, 7
Notification	Agency	Consult	Evidence of notification of consultation with Minnesota Management and Budget (MMB)	1400.2310, item P	1, not sure about others
Notification	Agency	OAH Submission	Evidence of notification of submission to OAH when a hearing is not planned provided to those who have expressed interest in this notification	1400.2550	1, not sure about others
Notification	Agency	Rule Availability	Evidence of notification of proposed rule availability in the State Register to the public	1400.2550	1

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Notification	Agency	Rule Availability to LLC	Evidence of notification of proposed rule availability to Legislators and Legislative Coordinating Commission (LCC). (This notification is required by statute)	1400.2550	1
Notification	Agency	Secretary of State Submission	Evidence of notification of submission of an adopted rule to the Secretary of State for filing for those who expressed interest in this notification		ALL
Notification	Agency	Sonar Availability	Evidence of notification of SONAR available to the Legislative Reference Library (LRL). (This notification is required by statute)	1400.2550 1400.2220, subp. 1, item E 1400.2310, item I Both only refer to the LRL notification not other entities.	1
Order	Agency	Order Adopting Rules	Commissioner signature for Order of Adoption	Signed order adopting rule Commission or board chair 14.365 (9)	ALL
Public Comments	Agency	First Comments	Public comments before a rule has been proposed		1, 2, 7, 8
Public Comments	Agency	Comments	Public comments after rule has been proposed	Collected comments 14.365 (2) 1400.2220, subp. 1, item I 1400.2310, item J	1, 2, 7, 8
Public Comments	Agency	Hearing Requests + withdrawal of hearing requests	Public requests for hearing	For planned adoption of a rule without a hearing, an expedited rule or a repeal of an obsolete rule. 14.365 (2)	1, 2, 7

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				1400.2310, item J If a request has been withdrawn it must be documented.	
Public Comments	Agency	Withdrawal Request Notification	If a request for a hearing is withdrawn notice of the withdrawal should be sent to all entities who have requested a hearing. Certificate of mailing and certificate of accuracy of mailing list for this notification must be kept.	1400.2310, item K, 1400.2550	Any that receive hearing requests
LCC Request	Agency	LCC Request for Hearing	Per 14.843 - the LCC can request a hearing, which trumps whether or not public requests hit a threshold. Add	14.365 (2)	1, 2, 7
Public Comments	Agency	Public Petition	Petition for rule-making from the public	14.365 (2) 1400.2220, subp. 1, item B 1400.2310, item B	ALL
Public Comments	Agency	Responses	Agency response to public comments after rule has been proposed.	Various comment periods, important to differentiate?	Any that receive comments
Reconsideration	Agency	Corrected Rule	Proposed corrected rule in the case of reconsideration		ALL
Reconsideration	OAH	Reconsideration Approval	Approved proposed corrected rule in the case of reconsideration		ALL
Review	OAH	ALJ Report aka Order on Review of Rules	ALJ report for rules after public hearings, or for reviews other than reviews of rules after public hearings, Order on Review of Rules	May include an approval or disapproval of a proposed rule or rule change. 14.365 (5) 14.365 (7) 1400.2310, item L	ALL except DNR which goes through Attorney General and NOT OAH

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Review	Revisor	Modified Rules Approved as to Form	Modified Rules Approved as to Form	14.365, clause (10), 14.07, subd 2	ALL
Review	Revisor	Certified to Form - Adopted	Certificate affirming adopted rule is certified to form	14.365 (10) 1400.2310, item L, 14.07, subd 2	ALL
Review	Legislature	Objection to Rules	Filed objection with Secretary of State. Notice is published in State Register.	14.365, clause (1), 3.842, subd 4a	ALL
Review	Revisor	Certified to Form – Proposed	Certificate affirming proposed rule is certified to form	14.365 (10) 1400.2220, subp. 1, item C 1400.2310, item C, 14.07, subd 2	ALL
Review	Agency	Disapproval Arguments	New info/arguments for Good Cause method when ALJ disapproval		5
Review	OAH	Disapproval Review Determination	Chief Judge determination (if review occurred)	Chief judge determination 14.365 (7)	ALL
Review	Agency	Good Cause Reasons	Expanded supporting reasons for good cause exemption	Not really a separate rulemaking record, agency must execute an order amending, adopting or repealing...in the order, the Agency has to explain – this information goes into an amended order.	5
Review	Governor	Governor Notice Approval	Evidence of Governor approval of the Intent to Adopt or Repeal Notice	Not part of official rulemaking record. Agency may add. We need to distinguish official from these other additions in MARSS.	ALL

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Notice	Governor	Governor Veto	Notice of Governor Veto	Only clear Governor record item 14.365, group with notice of intent. 14.05, subd 6	ALL
Review	MMB	MMB Cost Analysis	MMB cost analysis of fiscal impacts to local units of government. This is a required notification/consultation; suggest including above with notifications, not here.		1
Review	OAH	Public Notice – Additional Notice Plan	ALJ will review/approve the public notice (e.g. dual notice, notice of hearing, etc.) and the Additional Notice Plan. The ALJ may suggest additions to the Additional Notice Plan based on the ALJ review	14.365, clause (8), 14.365, clause (5), order on Review of	1, not sure about others
Review	OAH	Reconsideration Decision	ALJ reconsideration decision	14.365 (7)	ALL
Review	OAH	Repeal Decision	ALJ Repeal decision	14.365 (7), 14.365 (5)	ALL
Review	Agency	Rule Differences	Documentation of significant differences between a proposed rule and a subsequent adopted rule	Part of Order on Review of an ALJ Report Judge has to determine if substantial difference, not the Agency. At which point the Agency would need to modify or start over via an amend – really this is in the Order on Review of Rules / ALJ	ALL

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				Report, not really a separate item. 14.365 (7) 1400.2310, item L + mailing certificate	
Rule	Agency	Adopted Rule	Documentation of the rule as adopted and as approved by Revisor and OAH, and as filed with the Secretary of State.	14.365 (6) (11) 1400.2310, item L, 14.07, subd 12, 14.15, 14.6, 14.26, 14.386, 14.388, 14.389, 14.3895	ALL
Rule	Agency	Proposed Rule	Documentation of the rule as proposed.	1400.2130, item C 1400.2220, subp 1, item C As filed with SoS	1
Rule	Agency	Repeal Reasons	Statement of findings & supporting reasons in the case of a repeal	This is really in the sonar, or if exempt, this in the order of adoption. Not really a separate item.	ALL
SONAR	Agency	SONAR	SONAR	14.365 (3) 1400.2220, subp 1, item D 1400.2310, item D	1 – with and without a hearing