

Rulemaking Process

State agencies are required to publish notice of their rulemaking action in the State Register. An agency must first solicit Comments on Planned Rules or Comments on Planned Rule Amendments from the public on the rulemaking proposal. It does this by publishing a notice in the State Register at least 60 days before publication of a notice to adopt or a notice of hearing, or within 60 days of the effective date of any new statutory grant of required rulemaking.

When rules are first drafted, state agencies publish them as Proposed Rules, along with a notice of hearing, or a notice of intent to adopt rules without a hearing in the case of noncontroversial rules. This notice asks for comment on the rules as proposed.

Required Rules

Each agency shall adopt rules setting forth the nature and requirements of all formal and informal procedures related to the administration of official agency duties to the extent that those procedures directly affect the rights of or procedures available to the public.

Required Public Notice

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

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published within 60 days of the effective date of any new or amendatory law requiring rules to be adopted, amended, or repealed.

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

Rule Hearing

When a public hearing is required or when an agency decides to proceed directly to a public hearing, the agency shall hold a public hearing affording all affected interests an opportunity to participate. The agency shall, at least 30 days before the date set for the hearing, give notice of its intention to adopt rules by mail or electronic mail to all persons on its list, and by publication in the State Register.

The mailed notice must include either a copy of the proposed rule or an easily readable and understandable description of its nature and effect and an announcement that a free copy of the proposed rule is available on request from the agency. In addition, each agency shall make reasonable efforts to notify persons or classes of persons who may be significantly affected by the rule being proposed by giving notice of its intention in newsletters, newspapers, or other publications, or through other means of communication.

The notice in the State Register must include the proposed rule or an amended rule, together with an easily readable and understandable summary of the overall nature and effect of the proposed rule, a citation to the most specific statutory authority for the proposed rule, a statement of the place, date, and time of the public hearing, a statement that persons may register with the agency for the purpose of receiving notice of rule proceedings and notice that the agency intends to adopt a rule and other information required by law or rule.

Approval of Rule

One copy of a rule adopted must be submitted by the agency to the chief administrative law judge. The chief administrative law judge shall request from the revisor certified copies of the rule. Within five working days, the revisor shall either return the rule with a certificate of approval of the form of the rule to the chief administrative law judge or notify the chief administrative law judge and the agency that the form of the rule will not be approved. After the agency has notified the chief

administrative law judge that it has adopted the rule, the chief administrative law judge shall promptly file an electronic copy of the adopted rule in the Office of the Secretary of State.

Emergency Rulemaking

Under the expedited process, an agency publishes notice of its proposed rule in the State Register and mails notices to those who have requested notice. The agency must then allow at least 30 days for comment. At the end of the comment period, and after an administrative law judge from the state Court of Administrative Hearings approves the rule's form and legality, the agency may adopt the rule. Unlike the customary rulemaking process, there is no opportunity for public hearing under the expedited process.

The legislature has provided limited circumstances under which an agency may omit rulemaking procedures. This can be done only if rulemaking would be unnecessary, impracticable, or contrary to the public interest, and if the rule: 1) addresses a serious and immediate threat to public health, safety, or welfare; 2) complies with a court order or federal law in a manner that does not allow for compliance with rulemaking procedures; Rulemaking: Expedited Process and Exemptions 3) incorporates specific changes in law when no interpretation of law is required; or 4) makes changes that do not alter the meaning or effect of a rule. An agency using the good cause exemption must give notice of its proposed rule, including an explanation of why use of the good cause exemption is justified. The Office of Administrative Hearings reviews the legality of the proposed rules, including the justification for use of the good cause exemption.

Minnesota Register

Minnesota Administrative Procedure Act