

STATE OF MINNESOTA
COURT OF ADMINISTRATIVE HEARINGS

In the Matter of Possible Rules Governing
Virtual-currency Business Activity
Disclosures, Minnesota Rules 2675

**ORDER ON REVIEW OF RULES
UNDER MINN. STAT. § 14.26**

The Minnesota Department of Commerce (Department) is seeking review and approval of the above-entitled rules, which were adopted by the agency pursuant to Minn. Stat. § 14.26 (2024). On August 4, 2025, the Court of Administrative Hearings (CAH) received the documents that must be filed by the Department under Minn. Stat. § 14.26 and Minn. R. 1400.2310 (2025). Based upon a review of the written submissions and filings, Minnesota Statutes, Minnesota Rules, and for the reasons in the Memorandum that follows,

IT IS HEREBY DETERMINED:

1. The Department has the statutory authority to adopt the rules.
2. The rules were adopted in compliance with the procedural requirements of Minn. Stat. §§ 14.001–.431 (2024), and Minn. R. 1400.2000–.2570 (2025), with the exception of Minn. Stat. § 14.101, subd. 1, pertaining to the timing of publication of a request for comments.
3. The violation of Minn. Stat. §14.101, subd. 1, was harmless error.
4. The record demonstrates the rules are needed and reasonable.

IT IS HEREBY ORDERED THAT:

The rules are **APPROVED**.

Dated: August 15, 2025



Christa L. Moseng
Administrative Law Judge

MEMORANDUM

A close review of the Department's proposed rules relating to virtual-currency transaction disclosures reveals no fatal procedural or substantive defect. However, issues relating to requirements under Minn. Stat. 14.101, subd. 1 (requiring public notice of rules "under active consideration within the agency"), and Minn. R. 1400.2100 (C) (requiring disapproval of rules substantially different from a proposed rule, subject to a remedial exception procedure) merit discussion.

A. Required Notice Under Minn. Stat. 14.101

The Legislature authorized the Department to adopt rules related to virtual currency in legislation that became effective on August 1, 2023.¹ The effective date of a law authorizing rule-adoption triggers at least two deadlines: a 60-day deadline to publish a request for comments (Minn. Stat. § 14.101, subd. 1) and an 18-month deadline to publish a notice of intent to adopt rules or notice for hearing (Minn. Stat. § 14.125).

The Department acknowledges that it failed to publish a request for comments on the possible rules until September 30, 2024, in violation of Minn. Stat. § 14.101, subd. 1. The request for comments was published 426 days after the effective date of the authorizing law.

A rule must be disapproved if the rule was not adopted in compliance with procedural requirements of the Administrative Procedure Act.² However, an error or defect in complying with procedural requirements must be disregarded if (1) the failure did not deprive any person or entity of an opportunity to participate meaningfully in the rulemaking process; or (2) the agency has taken corrective action to cure the error or defect so that the failure did not deprive any person or entity of an opportunity to participate meaningfully in the rulemaking process.³

The Department sought to correct the defect: it published a request for comments and provided notice of the request for comments "to a wide audience including individual licensees, trade groups, and [by] publication on the Department's website."⁴ The Department's additional notice plan was approved by the undersigned on September 17, 2024.⁵ The notice provided members of the public an opportunity to participate by allowing at least 60 days for comment before the Department published a notice of intent to adopt⁶ which included proposed rules.

¹ The legislation included a delayed imposition of new requirements "until the licensee renews the licensee's current license or for five months after July 1, 2023, whichever is later." Minn. Stat. § 53B.68. This delayed implementation has no effect on the authorizing law's effective date.

² Minn. Stat. § 14.001-.69.

³ Minn. Stat. § 14.26, subd. 3(d).

⁴ Ex. N (Order Adopting Rules); see Exs. A (Request for Comments), H. (Certificate of Additional Notice).

⁵ Order on Review of Additional Notice Plan (Sep. 17, 2024).

⁶ Ex. E (DUAL NOTICE: Notice of Intent to Adopt Rules Without A Public Hearing Unless 25 or More Persons Request a Hearing, and Notice of Hearing if 25 or More Requests for Hearing are Received) (Jan. 14, 2025); 49 *Minn. Reg.* 893 (Jan. 27, 2025) (Notice of Intent to Adopt Rules).

Apart from its delayed publication, the request for comments satisfied the requirements of Minn. Stat. § 14.101, subd. 1. The Department (1) solicited comments from the public through publication in the state register, (2) included a description of the subject matter of the proposal and the types of groups and individuals likely to be affected; (3) indicated where, when, and how persons may comment on the proposal and whether and how drafts of any proposal may be obtained from the agency; and, (4) with the additional notice plan, was part of an effort to seek information by other methods designed to reach persons or classes of persons who might be affected.

The record provides no reason to conclude that, by publishing the request for comments 426 days after the effective date of the authorizing statute, any person or entity was deprived an opportunity to meaningfully participate in the rulemaking process. Members of the public received the required notice and opportunity to provide comment before the Department published its Notice of Intent to Adopt Rules.

Additionally, nothing in the record suggests that the proposed rule was “under active consideration” within the agency during the delay.⁷ The request for comments stated that “[t]he Department does not anticipate that a draft of the rules will be available before the publication of the proposed rules.”⁸ No commenter claimed or suggested that the delayed request-for-comments publication deprived them of a meaningful opportunity to influence the proposed rules while they were under active consideration. Rather, the Department considered comments received in response to the request for comments and incorporated the comments into its proposed rule draft.⁹

Because the delayed publication of the request for comments did not deprive any person or entity of an opportunity to participate meaningfully in the rulemaking process, the defect must be disregarded.

B. Adopted Rule Not Substantially Different from Proposed Rule

The Department made the following change to its proposed rule, now submitted for review: The effective date of the rule is delayed until January 1, 2026, instead of becoming effective five working days after the notice of adoption is published in the State Register. The Department made the change in response to comments from CoinFlip, which requested an implementation date of July 1, 2026, to allow time to implement the proposed rule—particularly, the requirement to provide disclosures in multiple languages.

The Department is authorized to specify the rule’s effective date.¹⁰ However, the Department explained that it viewed a delay until July 2026 as unacceptable in light of

⁷ See Minn. Stat. § 14.101, subd. 1.

⁸ Ex. A.

⁹ Ex. D (Statement of Need and Reasonableness); see also Ex. J (Written Comments and the Department’s Response to Comments) (responding to comments received following publication of the Notice of Intent to Adopt Rules).

¹⁰ Minn. Stat. §§ 14.27, .18 (“A rule is effective after it has been subjected to all requirements described in sections 14.131 to 14.20 and five working days after the notice of adoption is published in the State Register *unless a later date is required by section 14.126 or other law or specified in the rule.*”) (emphasis added).

“important consumer protection requirements necessitated by the nature of virtual-currency transactions,”¹¹ and because licensees have already been required to provide the substantive disclosures since January 1, 2024, and the enhanced virtual-currency kiosk disclosures since August 1, 2024. Instead, the rule will become effective on January 1, 2026.

The delayed effective date is not a substantive change to the proposed rule. The effective date is not a substantive part of the proposed rule. By establishing a January 1, 2026 effective date, the Department reasonably balanced the need for timely consumer protections with the commenter’s request for more time to comply with the rule’s requirements.

C. Conclusion

The Department’s proposed rule, to be adopted with a modified effective date, is not substantially different from the rule proposed in the Notice of Intent to Adopt Rules. Although the request for comments was published beyond the deadline in Minn. Stat. § 14.101, this delay did not affect meaningful participation in the rulemaking process and must be disregarded. The Department otherwise satisfied the relevant procedural requirements. The Department demonstrated the authority to adopt, need for, and reasonableness of the rules, and the rules are rationally related to the Department’s objective. For these reasons, the proposed rules are **APPROVED**.

C. L. M.

¹¹ Ex. J, 5.