

RULEMAKING CHECKLIST - RULES ADOPTED WITHOUT A HEARING

NOTES:

1. If rules are pursuant to a newly adopted or amended rulemaking mandate, the agency must publish its Request for Comments (step 5) within 60 days of the law's effective date. MS14.101, subd. 1.
2. The agency must publish a notice of intent to adopt rules (step 15) within 18 months of the effective date of the law authorizing or requiring rules to be adopted, amended, or repealed. Otherwise the agency will lose the authority to do the rules. MS14.125. This applies only to first-time rule adoptions under the statutory authority and not to subsequent amendments or repeals, unless the Legislature subsequently alters the authority. Failure to adopt rules within 180 days of issuance of the ALJ's report must be explained to the Legislature. MS14.19.
3. The steps are listed in the recommended order, but the steps do not have to be done in the sequence indicated. However, steps 1–10 *must* be completed before step 12.
4. The Rulemaking Manual Editor *strongly* recommends that you write the SONAR (or at least make notes about what will go into the SONAR) concurrently with rule development.
5. For the precise deadlines for submissions to the State Register, see [Minnesota's Bookstore \(https://mn.gov/admin/bookstore/\)](https://mn.gov/admin/bookstore/).

Step	Timeline/Notes	Rulemaking Manual Reference	Target Date	Completion Date
1.	Authorization from Commissioner or Board to begin project. At least 1 week before step 5	BD-NTC		
2.	Obtain Revisor's ID Number and send Preliminary Proposal Form to the Governor's Office via email to Emmet Hedin, Emmet.Hedin@state.mn.us, (651) 201-3408. * Governor's Office 9/13/13 rules review policy GOV-PLCY: "When an agency has developed a rule idea, it should complete the Preliminary Proposal Form [GOV-PRLM] and submit it to the Governor's Office. The form must be signed by the Commissioner or Director of the agency and will serve as the official notification to the Governor's Office that an agency is seeking a rule. Regardless of the type of rule the agency is proposing (Exempt, Expedited, Permanent or Good-Cause Exemption), this form should be completed in its entirety and submitted to the Legislative Coordinator of LACA. The information contained in the Preliminary Proposal Form likely will be broad and general because of the proposal being at the very beginning stages of rulemaking. Although, this information is important to the Governor's Office, the Policy Advisors cannot perform a substantive review of the proposed rule until they receive the Statement of Need and Reasonableness (SONAR). Therefore, the agency does not need to wait for a response from the Governor's Office before publishing the Request for Comments. Should the	GOV-PRLM		

Minnesota Rulemaking Manual - Appendix

Step	Timeline/Notes	Rulemaking Manual Reference	Target Date	Completion Date
	<p>information contained in the Preliminary Proposal Form be of concern to the Policy Advisor he or she will contact the agency.</p> <p>* Huge Hint: The Preliminary Proposal Form to the Governor's Office is an excellent opportunity <i>at the beginning of your rules project</i> to clearly set out your goals for the project and to write a first complete draft of the statement of need and the statutory authority for the rules. Having worked on many rules projects with the need and the goals <i>clearly in mind</i>, it became quickly apparent after doing one Governor's form that it was preferable and beneficial to have the need and the goals <i>clearly on paper</i>. The project goals and statutory authority will fit nicely into the SONAR.</p> <p>* Note on Repealing Rules. Per Governor's Office 9/19/19 rules review policy: Agencies do not need to submit rule repeals to the Governor's Office for approval. However, an agency should send an informational memo identifying the obsolete, unnecessary, or duplicative rule(s) to be repealed, describing the rationale for repeal, and indicating any potential controversies. This memo will serve to notify the Governor's Office that the agency is seeking to repeal a rule. No approval is necessary, at any stage, in the rule repeal process.</p>			
3.	<p>Begin saving documents for official rulemaking record.</p> <p>* If needed, establish a rules advisory committee. Consult with affected parties, such as trade associations and agency advisory councils.</p>	RECORD		
4.	Develop an Additional Notice Plan, which must be included in SONAR (step 8b). MR 1400.2060.			
5.	<p>Request for Comments - submit to State Register via electronic copy in Word format with Printing Order form using the Revisor's Office ID no.</p> <p>Published the Monday, 6 days after submission to the State Register.</p>	REQUEST		
6.	<p>Request for Comments - mail to people on mailing list; (optional); prepare Certificate of Mailing.</p> <p>At least 3 days before publication</p> <p>* Notify additional people, if this is part of the Additional Notice Plan for the Request for Comments</p>	CRT-GNRC		
7.	Request for Comments – publish in State Register	ADV-COMM		

Minnesota Rulemaking Manual - Appendix

Step	Timeline/Notes	Rulemaking Manual Reference	Target Date	Completion Date
	<p>At least 60 days before Notice of Intent to Adopt</p> <p>* NOTE: At any time there is a significant change from the initial proposal, send a memo to Emmet Hedin. From the 9/19/19 Governor's rule review policy GOV-PLCY: "The Governor's Office recognizes that agencies cannot predict all controversies at the outset of a rules project. As a result, the agency should use its judgment to send issues to the Governor's Office for review throughout the process. Additional review might be necessary if a rule suddenly becomes controversial. If the agency believes that an issue or proposed change might be in conflict with the Governor's beliefs and principles, the agency should notify its Policy Advisor."</p> <p>* Only if you are using a rules advisory committee: Meet with the committee to discuss the rulemaking timeline and possible rule language</p>			
8.	Steps 8a, 8b, 8c, and 8d can be done in any order; they are often done concurrently.			
8a.	Ask Revisor for preliminary draft of proposed rules.	REVISOR		
8b.	<p>Draft SONAR, including Additional Notice Plan</p> <p>Concurrent w/ rule development</p> <p>*Decide whether to use a Dual Notice or Notice of Intent to Adopt Rules Without a Hearing. Use a Dual Notice if you're not sure whether or not the proposed rules will be controversial.</p>	SONAR		
8c.	<p>Get rules & SONAR, including Additional Notice Plan, approved by commissioner or executive director.</p> <p>When rules & SONAR completed</p>			
8d.	<p>Send Additional Notice Plan to OAH for approval (optional, yet encouraged)</p> <p>After rules & SONAR approved at agency</p>	NP-RLNTC		
9.	<p>Send rules & SONAR electronically to Governor's Office</p> <p>Almost final rules & SONAR</p> <p>* From the Governor's Office 9/19/19 administrative rule review policy, GOV PLCY: "After the agency has published its Request for Comment, created the SONAR, and has final or almost final draft rules, it should complete the Proposed Rule and SONAR Form [GOV PRPS] and the Commissioner or Director sign it. The</p>	GOV-PRPS		

Minnesota Rulemaking Manual - Appendix

Step	Timeline/Notes	Rulemaking Manual Reference	Target Date	Completion Date
	<p>agency must then submit the completed form, SONAR, and draft rules to the Governor's Office.</p> <p>"This stage is crucial to rulemaking and is the critical point of information for the Governor's Office. The Proposed Rule and SONAR Form seeks the information received during the Request for Comment, an Executive Summary of the SONAR, supporters, opponents, possible controversies, and any significant changes from the Preliminary Proposal Form. The form also contains an 'other' box. The Governor's Office understands that every rulemaking experience is slightly different. Therefore, the 'other' box seeks information that might not fit into the SONAR or one of the other boxes of information requested. The 'other' box can be viewed as 'any information that may be of importance to this rule.'</p> <p>"The Proposed Rule and SONAR Form again seeks fiscal impact information. However, at this point, only two options (yes or no) exist. The fiscal impact 'yes' box should be checked for positive or negative fiscal impact to the State of Minnesota. If the fiscal impact declaration changed from the Preliminary Proposal Form, the agency should explain why. Within the SONAR Executive Summary box, the agency should include all fiscal information that affects individuals, businesses, units of government, or the agency itself. . . .</p> <p>"The agency must receive official approval from the Legislative Coordinator of LACA before proceeding with the Notice of Intent to Adopt Proposed Rules. In most cases, the agency will receive the approval to proceed with the Notice of Intent to Adopt Proposed Rules within three weeks of the Governor's Office's receiving the SONAR, draft rules, and Proposed Rules and SONAR Form. If the agency hasn't received a communication by the 21st day after the Governor's Office received this information, the agency should contact the Legislative Coordinator for a status report."</p>			
10.	<p>Draft Notice of Intent to Adopt Rules. Have commissioner or executive director sign Notice & SONAR.</p> <p>After Gov's Office approval and when rules & SONAR are final</p> <p>* If you hope to proceed without a hearing, your Notice of Intent to Adopt can be either a Notice of Intent to Adopt Rules Without a Public Hearing or a Dual Notice.</p>	NTC-DL or NTC-NH		

Minnesota Rulemaking Manual - Appendix

Step	Timeline/Notes	Rulemaking Manual Reference	Target Date	Completion Date
	<p>Refer to paragraph 5.1 in the Rulemaking Manual for the pros and cons of how to proceed.</p> <ul style="list-style-type: none"> * Allow 30-day comment period; add day if last day is holiday. * If you are using a Dual Notice, you need to have at least 10 days between the close of the comment period and the hearing date. 			
11.	<p>Notice of Intent to Adopt – submit to State Register electronic copy, the Revisor’s document number for the rules, Printing Order form.</p> <p>6 or 12 days before publication (check State Register website for exact due date)</p>	ST-REG		
12.	<p>Notice of Intent to Adopt - give notice to persons on rulemaking mailing list and per your Additional Notice Plan. Prepare Certificate of Mailing, Certificate of Accuracy of Mailing List, and Certificate of Giving Additional Notice</p> <p>After submit Notice of Intent to Adopt State Register; no later than 33 days before end of comment period.</p>	CRT-MLNG CRT-LIST CRT-GNRC		
13.	<p>Send SONAR to Legislative Reference Library via email; prepare Certificate of Mailing to library OR make copy of cover letter.</p> <p>When SONAR becomes available to the public.</p>	LRL CRT-LRL		
14.	<p>Send notice to legislators - chairs and ranking minority party members of House & Senate policy & budget committees; PLUS chief legislative authors of rulemaking authority if it is within two years of the effective date of the authority; prepare Certificate of Mailing to legislators OR make copy of cover letter</p> <p>When Notice is mailed</p> <ul style="list-style-type: none"> * Send to other legislative committees if required in special circumstances. For example, MS62J.07 requires reports to the Legislative Commission on Health Care Access. * Provide other notices if required in special circumstances. See, for example, MS14.111 re notice to Department of Agriculture on rules that affect farming operations; MS3.9223,s4, re notice to Council on Affairs of Chicano/Latino People on rules that have their primary effect on Chicano/Latino people. 	LEG		
15.	<p>Notice of Intent to Adopt - published in State Register. Make copy for RECORD.</p>			

Minnesota Rulemaking Manual - Appendix

Step	Timeline/Notes	Rulemaking Manual Reference	Target Date	Completion Date
	Published on the Monday 12 or 6 days after submission to State Register, depending on the length.			
16.	Comments: maintain folder with comments and any responses you make. Comments must be received within 30 calendar days of publication in State Register			
17.	Proceed according to number of hearing requests. After end of comment period * If you published NTC NH and you got fewer than 25 hearing requests, proceed with this checklist. * If you published NTC NH and you got 25+ hearing requests, you may have to start over and give a NTC HR. Refer to paragraph 5.17 of the Rulemaking Manual for some of your options. * If you published NTC DL and you got fewer than 25 hearing requests, you will likely want to cancel the hearing. You must do this at least four working days before the hearing, see MS14.25,s2. Notify ALJ and notify persons who requested a hearing. If you were able to get hearing requests withdrawn so that there are fewer than 25 requests, see MS14.25,s2. See ALJ CNCL, NTC HRWD, CRT HRWD, NTC CNCL, & NTC NH2. * If you published NTC DL and you got 25+ hearing requests, switch to step 19 of HR CKLST, the checklist for adopting rules after a hearing.			
18.	After considering comments, decide if you will make any changes. Changes may not make rules substantially different than when proposed*. Ask Revisor for draft showing changes. After end of comment period. *If the agency wants to adopt a substantially different rule, see MS14.05,s2, and MR1400.2110.			
19.	Get Governor's Office approval. Before sending Order Adopting Rules to OAH * When the agency is adopting rules without a hearing: the agency must submit the completed Final Rule Form [GOV-FNL] to the Office of the Governor when the agency has decided on the final rules and its SONAR is complete. The agency must	GOV-FNL		

Minnesota Rulemaking Manual - Appendix

Step	Timeline/Notes	Rulemaking Manual Reference	Target Date	Completion Date
	<p>wait for the Office’s approval before submitting its request to Office of Administrative Hearings (OAH) for rule review and approval. If the ALJ makes any substantive recommendations to the rule or if defects are found, the agency should resubmit the Final Rule Form, clearly labeling it as a revised form. The agency must explain its response to the ALJ’s Report, including any large deletions from the rule. A copy of the ALJ Report should be submitted to the Governor’s Office with the revised Final Rule Form. Upon final approval of the rule by the Policy Advisor, the Legislative Coordinator will contact the agency and inform them that it may submit the signed Order Adopting Rules to the OAH. . . .</p> <p>“If the proposed rule remained substantially unchanged from the SONAR stage, final review of the rule should take less than a week. If the agency hasn’t received a communication by the 7th day after the Governor’s Office received the above information, the agency should contact the Legislative Coordinator for a status report.”</p>			
20.	<p>Order Adopting Rules signed by Commissioner or Board designee. For Boards, Board first passes resolution adopting rules.</p> <p>After end of comment period, or at next board meeting.</p>	ORD-ADPT & BD-ADPT		
21.	<p>Ask Revisor for official draft of rules as adopted.</p> <p>After agency approval to adopt the rule</p>			
22.	<p>Immediately before submitting rule documents to OAH, mail Notice of Submission to OAH to persons who requested to be notified.</p> <p>After getting approved rules from Revisor and before submitting file to OAH</p>	NTC-SBM CRT-SBM		
23.	<p>Submit rule documents to OAH. These documents are listed in NH-REVW.</p> <p>Within 180 days after comment period ends</p> <p>*You must submit the rules to OAH within 180 days after the comment period ends. MS14.26,s1.</p> <p>*Include in the documents you send to OAH the ones listed in MR1400.2310 plus other relevant documents such as the board resolution authorizing rulemaking per step 1, a list of the legislators per step 14 if these are not listed in your SONAR, evidence of compliance with the Additional Notice Plan per steps 8b & 12, and evidence of compliance with MS14.25,s2, per step 17.</p>	NH-REVW		

Minnesota Rulemaking Manual - Appendix

Step	Timeline/Notes	Rulemaking Manual Reference	Target Date	Completion Date
24.	OAH reviews and approves rules and asks Revisor for rules draft approved for filing with Secy of State. Within 2 weeks of submission of documents to OAH * If OAH disapproves the rules, refer to MR1400.2300 for what to do.			
25.	OAH files rules as adopted with Secretary of State * Secretary of State forwards rules to the Governor, who may veto within 14 days. MS14.05,s6. * Secretary of State also forwards rules to the Revisor.			
26.	OAH sends approval memo and the rules file to agency. Revisor drafts Notice of Adoption and sends to agency.			
27.	After you are sure Governor will not veto: Submit Notice of Adoption to State Register by submitting the Revisor's document number & Printing Order form. Thursday at noon, 12 to 6 days before publication, depending on length; (Holidays may change deadlines).	ST-REG		
28.	State Register publishes Notice of Adoption. The Monday, 12 or 6 days after submission to State Register			
29.	Rules take effect 5 working days after publication in State Register			
30.	Notify staff of rule change ASAP	CLOSURE		
31.	Inform regulated persons. Publish information about rules in newsletter and/or web page. ASAP			
32.	Finalize Official Rulemaking Record and archive rule documents. MS14.365	RECORD		

Minnesota Rulemaking Manual - Appendix