# Rulemaking: Process for Adopting Rules

August 2025

State agencies must follow certain procedures when they adopt administrative rules. These procedures are contained in the Administrative Procedure Act (often known as the APA) in Minnesota Statutes, chapter 14. For a more detailed description of these procedures, see "Rulemaking in Minnesota: A Guide" on the Revisor of Statutes website (https://www.revisor.mn.gov/).

## An agency must follow required procedures when adopting a "rule"

A "rule" is an agency statement of general applicability and future effect, made to implement a law. In most cases an agency must follow APA rulemaking procedures when it issues a statement that comes within the definition of a "rule." Courts may invalidate agency attempts to set policy without following rulemaking procedures.

## An agency must take certain actions before formally proposing rules

**Rulemaking docket:** An agency must maintain a rulemaking docket. This docket must contain information on the agency's active rulemaking proceedings and any rules that the agency is thinking about proposing. By January 15 each year, an agency must submit its rulemaking docket to chairs and ranking minority members of the legislative committees with jurisdiction over the subject matter of the rules. Minn. Stat. §§ 14.116 and 14.366.

**Solicitation of comments:** An agency must solicit comments from the public on the subject matter of potential rules at least 60 days before publishing a notice of proposed rules. Minn. Stat. § 14.101.

**Statement of need and reasonableness:** An agency must prepare a statement of the need for and reasonableness of the proposed rules. The statement must be available to the public. The statement must contain a summary of evidence and arguments that the agency intends to use to support the proposed rules. The statement must also:

1) determine if there are less costly or less intrusive methods for achieving the purpose of the proposed rule;
2) describe alternative methods for achieving the purpose of the proposed rule that were seriously considered and explain why the agency rejected these alternatives; and
3) assess the probable costs of complying with the proposed rule and the costs or consequences of not adopting the proposed rule.

Minn. Stat. §§ 14.131 and 14.23.

## An agency must give notice of proposed rules and provide opportunity for a public hearing

**Notice:** An agency must publish notice of proposed rules in the State Register. It must also mail this notice to people who have requested to be notified and make other reasonable efforts to notify people who may be significantly affected by the proposed rules. Minn. Stat. §§ 14.14, subd. 1a, and 14.22.

By **Colbey Sullivan**, colbey.sullivan@house.mn.gov

**Public hearing:** An agency must conduct a public hearing on proposed rules if 25 or more people submit a written request for a hearing. Most agency rules are adopted without a public hearing. Minn. Stat. § 14.25.

If no public hearing is required, the agency presents its own evidence into the record and accepts material from the public. If a public hearing is held, it is conducted by an independent administrative law judge (ALJ) with the state Court of Administrative Hearings. At the hearing, the agency must make an affirmative presentation demonstrating the need for and reasonableness of the proposed rules. The public may testify and may question agency representatives. Minn. Stat. § 14.14.

## An agency must determine the cost of the proposed rules for small entities and cities

If the cost of complying with an agency's rule in the first year after the rule takes effect will exceed $25,000 for a business or nonprofit with less than 50 full-time employees or for a city with less than ten full-time employees, the business, nonprofit, or city may file a statement with the agency claiming an exemption from the rule. Upon filing of a statement, the rule does not apply to that entity until the rule is approved by the legislature in law. There are some exceptions to this provision. Minn. Stat. § 14.127.

## An ALJ reviews the proposed rules

If the ALJ determines that the agency has not met all of the legal and procedural requirements, the rules are submitted to the chief ALJ. If the chief supports the ALJ, the agency may not adopt the rule until the defects are corrected. Once the ALJ or the chief ALJ approves the rules, the agency may submit them to the governor and take other procedural steps necessary for final adoption.

If the ALJ and the chief ALJ determine that the agency has not established the need for or reasonableness of the rules, the rules are submitted to the Legislative Coordinating Commission (LCC) and to the House and Senate governmental operations committees for comment. After seeking these comments, an agency may adopt the rules. Minn. Stat. §§ 14.15 and 14.26.

## The governor may veto proposed rules

The governor may veto all or a severable portion of a proposed administrative rule at the end of the rulemaking process, before the rule takes effect. To veto a rule, the governor must submit notice of the veto to the State Register within 14 days of receiving a copy of the rule from the secretary of state. Minn. Stat. § 14.05, subd. 6.

**For more information:** See the House Research publications *Rulemaking: Review of Adopted Rules*, August 2025, and *Rulemaking: Expedited Process and Exemptions*, August 2025.