

STATE OF MINNESOTA  
OFFICE OF THE ATTORNEY GENERAL

In the Matter of the  
Proposed Adoption Amendments to the  
Attorney General Rule  
Governing Procedures for the  
Review of Rules Adopted Without  
Hearings and Emergency  
Rules as to Legality.

STATEMENT OF  
NEED AND REASONABLENESS

I. INTRODUCTION

The Attorney General is required to review administrative rules adopted without public hearings or through the emergency rulemaking procedure for legality and for form to the extent form relates to legality. This Statement of Need and Reasonableness justifies the need for and reasonableness of the proposed amendments to the Attorney General rule in accordance with Minn. Stat. § 14.131 and Minn. Rules pt. 1400.0500.

II. STATUTORY AUTHORITY

The Attorney General is required by Minn. Stat. §§ 14.26 and 14.32 to review rules adopted by state agencies without public hearings and through emergency rulemaking procedures. To accomplish this responsibility, the Attorney General is authorized [. . .] to promulgate rules setting forth requirements and procedures for submission of rules for review. [Minn. Stat. §§ 14.06, 14.05 and 14.09]. The Attorney General Rule was promulgated in 1986; the proposed rules are minor amendments to Chapter 2010.

### III. NEED AND REASONABLENESS

Generally, the proposed amendments change an address and remove obsolete language from the rules. In only one part is a requirement added to the rule review procedures. The following discussion analyzes the need for and reasonableness of the amendments as required by Minn. Stat. § 14.23 and Minn. R. pt. 2010.0700.

2010.0300, subparts E(4); E(4); E(15) and K(3)

References to procedures applicable to rules setting fees prior to July 1, 1987, have been omitted.

Deleting the reference to rules promulgated prior to the July 1, 1987 effective date of Minn. Stat. § 16A.128, subds. 1a and 2a, is necessary because July 1, 1987, has passed and the references are obsolete. It is reasonable to delete the references because doing so will make the rule more easily understood and clarify that subsection E(4) now applies to all rules promulgated pursuant to § 16A.128, subd. 2a.

2010.0500, subpart 1; 2010.9940; 2010.9960

These amendments change the address of the Administration/ Finance Division of the Attorney General's Office.

This amendment is needed because the Administration/ Finance Division moved in January, 1988. The change is necessary to assure that rules passed without public hearings and emergency rules are submitted to the correct division for Attorney General review.

2010.0500, subpart 1 also changes the Administrative to Administration Division. The change is needed and reasonable because it assures that the rule reflects the Administration/Finance Division's correct name.

2010.0500, subpart 2

The declaration of the attorney in the Attorney General's Office who represents the agency has been added to the list of documents required to be submitted before the rule review period will be initiated.

This amendment is necessary because the declaration is often missing when an agency submits a rule or review by the Attorney General's Office. The declaration of counsel is particularly important because it includes the four digit client code necessary for Attorney General billing.

Requiring the declaration of counsel is reasonable because doing so will ensure that the rule has been approved by the agency's counsel before it is submitted for review. In addition, if the declaration is required the Administration/Finance Division can be assured that the rule is being submitted for official review pursuant to Minn. Stat. §§ 14.26 and 14.32 and not for pre-submission review by an individual attorney.

Repealer

As explained above, it is proposed that 2010.0300, subpart E(15) be repealed.

### III. OTHER STATUTORY REQUIREMENTS

Minn. Stat. § 14.115 requires agencies, when proposing a new rule or amending existing rules which may affect small businesses, to consider certain methods for reducing the impact of the rule and to provide certain notices to small businesses. The proposed amendments concern only agencies which submit rules to the Attorney for review. Small businesses will not be even indirectly affected by the address changes, deletion of obsolete material, or the requirement that an agency must promptly submit a declaration of counsel.

Minn. Stat. § 14.11, subd. 2 is inapplicable as the proposed rule will not have any direct and substantial adverse impact on agricultural land. Sections 115.43, subd. 1, 116.07, subd. 6 and 144A.29, subd. 4 do not apply to the Attorney General. Section 16A.128, subd. 1 is inapplicable because the proposed rule does not set any fee. A fiscal note is not required pursuant to section 3.982 as the rule will not force any local agency or school district to incur costs.

### CONCLUSION

Based on the foregoing, the amendments to Attorney General rule proposed to be set forth in Minn. Rules Chapter 2010 are needed to assist state agencies in the promulgation of their rules and are reasonable because they clarify the requirements for submission of rules to the Attorney General's Office for review.