

21.1 EXEMPT RULES: INTRODUCTION

Exempt rulemaking is an abbreviated rulemaking process that yields rules that may be in effect indefinitely or for only two years.¹ Some of the other general provisions of the APA apply to exempt rulemaking and are addressed in some detail later in this chapter and in greater detail in other chapters of this treatise. However, to place the discussion that follows in context, it is appropriate to identify those provisions at the outset. An exempt rule is a *rule*, as that term is defined in the APA.² While not subject to all of the general provisions of the APA, exempt rules are still subject to (1) rule form and approval of form by the revisor of statutes;³ (2) petitions for adoption of rules;⁴ (3) effect of *State Register* publication;⁵ (4) legal effect of adoption;⁶ (5) legislative review;⁷ and (6) judicial review.⁸ The exempt rulemaking process was created by the legislature in 1995.⁹ It replaced the emergency rulemaking procedure that had been earlier called “temporary” rulemaking.

¹ MINN. STAT. §§ 14.385-.388 (2014)

² *Id.* § 14.02, subd. 4 (“‘Rule’ means every agency statement of general applicability and future effect, including amendments, suspensions, and repeals of rules, adopted to implement or make specific the law enforced or administered by that agency or to govern its organization or procedure.”)

³ *Id.* §§ 14.07, .08, .28, .385, .386; *see* ch. 18.

⁴ MINN. STAT. § 14.09 (2014); *see* § 17.1.2.

⁵ MINN. STAT. §§ 14.37, .386 (2014).

⁶ *Id.* § 14.386, .388. However, unlike rules adopted under the general provisions of the APA, the effective date is upon publication of the rules in the *State Register* and not five-working days after publication of the rules in the *State Register*.

⁷ *Id.* §§ 3.841-.843; *see* ch. 25.

⁸ MINN. STAT. §§ 14.44-.45 (2014); *see* § 22.7; ch. 24.

⁹ 1995 MINN. LAWS ch. 233, art. 2, §§ 27-29, at 2100-04.