

21.6 EXPEDITED RULES

The process for expedited rules was created by the legislature in 1997.¹ The expedited rule process may only be used when there is specific law requiring or authorizing its use.² The process is abbreviated like the process for exempt rules, but there are some differences including the possibility of a hearing if required by law and if a sufficient number of hearing requests are received.

Once the expedited process has been authorized by the legislature, the agency must publish notice of the proposed rule in the *State Register* and must mail the notice by United States mail or electronic mail to the persons who have registered with the agency to receive mailed notices.³ Like permanent rules, the mailed notice must include either a copy of the proposed rule or a description of the nature and effect of the proposed rule and a statement that a free copy is available from the agency upon request. The rule is also published in the *State Register*. The public has 30 days after publication to comment on the rule.⁴

After receiving comments on the proposed rule, the agency may modify the rule if the modifications do not make the rule substantially different from the proposed rule.⁵ Similar to exempt rules, an administrative law judge must review the rules for legality and within 14 days approve or disapprove the rule.⁶ A rule adopted under the expedited process is effective upon publication in the *State Register*.⁷

What is unique about the expedited rule process is that the enabling legislation may require that the notice of intent to adopt rules include a statement that a public hearing will be held if 100 or more people request a hearing. If 100 or more people request a hearing, the agency is required to hold a public hearing and comply with the requirements of chapter 14 for rules adopted after a public hearing.⁸

¹ 1997 MINN. LAWS ch. 187, art. 5, § 5, at 1327-28.

² MINN. STAT. § 14.389, subd. 1 (2014). In recent years, the legislature has authorized several expedited rulemakings. *See, e.g.*, 2014 MINN. LAWS ch. 285, § 8, at 6 (removing sunset on Board of Pharmacy's authority to add additional substances to Schedule I using expedited rule process); 2014 MINN. LAWS ch. 309, § 6, subd. 10(b), at 3 (authorizing Campaign Finance and Public Disclosure Board to adopt expedited rules related to audits and investigations); 2014 MINN. LAWS ch. 311, § 6, at 5 (authorizing commissioner of health to adopt expedited rules related to medical cannabis if notice published before January 1, 2015); 2013 MINN. LAWS ch. 9, § 7, subd. 8, at 11-12 (authorizing Minnesota Insurance Marketplace board of directors to adopt expedited rules related to the Marketplace); 2013 MINN. LAWS ch. 85, art. 3, § 8, subd. 7, at 54 (authorizing commissioner of employment and economic development to adopt expedited rules related to the Minnesota Job Creation Fund); 2013 MINN. LAWS ch. 116, art. 5, § 29, at 126 (authorizing commissioner of education to adopt expedited rules related to special education).

³ MINN. STAT. § 14.389, subd. 2 (2014). Rules setting out the contents and form of the notice of intent to adopt an expedited rule were adopted in 2001. MINN. R. 1400.2085, .2570 (2013); 26 Minn. Reg. 391-92 (Sept. 17, 2001).

⁴ MINN. STAT. § 14.389, subd. 2 (2014).

⁵ *Id.* § 14.389, subd. 3.

⁶ MINN. STAT. § 14.389, subd. 4 (2014). A rule governing the review of expedited rules adopted without a public hearing was adopted in 2001. MINN. R. 1400.2410 (2013); 26 Minn. Reg. 391 (Sept. 17, 2001); 25 Minn. Reg. 1751-52 (May 7, 2001).

⁷ MINN. STAT. § 14.389, subd. 3 (2014).

⁸ *Id.*, subd. 5.

