

24.4 PARTIES TO A PREENFORCEMENT CHALLENGE

The statute states that “[t]he agency shall be made a party to the proceeding.”¹ The statute does not say who else may or should be party respondents. The Minnesota Rules of Civil Appellate Procedure state that persons, other than the petitioner, agency, and attorney general, may participate in the action with leave of the court of appeals.² The rules require that the petition be served upon the attorney general and the agency whose rule is being challenged.³ Usually the commissioner who heads the agency is also named. In some instances, parties who had appeared in the agency rulemaking proceeding might be likely candidates for party respondents.

¹ MINN. STAT. § 14.44 (2014); *cf.* *Neujahr v. Ramsey Cnty. Civil Serv. Comm'n*, 370 N.W.2d 446, 448 (Minn. Ct. App. 1985) (finding jurisdiction under 1985 amendment of MINN. STAT. § 480A.06, subd. 3, to hear direct appeals from “all agencies,” including from the county commission).

² MINN. R. CIV. APP. P. 114.05.

³ *Id.* 114.01(c).