



Expedited Rulemaking: *From Notice to Opening Night - Fast track without loose ends*

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Script

Authority and Scope

Casting and
Crew

Rulemaking Roles

Tech Week

Notice of Intent

Opening
Night

Adoption and eFiling

Curtain Call

Questions

The Script: Authority

Statutory authority is *your script*

What is expedited rulemaking?

- *Minnesota Statutes, Section 14.389*
 - Outlines the rulemaking process
 - Not an open authority
 - Includes an 18-month notice requirement



The Script: Authority (cont'd)

When should expedited be used?



Legislatively directed



Non-controversial
rule adjustments



Conforming or
technical fixes

PREVIEW

Scene Break

	Conventional	Expedited
Request for Comments	✓	X
Statement of Need and Reasonableness (SONAR)	✓	X
Hearing	If selected or requested	Only if the authority references Subd. 5
Adoption	✓	Must include concise justifications for rule revisions

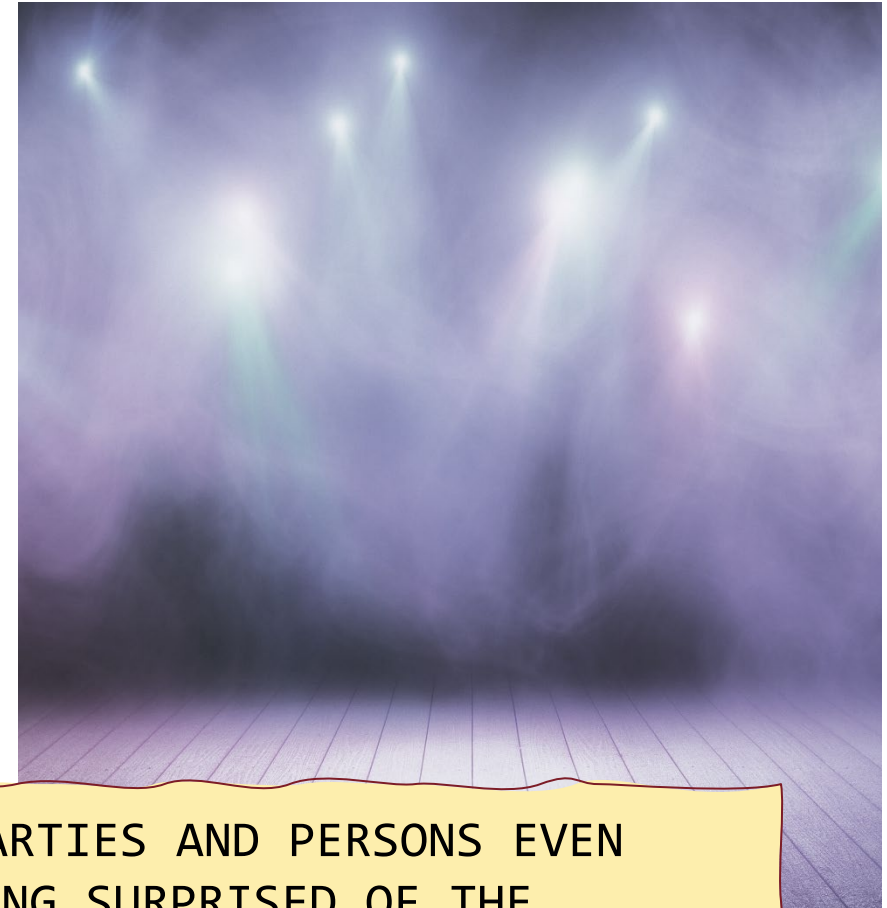
Script:

The commissioner shall amend Minnesota Rules, parts 2705.1000, item B, subitem (4); 2705.0200, subpart 7; 2705.1700, subpart 2; and 2705.1800, item B, or other parts of Minnesota Rules, chapter 2705, as necessary to permit a data service organization to collect loss adjustment expense data and to consider and include in its ratemaking report losses developed to their ultimate value, trended losses, and loss adjustment expenses. The **commissioner may use the expedited rulemaking procedures under Minnesota Statutes, section 14.389.**

Laws of Minnesota 2021, First Special Session, Chapter 4, Article 3, Section 28

Spotlight Review 1

- Participatory approach - Go slow to go fast approach
- Open and honest communication



SCRIPT NOTE: SEND COMMUNICATIONS TO INTERESTED PARTIES AND PERSONS EVEN IF NOT REQUIRED. THIS WILL PREVENT PEOPLE FROM BEING SURPRISED OF THE RULEMAKING OR PROPOSED CHANGES COMING.

Minnesota Statutes, Section 14.389, Subd. 5. **Option.**

- A law authorizing or requiring rules to be adopted under this section may refer specifically to this subdivision. If the law contains a specific reference to this subdivision, as opposed to a general reference to this section:
 - (1) the notice required in subdivision 2 must include a statement that a public hearing will be held **if 50 or more people request a hearing**. The request must be in the manner specified in section 14.25; and
 - (2) if 50 or more people submit a written request for a public hearing, the agency may adopt the rule only **after complying with all of the requirements of chapter 14 for rules adopted after a public hearing**.

HEARING

Scene Break 1

Conventional

- Dual notice method includes a 25-request threshold for a hearing

Expedited

- Authority references Minnesota Statutes, Section 14.389, Subd. 5
- Notice of Intent to Adopt must include a 50-request threshold for a hearing
- If a hearing must be held, then the case reverts to conventional rulemaking
 - Re-notice with hearing, SONAR

Script:

Subd. 3. **Rules.** The commissioner shall adopt rules to implement requirements for the permitting and installation of submerged closed loop heat exchangers according to chapter 14. The commissioner may use the monitoring data required by section 107, to amend rules governing the installation of submerged closed loop heat exchanger systems. Rules for which notice is published in the State Register before December 31, 2025, **may be adopted using the expedited rulemaking process in section 14.389, subdivision 5.**

*“The commissioner **must consider rules for these screen configurations during the expedited rulemaking process** authorized by section 103I.208, subdivision 3.”*

*“The commissioner **shall consider including isolation distance requirements during the expedited rulemaking process** authorized by section 103I.208, subdivision 3.”*

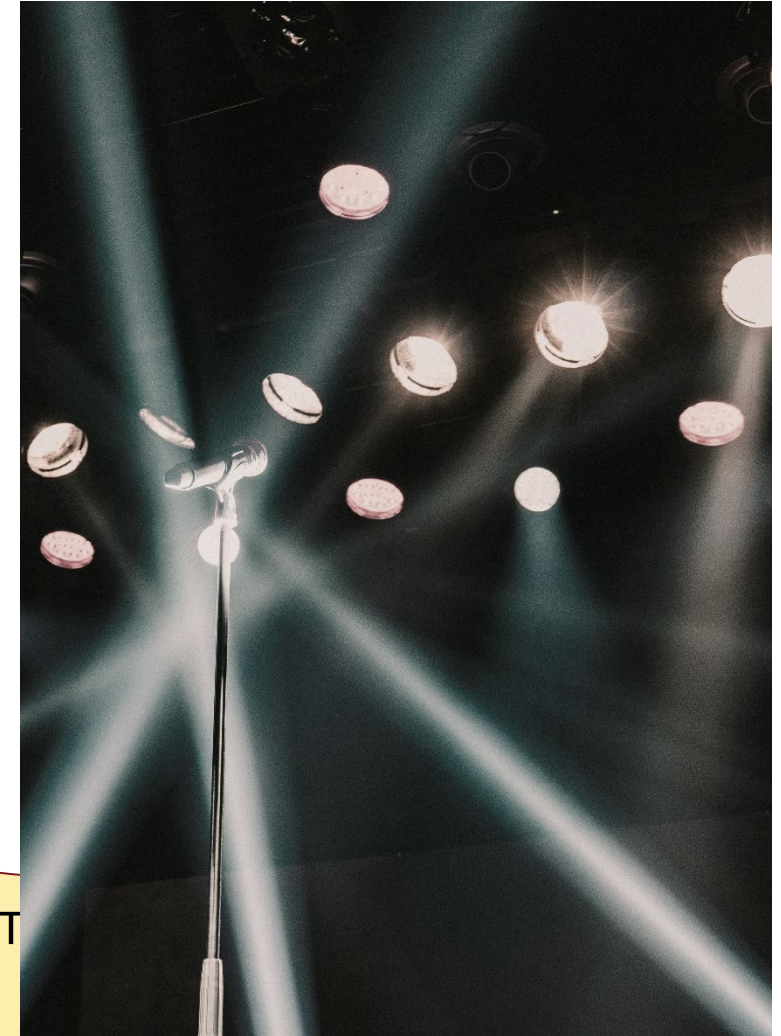
Laws of Minnesota 2023, Chapter 70, Article 4, Section 9

Spotlight Review 2

Two-phased statutory authority

- Conventional rulemaking required
- Expedited rulemaking authorized (explicit Subd. 5 reference)
 - Legislature directed specific topics to be addressed
 - Advisory Committee assembled and continued
 - No hearing requests received

SCRIPT NOTE: ENGAGE WITH EXTERNAL AND INTERESTED PART
RULEMAKING PROCESS.



Script:

Subd. 13a. **Game and fish expedited permanent rules.** (b) The commissioner of natural resources **may adopt rules under section 14.389 that are authorized under chapters 97A, 97B, and 97C**, for purposes in addition to those listed in paragraph (a), clause (1), **subject to the notice and public hearing provisions of section 14.389, subdivision 5.**

Laws of Minnesota 2015, Chapter 189, Article 3, Section 9

Spotlight Review 3

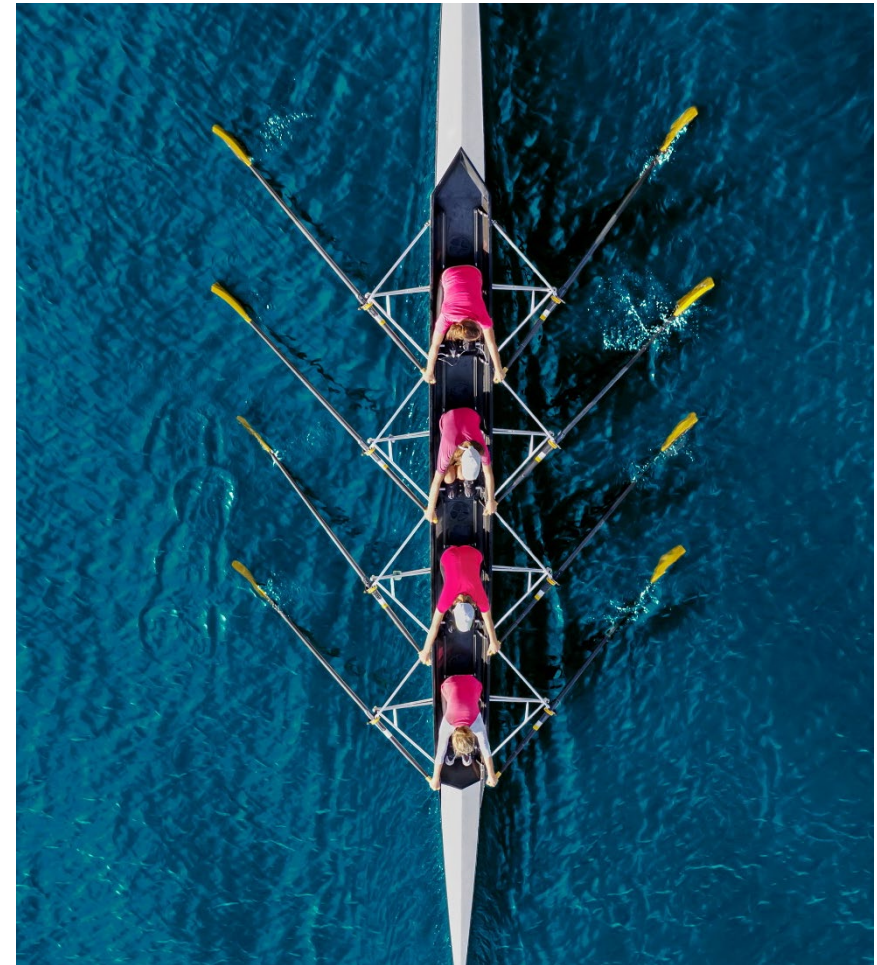
Receiving more than 50 hearing requests

- Published Notice of Intent to Adopt Expedited Rules Without a Hearing
- Expedited process ends because of the more than 50 hearing requests
 - Reverting from expedited to conventional rulemaking process with a hearing
 - Prepare a SONAR
 - Publish a Notice of Hearing
- Proactively review statutory authority and evaluate which rule process to use
 - Consider public interest and potential controversy

SCRIPT NOTE: ALWAYS GO BACK TO THE STATUTORY AUTHORITY WHEN DECIDING WHICH PROCESS WORKS BEST.

Casting and Crew: Rulemaking Roles

- Program Staff – *Lead Actors under Tight Rehearsal Schedule*
- Attorneys – *Script Supervisors*
- Revisor – *Editors Who Keep the Script Lean*
- Agency Leadership – *Executive Producer Making Early Calls*
- Administrative Law Judge – *The Critic with a Faster Review*
- Advisory Committees – *Cameo Guest Stars*



Notice Preparation

- Ensure rule text is final before notice – fewer chances to revise
- Revisor's draft, with certificate
- Notify given to Governor's Office (Prelim. Proposal Form)
 - Expedited advantage to proceed without Governor's approval
 - Communicate barriers
- Notice of Intent to Adopt... *with reference to subd. 5?*

SCRIPT NOTE: DO NOT NEED TO WAIT FOR GOVERNOR'S APPROVAL BEFORE NOTICE OF INTENT TO ADOPT.

NOTICE

Scene Break 2

Conventional

- Statement of Need and Reasonableness (SONAR) required
- Proposed Rule and SONAR Form

Expedited

- No SONAR or Proposed Rule and SONAR Form required
- Preliminary Proposal Form informs Governor's Office
- Notice of Intent to Adopt Expedited Rules

Opening Night: Adoption and eFiling

eFiling

- Preparing exhibits
- Filing a case with CAH

Adoption

- ALJ report
- Order Adopting Rules
- Publication



SCRIPT NOTE: ORDER ADOPTING RULES FOR EXPEDITED PROCESS CONCISELY
OUTLINES NEED AND REASONABLENESS FOR RULE REVISIONS.

Scene Break 3

Conventional

- Order Adopting Rules
- Administrative Law Judge has 14 days to review without a hearing, or 30 days after close of hearing
- Full exhibit list under part 1400.2310

Expedited

- Order Adopting Rules must include concise justifications (no SONAR)
- Administrative Law Judge has 14 days to review
- Exhibit requirements under part 1400.2410

Curtain Call: Questions

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