

Back to Square One: Rulemaking Basics

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*Reading the
Instructions:
Know Before
You Start*

*Playing the
Game: Getting
A Rule to
Adoption*

*Deluxe Edition:
Rule Manual
Updates*

**Reading the
Instructions:**

Know Before You Start

What Are Rules?

Administrative rules are regulations.

Minn. Stat. 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

Rules support statutes with technical details

Valid in Court

What Are Rules?

Administrative Rulemaking is the process to make the rules

Your Agency/Board
needs authority
from the legislature
to conduct
administrative
rulemaking



Involves public notice
and comments



Independent review
by the Office of
Administrative
Hearings (OAH)



Rule Types

Regular
Rulemaking

Good Cause
Exempt




Minn.
Stat.
14.388

Expedited
Rulemaking



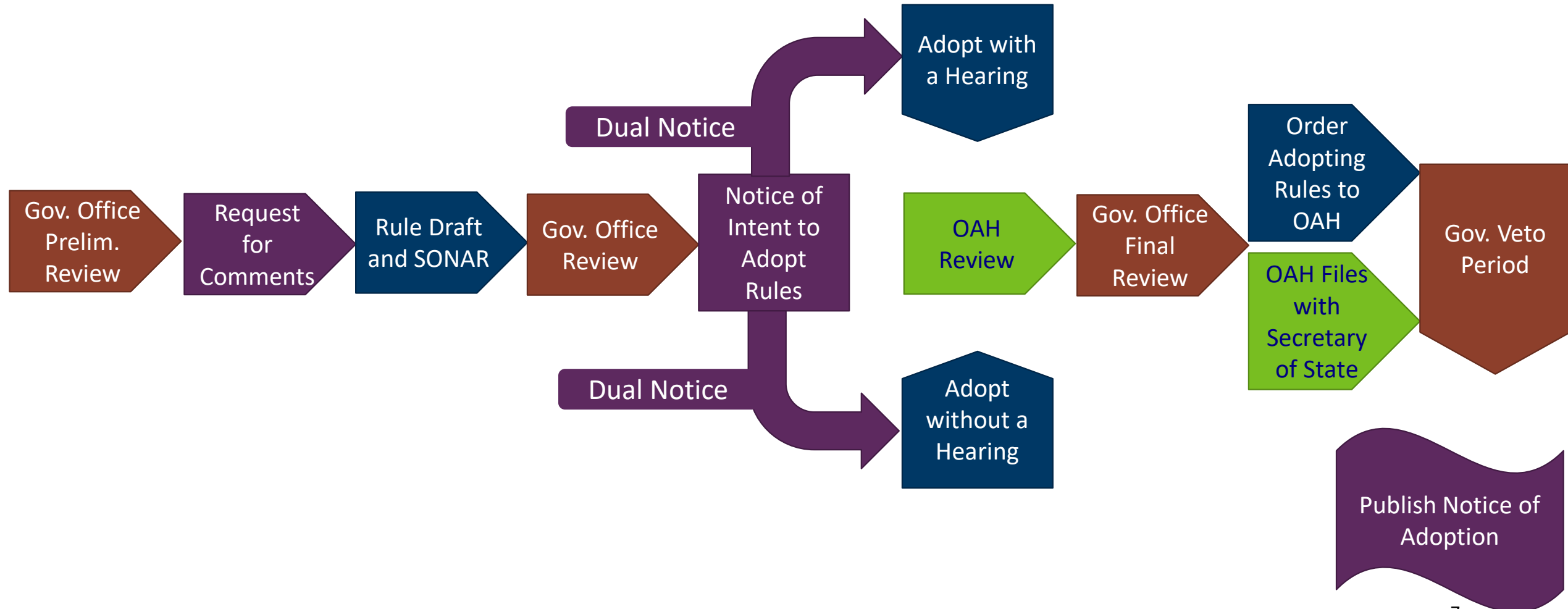
Minn.
Stat.
14.389

Obsolete Rule
Repeal



Minn.
Stat.
14.3895

The Process



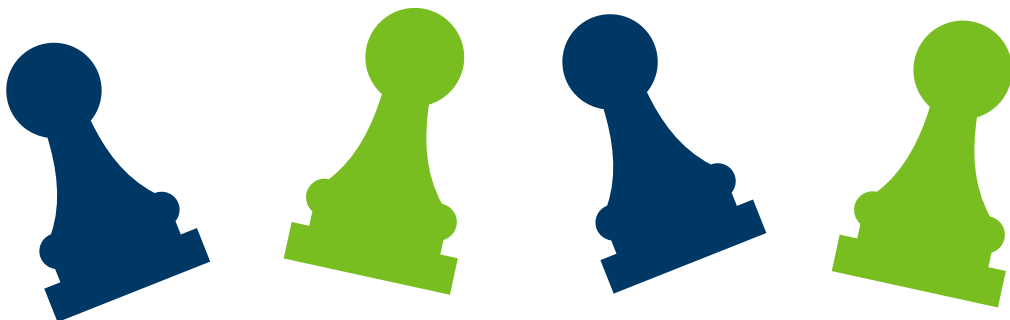
The Other Players

In Your Agency

- Subject matter experts
- Attorneys
- Administrative staff
- Senior management

Outside Your Agency

- Revisor's Office
- Governor's Office
- Minnesota Management and Budget
- Legislature
- Legislative Reference Librarian (LRL)
- Office of Administrative Hearing
- Secretary of State's Office
- State Register
- The public (advisory committees, stakeholders, external experts)



Minnesota Rulemaking Manual and Seminar

This page provides links to the current Minnesota Rulemaking Manual and materials from the Annual Rulemaking Seminar.

A Manual for the Practitioner

The Minnesota Rulemaking Manual reflects the collective wisdom and experience of the State's rule writing community. First issued on June 17, 1996, it has been revised annually ever since. The editor draws revisions from community members' suggestions, the previous year's experience, and recent legislative activity.

2023 Minnesota Rulemaking Manual

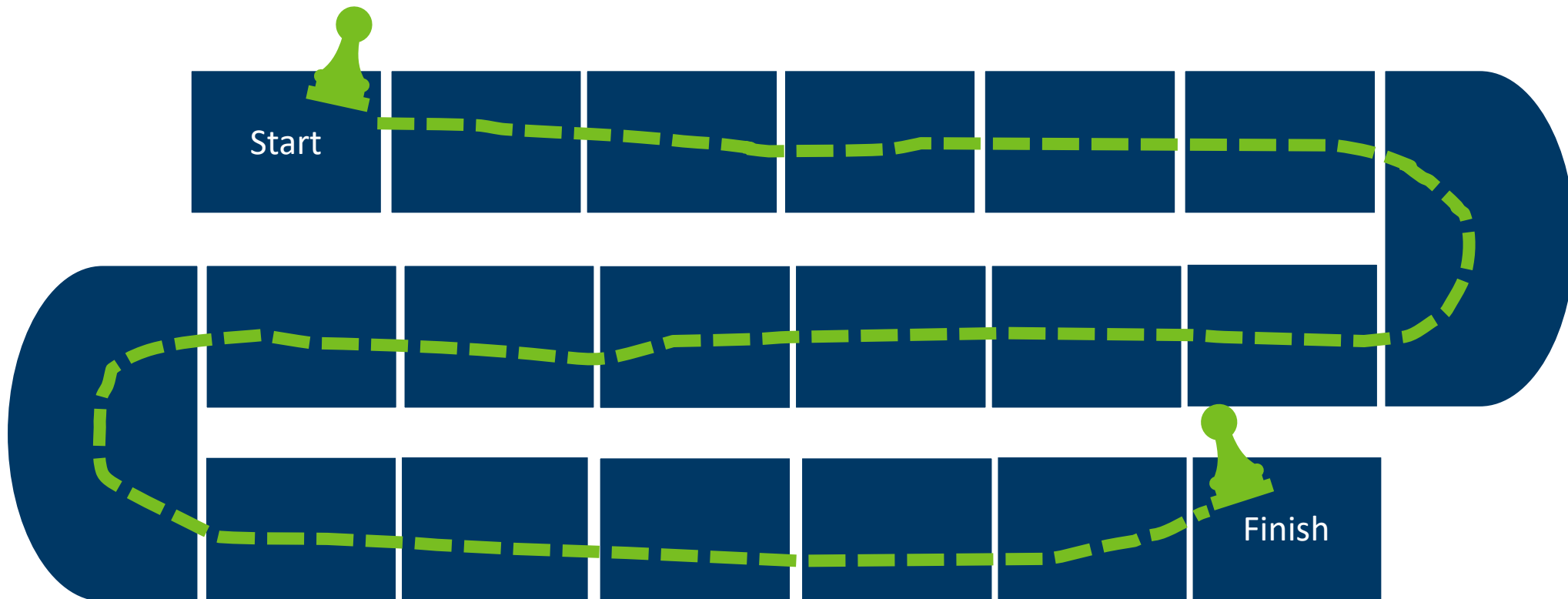
- [2023 Manual \(PDF\)](#)
A reference book for drafting state agency administrative rules in Minnesota.
- [2023 Manual - Chapters and Forms](#)
Word files of chapters and forms.

28th Annual Minnesota Rulemaking Seminar

This year's Annual Rulemaking Seminar will be from 8:50 a.m. to 4:00 p.m. on Thursday, Oct. 5, 2023, in a hybrid format. You can register here to attend in person or virtually: [28th Annual Minnesota Rulemaking Seminar Registration](#). All handouts will be posted here by Tuesday, Oct. 3.

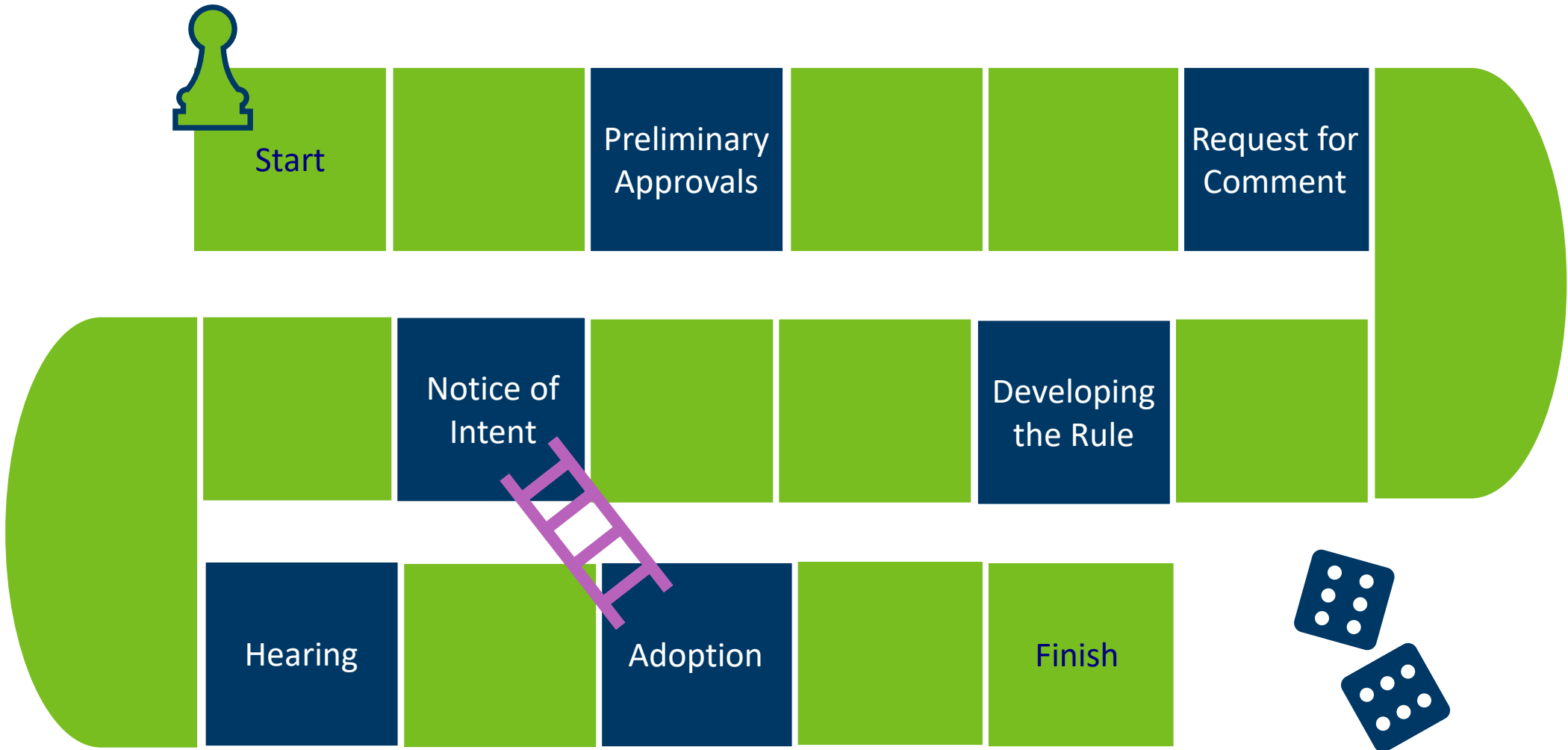


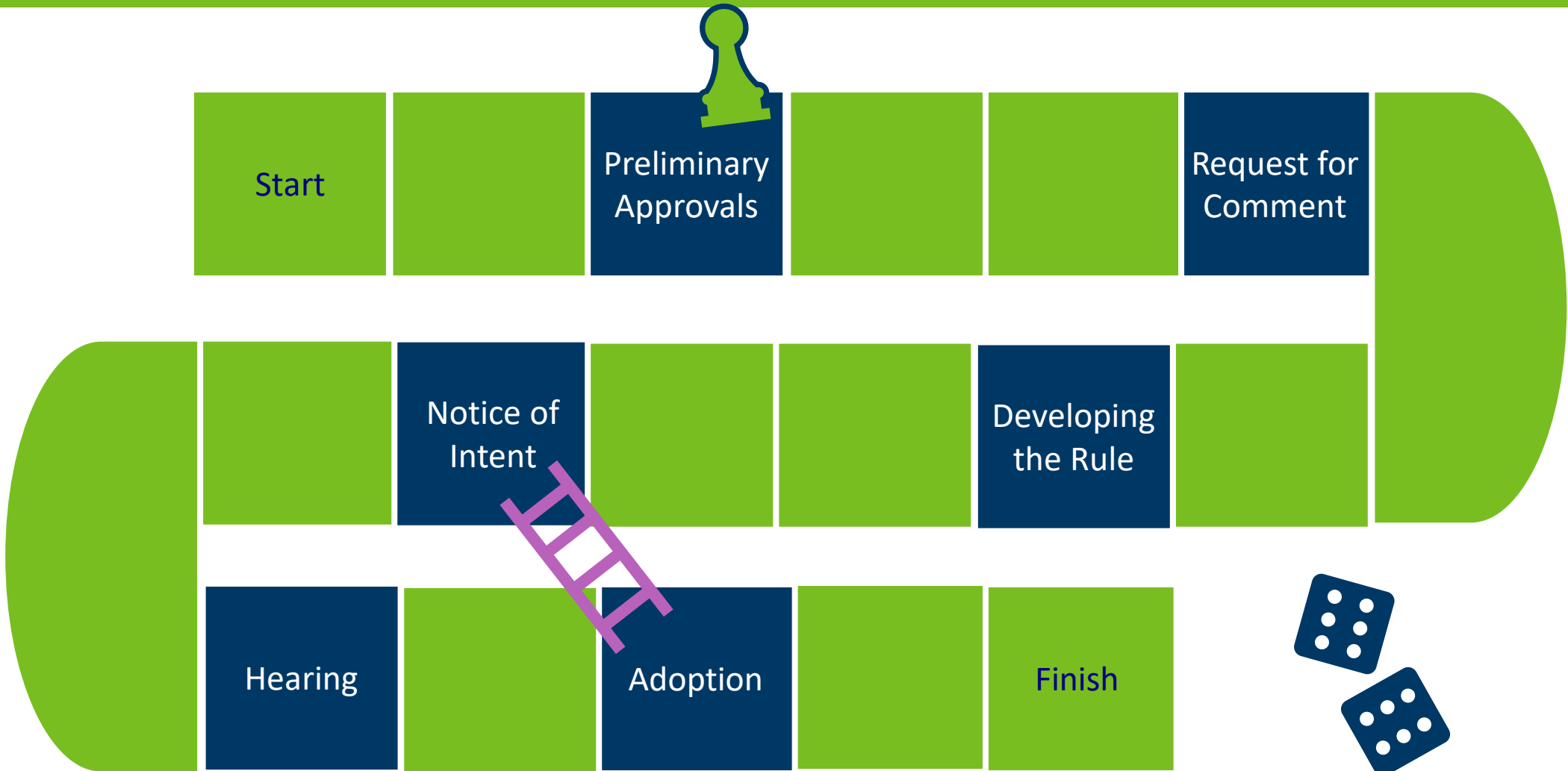
How long does a rulemaking project take?



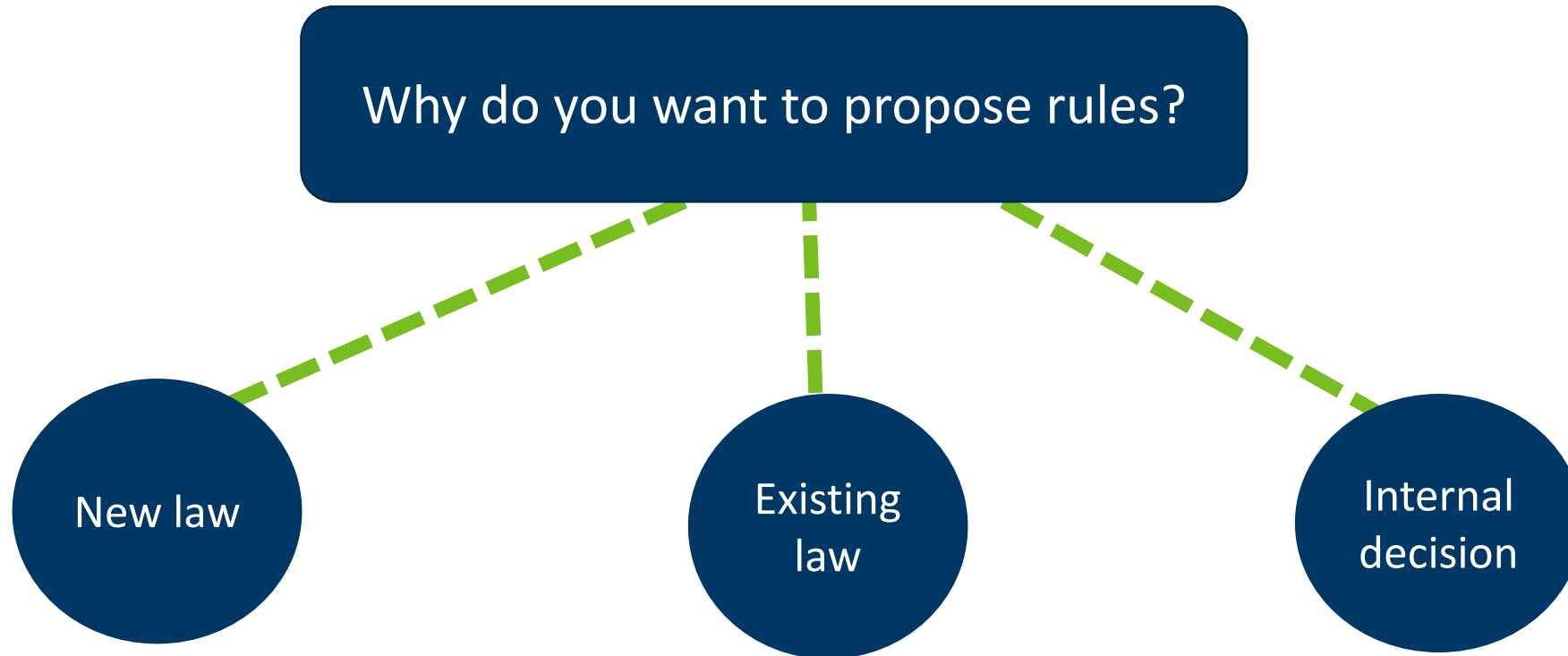
Playing the
Game

Getting Your Rule to
Adoption





Preliminary Approvals



Preliminary Approvals

New law

Minn. Stat.
14.101, subd. 1

“[Request for Comments] notice must be published within 60 days of the effective date of any new or amendatory law requiring rules to be adopted, amended, or repealed.”

Minn. Stat. 14.125

“An agency shall publish a notice of intent to adopt rules within 18 months of the effective date of the law authorizing or requiring rules to be adopted, amended, or repealed.”

Existing law

Examples:

Rules must be updated every X number of years

Rules must be updated when the Federal Government does X

Rules must be updated annually

Internal decision

Examples:

Agency wants to update rules on advice from advisory committee

Agency wants to update rules based on change in technology

Agency wants to clarify rule based on stakeholder feedback

Preliminary Approvals

Do you have the authority to adopt the rule?

Confirm your statutory authority

Get internal approval to initiate rulemaking

For Boards, get signed resolution

Minnesota Board of [Name]
CERTIFICATE OF THE BOARD OF [NAME]; AUTHORIZING RESOLUTION
Proposed [Amendment to] [Repeal of] Rules Governing [Topic], Minnesota Rules, [citation]; Revisor's ID Number [number]

I, [Name], certify that I am a member and the Chair of the Board of [Name], a board authorized under the laws of the State of Minnesota; that the following is a true, complete, and correct copy of a resolution that the Board of [Name] adopted at a properly convened meeting on _____, 20____; that a quorum was present; and that a majority of those present voted for the resolution, which has not been rescinded or modified. The Board resolved the following:

1. The [insert title, such as Executive Director or Chair] of the Board of [Name], is authorized and directed to sign and to give the Notice of the Board's Intent to Adopt [Rules Without a Public Hearing][Rules using Alternate Notices of whether a hearing will be held][Rules after holding a public hearing] in the Revisor of Statutes draft, file number [number], dated xx/xx/xx, identified as Minnesota rules, parts xxxx.xxxx to xxxx.xxxx, with any modifications approved by the Board. The [title] must give this notice to all persons who have registered their names with the Board for that purpose. The [title] must also publish the Notice in the State Register. Furthermore, the [title] is authorized and directed to do anything else needed to complete this Notice.
2. If there are fewer than 25 outstanding hearing requests, the [title] of the Board of [Name] is authorized and directed to sign the Order Adopting Rules and to do anything else needed to adopt these rules without a hearing.
3. If there are 25 or more outstanding hearing requests, the [title] of the Board of [Name], is authorized and directed to act as the Board's representative at the hearing and do anything else needed to adopt these rules with a hearing. This includes authority to sign the Order Adopting Rules if there are no modifications to the rules other than modifications approved by the Board.

[Note: this form's format that can be adapted for authorizing a Request for Comments, too.]

[Date]
Attest by one other Board Member

[Name], Chair
Board Of [Name]
[If your board procedures do not require attestation, you should delete this from the form.]

Signature of Attesting Board Member

Printed Name of Attesting Board Member

Minnesota Rulemaking Manual - Appendix
8/15/2020 BD-NTC - Form for Board Resolution Authorizing Proposal of Rules
277

Preliminary Approvals

Submit Governor's Approval Form

- Request a number from the Revisor's Office
- Fill out the Governor's Approval Form (GOV-PRLM)
- Submit the Form to the Governor's Office via email
- You do not have to wait for the Governor's Office response before moving forward with the rulemaking

2020 Administrative Rule Preliminary Proposal Form

Revisor's ID Number: _____

Submitting Agency: _____ Date: _____

Rule Contact: _____

Email Address: _____ Phone #: _____

Type of Rule (must be one of the following):

Exempt Expedited Permanent

Title: (Short descriptive title)	
Chapter Number(s):	
Supporters, opponents and possible controversies:	
Agency impact:	
If Exempt or Expedited rule process is being used please explain why:	
Describe the need for the rule and provide background information:	
Rulemaking authority and other relevant statutes:	

Fiscal Impact: Yes No Undetermined

Commissioner's Signature

Date

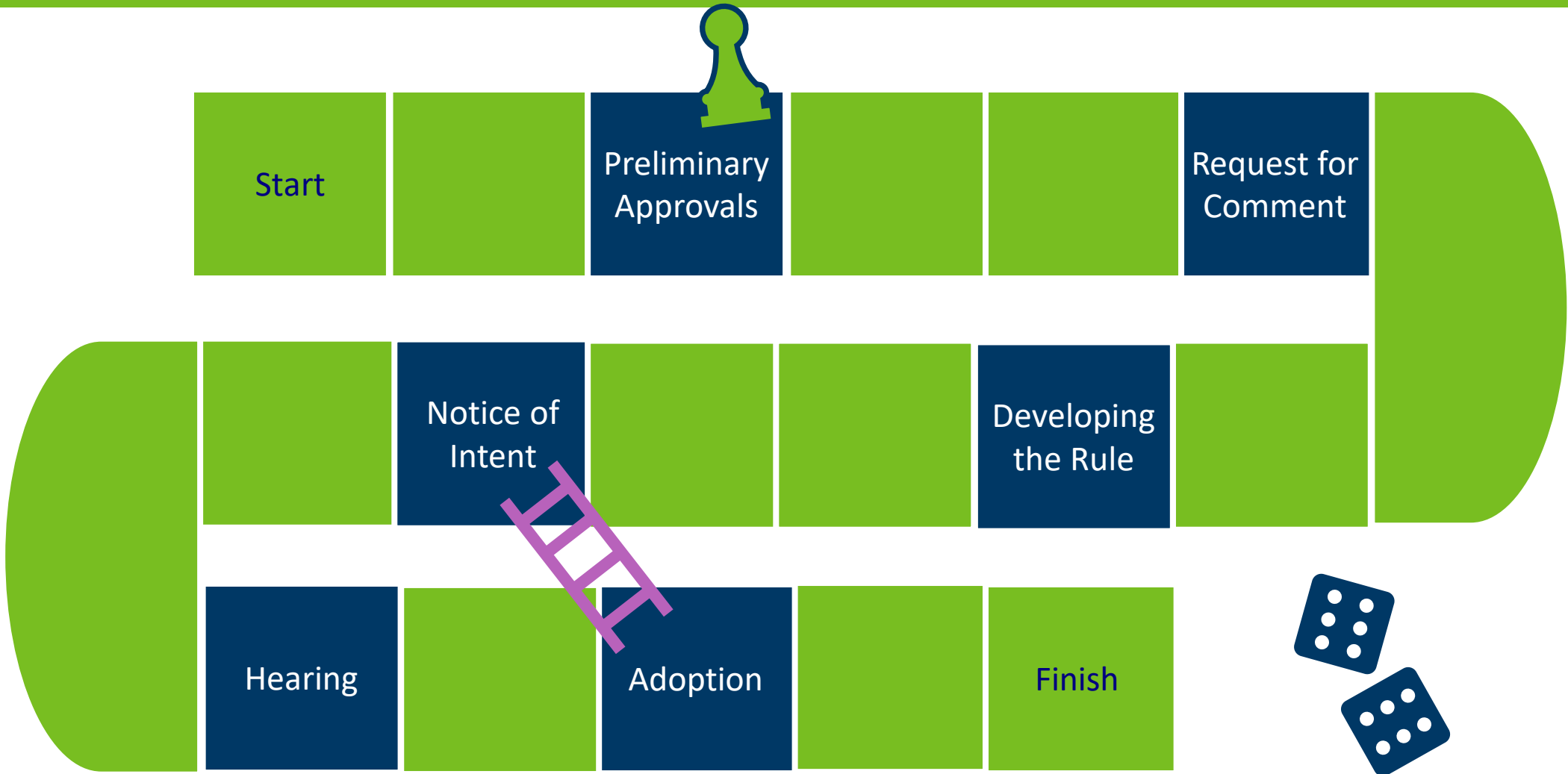
*** THIS SECTION TO BE COMPLETED BY THE GOVERNOR'S OFFICE***

I have reviewed the above information and approved the concept of this administrative rule.

Governor's Policy Advisor

Date

Minnesota Rulemaking Manual - Appendix



Request for Comment

GET ORGANIZED!

Review the Rulemaking Manual and your agency's internal procedures

Make a list of every task you need to complete

MAKE A CALENDAR!

November 2022						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		1	2	3	4	5
6	7 Finish final RFC draft	8	9	10	11	12
13	14 eComments request to OAH	15 RFC to State Register	16	17	18	19
20	21 RFC published in State Register	22	23	24	25	26
27	28	29	30			

Request for Comment

Begin your Official Recordkeeping File at the beginning of the rulemaking

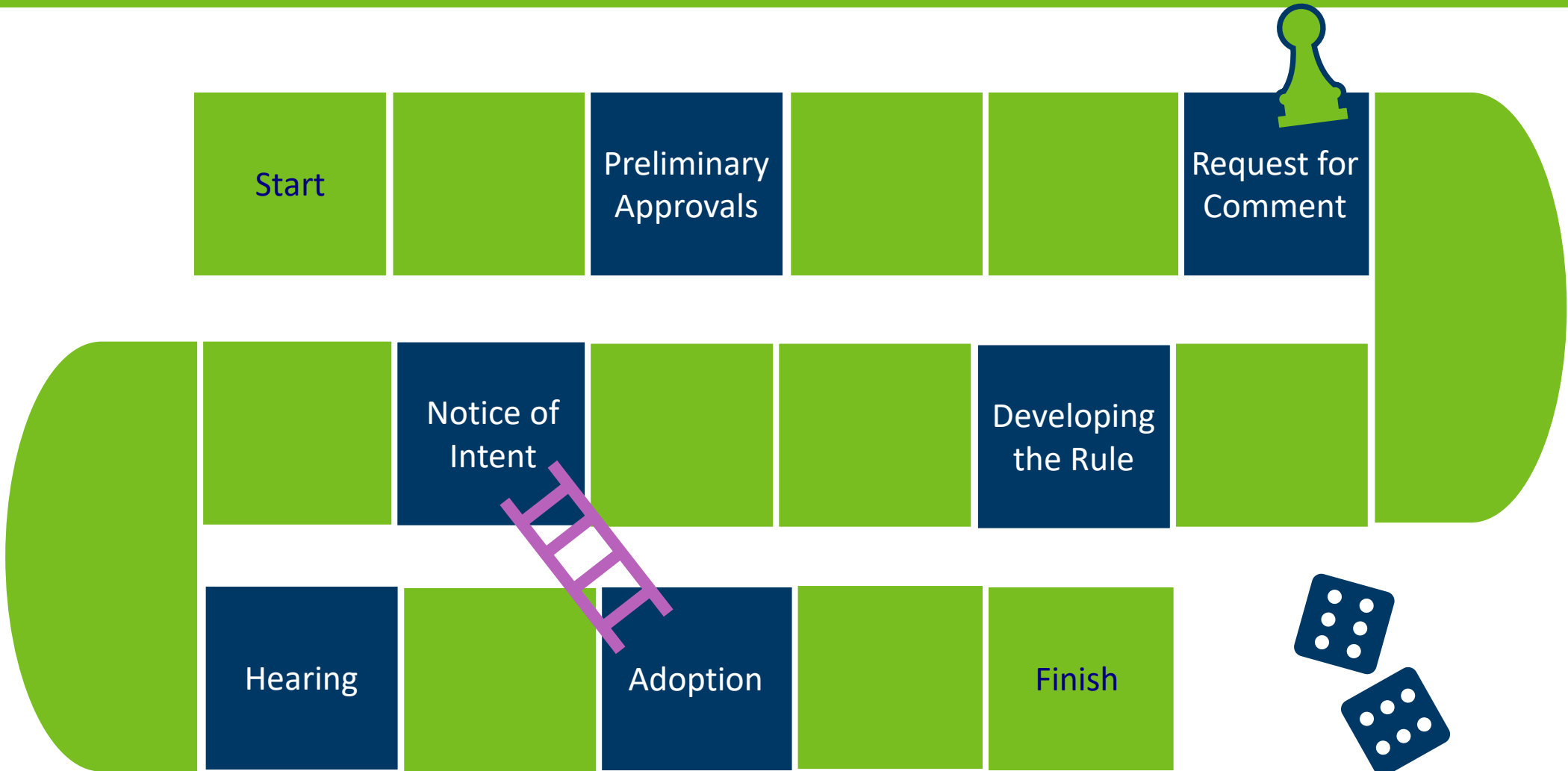
Review the statute,
rule, and manual
to identify all
documents you
need to collect

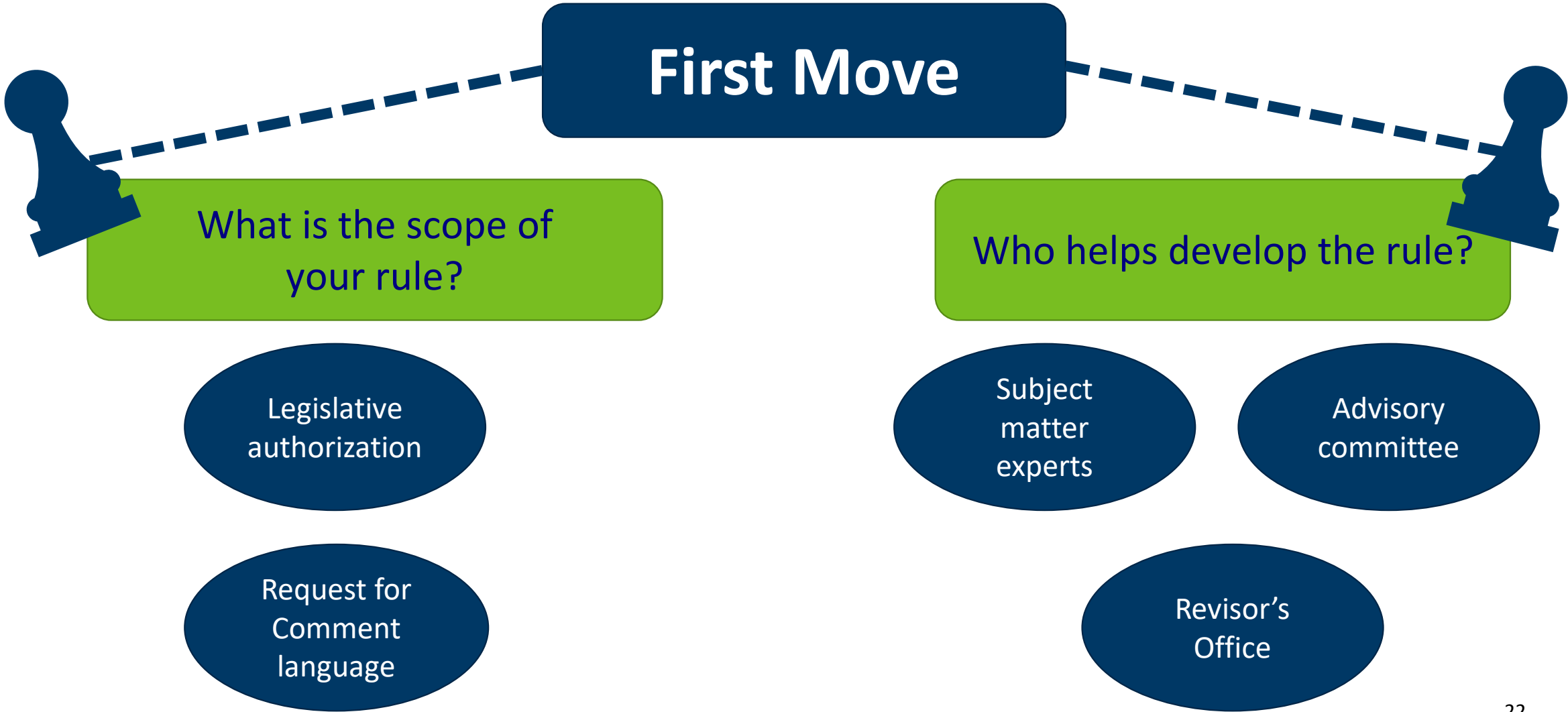


Look at your
checklist and see
where those
documents will be
created



Highlights those
steps so you
don't forget to
save the
document!





Rule Development: The Rule



REMEMBER: Everything takes longer with a board



Get a near-final rule draft ready to present

Schedule the meeting (notice requirements, open meeting law, etc.)

Board specific rules on when to vote and when to discuss

Reminder: Roll call votes when virtual meeting or at least one member is participating by phone/remotely

Rule Development: SONAR

Statement of Need and Reasonableness

Minn. Rules 1400.2070

Minn. Stat. 14.131

Introduction

Regulatory
Analysis

Rule-by-Rule
Analysis

Additional
Notice Plan

Preparing the SONAR with a Board



Who

Agency staff

What

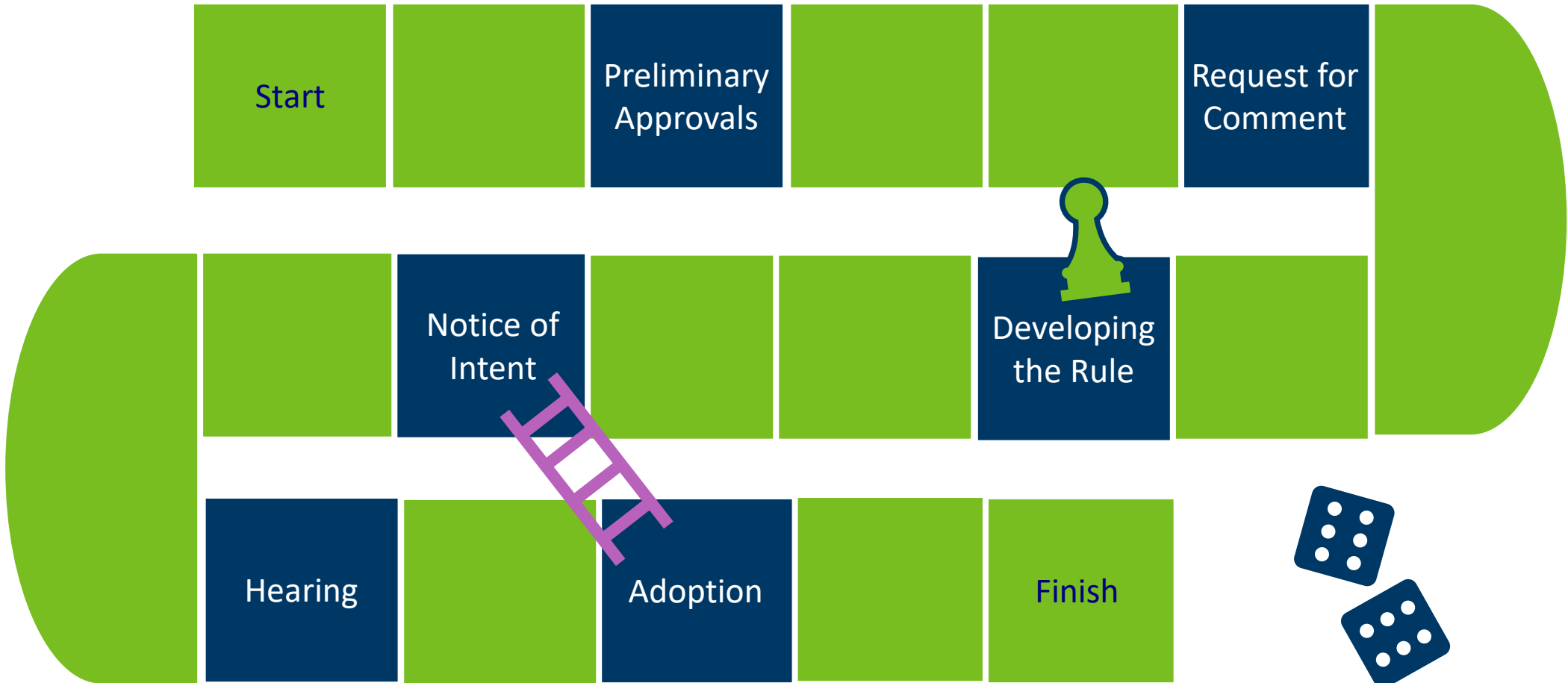
As the Board directs

When

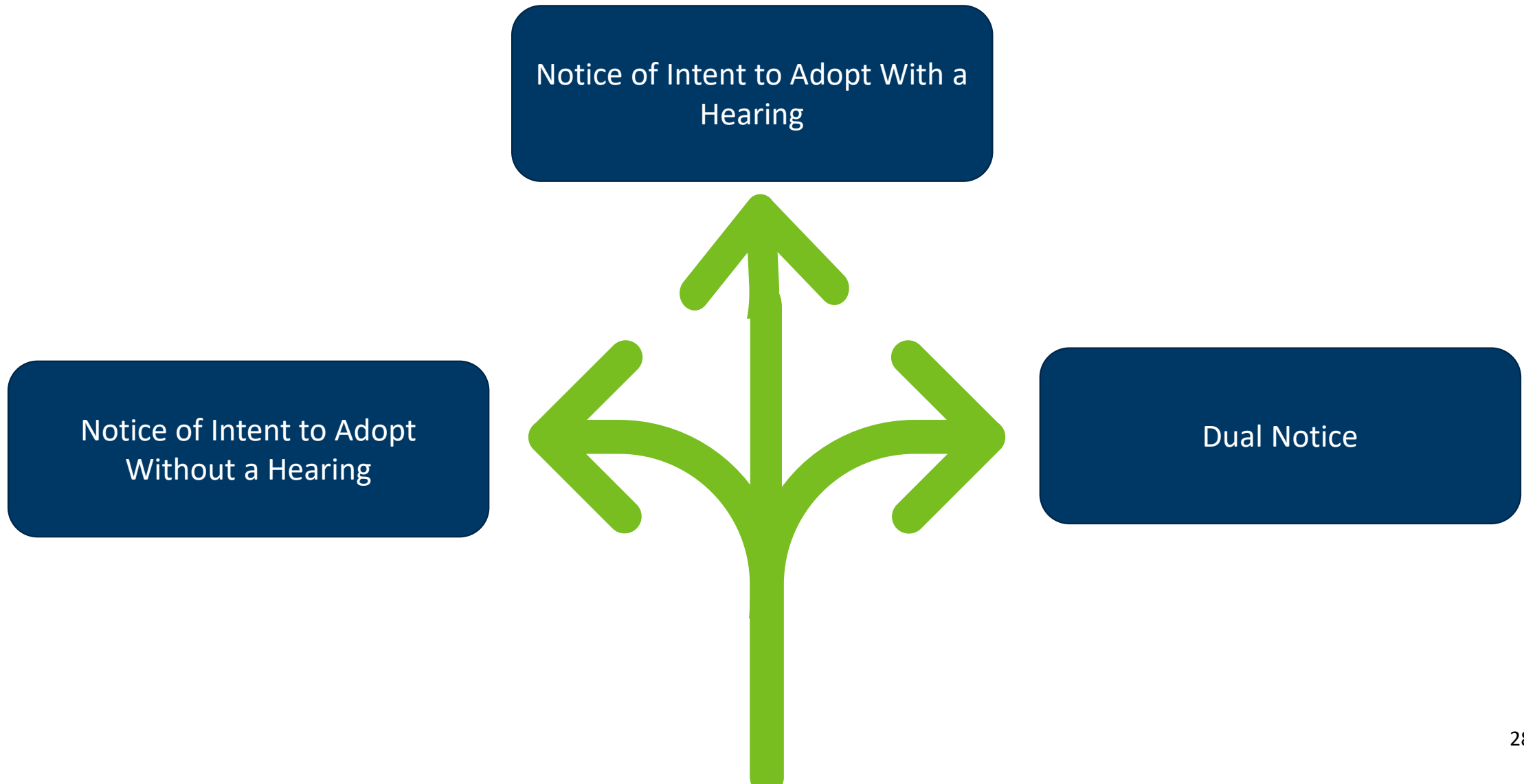
Periodic review by Board leadership



- ✓ Revisor's Office
- ✓ Agency
- ✓ Gov's Office – Proposed Rule and SONAR form
- ✓ MMB – evaluates the fiscal impact and fiscal benefits of the proposed rule on units of local government.



Notice of Intent



Notice of Intent

Readiness checklist:

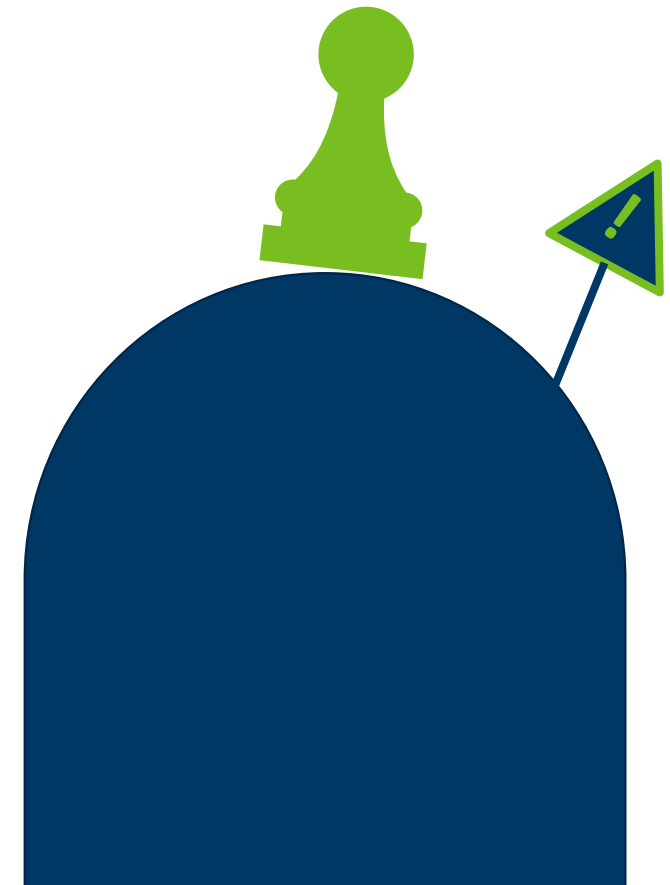
Is the rule draft complete?

Is the SONAR complete?

Is the Additional Notice Plan complete?

All approvals done?

Notice of Intent form complete without dates?

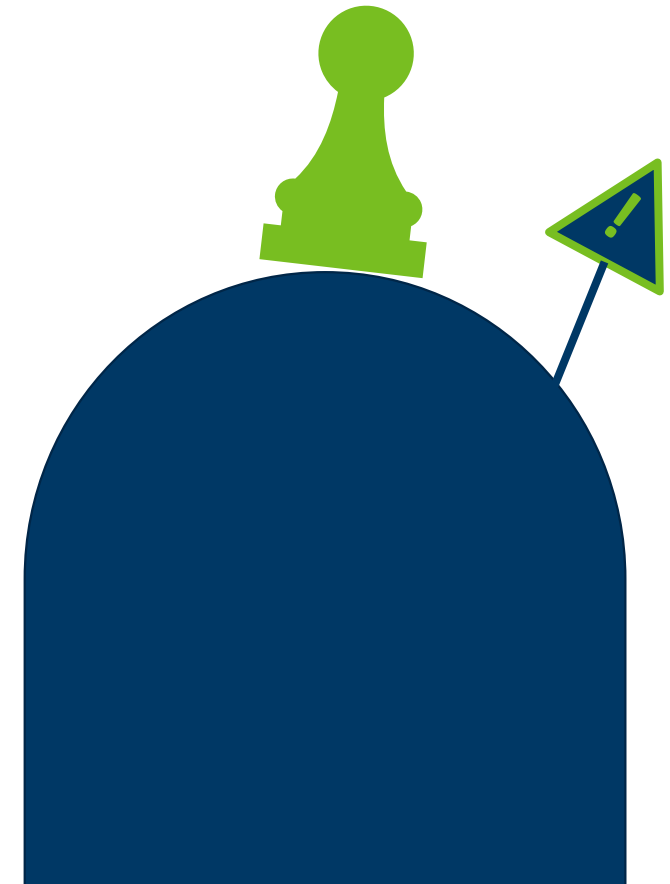


Step One:

Request your Hearing Date

Virtual or In-Person?

- Capacity (what technology is available?)
- Is this rulemaking subject to other legal or procedural requirements (i.e., agricultural)
- Stakeholder buy-in



Notice of Intent

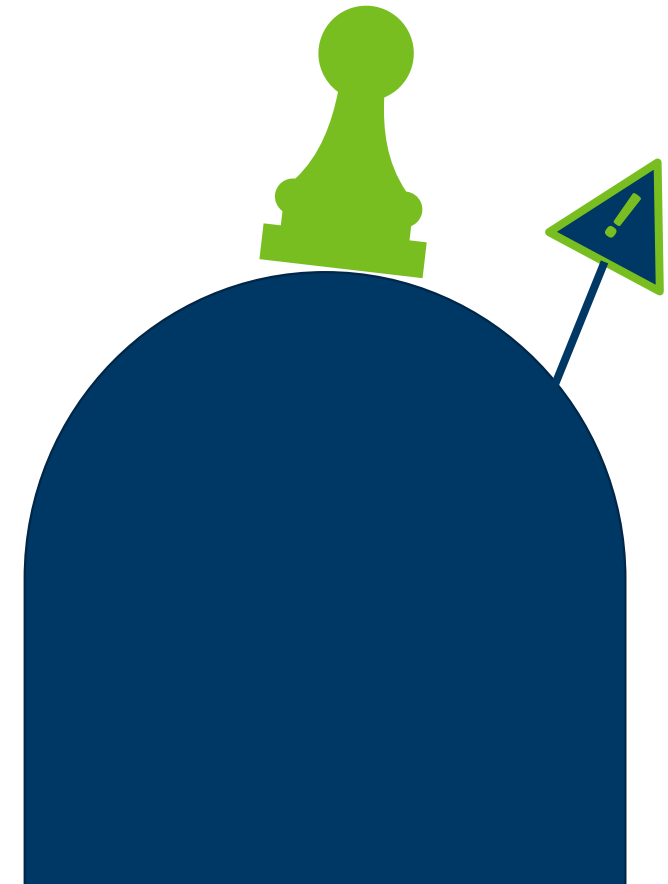
Step One:

Request your Hearing Date

Virtual or In-Person?

- Capacity (what technology is available?)
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If virtual: give notice on how to log in and how to communicate



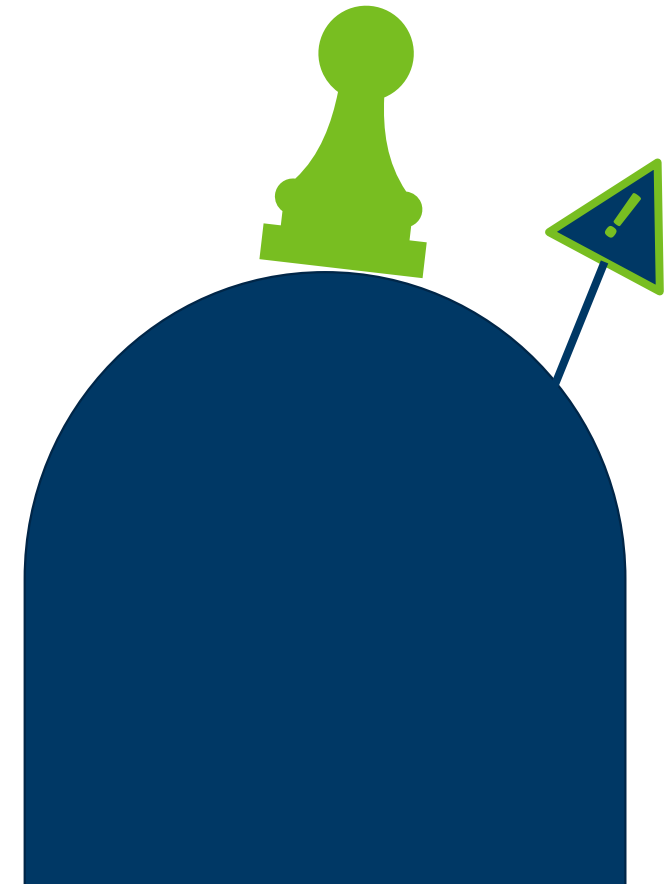
Notice of Intent

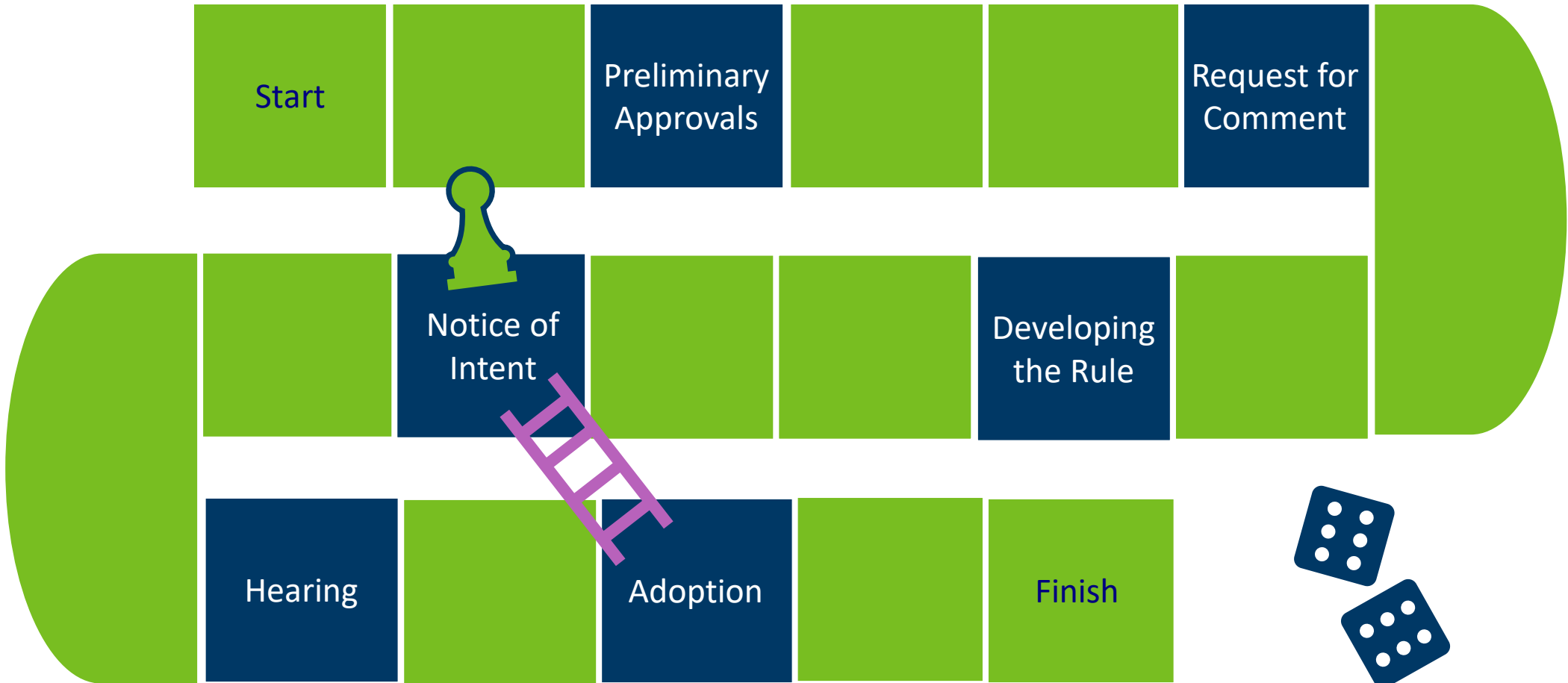
Step One:

Request your Hearing Date

February 2023

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			1	2	3 Finalize Notice of Intent	4
5	6 Additional Notice to ALJ	7	8	9	10	11
12	13	14	15	16	17	18
19	20 eComments request Submit to State Register	21	22	23	24 Send USPS notices SONAR to LRL and Leg.	25
26	27 State Register published	28				





Exhibits

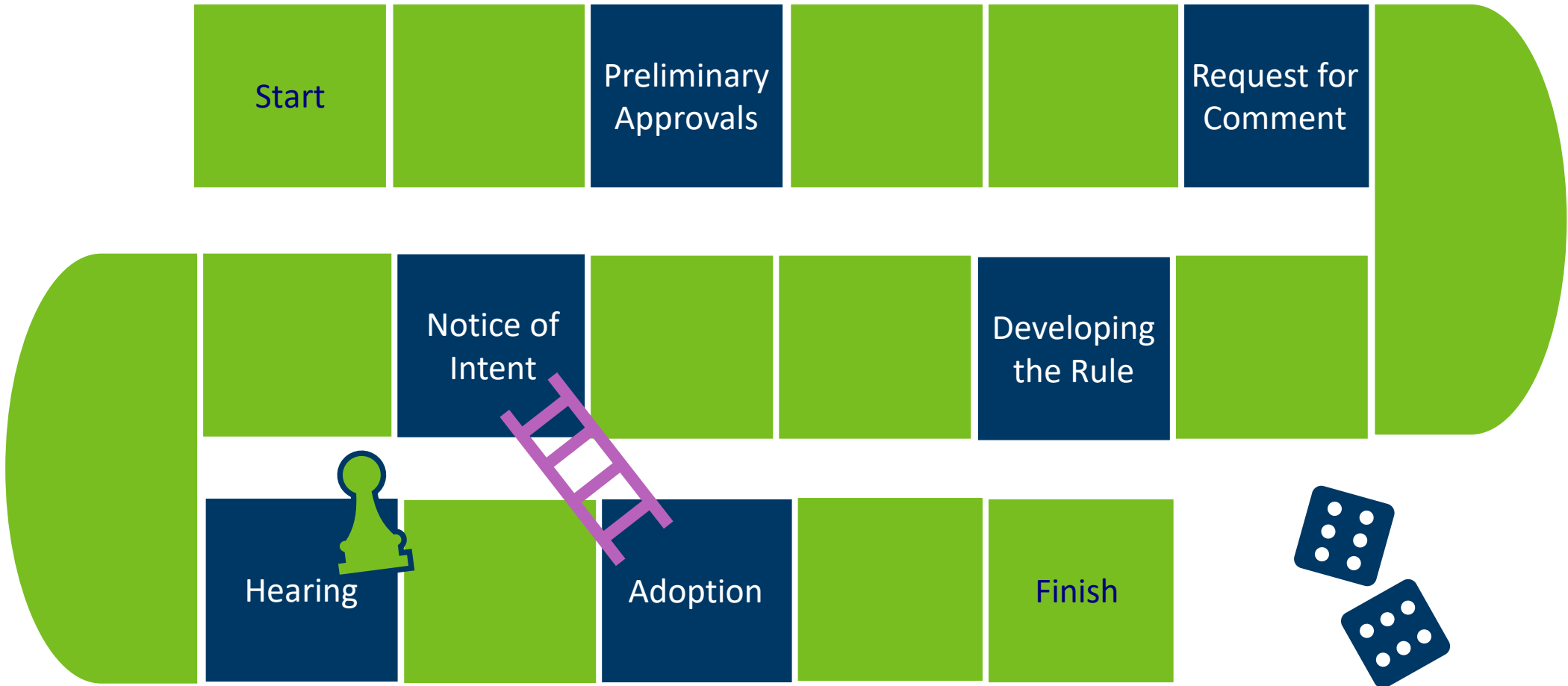
- Minn. R. 1400.2220 subpart 1
- Post to agency's rulemaking webpage
- Compile and eFile

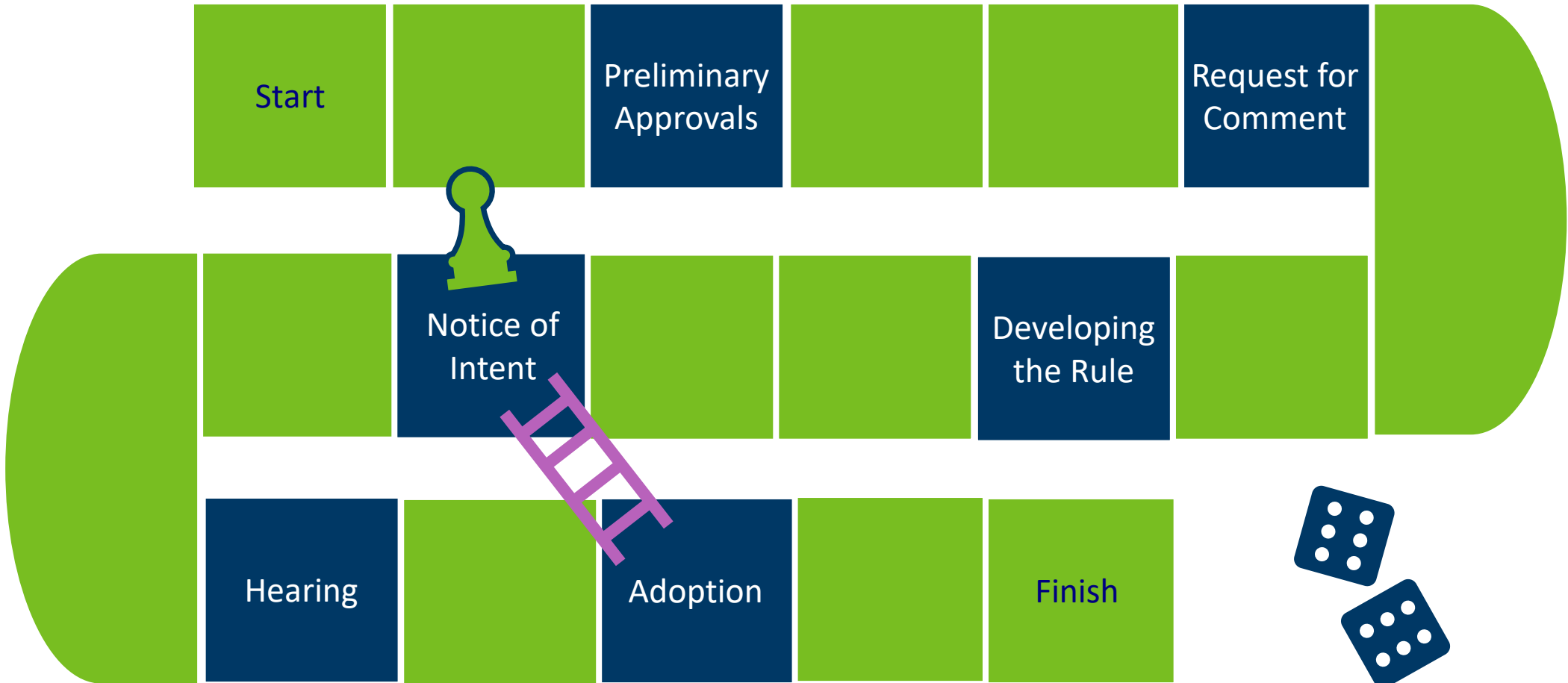
Agency Panel

- Presentation
- Questions asked at the hearing

Logistics

- Court reporter/transcript
- Interpreter
- Budget approvals for any costs





- Submit Governor's Final Rule Form (GOV-FNL)
- Draft Order of Adoption (ORD-ADPT)
- Submit signed order and final rule to OAH
- OAH will file final rule with Secretary of State
- Governor's Office "served" (triggers 14-day veto period)
- Publish Notice of Adoption in State Register

Questions?