

December 8, 2025

VIA EFILING ONLY

Nicole Freeman
Director of Government Relations
Minnesota Secretary of State's Office
332 Minnesota St, Ste N201
Saint Paul, MN 55101
nicole.freeman@state.mn.us

VIA EFILING ONLY

Lauren Bethke
Justin R. Erickson
Secretary of State's Office
Veterans Service Bldg Ste 210
20 W 12th St
Saint Paul, MN 55155
lauren.bethke@state.mn.us
justin.erickson@state.mn.us

**Re: In the Matter of the Possible Amendments to Rules Governing Election Administration, Voter Registration, Petitions, Absentee Ballots, Presidential Nomination Primary, Voting System Testing, Optical Scan Voting Systems, Recounts, Election Judge Training Program, Ballot Preparation, and Redistricting, Minnesota Rules, Chapters 8200, 8205, 8210, 8215, 8220, 8230, 8235, 8240, 8250, and 8255
CAH 8-9019-39440; Revisor R-4824**

Dear Nicole Freeman, Lauren Bethke and Justin Erickson:

Enclosed herewith and served upon you is the **REPORT OF THE ADMINISTRATIVE LAW JUDGE** in the above-entitled matter. The Administrative Law Judge has determined there are no negative findings in these rules.

The Court of Administrative Hearings has closed this file and is returning the rule record so that the Minnesota Secretary of State's Office can maintain the official rulemaking record in this matter as required by Minn. Stat. § 14.365. Please ensure that the agency's signed order adopting the rules is filed with our Court. The Court of Administrative Hearings will request copies of the finalized rules from the Revisor's office following receipt of that order. Our Court will then file the adopted rules with the Secretary of State, who will forward one copy to the Revisor of Statutes, one copy to the Governor, and one to the agency for its rulemaking record. The Office of the Minnesota Secretary of State will then receive from the Revisor's office three copies of the Notice of Adoption of the rules.

The Office of the Minnesota Secretary of State's next step is to arrange for publication of the Notice of Adoption in the State Register. Two copies of the Notice of Adoption provided by the Revisor's office should be submitted to the State Register for

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publication. A permanent rule does not become effective until five working days after a Notice of Adoption is published in the State Register in accordance with Minn. Stat. § 14.18.

If you have any questions regarding this matter, please contact William Moore at (651) 361-7893, william.t.moore@state.mn.us or via facsimile at (651) 539-0310.

Sincerely,


CARA HUNTER
Legal Assistant

Enclosure

cc: Legislative Coordinating Commission
Revisor of Statutes

STATE OF MINNESOTA
COURT OF ADMINISTRATIVE HEARINGS
ADMINISTRATIVE LAW SECTION
PO BOX 64620
600 NORTH ROBERT STREET
ST. PAUL, MINNESOTA 55164

CERTIFICATE OF SERVICE

In the Matter of the Proposed Permanent Rules Relating to Election Administration, Minnesota Rules, 8200-8250	CAH Docket No. 8-9019-39440 Revisor R-4824
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On December 8, 2025, a true and correct copy of the REPORT OF THE ADMINISTRATIVE LAW JUDGE was served by electronic mail, unless otherwise indicated below, addressed to the following:

VIA EFILING ONLY

Nicole Freeman
Director of Government Relations
Minnesota Secretary of State's Office
332 Minnesota St, Ste N201
Saint Paul, MN 55101
nicole.freeman@state.mn.us

VIA EMAIL ONLY

Legislative Coordinating Commission
lcc@lcc.leg.mn

VIA EFILING ONLY

Lauren Bethke
Justin R. Erickson
Secretary of State's Office
Veterans Service Bldg Ste 210
20 W 12th St
Saint Paul, MN 55155
lauren.bethke@state.mn.us
justin.erickson@state.mn.us

VIA EMAIL ONLY

Ryan Inman
Office of the Revisor of Statutes
ryan.inman@revisor.mn.gov
jason.kuenle@revisor.mn.gov
cindy.maxwell@revisor.mn.gov
traci.olinger@revisor.mn.gov

STATE OF MINNESOTA
COURT OF ADMINISTRATIVE HEARINGS

In the Matter of the Possible Amendments to Rules Governing Election Administration, Voter Registration, Petitions, Absentee Ballots, Presidential Nomination Primary, Voting System Testing, Optical Scan Voting Systems, Recounts, Election Judge Training Program, Ballot Preparation, and Redistricting, Minnesota Rules, Chapters 8200, 8205, 8210, 8215, 8220, 8230, 8235, 8240, 8250, and 8255

**REPORT OF THE
ADMINISTRATIVE LAW JUDGE**

This matter came before Administrative Law Judge Eric L. Lipman for a rulemaking hearing on Friday, October 10, 2025. The public hearing was held by way of an interactive video and telephone conference on the WebEx platform.

The Office of the Minnesota Secretary of State (OSS or Agency) proposes to amend its rules relating to election administration. The proposed modifications – which cross ten separate chapters of *Minnesota Rules* – respond to recent legislative changes and suggestions from “election officials and citizens requesting changes to forms, instructions, and other items reflected in the rules.”¹

The hearing and this Report are part of a larger rulemaking process under the Minnesota Administrative Procedure Act.² The Minnesota Legislature has designed this process to ensure that state agencies have met all of the requirements that the Legislature has specified for adopting rules.

The hearing was conducted to permit Agency representatives and the Administrative Law Judge to hear public comment regarding the impact of the proposed rules and what changes might be appropriate. Further, the hearing process provides the general public an opportunity to review, discuss and critique the proposed rules.

The Agency must establish that the proposed rules are within the Agency’s statutory authority; necessary and reasonable; follow from compliance with the required procedures; and that any modifications that the Agency made after the proposed rules were initially published in the *State Register* are within the scope of the matter that was originally announced.³

¹ Hearing Exhibit (Ex.) 3 at 5 (SONAR).

² See Minn. Stat. §§ 14.131 through 14.20 (2024).

³ Minn. Stat. §§ 14.05, 14.23, 14.25 and 14.50 (2024).

The sole Agency panelist at the public hearing was Justin R. Erickson, the Agency's General Counsel.⁴

Approximately 60 people attended the hearing and signed the hearing register. The proceedings continued until all interested persons, groups or associations had an opportunity to be heard concerning the proposed rules. 11 members of the public made statements or asked questions during the hearing.⁵

After the close of the hearing, the Administrative Law Judge kept the rulemaking record open for another 20 calendar days – until October 30, 2025 – to permit interested persons and the Agency to submit written comments. Following the initial comment period, the hearing record was open an additional five business days so as to permit interested parties and the Agency an opportunity to reply to earlier-submitted comments.⁶ The hearing record closed on November 6, 2025.

SUMMARY OF CONCLUSIONS

The Agency has established that it has the statutory authority to adopt the proposed rules and that the proposed rules are needed and reasonable.

Based upon all the testimony, exhibits, and written comments, the Administrative Law Judge makes the following:

FINDINGS OF FACT

I. Regulatory Background to the Proposed Rules

1. The OSS maintains that the proposed amendments to the rules are intended to update and clarify administrative rules on election administration, implement procedural changes necessitated by statutory amendments, and ensure that current procedures are clearly stated in the Agency's rules.⁷

2. The OSS asserts that the proposed modifications are necessary to address changes in practice as well as circumstances that have arisen since the rules were last amended.⁸

II. Rulemaking Authority

3. The OSS points to 26 different statutes as authorizing changes to component pieces of its rulemaking package; specifically: Minn. Stat. §§ 201.121, subd. 3; 201.022, subd. 2; 201.061, subd. 3; 201.071, subd. 4; 201.091, subd. 4; 201.221, subd. 1; 201.221, subd. 2; 201.221, subd. 3; 203B.04, subd. 5(c); 203B.08, subd. 4; 203B.09; 203B.125; 204B.071(a); 204B.14, subd. 4; 204B.25, subd. 2; 204B.45, subd. 3; 204D.08,

⁴ See Hearing Recording, CAH Docket No. 8-9019-39440 (October 10, 2025).

⁵ *Id.*

⁶ See Minn. Stat. § 14.15, subd. 1 (2024).

⁷ Ex. 3 at 13.

⁸ *Id.*

subd. 1; 204D.11, subd. 1; 205.17, subd. 6; 205A.08, subd. 5; 206.57, subd. 1; 206.61, subd. 5; 206.81; 206.82, subd. 1; 206.84, subd. 3; and 207A.11(c) (2024).⁹

4. The Administrative Law Judge concludes that the Agency has the statutory authority to adopt rules governing election administration.¹⁰

III. Procedural Requirements of Chapter 14

A. Publications

5. On August 7, 2023, the Agency requested review and approval of its Additional Notice Plan. The Agency's Additional Notice Plan was approved on August 10, 2023.¹¹

6. On August 21, 2023, the Agency published in the *State Register* a Request for Comments seeking comments on "Election Administration, Voter Registration, Petitions, Absentee Ballots, Presidential Nomination Primary, Voting System Testing, Optical Scan Voting Systems, Recounts, Election Judge Training Program, Ballot Preparation, and Redistricting."¹²

7. On August 7, 2025, the Agency requested approval of its Notice of Intent to Adopt Rules With or Without a Hearing (Dual Notice). The Agency proposed to utilize the Additional Notice Plan that was approved on August 10, 2023.¹³

8. By way of an Order dated August 13, 2025, the undersigned Administrative Law Judge approved the Agency's Dual Notice and use of the August 10, 2023, Additional Notice Plan.¹⁴

9. The Dual Notice, published in the August 25, 2025, *State Register*, set September 26, 2025, as the deadline for comments or to request a hearing.¹⁵

10. On August 22, 2025, the Agency mailed a copy of the Dual Notice to all persons and associations who had registered their names with the Agency for the purpose of receiving such notice and to all persons and associations identified in the Additional Notice Plan.¹⁶

11. On August 22, 2025, the Agency mailed a copy of the Dual Notice and the statement of need and reasonableness (SONAR) to the chairs and ranking minority party

⁹ Ex. 3 at 8-12; see also Minn. Stat. § 14.14, subd. 1a (2024).

¹⁰ See Ex. 3 at 13

¹¹ Order on Review of Additional Notice Plan, CAH 65-9019-39440 (August 21, 2023); see generally Minn. R. 1400.2060, subp. 2(A) (2025).

¹² 48 *State Register* 171, 178 (August 21, 2023).

¹³ Request to review Dual Notice, CAH 8-9019-39440 (August 7, 2025).

¹⁴ Order Approving Dual Notice, CAH 8-9019-39440 (August 13, 2025).

¹⁵ 50 *State Register* 185, 189-224 (August 25, 2025).

¹⁶ Ex. 6.

members of the legislative policy and budget committees with jurisdiction over the administration of elections in Minnesota.¹⁷

12. On August 22, 2025, the Agency mailed a copy of the SONAR to the Legislative Reference Library to meet the requirement set forth in Minn. Stat. §§ 14.131 and 14.23.¹⁸

13. The Dual Notice identified the date and location of the hearing in this matter.¹⁹

14. At the hearing, the Agency formally introduced into the rulemaking record the hearing exhibits that it had e-filed on October 6, 2025. The exhibits included the documents required by Minn. R. 1400.2220 (2025).²⁰

B. Notice Practice

1. Notice to Stakeholders

15. Minn. Stat. §§ 14.131 and 14.23 (2024) requires that an agency include in its SONAR a description of its efforts to provide additional notification to persons or classes of persons who may be affected by the proposed rule; or alternatively, the agency must detail why these notification efforts were not made.

16. On August 22, 2025, the Agency provided the Dual Notice in the following manner, according to the Additional Notice Plan approved by the Court of Administrative Hearings:²¹

- (a) The Dual Notice was posted on the Agency's rulemaking webpage and the Agency has maintained these materials continuously since they were posted.²²
- (b) The Dual Notice was sent by first-class mail and electronic mail to the persons listed on the Agency's rulemaking list maintained under Minn. Stat. § 14.14, subd. 1a.²³
- (c) The Dual Notice was sent to stakeholders identified in its Additional Notice Plan.

¹⁷ Ex. 10.

¹⁸ Ex. 4.

¹⁹ Ex. 5.

²⁰ See Hearing Recording, OAH 8-9019-39440 (October 10, 2025).

²¹ The Court of Administrative Hearings was previously known as the Office of Administrative Hearings. The new name became effective August 1, 2025.

²² See <https://www.sos.mn.gov/about-the-office/rulemaking-data-practice/elections-rulemaking-2025-2026/> (last accessed December 1, 2025).

²³ Ex. 6.

17. The comment period on the proposed rules expired at 4:30 p.m. on September 26, 2025.²⁴

18. There are 36 days between August 22, 2025, and September 26, 2025.

19. The Administrative Law Judge concludes that the Agency fulfilled its responsibilities, under Minn. R. 1400.2080, subpart 6, to mail the Dual Notice “at least 33 days before the end of the comment period”

2. Notice to Legislators

20. Minn. Stat. § 14.116 requires the agency to send a copy of the notice of intent to adopt and the SONAR to certain legislators on the same date that it mails its notice of intent to adopt to persons on its rulemaking list and pursuant to its additional notice plan.²⁵

21. On August 22, 2025, the Agency sent a copy of the Dual Notice and the Statement of Need and Reasonableness to Legislators as required by Minn. Stat. § 14.116.²⁶

22. The Agency fulfilled its responsibilities, to mail the Dual Notice “at least 33 days before the end of the comment period”²⁷

3. Notice to the Legislative Reference Library

23. On August 22, 2025, the Agency mailed a copy of the SONAR to the Legislative Reference Library.²⁸

24. Minn. Stat. §§ 14.131 and 14.23 require the agency to send a copy of the SONAR to the Legislative Reference Library when the Notice of Intent to Adopt is mailed.

25. The Agency fulfilled its responsibilities, to mail the Dual Notice “at least 33 days before the end of the comment period”

C. Impact on Farming Operations

26. Minn. Stat. § 14.111 imposes additional notice requirements when the proposed rules affect farming operations. The statute requires that an agency provide a copy of any such changes to the Commissioner of Agriculture at least 30 days prior to publishing the proposed rules in the *State Register*.

²⁴ See *id.*

²⁵ Minn. Stat. § 14.116 (2024).

²⁶ Ex. 10.

²⁷ Minn. Stat. § 14.116 (2024).

²⁸ Ex. 4.

27. The proposed rules do not impose restrictions or have an impact on farming operations. The Agency was not required to notify the Commissioner of Agriculture.

D. Statutory Requirements for the SONAR

28. The Administrative Procedure Act obliges an agency adopting rules to address eight factors in its SONAR.²⁹ Those factors are:

- (1) a description of the classes of persons who probably will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule;
- (2) the probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues;
- (3) a determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule;
- (4) a description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule;
- (5) the probable costs of complying with the proposed rule, including the portion of the total costs that will be borne by identifiable categories of affected parties, such as separate classes of governmental units, businesses, or individuals;
- (6) the probable costs or consequences of not adopting the proposed rule, including those costs or consequences borne by identifiable categories of affected parties, such as separate classes of government units, businesses, or individuals;
- (7) an assessment of any differences between the proposed rule and existing federal regulations and a specific analysis of the need for and reasonableness of each difference; and,
- (8) an assessment of the cumulative effect of the rule with other federal and state regulations related to the specific purpose of the rule.

E. The Agency's Regulatory Analysis

- (1) **A description of the classes of persons who probably will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.**

²⁹ Minn. Stat. § 14.131 (2024).

29. The Agency asserts that the added clarity provided by its proposed rules will benefit three key classes of persons: eligible voters, election officials and the OSS itself. By sharpening language, conforming administration rules to current statutes and eliminating obsolete rules, the OSS hopes to reduce confusion around appropriate election practice and lower staff time spent on administration-related tasks.³⁰

(2) The probable costs to the Agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

30. The Agency does not project that implementation and enforcement of the proposed rules will result in additional costs to the OSS or any other state agency. This is because the OSS is now statutorily required to conduct training of election officials on appropriate and lawful election administration practice. The OSS asserts that if its revised and simplified rules are approved, these items would be taught in the training sessions that follow the effective date of those rules.³¹

(3) The determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

31. The Agency asserts that because most of the revisions in the proposed rules follow directly from changes in the underlying statutes, that a rulemaking to revise outdated administrative rules is the best, and only, method the agency has to achieve the purposes of the proposed rules.³²

(4) A description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule.

32. The OSS maintains that it surveyed the approaches of other states, and sought feedback from sister states, but concluded that those other methods would not be an appropriate substitute for the proposed rulemaking package. Further, the practices and approaches of other states, while edifying, would not address the objective of achieving conformity with recent statutory changes.³³

(5) The probable costs of complying with the proposed rule, including the portion of the total costs that will be borne by identifiable categories of affected parties, such as separate classes of governmental units, businesses, or individuals.

³⁰ Ex. 3 at 29.

³¹ *Id.* at 30.

³² *Id.* at 31.

³³ *Id.*

33. The Agency estimates that the proposed changes to the election administration rules would result in very modest costs for the counties, cities, townships, and school districts that administer elections. These local units of government will need to re-print forms and instructions to reflect the new rules. The OSS asserts that the impacts will be small because changes in these materials were obliged in 2023 and 2024, following legislative changes in those years.³⁴

(6) The probable costs or consequences of not adopting the proposed rule, including those costs borne by individual categories of affected parties, such as separate classes of governmental units, businesses, or individuals.

34. The Agency asserts that the probable costs and consequences of not adopting the proposed rule package is regulatory confusion resulting from seeming conflicts between Minnesota Statutes and the current election administration rules. These costs and consequences would fall to the public, eager for compliance with the law, and election administrators and OSS staff who are asked to provide direction in an environment with contradictory instructions.³⁵

(7) An assessment of any differences between the proposed rules and existing federal regulation and a specific analysis of the need for and reasonableness of each difference.

35. The OSS asserts that there are no federal regulations touching upon the “state-specific” matters addressed in the proposed rules. As a result, it maintains that “the proposed rules are not different [from], or potentially inconsistent [with], regulations under federal law.”³⁶

(8) An assessment of the cumulative effect of the rule with other federal and state regulations related to the specific purpose of the rule.

36. The Agency asserts that its principal regulatory purpose is to align the current election administration rules with the practices required by recently-revised state statutes – and the subject-matter of those changes are not addressed under federal law. For that reason, OSS maintains that the proposed rules do not add to the costs and burdens of complying with federal law.³⁷ That is, there is no cumulative effect of the rule with other federal and state regulations related to the specific purpose of the rule.

37. The Administrative Law Judge finds that the OSS has met its obligation to complete the eight assessments, set forth in Minn. Stat. § 14.131, in the text of its SONAR.³⁸

³⁴ *Id.*

³⁵ *Id.* at 32.

³⁶ *Id.*

³⁷ *Id.*

³⁸ Minn. Stat. § 14.131 (2024).

(9) Consultation with the Commissioner of Minnesota Management and Budget (MMB)

38. As required by Minn. Stat. § 14.131, by letter dated August 8, 2025, the OSS wrote to its Executive Budget Officer at Minnesota Management and Budget (MMB) with a request to evaluate the fiscal impact and benefit of its proposed rules on local units of government.³⁹

39. The Agency did not receive a reply to the request from MMB.⁴⁰

(10) Performance-Based Regulation

40. The Administrative Procedure Act also requires an agency to describe how it has considered and implemented the legislative policy supporting performance based regulatory systems. A performance-based rule is one that emphasizes superior achievement in meeting the agency's regulatory objectives and maximum flexibility for the regulated party and the Agency in meeting those goals.⁴¹

41. The OSS maintains that the proposed rule revisions meet the requirement for performance-based regulatory systems, because at the most-direct point of contact with a "regulated party," a Minnesota voter, the proposed rules include multiple methods for establishing compliance with the rules. The Agency asserts that its efforts to "reduce barriers for applicants and participants" is in line with the objectives of the performance-based regulatory requirements of Minn. Stat. § 14.002.⁴²

(11) Summary

42. The Administrative Law Judge finds that the Agency has met the requirements set forth in Minn. Stat. § 14.131, 14.23 for assessing the impact of the proposed rules, including consideration and implementation of the legislative policy supporting performance-based regulatory systems, and the fiscal impact on units of local government.

F. Cost to Small Businesses and Cities under Minn. Stat. § 14.127

43. Minn. Stat. § 14.127, requires the Agency to "determine if the cost of complying with a proposed rule in the first year after the rule takes effect will exceed \$25,000 for: (1) any one business that has less than 50 full-time employees; or (2) any one statutory or home rule charter city that has less than ten full-time employees." The Agency must make this determination before the close of the hearing record, and the Administrative Law Judge must review the determination and approve or disapprove it.⁴³

³⁹ Ex. 12.

⁴⁰ Compare *id* with Ex. 3 at 37-38.

⁴¹ See Minn. Stat. §§ 14.002 and 14.131 (2024).

⁴² Ex. 3 at 37.

⁴³ Minn. Stat. § 14.127, subds. 1 and 2 (2024).

44. The Agency determined that the cost of complying with the proposed rules – specifically, the modest printing costs incurred to comply with the proposed rules – will not exceed \$25,000 for any business or any statutory or home rule charter city.⁴⁴

45. The Administrative Law Judge finds that the Agency has made the determinations required by Minn. Stat. § 14.127 and approves those determinations.

G. Adoption or Amendment of Local Ordinances

46. Under Minn. Stat. § 14.128, the agency must determine if a local government will be required to adopt or amend an ordinance or other regulation to comply with a proposed agency rule. The agency must make this determination before the close of the hearing record, and the Administrative Law Judge must review the determination and approve or disapprove it.⁴⁵

47. The Agency concluded that no local government would need to adopt or amend an ordinance or other regulation to comply with the proposed rules. The Agency's proposed rules do not require local governments to adopt or amend those more general ordinances and regulations.⁴⁶

48. The Administrative Law Judge finds that the Agency has made the determination required by Minn. Stat. § 14.128 (2024) and approves that determination.

IV. Rulemaking Legal Standards

49. The Administrative Law Judge must make the following inquiries: Whether the agency has statutory authority to adopt the rule; whether the rule is unconstitutional or otherwise illegal; whether the agency has complied with the rule adoption procedures; whether the proposed rule grants undue discretion to government officials; whether the rule constitutes an undue delegation of authority to another entity; and whether the proposed language meets the definition of a rule.⁴⁷

50. Under Minn. Stat. § 14.14, subd. 2, and Minn. R. 1400.2100, the agency must establish the need for, and reasonableness of, a proposed rule by an affirmative presentation of facts. In support of a rule, the agency may rely upon materials developed for the hearing record,⁴⁸ "legislative facts" (namely, general and well-established

⁴⁴ Ex. 3 at 38.

⁴⁵ Minn. Stat. § 14.128, subd. 1. Moreover, a determination that the proposed rules require adoption or amendment of an ordinance may modify the effective date of the rule, subject to some exceptions. Minn. Stat. § 14.128, subs. 2 and 3 (2024).

⁴⁶ Ex. 3 at 38.

⁴⁷ See Minn. R. 1400.2100 (2017).

⁴⁸ See *Manufactured Housing Institute v. Pettersen*, 347 N.W.2d 238, 240 (Minn. 1984); *Minnesota Chamber of Commerce v. Minnesota Pollution Control Agency*, 469 N.W.2d 100, 103 (Minn. Ct. App. 1991).

principles, that are not related to the specifics of a particular case, but which guide the development of law and policy),⁴⁹ and the agency's interpretation of related statutes.⁵⁰

51. A proposed rule is reasonable if the agency can "explain on what evidence it is relying and how the evidence connects rationally with the agency's choice of action to be taken."⁵¹ By contrast, a proposed rule will be deemed arbitrary and capricious where the agency's choice is based upon whim, devoid of articulated reasons or "represents its will and not its judgment."⁵²

52. An important corollary to these standards is that when proposing new rules, an agency is entitled to make choices between different possible regulatory approaches so long as the alternative that is selected by the agency is a rational one.⁵³ Thus, while reasonable minds might differ as to whether one or another particular approach represents "the best alternative," the agency's selection will be approved if it is one that a rational person could have made.⁵⁴

53. Several sections of the proposed rules were not opposed by any member of the public and were adequately supported by the SONAR. Accordingly, this Report will not address each comment or rule part. Rather, the discussion that follows below focuses on those portions of the proposed rules as to which commentators prompted a genuine dispute as to the reasonableness of the Agency's regulatory choice or otherwise requires closer examination.

54. The Administrative Law Judge finds that the Agency has demonstrated by an affirmative presentation of facts the need for and reasonableness of all rule provisions that are not specifically addressed in this Report.

55. Further, the Administrative Law Judge finds that all provisions that are not specifically addressed in this Report are authorized by statute and that there are no other defects that would bar the adoption of those rules.

⁴⁹ Compare generally, *United States v. Gould*, 536 F.2d 216, 220 (8th Cir. 1976).

⁵⁰ See *Mammenga v. Agency of Human Services*, 442 N.W.2d 786, 789-92 (Minn. 1989); *Manufactured Hous. Inst.*, 347 N.W.2d at 244.

⁵¹ *Manufactured Hous. Inst.*, 347 N.W.2d at 244.

⁵² See *Mammenga*, 442 N.W.2d at 789; *St. Paul Area Chamber of Commerce v. Minn. Pub. Serv. Comm'n*, 251 N.W.2d 350, 357-58 (Minn. 1977).

⁵³ *Peterson v. Minn. Dep't of Labor & Indus.*, 591 N.W.2d 76, 78 (Minn. Ct. App. 1999).

⁵⁴ *Minnesota Chamber of Commerce*, 469 N.W.2d at 103.

V. Analysis of Initial Proposals

A. Minn. R. 8210.0600

57. Tom Lopac expressed concern about the proposed deletion of the requirement that witnesses who authenticate a voter's absentee ballot materials provide their address. By reducing the amount of information that could verify a witness's claim on the absentee ballot, Mr. Lopac regarded this change as one that impaired the "integrity[] and transparency of the voting process in Minnesota."⁵⁵

58. In its SONAR, the Agency details both the 2024 amendments to Minn. Stat. § 203B.07, subd. 3 (2024) and its slimming of the instructions to voters that appears on the back of the "signature envelope" in the absentee ballot packet:

In subparts 1a and 1b, the [OSS] proposes to remove the field for the witness' [sic] street address and clarify that the witness' [sic] title is only required if the witness is an authorized official or notary. Under previous law, and in the current rules, only a registered voter could serve as a witness for an absentee ballot and the witness address was needed to in order to verify the witness was a registered Minnesota voter. However, in 2024, Minnesota Statutes section 203B.07, subdivision 3 was amended so that any U.S. citizen at least 18 years or older can be an eligible witness. Consequently, a witness no longer needs to provide their address to establish they are a Minnesota registered voter. These changes are reasonable and necessary to ensure the instructions that accompany an absentee ballot accurately reflect Minnesota law and to streamline the statement process.⁵⁶

59. Because of the utility of having witness address information during any later effort to verify that an appropriately-aged witness completed the declaration, the Administrative Law Judge initially wondered whether the agency had supported its proposed deletion by an affirmative presentation of facts.⁵⁷

60. Yet, it is also true that Minn. Stat. § 203B.09 (2024) grants to the Secretary of State very broad powers to develop the "form" and "content" of absentee ballot materials, so long as he does not contradict a state statute or constitutional guarantees when promulgating those rules. The delegation of rulemaking authority provides:

The secretary of state shall adopt rules establishing the form, content, and type size and style for the printing of blank applications for absentee ballots, absentee voter lists, return envelopes, certificates of eligibility to vote by absentee ballot, ballot envelopes and directions for casting an absentee ballot.⁵⁸

⁵⁵ Comments of Tom Lopac at 1-2 (Sept. 5, 2025).

⁵⁶ Ex. 3 at 20.

⁵⁷ See *generally* Minn. Stat. § 14.50 (2024).

⁵⁸ See Minn. Stat. § 203B.09 (emphasis added).

61. Given the breadth of the delegation of rulemaking authority, and the clear legislative purpose in granting wide editorial powers over absentee ballot materials to the Secretary of State, the Administrative Law Judge concludes that the proposed revisions in Minn. R. 8210.0600 are authorized, needed and reasonable.

VI. Analysis of Modifications Proposed After Publication in the *State Register*

62. Because the Agency suggested changes to the proposed rule language after the date it was originally published in the *State Register*, it is also necessary for the Administrative Law Judge to determine if this new language is substantially different from that which was originally proposed.

63. On November 6, 2025, in its post-hearing rebuttal comments, the Agency detailed the revisions it would make to the proposed rules in response to the stakeholder feedback during the rulemaking hearing and post-hearing comment period.⁵⁹

64. The standards to determine whether any changes to proposed rules create a substantially different rule are found in Minn. Stat. § 14.05, subd. 2. The statute specifies that a modification does not make a proposed rule substantially different if:

- (1) “the differences are within the scope of the matter announced . . . in the notice of hearing and are in character with the issues raised in that notice”;
- (2) the differences “are a logical outgrowth of the contents of the . . . notice of hearing, and the comments submitted in response to the notice”; and
- (3) the notice of hearing “provided fair warning that the outcome of that rulemaking proceeding could be the rule in question.”

65. In reaching a determination regarding whether modifications result in a rule that is substantially different, the Administrative Law Judge is to consider whether:

- (1) “persons who will be affected by the rule should have understood that the rulemaking proceeding . . . could affect their interests”;
- (2) the “subject matter of the rule or issues determined by the rule are different from the subject matter or issues contained in the . . . notice of hearing”; and
- (3) “the effects of the rule differ from the effects of the proposed rule contained in the . . . notice of hearing.”⁶⁰

⁵⁹ Agency Rebuttal Comments (Nov. 6, 2025).

⁶⁰ See Minn. Stat. § 14.05, subd. 2 (2024).

A. Minn. R. 8200.5100 and Minn. R. 8200.9310

66. In response to comments from Senator Liz Boldon, the OSS proposes to amend Rule 8200.5100 to read as follows:

A registered voter may ~~change~~ update the information on record on election day at the polling place of the precinct in which the voter now resides.

67. Similarly, the OSS proposes to revise proposed rule 8200.9310 as follows:

A voter with an active voter registration may ~~change~~ update the information on record by submitting a voter registration application meeting all the requirements ~~for a new voter registration application~~ of Minnesota Statutes, section 201.071, subdivision 1.⁶¹

68. In its SONAR, the OSS explained that the changes follow from 2025 amendments to Minn. Stat. 201.054 (2024). The amendments provided that previously registered voters could “update” their registration detail without undertaking a wholly new voter registration application.⁶²

69. The Agency asserts that its proposed revisions more clearly identify the process for voters to undertake and that the requirements for updating a registration are easier than, but similar to, completing an entirely new registration.⁶³

70. This revision of the text is needed and reasonable and would not be a substantial change from the rule as originally proposed.

B. Minn. R. 8200.9115

71. At the suggestion of Dakota County Elections Director Michelle Blue, the OSS proposes modifying the proposed rule to read:

A similar indicator must be printed on the line or included in the field provided for the voter’s signature to note a voter’s guardianship or felony incarceration status, if any.⁶⁴

72. As the OSS explains, polling place rosters contain information on felony incarceration status because those who are incarcerated for felony crimes are ineligible to vote. See Minn. Stat. § 201.014, subd. 2a. Addition of the qualification “felony” to incarceration clarifies that some incarcerated prisoners are eligible to vote in Minnesota.⁶⁵

⁶¹ Agency Rebuttal Comments at 28.

⁶² *Id.*; see also 2025 Minn. Laws ch. 39, Art. 8, § 1.

⁶³ Agency Rebuttal Comments at 28.

⁶⁴ *Id.* at 29.

⁶⁵ *Id.*; see also 2023 Minn. Laws ch. 12.

73. This revision of the text is needed and reasonable and would not be a substantial change from the rule as originally proposed.

C. Minn. R. 8200.9300

74. Among the suggestions made by the League of Women Voters (LWV), was the suggestion to clarify whether the ballot counting practices in the proposed rule apply to both the ballots cast at a local precinct and absentee ballots submitted to voting centers before election day.⁶⁶

75. The OSS intends for the process in proposed rule 8200.9300 to apply only to the tabulation of ballots at polling places on election day. To clarify this intention, the OSS proposes modifying rule language as follows:

With regard to ballots cast at polling places on election day, the election judges shall determine the number of ballots to be counted by adding the number of return envelopes from accepted absentee ballots to comparing the number of ballots with the number of voter's receipts issued pursuant to Minnesota Statutes, section 204C.10, subdivision 2, or to the number of names signed on the polling place roster.⁶⁷

76. The clarifying revisions are needed and reasonable and would not be a substantial change from the rule as originally proposed.

D. Minn. R. 8200.9950

77. Among the comments submitted by State Senators Boldon, Carlson, Cwodzinski, Marty Port and Westlin, was the suggestion to revise the form of the affidavit required by Minn. Stat. § 201.195, to include a demand that the affidavit be notarized.⁶⁸

78. The OSS asserts that a notarization requirement is not required by statute and the affidavit required by section 201.195 “has never been required to be notarized.”⁶⁹

79. Notwithstanding the Agency’s disagreement with the Senators’ regulatory approach, it shares the Senators’ goal of “reinforc[ing] the importance that the statements made in this form must be truthful and accurate.” It proposes modifying proposed Minn. R. 8200.9950 as follows:

I swear or affirm that ~~I~~this challenge is based on my personal knowledge, and ~~that~~ I have exercised due diligence to personally verify the facts and circumstances establishing the basis for the challenge.

⁶⁶ Comments of the League of Women Voters at 1 (Oct. 30, 2025); see *also* Minn. Stat. § 203B.121 (2024).

⁶⁷ Agency Rebuttal Comments at 25-26.

⁶⁸ Comments of Majority Members of the Senate Elections Committee at 2 (Oct. 30, 2025).

⁶⁹ Agency Rebuttal Comments at 26.

80. This revision of the text is needed and reasonable and would not be a substantial change from the rule as originally proposed.

E. Minn. R. 8210.0500

81. Several commentors, both inside and outside the Minnesota Legislature, expressed concern with the potential excision of the term “group home” from proposed rule 8210.0500. They asserted that the rule as revised would not be sufficiently clear as to who would be eligible to use vouching procedures for voters living “in a residential facility.”⁷⁰

82. Minn. Stat. § 201.061, subd. 3(c) (2024), lists thirteen different types of entities that qualify as “residential facilities.”⁷¹

83. The OSS asserts that for the purposes of readability, it did not include each of those facility types in either the proposed rule or the resulting absentee balloting instructions to voters.⁷²

84. Additionally, the OSS maintains that it originally proposed removing the term “group home” from Minn. R. 8210.0500 because it was not a term defined in statute. It replaced that term with “assisted living facility,” because those entities are defined at Minn. Stat. § 144G.08, subd. 7 (2024).⁷³

85. While declining the invitation to modify Minn. R. 8210.0500 as requested, the Agency shares the stakeholders’ concerns about appropriately directing absentee voters to authoritative answers on voting procedures. Accordingly, the OSS further proposes to modify the proposed rule to read:

Vouching for residents of certain residential facilities: the signature of an employee of your residential facility. The employee must complete and sign the voucher form on the back of the voter registration application. ~~including nursing homes, group homes assisted living facilities, battered women's domestic abuse victim shelters, homeless shelters, etc. A comprehensive list of residential facilities eligible for this form of vouching is located in Minnesota Statutes section 201.061, subdivision 3 and is available at mnvotes.gov/residential-facility.~~ If you are not sure if the residential facility where you live is eligible, call your local election official. ~~The employee must complete and sign the voucher form on the back of the voter registration application.~~⁷⁴

⁷⁰ See e.g., Comments of Majority Members of the Senate Elections Committee at 2 (Oct. 30, 2025); Comments from the Minnesota Council on Disability, at 1-2 (Oct. 29, 2025).

⁷¹ Minn. Stat. § 201.061, subd. 3(c); Agency Rebuttal Comments at 4.

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *Id.*

86. This revision of the text is needed and reasonable and would not be a substantial change from the rule as originally proposed.

87. At the suggestion of Senator Boldon, the OSS proposes to further modify rule 8210.0500 as follows:

The instructions shall be in the form in subparts 2, 3, or 4 or 5 and 6, except that jurisdictions may substitute the deadline for agent delivery of ballots from 5:00 p.m. to 8:00 p.m. for those individuals voting pursuant to Minnesota Statutes section 203B.11.⁷⁵

88. While the legislature modified the deadline for in-person delivery of absentee ballots for most voters from 8:00 p.m. to 5:00 p.m., it did not modify the 8:00 p.m. deadline for voters who are hospital patients or residents of health care facilities.⁷⁶

89. At the suggestion of Max Hailperin, the OSS proposes to further modify Minn. R. 8210.0500 as follows:

You may provide ~~both~~ more than one numbers if you are unsure what you provided on your absentee ballot application.⁷⁷

90. Overseas voters have the option of submitting up to three identifying numbers: their Minnesota driver's license - state identification card number; the last four digits of their Social Security Number; or their passport number.⁷⁸

91. Revising the rule text to reflect the statutorily authorized options for delivery of absentee ballots and verifying an absentee voter's identity is needed and reasonable and would not result in a substantial change from the rule as originally proposed.

F. Print Disability Language in Minn. R. 8210.0500, 8210.3000 and 8215.0500

92. In response to comments from Senator Boldon, the OSS proposes modifying the location of the instructions for voters with a print disability who wish to request a ballot in an accessible format. These instructions are identical for: (1) registered voters completing an absentee ballot; (2) nonregistered voters completing an absentee ballot; (3) military and overseas voters transmitting ballots by mail; (4) military and overseas voters transmitting ballots electronically; (5) voters completing mail ballots; and (6) voters completing mail ballots in the presidential nomination primary. The OSS proposes moving these instructions on the information sheet provided to absentee voters, so that the language in each of these sections reads:

If you have a disability or cannot mark your ballot, your witness may assist you by marking your ballot at your direction, assembling the materials, and

⁷⁵ *Id.* at 29.

⁷⁶ See 2025 Minn. Laws ch. 39, Art 8, § 30.

⁷⁷ Agency Rebuttal Comments at 30.

⁷⁸ Minn. Stat. § 203B.21, subd. 3 (2024).

filling out the forms for you. If you have a print disability, you may request that ballots, instructions, and a certificate of voter eligibility be transmitted electronically in an accessible format by contacting your county election office auditor. If you request a ballot be transmitted electronically in an accessible format, you may then complete your ballot electronically but must print your voted ballot and return this ballot and completed certificate of voter eligibility to your local county election office.

93. Following the adjustment, the print disability instructions would occupy a more prominent location on the information sheet, directly below the subheading “If you have a disability.”⁷⁹

94. In addition, the OSS proposes changing “county auditor” in the second line of this instruction to “county election office” and “local election office” to “county election office” in the last line of this instruction.⁸⁰

95. Revising the rule text to reposition information for disabled voters, and use consistent terminology in the text, is needed and reasonable and would not result in a substantial change from the rule as originally proposed.

G. Minn. R. 8210.2400

96. In response to a comment from the Minnesota Association of County Officers, the OSS proposes adding the language “between the absentee ballot signature envelopes and the record required by this rule,” so that subpart D of the proposed Minn. R. 8210.2400 reads as follows:

When the ballot board opens accepted return signature envelopes pursuant to Minnesota Statutes, section 203B.121, subdivision 4, all absentee ballot return envelopes retained by the county auditor or municipal clerk shall be removed from the place of safekeeping and compared with the record required by this rule to ensure that all envelopes are accounted for. Any discrepancy shall be reported to the secretary of state promptly they must comply with the provisions of that subdivision and report any discrepancy between the absentee ballot signature envelopes and the record required by this rule to the secretary of state promptly.⁸¹

97. Prior versions of Minn. R. 8210.2400 maintained the requirement that local absentee ballot boards need only to report to the OSS discrepancies between the number of signature envelopes and the number of absentee ballots that cannot be resolved by the ballot board.⁸²

⁷⁹ Agency Rebuttal Comments at 30-31.

⁸⁰ *Id.* at 31.

⁸¹ *Id.*

⁸² *Id.* at 32.

98. The OSS states that while it intends the revised rule to have the same reach, it concedes that its earlier amendments could fairly be read to expand those reporting requirements, which was not the Agency's intent.⁸³

99. Revising the rule text to clearly describe statutory duties, is needed and reasonable and would not result in a substantial change from the rule as originally proposed.

H. Minn. R. 8210.2500

100. A number of commentators, including State Senators Bahr, Koran, Limmer and Lucero, expressed concern that the "mail pickup" provisions of the proposed rule could be read to authorize the receipt and counting of absentee ballots that were received after 8:00 p.m. on election day.⁸⁴

101. Disclaiming such an intent, the OSS proposes to further clarify Minn. R. 8210.0500, by inserting the 8:00 p.m. limitation found in Minn. Stat. § 203B.08, subd. 3:

Absentee ballots returned by mail delivery and received after 8:00 p.m. on election day shall be marked as received late by the county auditor or municipal clerk, and must not be delivered to the ballot board.⁸⁵

102. Revising the rule text to clearly state the statutory deadline for receipt of absentee ballots, is needed and reasonable and would not result in a substantial change from the rule as originally proposed.

I. Minn. R. 8210.2700

103. Daniel Passer opposed deletion of the reference to Minn. Stat. § 203B.24 from proposed rule 8210.2700 on the grounds that the statute is relevant to the administration of the county auditor's duties under the rule.⁸⁶

104. Agreeing that the proposed deletion of the citation was inappropriate, the OSS further proposes changing subpart 1 of the rule to read:

If Federal Post Card Application was received. If a voter submits a Federal Write-in Absentee Ballot for which a Federal Post Card Application was received, the county auditor must accept or reject the ballot in accordance with Minnesota Statutes, section 203B.23 and 203B.24 ~~and 203B.25~~.⁸⁷

⁸³ *Id.*

⁸⁴ See Comments of Minority Members of the Senate Elections Committee at 1 (Oct. 27, 2025).

⁸⁵ Agency Rebuttal Comments at 14-15.

⁸⁶ Comment of Daniel Passer (Oct. 30, 2025).

⁸⁷ Agency Rebuttal Comments at 6-7.

105. Restoring the current rule language is, in this instance, needed and reasonable and would not result in a substantial change from the rule as originally proposed.

J. Minn. R. 8215.0200

106. Commentators Joe Richardson and Scott Coggins each urged that the phrase “for each office” be removed from the required voting instructions on the grounds that the ballots described in this rule relate only to the presidential nominating primary, which contains a single office.⁸⁸

107. The OSS concurs and further proposes to modify the first sentence of subpart 5 of the rule as follows:

If a party chair has requested that its party ballot contain a place for write-in candidates, below the name of the last candidate ~~for each office~~ shall be placed a blank line, and on the blank line the voter may write the name of persons not printed on the ballot for whom the voter desires to vote.⁸⁹

108. Revising the rule text to clearly describe the statutory limits on particular balloting procedures, is needed and reasonable and would not result in a substantial change from the rule as originally proposed.

K. Minn. R. 8215.0400

109. On its own initiative, following the initial publication of the proposed rules in the *State Register*, the Office has proposed additional revisions to Minn. R. 8215.0400:

~~Until the close of business on the seventh 19th day before the election, a voter may change the voter's choice of which major political party ballot the voter wishes to receive by spoiling the voter's ballot and submitting an application indicating the major political party ballot the voter is requesting. A voter who has returned a ballot may change the voter's choice of which major political party ballot the voter wishes to receive by spoiling the voter's ballot and submitting a new application indicating the major political party ballot the voter is requesting until the close of business on the 19th day before the election.~~⁹⁰

110. The OSS maintains that its earlier proposal did not sufficiently delineate between a voter's opportunity to change an absentee ballot that has been remitted to election officials, from that which has been completed by the voter, but not yet surrendered. Chapter 203B provides different opportunities for those two different categories of absentee voters.⁹¹

⁸⁸ *Id.* at 10.

⁸⁹ *Id.*

⁹⁰ *Id.* at 32.

⁹¹ *Id.*

111. As the agency explains in its post-hearing comments, after the close of business on the 19th day before an election, absentee ballot boards may open the accepted signature envelopes, remove the ballots, and deposit these ballots into the appropriate ballot box. Once the ballot is deposited into the ballot box, it is no longer identifiable or retrievable and therefore cannot be “spoiled.” The voter does not have an opportunity to “spoil” the deposited ballot and request a new one. Voters who have not yet returned their ballot, however, retain the option of spoiling it and obtaining a new one.⁹²

112. The OSS expressed concern that their initial proposal could have been read to prohibit voters who had not yet returned their ballot from spoiling their ballot after the close of business on the 19th day before the election. Such a reading does not reflect the underlying statute or the agency’s regulatory objectives.⁹³

113. Revising the rule text to clearly describe the statutory limits on particular balloting procedures, is needed and reasonable and would not result in a substantial change from the rule as originally proposed.

Based upon the Findings of Fact and the contents of the rulemaking record, the Administrative Law Judge makes the following:

CONCLUSIONS

1. The Agency gave notice to interested persons in this matter.
2. The Administrative Law Judge concludes that the Agency has fulfilled its additional notice requirements.
3. The Agency has fulfilled the procedural requirements of Minn. Stat. § 14.14 and all other procedural requirements of law or rule.
4. The Agency has demonstrated its statutory authority to adopt the proposed rules and has fulfilled all other substantive requirements of law or rule within the meaning of Minn. Stat. §§ 14.05, subd. 1; 14.15, subd. 3; and 14.50 (i) and (ii) (2024).
5. The Dual Notice, the proposed rules and SONAR complied with Minn. R. 1400.2080, subp. 5 (2025).
6. The Agency has demonstrated the need for and reasonableness of the proposed rules by an affirmative presentation of facts in the record within the meaning of Minn. Stat. §§ 14.14 and 14.50.
7. As part of the public comment process, a number of stakeholders urged the Agency to adopt other revisions to Rule Chapters 8200, 8205, 8210, 8215, 8220, 8230, 8235, 8240, 8250, and 8255. In each instance, the Agency’s rationale in accepting or

⁹² *Id.*; Minn. Stat. 203B.121, subd. 4 (2024).

⁹³ Agency Rebuttal Comments at 32; Minn. Stat. 203B.121, subd. 4 (2024).

declining to make the requested revisions to its rules was appropriately grounded in the rulemaking record and a reasonable exercise of its rulemaking authority.

8. The modifications to the proposed rules suggested by the Agency after publication of the proposed rules in the *State Register* are not substantially different from the proposed rules as published in the *State Register* within the meaning of Minn. Stat. §§ 14.05, subd. 2, and 14.15, subd. 3.

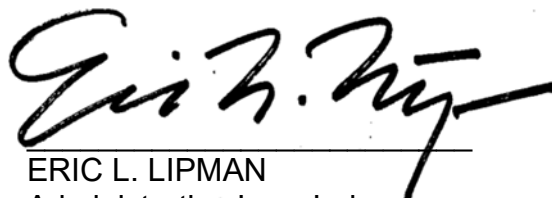
9. A Finding or Conclusion of need and reasonableness with regard to any particular rule subsection does not preclude, and should not discourage, the OSS from further modification of the proposed rules – provided that the rule finally adopted is based upon facts appearing in this rule hearing record.

10. Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS HEREBY RECOMMENDED that the proposed amended rules be adopted.

Dated: December 8, 2025


ERIC L. LIPMAN
Administrative Law Judge

NOTICE

This Report must be available for review to all affected individuals upon request for at least five working days before the agency takes any further action on the rules. The agency may then adopt the final rules or modify or withdraw its proposed rule. If the agency makes any changes in the rule, it must submit the rule to the Chief Administrative Law Judge for a review of the changes prior to final adoption. Upon adoption of a final rule, the agency must submit a copy of the Order Adopting Rules to the Chief Administrative Law Judge. After the rule's adoption, the CAH will file certified copies of the rules with the Secretary of State. At that time, the agency must give notice to all persons who requested to be informed when the rule is adopted and filed with the Secretary of State.