**[New in 2019] You will find two SONAR forms in this year’s Manual. You will need to read them together. This one (SONAR) remains the traditional annotated explanation of how to develop your SONAR using the SONAR form. The second version is the newly added, fully accessible SONAR–TEMPLATE. The Annotated form contains the usual advice and tips you rely on. SONAR–TEMPLATE is a bare-bones outline designed for you to insert your own content, sparing you from having to delete the instructions and reformat it. It also uses a different typeface, which you are free to adopt or revert to the customary Times New Roman, if you prefer. As usual, this addition will evolve over time so please let us know how this works.**

[**Important Note about Writing a SONAR:** In writing a SONAR, the bottom line is that you must meet all statutory requirements. Other important goals include making the SONAR easy to read and persuasive to your audience, especially the ALJ. This means you have considerable writer’s license in how you structure and write the SONAR. This form should serve as a checklist, not as a rigid formula. So, feel free to move sections around, combine or split sections, and write your arguments in a way that best suits your rules.]

[At the bottom of each page, print a footer with the date of the draft. This is a good idea because somewhere between the third and thirteenth draft, you will lose track of what you did when. The footer should be in the general form: “[Topic] SONAR Draft Dated [MM/DD/YR] - Page #.” When your SONAR is finished, you should still have a footer with the topic and page #, but you can delete the word “Draft” and the date.]

**Minnesota Department of [Name]**

# STATEMENT OF NEED AND REASONABLENESS

**Proposed [Amendment to] [Repeal of] Rules Governing [Topic], Minnesota Rules, [citation]; Revisor’s ID Number [number]**

INTRODUCTION

[Briefly describe the subject matter of the proposed rules and relevant history, such as the process that your agency used to draft the rules (Request for Comments, use of advisory committees, public meetings, etc.).]

[The Introduction should be written for a reader who knows very little about the agency and nothing about this set of rules. This does not need to be an in-depth history of the agency and need for the rules, but it should be enough to orient the ALJ to the agency and the rules. If information generally relates to all parts of the rules, mention it in the Introduction. If you have important, but lengthy, background information about the need for or reasonableness of the rules, you might want to create a separate section of the SONAR to present it. Also, if your rules are especially comprehensive and technical, introducing them with an executive summary might be wise, but make sure the summary helps the reader and does not merely bog the SONAR down by adding redundant text. If information is specific to one portion of the rules, mention it in the Rule-by-Rule Analysis.]

**ALTERNATIVE FORMAT**

Upon request, this information can be made available in an alternative format, such as large print, braille, or audio. To make a request, contact [name] at [agency, address, phone, and fax].

- [For information on what to do if you get a request to make the SONAR available in an alternative format, see **ACCMMDTN** in the appendix.]

**STATUTORY AUTHORITY**

[Reminder: review the discussion in the Manual in section 3.1.3 about the 18-month time limit on the use of new statutory authority, per Minnesota Statutes, section 14.125. Note that section 14.125 permits the subsequent amendment or repeal of rules where the statutory authority was first used within the time limit. Also, per Minnesota Laws 1995, chapter 233, article 2, section 58, this time limit applies only to statutory authority enacted after January 1, 1996. Check to make sure that your authority to adopt the rules has not expired per section 14.125 and then, as part of your discussion of statutory authority, include reasons why section 14.125 does not apply. Also, include a statement similar to either: [All sources of statutory authority were adopted and effective before January 1, 1996 and have not been revised by the Legislature since then, and so Minnesota Statutes, section 14.125, does not apply.] See Minnesota Laws 1995, chapter 233, article 2, section 58. [OR] This rulemaking is [an amendment/a repeal] of rules for which the Legislature has not revised the statutory authority since and so Minnesota Statutes, section 14.125, does not apply.]]

The Department’s statutory authority to adopt the rules is stated in Minnesota Statutes section [section #], which provides: [Quote the statute].

[If your statutory authority is complex or has a lengthy history, you need to spell that out explicitly. This will save you money if you shorten the time that OAH needs for reviewing your authority.]

Under [this statute/these statutes], the Department has the necessary statutory authority to adopt the proposed rules.

**REGULATORY ANALYSIS**

[Note: you may want to do the Regulatory Analysis as a single section of your SONAR (as is shown here) or you may want to do the required analyses separately for each rule requirement in the Rule-by-Rule Analysis section of the SONAR. Or, you may choose some combination of these two approaches.]

Minnesota Statutes, section 14.131, sets out eight factors for a regulatory analysis that must be included in the SONAR. Paragraphs (1) through (8) below quote these factors and then give the agency’s response. [Note: it is important to discuss each of the factors and sub-factors, so the following format is set out very basically to ensure that this is done.] [Note: you must include the following to the extent you, through reasonable effort, can ascertain this information. If you cannot ascertain the information through reasonable effort, you have to explain the effort you made to obtain the information.]

**“(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”**

[Describe:

• the classes of affected persons;

• those that will bear the costs of the proposed rule; and

• those 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”**

[Estimate:

• the probable costs to the agency of implementation and enforcement;

• the probable costs to any other agency of implementation and enforcement; 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”**

[Determine whether the purpose of the proposed rule can be achieved through:

• less costly methods; or

• less intrusive methods.]

**“(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”**

[Describe:

• any alternative methods for achieving the purpose of the proposed rule that were seriously considered; 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”**

[Estimate:

• the probable costs of complying with the proposed rule; and

• the portion of costs to be borne by identifiable categories of affected parties.]

**“(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”**

[Estimate:

• the probable costs or consequences of not adopting the proposed rules; and

• the portion of those costs or consequences borne by identifiable categories of affected parties.]

**“(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”**

[Describe:

• any differences between the proposed rule and existing federal regulations; and

• the need for and reasonableness of each difference.]

**“(8) an assessment of the cumulative effect of the rule with other federal and state regulations related to the specific purpose of the rule. . . . ‘[C]umulative effect’ means the impact that results from incremental impact of the proposed rule in addition to other rules, regardless of what state or federal agency has adopted the other rules. Cumulative effects can result from individually minor but collectively significant rules adopted over a period of time.”**

[Describe the collective regulatory results from adding the incremental impact of the proposed rule to other state and federal rules related to the same specific purpose.]

Editor’s note: At the time of this edit, the agencies do not have enough experience with this provision to know what works for sure.

The Editor recommends you elaborate as best you can to show thoughtful analysis.

Here’s an example from the Minnesota Pollution Control Agency’s SONAR for the Clean Water Partnership (CWP) rules.

“The primary objective of this rulemaking is to streamline the existing administrative process for obtaining grant funding for nonpoint source pollution sources. Initiation of the streamlining is made possible as a result of statutory revisions per *Laws 2011, chapter 107, sections 53 through 64*.”

“The CWP is not, by nature, a regulatory program designed to regulate “numerical effluent limits” of nonpoint source pollution activities. Chapter 7076 *“provides for the administration of the state clean water partnership financial assistance program and the federal nonpoint source management program”*. The proposed rule revisions benefit local units of government by assisting them with a streamlined process to obtain state CWP funding in dealing with local nonpoint source pollution issues. MPCA believes that local units of government will find that this proposed rule is not a burden, as it provides local financial, economic and water quality benefit.

“The state and federal programs generally do not overlap and are considered to complement each other as each focuses on funding nonpoint sources based on differing criteria. For example, the Section 319 Program, a federal program, also provides funding assistance to abate nonpoint source pollution as defined in an approved state nonpoint source management plan. Minnesota’s approved Nonpoint Source Management Program Plan is a comprehensive analysis of the nonpoint sources pollution abatement needs of Minnesota and outlines strategies that Minnesota will take to address these needs. Minnesota’s Section 319 Program is focused more on innovative methods and demonstration projects, as well as the implementation of best management practices outlined in an approved total maximum daily load (TMDL) study and implementation plan, in order to enhance the effectiveness of nonpoint pollution abatement. In contrast, the proposed rule revisions allow funding for other types of projects in areas which currently meet water quality standards. The proposed rule revisions, therefore, complement the Section 319 Program, because they allow funding for broader nonpoint source pollution abatement needs.

“The Legislative Citizens Commission on Minnesota’s Resources (LCCMR), also provides grant funding. The function of the LCCMR is to make funding recommendations to the legislature for special environment and natural resource projects, primarily from the Environment and Natural Resources Trust Fund (ENRTF). According to Article XI, Section 14 of the State Constitution, *“The assets of the fund shall be appropriated by law for the public purpose of protection, conservation, preservation, and enhancement of the state’s air, water, land, fish, wildlife, and other natural resources*.” The LCCMR funded past projects which would also meet the project criteria in the proposed rule. However, the proposed rule provides a more streamlined process for application and approval of a project than is found with the LCCMR process, a process which often takes two years to complete. Therefore, the proposed CWP rule revisions would streamline the process to obtain state funding and benefit local units of government.

“The Clean Water, Land & Legacy Amendment (Amendment) was approved by voters on November 4, 2008, and provides funding, according to Article XI, Section 15 of the State Constitution, *“to protect, enhance, and restore water quality in lakes, rivers, and streams and to protect groundwater from degradation.”* Funding for these efforts is provided and seven state agencies work jointly on Minnesota’s water resource management activities under the Clean Water Fund (CWF). Much of this funding is provided to the Minnesota Board of Water and Soil Resources (BWSR) to fund best management practices as defined in MPCA approved TMDL and watershed restoration and protection strategy (WRAPS) implementation plans. Concerned that local needs may not always be met by WRAPS, MPCA has provided additional CWF funding to the CWP program to increase the number of implementation projects which will enhance, protect and restore local water bodies. Thus, the proposed streamlining accomplished by the proposed rule revisions work with the Amendment towards making funding more accessible to local units of government as they work towards enhancing, protecting and restoring local water bodies. Drinking water protection activities have also been funded by the agency through the CWF. This revised rule would provide greater flexibility for funding these types of local activities, although it has not been used frequently for such activities in the past. Thus, it is considered complementary to the Amendment.

“As discussed above, the primary purpose of this rulemaking is to streamline the administrative process. The proposed revisions work in unison with existing and federal laws without adding burden to the process of accessing state funding. These proposed revisions will benefit local units of government and citizens of the state by protecting and enhancing Minnesota’s environment.”

Here’s an example from the Minnesota Department of Health’s immunization rules SONAR.

“There are no federal regulations on school and child care immunizations. It is a state function, and all 50 states have School Immunization Laws. The current School and Child Care Immunization Law is the only regulatory scheme for childhood immunizations in Minnesota. It not only saves lives and prevents lifelong disability, but also reduces health care costs in the long run (see above). The legislature first enacted the Minnesota School Immunization Law in 1967 and has updated it throughout the years to align it with current medical standards based on new scientific research. This change continues that process to ensure children and all Minnesotans are protected from vaccine-preventable diseases.”

Finally, when there are no other regulations to consider, you might say something like this:

“The proposed rules cover areas that are not addressed by federal law or other Minnesota state laws. Therefore, this consideration is not applicable for [those portions of the] [this] rule.”]

**PERFORMANCE-BASED RULES**

[Minnesota Statutes, sections 14.002 and 14.131, require that the SONAR describe how the agency, in developing the rules, considered and implemented performance-based standards that emphasize superior achievement in meeting the agency’s regulatory objectives and maximum flexibility for the regulated party and the agency in meeting those goals.]

[Describe how you did this.]

**ADDITIONAL NOTICE**

[Minnesota Statutes, sections 14.131 and 14.23, require that the SONAR contain a description of the Department’s efforts to provide additional notice to persons who might be affected by the proposed rules or explain why these efforts were not made.]

[If applicable:] This Additional Notice Plan was reviewed by the Office of Administrative Hearings and approved in a [date] letter by Administrative Law Judge [name].

[Describe your Additional Notice Plan. Put this in bullet points or 1, 2, 3 format so that it will work as a checklist for you here and in your Certificate of Giving Additional Notice.]

Our Notice Plan also includes giving notice required by statute. We will mail the [rules and] Notice of Intent to Adopt to everyone who has registered to be on the Department’s rulemaking mailing list under Minnesota Statutes, section 14.14, subdivision 1a. We will also give notice to the Legislature per Minnesota Statutes, section 14.116. [If applicable:] We will also [describe what you will do], as required by [statutory requirement].

[Our Notice Plan did not include notifying the Commissioner of Agriculture because the rules do not affect farming operations per Minnesota Statutes, section 14.111.]

[We will submit the rules to the state Council on Affairs of Chicano/Latino People at least 15 days before their initial publication in the State Register per Minnesota Statutes, section 3.9223 because the rules will have their primary effect on Chicano/Latino people.] **[New in 2015] Note: You no longer need to do this. The Legislature repealed** **Minnesota Statutes, section 3.9223 Minnesota Laws 2015, Chapter 77, thus eliminating this council. Chapter 77 (codified at Minnesota Statutes, section 15.0145) created three new ethnic councils and does not require that the rules be submitted for review.]**

**CONSULTATION WITH MMB ON LOCAL GOVERNMENT IMPACT**

[Minnesota Statutes, section 14.131, requires the agency to consult with Minnesota Management and Budget or MMB) to help evaluate the fiscal impact and benefits of proposed rules on local governments. Contact the Executive Budget Officer (EBO) for your agency to initiate the consultation with MMB. A form for a letter to your EBO is in the appendix as **MMB-LTR**. Document this consultation in your SONAR.]

As required by Minnesota Statutes, section 14.131, the Department will consult with Minnesota Management and Budget (MMB). We will do this by sending MMB copies of the documents that we send to the Governor’s Office for review and approval on the same day we send them to the Governor’s office. We will do this before the Department’s publishing the Notice of Intent to Adopt. The documents will include: the Governor’s Office Proposed Rule and SONAR Form; the proposed rules; and the SONAR. The Department will submit a copy of the cover correspondence and any response received from Minnesota Management and Budget to OAH at the hearing or with the documents it submits for ALJ review.

[Although section 14.131 does not explicitly require this, it might be a good idea to describe your evaluation of the fiscal impact and benefits of the proposed rules on local governments.]

**DETERMINATION ABOUT RULES REQUIRING LOCAL IMPLEMENTATION**

**[New in 2009:]** Minnesota Statutes, section 14.128 requires the agency to determine whether a local government will have to adopt or amend an ordinance or other regulation to comply with a proposed agency rule and submit this determination for ALJ approval. An agency must make this determination before the close of the hearing record or before the agency submits the record to the administrative law judge if there is no hearing. Although the statute does not require that the SONAR contain this discussion, the Editor suggests that the SONAR is a logical place for it. Furthermore, placing it here will assure that your agency does the analysis. The statute defines “local government” as “a town, county, or home rule charter or statutory city.”

[NOTE: If the agency determines that the proposed rule requires the local government to adopt or amend an ordinance or other regulation, or if the administrative law judge disapproves the agency’s determination that the rule does not have this effect, the rule’s effective date is delayed. The rule will not take effect until either (1) the next July 1 or January 1 after the agency publishes its notice of adoption in the State Register or (2) a later date provided by law or specified in the proposed rule. The statute, however, contains exceptions: The delay does not apply to a rule adopted under section 14.388 [exempt rules], 14.389 [expedited rules], or 14.3895 [obsolete rules] or under another law specifying that the rulemaking procedures of chapter 14 do not apply. It does not apply if the agency has been directed by law to adopt the rule or to commence the rulemaking process. It does not apply if the ALJ approves an agency’s determination that the rule has been proposed because of a specific federal statutory or regulatory mandate that requires the rule to take effect before the deferred date. Nor does the delay apply if the governor waives it. **[New in 2018]** If 14.128 applies, you may need to put the effective date in your rules. Read the statute to see how it affects your rule. Whether put the date in your rules draft or in your Order Adopting Rules depends on your circumstances. You will need to pay particular attention to this when you adopt the rules to make sure you have accurately stated this, as circumstances can change during rulemaking, especially if there are delays.]

As required by Minnesota Statutes, section 14.128, subdivision 1, the agency has considered whether these proposed rules will require a local government to adopt or amend any ordinance or other regulation in order to comply with these rules. [The agency has determined that they do not because [then describe your reasons to support the determination]] OR [describe requirements for local government, plus whether the effective date is not affected because of one of the exceptions in Minnesota Statutes, section 14.128, subdivision 3.]

**COST OF COMPLYING FOR SMALL BUSINESS OR CITY**

**Agency Determination of Cost**

[For most proposed rules, Minnesota Statutes, section 14.127, requires the agency to determine if the cost of complying with proposed rules in the first year after the rules take effect will exceed $25,000 for any small business or small city. A small business is defined as a business (either for profit or nonprofit) with less than 50 full-time employees and a small city is defined as a city with less than ten full-time employees. Although the statute does not require that this information be included in the SONAR, including the information in the SONAR is a simple way to ensure that the information is transmitted to the ALJ in a timely manner. If for some reason the agency is unable to make this determination by the time the SONAR is completed, the agency should submit this determination in a separate letter to the ALJ before submitting the record to the ALJ (if there is no hearing) or before the close of the hearing record (if there is a hearing).]

[PUC rules are exempt from the requirements of Minnesota Statutes, section 14.127.]

[***If this is a rule proposed by the PUC, include the following paragraph***:]

For some proposed rules, Minnesota Statutes, section 14.127, requires the agency to determine if the cost of complying with proposed rules in the first year after the rules take effect will exceed $25,000 for any small business or small city. The proposed rules are exempt from this requirement, however, because the requirement does not apply to rules proposed to be adopted by the Public Utilities Commission. See Minnesota Statutes, section 14.127, subdivision 4(d).

[ ***If your proposed rules are NOT PUC rules, include the following***:]

As required by Minnesota Statutes, section 14.127, the Department has considered whether the cost of complying with the proposed rules in the first year after the rules take effect will exceed $25,000 for any small business or small city. The Department has determined that the cost of complying with the proposed rules in the first year after the rules take effect [will not exceed $25,000 for any small business or small city] [OR] [will exceed $25,000 for one or more small businesses or small cities.] [Note: If you can identify the small businesses and cities for which the cost of complying in the first year will exceed $25,000, insert the names of those businesses and cities here.]

[Describe how you reached this determination. For example: [The Department has made this determination based on the probable costs of complying with the proposed rule, as described in the Regulatory Analysis section of this SONAR on pages \_\_\_\_\_\_\_.] [The Department asked the Advisory Committee members (listed in Exhibit A) whether these costs would exceed $25,000 during the first year for any small business or city. The Advisory Committee members, which included a representative from a small business/city, stated that the costs would not exceed $25,000.] [OR] [The Department asked \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the owner of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (a small business affected by the proposed rules) to estimate the cost of complying with the proposed rules during the first year. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ stated that the cost would be in excess of $25,000 for his/her business and for other small businesses in Minnesota. Similarly, the Department asked \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a representative of the City of \_\_\_\_\_\_\_\_\_ (a small city affected by the proposed rules) to estimate the cost to the city of complying with the proposed rules during the first year. \_\_\_\_\_\_\_\_\_\_\_\_\_ stated that the cost would be in excess of $25,000 for the city and for other small cities in Minnesota.] [Be sure to include your own analysis as to why you think the advice is accurate or why you think it is not accurate, in which case, you would have to put your own estimate of costs and why it is better than the advice that you quote here.]]

[Note: If after completing the SONAR you receive information that changes your agency’s determination under Minnesota Statutes, section 14.127, you should spell this out in a letter to the ALJ and distribute it to the same persons who received the SONAR. This letter should be sent to the ALJ before the close of the hearing record or, if there is no hearing, when the SONAR is filed with the ALJ.]

**Effect of Cost Determination**

[If the agency or ALJ determines that the cost of complying with the proposed rules during the first year would exceed $25,000 for a small business or small city, the small business or small city can generally file a statement with the agency and be exempt from the rules until a law is passed approving the rules. There are some situations, however, when the small business or small city would not be exempt. If the agency believes that one of these situations applies, as described below, then the SONAR should include this section on Effect of Cost Determination.]

[***If the Legislature has appropriated money to fund the small business’s or small city’s cost of complying with the proposed rules, include the following paragraph:***]

The Minnesota Legislature has appropriated money to sufficiently fund the expected cost of the proposed rules upon each small business and/or small city identified above. Specifically, [insert details regarding legislative funding.] Therefore, under Minnesota Statutes, section 14.127, subdivision 4(a), no small business and/or city can claim a temporary exemption from the proposed rules.

[***If the rules have been proposed under a specific federal statutory or regulatory mandate, include the following paragraph:***]

The rules are being proposed under a specific federal [statutory] [OR] [regulatory] mandate. The federal law that mandates the proposed rules is discussed in more detail on pages \_\_\_\_\_ of this SONAR. Therefore, under Minnesota Statutes, section 14.127, subdivision 4(b), no small business or small city can claim a temporary exemption from the proposed rules.

[***If the Governor has waived the requirement of legislative approval, include the following paragraph:***]

If an agency or administrative law judge determines that the cost of complying with the proposed rules during the first year would exceed $25,000 for a small business or small city, the small business or small city can generally file a statement with the agency and be exempt from the rules until a law is passed approving the rules. This is not the case, however, when the Governor issues a waiver of the requirement that a law be passed approving the rules. *See* Minnesota Statutes, section 14.127, subdivision 4, paragraph (e). The Governor has issued a waiver of the requirement that a law be passed approving the proposed rules. A copy of the waiver is attached as Exhibit \_\_\_\_. On [date], the Governor sent notice of the waiver to the Speaker of the House of Representatives and the President of the Senate (see letter attached as Exhibit \_\_\_\_). In addition, the waiver was published in the State Register on [date] (see copy of publication attached as Exhibit \_\_\_). Therefore, no small business or small city can claim a temporary exemption from the proposed rules.

**[OTHER REQUIRED INFORMATION]**

[If not included in other sections, include here any information or discussion required by statutes specific to your Department or to this rulemaking.]

**LIST OF WITNESSES**

**[Revised in 2015]** [You only need to list witnesses if a hearing is scheduled. Also, you only need to list *non‑agency* witnesses. OAH Rules, part 1400.2070, subpart 1. As a courtesy to the public, you may want to also list agency staff who will be important witnesses. **Rulemaking Manual Editor’s Note: You might not know whether you are going to hearing. The following text covers these unknowns.**]

If these rules go to a public hearing, the Department anticipates having the following witnesses testify in support of the need for and reasonableness of the rules:

1. Mr./Ms. [Name] will testify about [Briefly describe the anticipated testimony].

2. [Repeat format of number 1 for each witness anticipated to testify at the hearing].

3. [Name], [Title], Department of [Name] will testify about [describe].

**RULE-BY-RULE ANALYSIS**

[This is the hardest and yet most important part of the SONAR to complete. Refer to the discussion in Chapter 4, Developing the Statement of Need and Reasonableness, for suggestions on drafting the SONAR.]

[In this section, give a justification for each provision of the rules. Make a numerical and headnote reference to each part, subpart, item, and subitem. Give a narrative explanation why each reference is needed and reasonable. There should be sufficient specificity so that interested persons will be able to fully prepare any testimony or evidence in favor of or in opposition to the proposed rules.]

How to approach the Rule-by-Rule Analysis portion of the SONAR.

• Need: why in the world are we writing a rule on this topic in the first place; what problem is there that needs to be addressed; what thing do we need to do; why is it important to do something?

• Summary: what does this rule requirement do?

• Reasonableness: why is this rule requirement a reasonable solution to the need or the problem identified under “Need”?

Do this for each requirement in the rules. For obvious requirements that no one will question, you can summarize the Need\Summary\Reasonableness in about one sentence. For controversial requirements, you may need a paragraph, a page, or several pages of justification for the Need\Summary\Reasonableness. The amount of justification depends directly on your judgment of the anticipated controversy and the sophistication or complexity of the factors involved in your analysis.

**Frequently Asked Question:** When drafting a SONAR, do you suggest going subpart by subpart and justifying everything line-by-line? For example, if you had a section titled xxx, with subparts 1, 2, and 3, and items and subitems under each subpart, would you do an item-by-item justification, or justify by subject matter, or what?

**Answer:** There is a lot of writer’s license in how you write the SONAR. You need at least minimal justification for each requirement, but exactly how you do it is up to you. In case a requirement gets challenged, you want at least enough to hang your hat on. This will give you something to expand on in your response to comments.

**Additional Answer:** A first approach is to look at justifying each requirement in the rules separately. This would mean justifying each subpart and each item separately, and sometimes even justifying each requirement within a subpart or item separately. However, there are exceptions to this approach. There are times that the justifications for related provisions are very similar. In this case, you can group the provisions in the SONAR and give the main part of the justification once and maybe sometimes just add a sentence for each separate provision that ties it to the main justification.

**LIST OF EXHIBITS (Optional)**

In support of the need for and reasonableness of the proposed rules, the Department anticipates that it will enter the following exhibits into the hearing record: [List the exhibits.]

**CONCLUSION**

Based on the foregoing, the proposed rules are both needed and reasonable.

[Date] [Name]

[Title]

[The SONAR must have the date it is made available for public review, per OAH Rules, part 1400.2070, subpart 1, item E.]

[Even though it is not required that the SONAR be signed, it is a good idea to have management review and sign off on the SONAR to get their buy in. Often, having the commissioner sign is wise.]

[References to Published Materials. Published materials should not be attachments or exhibits to the SONAR. The following published materials may just be referenced in the SONAR: Minnesota Statutes, Minnesota Rules, United States Statutes at Large, United States Code, Laws of Minnesota, Code of Federal Regulations, and the Federal Register. If you rely on or refer to other published materials in the SONAR, it would be a good idea to attach a bibliography to the SONAR and include a statement on where the material is available or the url links to find the material online.]

[References to Nonpublished Materials. Nonpublished materials such as letters from expert witnesses should either be exhibits attached to the SONAR or the content of the letter should be directly quoted in the SONAR. Note: All exhibits that are not attached to the SONAR must be available for review.]