

1400.2110 PROCEDURE TO ADOPT SUBSTANTIALLY DIFFERENT RULES.

Subpart 1. **Required procedure.** An agency may adopt a substantially different rule if it has complied with the procedures in this part.

Subp. 2. **Notice.** The agency must mail or deliver to each person or group that made a written or oral comment during the comment period or registered at the rule hearing, if the person's address is known to the agency:

A. a copy of the substantially different rule; and

B. a statement that tells the recipient that the chief judge found the rule to be substantially different, explains the agency's reasons for modifying the rule, tells the recipient that the agency must accept written comments for 15 days, and gives the date the comment period ends.

Subp. 3. **Filing.** After considering any comments received, the agency must submit the documents listed in subpart 2 and any written responses to the chief judge.

Subp. 4. **Review.** The chief judge must review the agency's filing to decide whether:

A. the agency has met the requirements of this part;

B. the substantially different modifications to the rule are based on comments or evidence in the record;

C. the substantially different rule complies with part 1400.2100; and

D. in light of the nature of the substantially different modification and the course of the rule proceeding, it would not be fair to affected persons to allow the agency to adopt the modification without initiating a new rule proceeding.

The chief judge must either approve or disapprove the substantially different rule within ten days after the office receives it, unless it is withdrawn by a person authorized to withdraw the rule.

Subp. 5. **Rule adoption.** The agency may adopt the substantially different rule five working days after it has received the chief judge's written approval.

Subp. 6. **Effect of disapproval.** If the chief judge decides that the substantially different modifications must be disapproved under subpart 4, the agency may not adopt them without initiating and completing a new rule proceeding.

Statutory Authority: *MS s 14.386; 14.388; 14.51; 15.474*

History: *20 SR 2058; 26 SR 391*

Published Electronically: *August 6, 2013*