

1400.2240 ADMINISTRATIVE LAW JUDGE'S REPORT.

Subpart 1. **Report.** The judge must prepare a report on the rule within 30 days after the hearing record closes, unless an extension is granted by the chief judge under Minnesota Statutes, section 14.15, subdivision 2.

Subp. 2. **Standard of review.** The judge or chief judge must review the hearing record and must disapprove the rule if the judge makes any of the findings in part 1400.2100, items A to G.

Subp. 3. **Approval.** If the judge approves the rule, the judge must promptly send the original report and the hearing record to the agency. The agency and the office must make copies of the report available to any interested person at reasonable cost. The agency may not adopt the rule for at least five working days after receiving the report, so that interested persons may examine it.

Subp. 4. **Disapproval; review by chief judge.** If the judge disapproves the rule, the judge must submit the report and the hearing record to the chief judge for review. The chief judge must review the rule and the judge's report and prepare a report within ten days. If the chief judge disapproves the rule, the chief judge must explain why and tell the agency what changes or actions are necessary for approval. The chief judge must promptly send the chief judge's report, the judge's report, and the hearing record to the agency. The agency must resubmit the rule to the chief judge for review after changing it. The agency may also request that the chief judge reconsider the disapproval. The chief judge must review and approve or disapprove the changed rule or a request for reconsideration within five working days after the office receives it.

Subp. 5. **New changes to rule.** If the agency wants to adopt the rule with changes other than those recommended by the judge or chief judge, the agency must submit to the chief judge:

- A. the rule initially proposed;
- B. the agency's proposed order adopting rules; and
- C. the rule, showing the agency's changes.

The chief judge may request that the agency also return the hearing record. The chief judge must review the agency's changes to decide if they make the rule substantially different than the proposed rule. The chief judge must make a written decision within ten days after the office receives the rule.

Subp. 6. **Disapproval of need and reasonableness.** If the chief judge disapproves the rule because the agency has not shown it to be needed and reasonable, and if the agency chooses not to follow the chief judge's recommended corrections, the agency must submit the rule to the Legislative Coordinating Commission and the house of representatives and

senate policy committees with primary jurisdiction over state governmental operations, for review under Minnesota Statutes, section 14.15, subdivision 4.

Subp. 7. **Disapproval based on substantial difference.** If the chief judge disapproves the rule because it is substantially different than the proposed rule, the agency may end the rule proceeding, may start a new rule proceeding to adopt the substantially different rule, or may proceed under part 1400.2110. The agency may adopt the portions of the rules which are not substantially different.

Subp. 8. **Withdrawal of rule.** The agency may withdraw a rule by submitting a notice of withdrawal to the chief judge signed by a person authorized to withdraw the rule. Withdrawing a rule is appropriate unless the withdrawal of a rule or a portion of the rule makes the remaining rules substantially different. The notice must explain the person's authority to withdraw the rule. The office must return the agency's filing promptly after receiving this notice.

Subp. 9. **Effect of disapproval.** Disapproval of a rule or part of a rule is binding on the agency to the extent specified in Minnesota Statutes, sections 14.15, subdivisions 3 and 4, and 14.16.

Subp. 10. **Rule adoption.** Once the judge or chief judge approves the rule or the review period for the Legislative Coordinating Commission and the house of representatives and senate policy committees with primary jurisdiction over state governmental operations has passed, the office must file three copies of the rule with the secretary of state. The agency may adopt the rule by executing an order adopting the rule. After the rule is adopted, the agency may publish a notice of rule adoption in the State Register.

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

History: *20 SR 2058; 26 SR 391*

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