

**1400.2300 REVIEW OF RULES ADOPTED WITHOUT A PUBLIC HEARING.**

Subpart 1. **Applicability.** Parts 1400.2300 and 1400.2310 apply to review of rules adopted by agencies under Minnesota Statutes, sections 14.22 to 14.28.

Subp. 2. **Filing.** The agency must file with the office the documents listed in part 1400.2310.

Subp. 3. **Review.** A judge must review the agency's filing and either approve or disapprove it within 14 days after the office receives it, unless it is withdrawn. In reviewing the filing, the judge must decide whether the rule meets the standards of part 1400.2100.

Subp. 4. **Withdrawal of rule.** The agency may withdraw a rule from review 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. 5. **Approval.** If the rule is approved either on initial review or on resubmission, the agency may publish notice of adoption of the rule in the State Register. The office must file three copies of the rule with the secretary of state. The office must notify those persons who requested notification that the judge's decision is available. The office must also send a copy of the judge's decision to the Legislative Coordinating Commission, the revisor, and the attorney general. The office must send the agency a copy of its decision and promptly return the agency's filing.

Subp. 6. **Disapproval.** If the rule is disapproved, the judge must state in writing the reasons for the disapproval and recommend what changes or actions are necessary for approval. The written reasons for disapproval must then be submitted to the chief judge for review. The chief judge shall approve or disapprove the judge's determination within five working days and shall state the reasons in writing and shall advise the agency what changes are required for approval. The office must notify those persons who requested notification that the chief judge's report is available. The office also must send a copy of the chief judge's decision to the office of the governor, the Legislative Coordinating Commission, the revisor, the attorney general, and the house of representatives and senate policy committees with primary jurisdiction over state governmental operations. Minnesota Statutes, section 14.26, subdivision 3, governs the effect of any disapproval. The chief judge shall then promptly send the rule record to the agency.

Subp. 7. **Disapproval based on substantial difference.** If the chief judge disapproves a 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. **Resubmission.** 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. When the agency resubmits the rule for review, it must file with the office:

A. the rule as initially proposed;

B. the rule with the agency's proposed changes; and

C. the agency's amended order adopting rules. The order must include an explanation of the changes, why they solve the problems identified by the chief judge, and why they do not result in a substantially different rule.

The chief judge may request that the agency also return the rule record. The chief judge must review the resubmitted rule and decide whether it meets the standards of part 1400.2100 within five working days of receiving it. Minnesota Statutes, section 14.26, subdivision 3, governs the effect of any disapproval.

Subp. 8a. **New modifications to rule.** If the agency wants to adopt the rule with modifications other than those recommended by the judge or chief judge, the agency must submit to the chief judge the filings under subpart 8.

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

Subp. 9. **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 to the house of representatives and senate policy committees with primary jurisdiction over state governmental operations for review under Minnesota Statutes, section 14.26, subdivision 3, paragraph (c).

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

**History:** *20 SR 2058; 26 SR 391*

**Published Electronically:** *August 6, 2013*