

Minnesota Department of Labor and Industry

ORDER ADOPTING RULES

Adoption of Rules Governing the Adoption of the International Residential Code, Minnesota Rules, Chapter 1309; OAH Docket Number 08-1900-30855; Revisor's ID Number R-4144

BACKGROUND INFORMATION AND FINDINGS

1. The Minnesota Department of Labor and Industry ("Department") has complied with all notice and procedural requirements in Minnesota Statutes, chapter 14, Minnesota Rules, chapter 1400, and other applicable law.
2. The Department adopts the Administrative Law Judge's Report dated February 7, 2014, in its entirety and incorporates the Report into this Order, except as described below.
3. Part 1309.0309, subpart 4, and Part 1309.0313 of the proposed rules are amended by excluding single-family dwellings from the dry head sprinkler requirements for attached garages, covered patios, covered decks, covered porches and similar structures. Several people submitted comments and testimony at the hearing below urging the Department to exclude this dry head installation requirement from single-family dwellings due to increased costs, lack of common walls between unrelated dwellings, and the potential for malfunction due Minnesota's inclement weather conditions. Because single-family dwellings are not attached to other family structures by a common wall between them, the Department agrees that the need for installation of sprinkler heads in common, exterior fire spread points such as garages and covered porches is not as critical as it is for attached multi-family dwellings. This exclusion is also reasonable as it tends to lower construction costs while not significantly impacting the safety of single-family dwelling residents, first-responders, and fire service personnel. *See* Minn. Stat. §326B.101 (2012) ("The construction of buildings should be permitted at the least possible cost consistent with recognized standards of health and safety").

This change does not make the rule substantially different from the proposed rules because it is clearly within the scope of the adoption of the 2012 International Residential Code as announced in the October 28, 2013 notice of hearing and intent to adopt rules governing the State Building Code. The change is also a logical outgrowth of the contents of the notice of hearing and the proposed rule's publication which provided fair warning to all stakeholders that the outcome of the underlying rulemaking proceeding may include changes to the residential sprinkler installation

requirements of the 2012 International Residential Code. Finally, the modification is being made at the request of those submitting comments and testimony at the hearing below and in direct response to the issues and concerns raised by those who are directly affected by the contents of the proposed rule. Accordingly, the change is supported by the record below as needed and reasonable, does not constitute a substantial change from the proposed rule, and is made within the Department's authority under Minnesota law.

4. Part 1309.0703, subpart 3, of the proposed rules is amended to delete the reference to IRC Table R702.1(3) from the adoption of subsection R703.6.2 of the 2012 International Residential Code. Deletion of this reference is needed to alleviate confusion and conflict between required exterior and interior plaster mix proportions. The Administrative Law Judge addressed this change in Findings of Fact Nos. 96–98 and Conclusion No. 8 of the February 7, 2014 Report and determined that the change is needed, reasonable, and not a substantial change from the rule as originally proposed.

ORDER

The above-named rules, in the form published and referenced in the State Register on October 28, 2013, with the modifications as indicated in the Revisor's draft, file number AR-4144, dated February 14, 2014, are hereby adopted under my authority in Minnesota Statutes, sections 326B.02, subd. 5, 326B.101, and 326B.106, subd. 1.

Date

Ken B. Peterson, Commissioner
Department of Labor and Industry