Minnesota Department of Labor and Industry

DUAL NOTICE: Notice of Intent to Adopt Rules Without a Public Hearing Unless 25 or More Persons Request a Hearing, and Notice of Hearing if 25 or More Requests for Hearing Are Received; Revisor's ID Number R-4148

Proposed Amendment to Rules Governing the Adoption of the 2012 International Fire Code, *Minnesota Rules*, chapter 7511

Introduction. The Department of Labor and Industry intends to adopt rules without a public hearing following the procedures in the rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2300 to 1400.2310, and the Administrative Procedure Act, *Minnesota Statutes*, sections 14.22 to 14.28. If, however, 25 or more persons submit a written request for a hearing on the rules by 4:30 p.m. on Friday, February 5, 2016, the Department will hold a public hearing in the Minnesota Room at the Department of Labor and Industry, 443 Lafayette Road N, St. Paul, Minnesota 55155, starting at 9:00 a.m. on Monday, February 29, 2016. To find out whether the Department will adopt the rules without a hearing or if it will hold the hearing, you should contact the agency contact person after Friday, February 5, 2016 but before Monday, February 29, 2016.

Please note: the proposed rules have been drafted to give effect to the recent appellate decision of *Builders Association of the Twin Cities v. Minnesota Department of Labor and Industry*, ___N.W.2d ___ (Minn. Ct. App. October 13, 2015). Accordingly, any requirements to install automatic fire sprinklers in residential one- and two-family dwellings have been removed from these proposed rules.

Agency Contact Person. Submit any comments or questions on the rules or written requests for a public hearing to the agency contact person. The agency contact person is: Colleen Clayton at the Department of Labor and Industry, 443 Lafayette Road N., St. Paul, Minnesota, phone: 651-284-5867, FAX: 651-284-5749, and *email* at colleen.clayton@state.mn.us.

Subject of Rules and Statutory Authority. The proposed rules are about the adoption of the 2012 International Fire Code, with necessary amendments. Specifically, the subject matter of the rules include: codes and standards adopted by reference ; applicability of the rules; general authority and responsibilities; permits; violations; general definitions; combustible waste material; open burning and recreational fires; open flames; general storage; clearance of vegetation from structures; unplanned evacuation; fire apparatus access roads; key boxes; fire protection water supplies; emergency responder radio coverage; fuel fired appliances; emergency and standby power systems; electrical equipment, wiring and hazards; pedestrian walkways and pedestrian tunnels and mezzanines; decorative vegetation in new and existing buildings; decorative materials other than decorative vegetation in new and existing buildings; commercial and residential automatic sprinkler systems; alternative automatic fire-extinguishing systems; portable fire extinguishers; fire alarm and detection systems; emergency alarm systems; smoke control systems; smoke and heat vents; doors, gates and turnstiles; stairways; exit access; aisles; corridors; interior exit stairways and ramps; exit passageways; assembly; emergency escape and rescue; maintenance of the means of egress; fire safety requirements for existing buildings; means of

egress for existing buildings; separation of occupancies and hazardous areas; owner's responsibility for fire protection; flammable and combustible liquid motor fuel-dispensing facilities; marine motor fuel-dispensing facilities; general fire protection and life safety features; liquefied petroleum gas motor fuel-dispensing facilities; spray finishing; medical gas systems; general fire protection and life safety features; fireworks display; special operations; liquefied petroleum gases; referenced standards; adult day care, residential hospice facilities, and supervised living facilities; temporary storage of fireworks; amendments to appendices of the International Fire Code; symbol placement; pressurized flammable gas; warning symbol required; symbol design; and symbol placement. The statutory authority to adopt the rules is *Minnesota Statutes*, sections 326B.02, subdivisions 5 and 6. A copy of the proposed rules is published on the Department's website at: www.dli.mn.gov/PDF/docket/7511rule2.pdf. A free copy of the rules is available upon request from the agency contact person listed above.

Comments. You have until 4:30 p.m. on Friday, February 5, 2016, to submit written comment in support of or in opposition to the proposed rules or any part or subpart of the rules. Your comment must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comments should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed. You are encouraged to propose any change that you desire. Any comments that you have about the legality of the proposed rules must also be made during this comment period.

Request for a Hearing. In addition to submitting comments, you may also request that the Department hold a hearing on the rules. You must make your request for a public hearing in writing, which the agency contact person must receive by 4:30 p.m. on Friday, February 5, 2016. You must include your name and address in your written request. In addition, you must identify the portion of the proposed rules that you object to or state that you oppose the entire set of rules. Any request that does not comply with these requirements is not valid and the agency cannot count it when determining whether it must hold a public hearing. You are also encouraged to state the reason for the request and any changes you want made to the proposed rules.

Withdrawal of Requests. If 25 or more persons submit a valid written request for a hearing, the Department will hold a public hearing unless a sufficient number of persons withdraw their requests in writing. If enough requests for hearing are withdrawn to reduce the number below 25, the agency must give written notice of this to all persons who requested a hearing, explain the actions the agency took to affect the withdrawal, and ask for written comments on this action. If a public hearing is required, the agency will follow the procedures in *Minnesota Statutes*, sections 14.131 to 14.20.

Alternative Format/Accommodation. Upon request, this information can be made available in an alternative format, such as large print, braille, or audio. To make such a request or if you need an accommodation to make this hearing accessible, please contact the agency contact person at the address or telephone number listed above.

Modifications. The Department might modify the proposed rules, either as a result of public comment or as a result of the rule hearing process. It must support modifications by data and views submitted to the agency or presented at the hearing. The adopted rules may not be

substantially different than these proposed rules unless the Department follows the procedure under *Minnesota Rules*, part 1400.2110. If the proposed rules affect you in any way, the Department encourages you to participate in the rulemaking process.

Cancellation of Hearing. The Department will cancel the hearing scheduled for Monday, February 29, 2016, if the agency does not receive requests for a hearing from 25 or more persons. If you requested a public hearing, the agency will notify you before the scheduled hearing whether the hearing will be held. You may also call the agency contact person after Friday, February 5, 2016, to find out whether the hearing will be held.

Notice of Hearing. If 25 or more persons submit valid written requests for a public hearing on the rules, the Department will hold a hearing following the procedures in *Minnesota Statutes*, sections 14.131 to 14.20. The Department will hold the hearing on the date and at the time and place listed above. The hearing will continue until all interested persons have been heard. Administrative Law Judge Eric L. Lipman is assigned to conduct the hearing. Judge Lipman's Legal Assistant Denise Collins can be reached at the Office of Administrative Hearings, 600 North Robert Street, P.O. Box 64620, Saint Paul, Minnesota 55164-0620, telephone 651-361-7900, and FAX 651-539-0310 or denise.collins@state.mn.us.

Hearing Procedure. If the Department holds a hearing, you and all interested or affected persons, including representatives of associations or other interested groups, will have an opportunity to participate. You may present your views either orally at the hearing or in writing at any time before the hearing record closes. All evidence presented should relate to the proposed rules. You may also submit written material to the Administrative Law Judge to be recorded in the hearing record for five working days after the public hearing ends. At the hearing the Administrative Law Judge may order that this five-day comment period be extended for a longer period, but not more than 20 calendar days. Following the comment period, there is a five-working-day rebuttal period when the agency and any interested person may respond in writing to any new information submitted; however, no additional evidence may be received during the five-day rebuttal period. The Office of Administrative Hearings must receive all comments and responses submitted to the Administrative Law Judge no later than 4:30 p.m. on the due date. All comments or responses received will be available for review at the Office of Administrative Hearings. This rule hearing procedure is governed by *Minnesota Rules*, parts 1400.2000 to 1400.2240, and *Minnesota Statutes*, sections 14.131 to 14.20. You may direct questions about the procedure to the Administrative Law Judge.

The agency requests that any person submitting written views or data to the Administrative Law Judge before the hearing or during the comment or rebuttal period also submit a copy of the written views or data to the agency contact person at the address stated above.

Statement of Need and Reasonableness. The statement of need and reasonableness summarizes the justification for the proposed rules, including a description of who will be affected by the proposed rules and an estimate of the probable cost of the proposed rules. It is now available from the agency contact person. You may review or obtain copies for the cost of reproduction by contacting the agency contact person. A copy of the SONAR can be viewed at: www.dli.mn.gov/PDF/docket/7511sonar2.pdf.

Lobbyist Registration. *Minnesota Statutes*, chapter 10A, requires each lobbyist to register with the State Campaign Finance and Public Disclosure Board. Ask any questions about this requirement of the Campaign Finance and Public Disclosure Board at: Suite #190, Centennial Building, 658 Cedar Street, St. Paul, Minnesota 55155, telephone 651-539-1180 or 1-800-657-3889.

Adoption Procedure if No Hearing. If no hearing is required, the agency may adopt the rules after the end of the comment period. The Department will submit the rules and supporting documents to the Office of Administrative Hearings for a legal review. You may ask to be notified of the date the rules are submitted to the office. If you want either to receive notice of this, to receive a copy of the adopted rules, or to register with the agency to receive notice of future rule proceedings, submit your request to the agency contact person listed above.

Adoption Procedure After a Hearing. If a hearing is held, after the close of the hearing record, the Administrative Law Judge will issue a report on the proposed rules. You may ask to be notified of the date that the Administrative Law Judge's report will become available, and can make this request at the hearing or in writing to the Administrative Law Judge. You may also ask to be notified of the date that the agency adopts the rules and the rules are filed with the Secretary of State by requesting this at the hearing or by writing to the agency contact person stated above.

Order. I order that the rulemaking hearing be held at the date, time, and location listed above.

12/16/15
Date

Ken B. Peterson, Commissioner
Department of Labor and Industry