

**Minnesota Department of Labor and Industry
Construction Codes and Licensing Division**

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-04513

Proposed Amendment to and Repeal of Rules Governing the Adoption of the Commercial Provisions of the *International Energy Conservation Code, Minnesota Rules, Chapter 1323*

Introduction. The Department of Labor and Industry (the “Department” or “agency”) 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 Wednesday, October 16, 2019**, the Department will hold a public hearing in the Minnesota Room, Department of Labor and Industry, 443 Lafayette Road N., St. Paul, Minnesota 55155, starting at **9:30 a.m. on Monday, November 18, 2019**, and continuing until the hearing is completed. 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 October 16, 2019, and before November 18, 2019.

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: Amanda Spuckler at the Department of Labor and Industry, 443 Lafayette Road N., St. Paul, Minnesota 55155, phone (651) 284-5006, and email to: dli.rules@state.mn.us.

Subject of Rules and Statutory Authority. The Department is updating the Minnesota Commercial Energy Code by incorporating by reference, with amendments, the commercial provisions of the 2018 edition of the International Energy Conservation Code (“IECC”). The proposed rules govern energy conservation for new construction of commercial buildings, apartment buildings, educational buildings, places of assembly, and any building four or more stories above grade. Specifically, the proposed rules incorporate chapters of the IECC that will apply, and amends the IECC provisions regarding the following topics: references to other International Code Council Codes; administration, including information required on construction documents; definitions; building mechanical systems; calculation of heating and cooling loads for mechanical systems; heating and cooling of vestibules; hot water boiler outdoor temperature setback control; thermostatic setback for mechanical systems; heat rejection for hydronic water loop heat pump systems; energy recovery ventilation systems; exhaust air energy recovery; shutoff dampers; tower flow turndown; minimum required duct and plenum insulation; minimum pipe insulation thickness; covers for outdoor heated pools and outdoor permanent spas; and commissioning and completion requirements for mechanical systems and service water heating systems. The proposed rules also repeal existing Minnesota Rules amending the commercial provisions of the IECC in connection with the following topics: low-energy buildings; air barrier construction; stairway and shaft vent requirements; outdoor air intakes and exhausts; fan power limitation pressure drop adjustment for devices; static pressure sensor

location; conductor sizing and voltage drop requirements; and air systems balancing requirements.

The statutory authority to adopt the rules is in *Minnesota Statutes*, sections 326B.02, subdivision 5, 326B.101, and 326B.106, subdivision 1(a). A copy of the proposed rules is published on the Department's web site at: <http://www.dli.mn.gov/about-department/rulemaking/rulemaking-docket-minnesota-rules-chapter-1323>. A free paper copy of the rules is available upon request from the agency contact person listed above.

Comments. You have until **4:30 p.m. on Wednesday, October 16, 2019**, to submit written comments in support of or in opposition to the proposed rules or any part or subpart of the rules. Your comments must be in writing and received by the agency contact person by the due date. Comments are encouraged. Your comments should identify the portion of the proposed rules addressed, the reason for the comments, 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 Wednesday, October 16, 2019**. 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 effect 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 November 18, 2019, 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 at (651) 284-5006 after October 16, 2019, to find out whether the hearing will be held. On the scheduled day, you may check for whether the hearing will be held by calling (651) 284-5006 or going on-line at <http://www.dli.mn.gov/about-department/rulemaking/rulemaking-docket-minnesota-rules-chapter-1323>.

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 Jessica Palmer-Denig is assigned to conduct the hearing. Judge Palmer-Denig's legal assistant, Carah FaggéTt, can be reached at the Office of Administrative Hearings, 600 North Robert Street, P.O. Box 64620, Saint Paul, Minnesota 55164-0620, telephone (651) 361-7841, and fax (651) 539-0310, carah.faggett@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 is 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. No one may submit new evidence during the five-day rebuttal period.

All post-hearing comments and responses must be submitted to the Administrative Law Judge no later than 4:30 p.m. on the due date. The Office of Administrative Hearings strongly encourages all persons submitting comments and responses to do so by way of the Office of Administrative Hearings' Rulemaking eComments website at <https://minnesotaoah.granicusideas.com/discussions>. If it is not possible to use the eComments website, post-hearing comments may be submitted in person, via United States mail, or by facsimile addressed to Judge Palmer-Denig at the address or facsimile number listed in the section above.

All comments or responses received will be available for review at the Office of Administrative Hearings' eComments website and at the Minnesota Department of Labor and Industry or on the agency's website at: <http://www.dli.mn.gov/about-department/rulemaking/rulemaking-docket-minnesota-rules-chapter-1323>.

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's legal assistant.

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. The statement of need and reasonableness may be viewed at: <http://www.dli.mn.gov/about-department/rulemaking/rulemaking-docket-minnesota-rules-chapter-1323>.

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.



9/3/2019

Date

Nancy J. Leppink, Commissioner
Department of Labor and Industry