

Minnesota Board of Electricity

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-04632

Proposed Amendment to Rules Governing Adoption of the 2020 National Electrical Code, *Minnesota Rules*, Part 1315.0200

Introduction. The Minnesota Board of Electricity (“Board”) 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 April 15, 2020, the Board will hold a public hearing in the Minnesota Room, Department of Labor and Industry, 443 Lafayette Road N., St. Paul, Minnesota 55155. **An Administrative Law Judge will conduct the hearing** starting at 9:00 a.m. on Monday, May 4, 2020, and continuing until the hearing is completed. To find out whether the Board will adopt the rules without a hearing or if it will hold the hearing, you should contact the agency contact person after April 15, 2020, and before May 4, 2020.

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 Minnesota Department of Labor and Industry, 443 Lafayette Rd. N., St. Paul, Minnesota 55155, telephone (651) 284-5006, and email: dli.rules@state.mn.us.

Subject of Rules and Statutory Authority. The proposed rules amend part 1315.0200 to incorporate by reference the 2020 edition of the National Electrical Code (“NEC”), without Minnesota amendments, as approved by the American National Standards Institute (“ANSI”) and published by the National Fire Protection Association (“NFPA”). Notable changes to the 2020 NEC relate to expanded Ground-Fault Circuit-Interrupter (“GFCI”) protection for dwellings, service panelboard surge protection, and outdoor emergency disconnects required for first responder access. The 2020 NEC was also revised to address and correct the unintended consequences of expanded GFCI requirements for certain agricultural building areas as adopted by the 2017 NEC. The statutory authority to adopt the rules is *Minnesota Statutes*, section 326B.32, subdivision 2, clause (a), subitem (3) (2018). A copy of the proposed rules is published in the *State Register* and attached to this notice as mailed.

Comments. You have until 4:30 p.m. on Wednesday, April 15, 2020, 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 Board 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, April 15, 2020. 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 Board 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 Board will hold a public hearing unless enough persons withdraw their requests in writing. If enough requests for hearing are withdrawn to reduce the number below 25, the Board must give written notice of this to all persons who requested a hearing, explain the actions the Board took to affect the withdrawal, and ask for written comments on this action. If a public hearing is required, the Board 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 Board 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 Board follows the procedure under *Minnesota Rules*, part 1400.2110. If the proposed rules affect you in any way, the Board encourages you to participate in the rulemaking process.

Cancellation of Hearing. The Board will cancel the hearing scheduled for May 4, 2020, if the agency does not receive requests for a hearing from 25 or more persons. If you requested a public hearing, the Board will notify you before the scheduled hearing whether the hearing will be held. You may also call the agency contact person listed above at (651) 284-5006 after April 15, 2020, 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-1315>.

Notice of Hearing. If 25 or more persons submit valid written requests for a public hearing on the rules, the Board will hold a hearing following the procedures in *Minnesota Statutes*, sections 14.131 to 14.20. The Board 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 Barbara Case is assigned to conduct the hearing. Judge Case's legal assistant, Michelle Hendrickson, may be reached at the Office of Administrative Hearings, 600 North Robert Street, P.O. Box 64620, Saint Paul, Minnesota 55164-0620, telephone (651) 361-7896, fax (651) 539-0310, and email: michelle.l.hendrikson@state.mn.us.

Hearing Procedure. If the Board 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 Board 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 using the Administrative Hearings' Rulemaking eComments website at: <https://minnesotaoah.granicusideas.com>. If using the eComments website is not possible, you may submit post-hearing comments in person, via United States mail, or by facsimile addressed to Judge Case at the address or facsimile number listed in the Notice of Hearing section above

All comments or responses received will be available for review at the Department of Labor and Industry or on the Board's website at: <http://www.dli.mn.gov/about-department/rulemaking/rulemaking-docket-minnesota-rules-1315>. 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.

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. Or, you may access a free copy on the agency's website at: <http://www.dli.mn.gov/about-department/rulemaking/rulemaking-docket-minnesota-rules-1315>

Lobbyist Registration. *Minnesota Statutes*, chapter 10A, requires each lobbyist to register with the Minnesota Campaign Finance Board. Questions about this requirement may be directed to that Board at: Suite #190, Centennial Building, 658 Cedar Street, St. Paul, Minnesota 55155, telephone (651) 539-1180 or 1-800-657-3889, and at: <https://cfb.mn.gov/>.

Adoption Procedure if No Hearing. If no hearing is required, the Board may adopt the rules after the end of the comment period. The Board 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 that office. If you want 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 you 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 Board adopts the rules and files the same with the Secretary of State by requesting this at the hearing or by writing to the agency contact person stated above.

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

March 09, 2020

A handwritten signature in black ink that reads "Daniel Westberg". The signature is written in a cursive style with a long horizontal stroke at the end.

Daniel Westberg, Chair
Minnesota Board of Electricity