

# Minnesota Department of Labor and Industry

## NOTICE OF HEARING

### **Possible Amendments to Rules Governing the Minnesota Residential Energy Code, Minnesota Rules, Chapter 1322; Revisor ID # R-04512; OAH Docket # 8-9001-36776**

**Public Hearing.** The Minnesota Department of Labor and Industry (“Department”) will hold a public hearing at **9:00 a.m. on Monday, August 3, 2020**, via WebEx, for the purposes of taking public comment and testimony regarding the appropriateness of amending the existing Minnesota Residential Energy Code, *Minnesota Rules*, chapter 1322, to adopt the residential provisions of the 2018 International Energy Conservation Code (“IECC”). All interested or affected persons will have an opportunity to participate by submitting oral or written comments, statements, or arguments. Participation in the hearing will be by WebEx (video/audio or audio-only) or telephone. A link to register for the WebEx is available on the Department’s website at: <http://www.dli.mn.gov/about-department/rulemaking/rulemaking-docket-minnesota-rules-chapter-1322>. To participate in the hearing by telephone, at the date and time listed above, you may call 415-655-0003 or 855-282-6330 and enter access code: 146 183 4514.

**Please note:** This is the rescheduled May public hearing that was canceled due to COVID-19 pandemic circumstances. Pursuant to Minn. Stat. § 13D.021, this meeting will be held remotely because it is not practical or prudent for an in-person meeting due to a health pandemic or an emergency declared under chapter 12. If the public hearing must be postponed or re-scheduled for any reason, the Department will send a notice of such a change to its State Building Code Rulemaking List and to the organizations listed on its Additional Notice Plan. The Department will also post the Notice of such a change on its website at: <http://www.dli.mn.gov/about-department/rulemaking/rulemaking-docket-minnesota-rules-chapter-1322>.

**Subject of Hearing and Statutory Authority.** *Minnesota Statutes*, section 326B.106, subdivision 1 (d), requires the Commissioner to act in accordance with federal law on each new model residential energy code for which the United States Department of Energy has issued an affirmative determination of improved energy efficiency in compliance with *United States Code*, title 42, section 6833. On December 10, 2019, the United States Department of Energy issued an affirmative determination concerning the residential provisions of the 2018 IECC, concluding that buildings meeting that most recent revision would result in national site energy savings of 1.68 percent, national source energy savings of 1.91 percent, and national energy cost savings of approximately 1.97 percent of residential building energy consumption. This affirmative determination statement may be viewed in its entirety by contacting the agency contact person listed below for a copy of the same or by viewing it at: <https://www.govinfo.gov/content/pkg/FR-2019-12-10/pdf/2019-26550.pdf>.

Based on that affirmative determination, *United States Code*, title 42, section 6833 (a)(5)(B), now requires each state to review the provisions of its residential energy code to determine whether it is appropriate for the state to revise its current building code to meet or

exceed the residential energy efficiency provisions of the 2018 IECC. *United States Code*, title 42, section 6833 (a)(2), further requires that this state determination be made after public notice and hearing, be based upon the record provided for at the hearing, and be made generally available to the public. Accordingly, the Department encourages comments and public participation at the hearing as scheduled above.

**Public Comment.** You and all interested or affected persons, including representatives of associations and other interested groups, will have an opportunity to participate. The administrative law judge will accept your views either orally at the WebEx hearing or in writing at any time before the close of the hearing record. Submit written comments to the administrative law judge at the address below or **via the [Office of Administrative Hearings Rulemaking eComments website https://minnesotaoah.granicusideas.com/discussions](https://minnesotaoah.granicusideas.com/discussions)**. All evidence that you present should relate to the issue identified above. 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 this five-day comment period extended for a longer period but for no more than 20 calendar days. Following the comment period, there is a five-working-day rebuttal period during which the agency and any interested person may respond in writing to any new information submitted. No one may submit additional evidence 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 are public and will be available for review at the Office of Administrative Hearings or on their website.

The agency requests that any person submitting written comments or data to the administrative law judge before the hearing or during the comment or rebuttal period also submit a copy of the written comments or data to the agency contact person at the address listed below.

**Administrative Law Judge.** Administrative Law Judge Eric L. Lipman will conduct the hearing on the date and at the time and place listed above. Judge Lipman's legal assistant, Michelle Hendrickson, may be reached at the Office of Administrative Hearings, 600 North Robert Street, P.O. Box 64620, St. Paul, Minnesota 55164-0620, telephone (651) 361-7896, fax (651) 539-0310, and email: [michelle.hendrickson@state.mn.us](mailto:michelle.hendrickson@state.mn.us).

**Agency Contact Person.** The agency contact person is: Amanda Spuckler at the Minnesota Department of Labor and Industry, 443 Lafayette Road North, St. Paul, Minnesota 55155, telephone (651) 284-5006, and email: [dli.rules@state.mn.us](mailto:dli.rules@state.mn.us).

**Adoption Procedure after the Hearing.** After the close of the hearing record, the administrative law judge will issue a Report and Recommendation to the Commissioner as to whether it is appropriate to revise existing *Minnesota Rules*, chapter 1322, to adopt the residential energy saving provisions of the 2018 IECC. You may ask to be notified of the date when the administrative law judge's Report and Recommendation will become available. 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 when the Commissioner issues her Final Order on the administrative law judge's Recommendation. You may make this request at the hearing or in writing to the agency contact person listed above. Copies of the administrative law judge's Report and Recommendation and the Commissioner's Final Order will also be made available

for viewing on the agency's website at: <http://www.dli.mn.gov/about-department/rulemaking/rulemaking-docket-minnesota-rules-chapter-1322>.

If the Commissioner's Final Order determines that it is appropriate to revise the residential energy efficiency provisions of *Minnesota Rules*, chapter 1322, then the Commissioner will proceed with adopting the necessary amendments under the formal rulemaking provisions of Chapter 14, the Minnesota Administrative Procedures Act. If the Commissioner's Final Order determines that it is not appropriate at this time to revise the residential energy efficiency provisions of *Minnesota Rules*, chapter 1322, then the Commissioner will certify that determination and the reasons for the same to the United States Department of Energy as required by *United States Code*, title 42, section 6833 (a)(4). Copies of the Commissioner's Final Order will be made available for viewing on the agency's website at: <http://www.dli.mn.gov/about-department/rulemaking/rulemaking-docket-minnesota-rules-chapter-1322>.

**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.

**Lobbyist Registration.** *Minnesota Statutes*, chapter 10A, requires each lobbyist to register with the Minnesota Campaign Finance Board. Questions regarding 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/>.

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

June 24, 2020

Date



Nancy J. Leppink

Commissioner

Minnesota Department of Labor and Industry