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443 Lafayette Road N.
St. Paul, Minnesota 55155
www.doli.state.mn.us



MINNESOTA DEPARTMENT OF
LABOR & INDUSTRY

(651) 284-5005
1-800-DIAL-DLI
TTY: (651) 297-4198

February 8, 2007

Legislative Reference Library
645 State Office Building
100 Constitution Avenue
St. Paul, Minnesota 55155

Re: In the Matter of the Proposed Amendment to Rules Governing Minnesota Provisions of the Minnesota State Building Code, *Minnesota Rules*, Chapter 1303, and Repeal of Rule parts 1303.1900; OAH Docket No. 12-1900-17830-1; Governor's Tracking No. AR 145

Dear Librarian:

The Minnesota Department of Labor and Industry intends to adopt rules governing elevators and related devices. We plan to publish a 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 in the February 12, 2007 State Register.

The Department has prepared a Statement of Need and Reasonableness. As required by Minnesota Statutes, sections 14.131 and 14.23, the Department is sending the Library a copy of the Statement of Need and Reasonableness at the time we are mailing our Notice of Intent to Adopt Rules.

If you have any questions, please contact me at (651) 284-5128.

Yours very truly,



Patricia Munkel-Olson
Construction Codes and Licensing Attorney

Enclosure: Statement of Need and Reasonableness

Minnesota Department of Labor and Industry

STATEMENT OF NEED AND REASONABLENESS

Proposed Amendment to Rules Governing Minnesota Provisions of the Minnesota State Building Code, Minnesota Rules, Chapter 1303, and Repeal of Rule parts 1303.1900.

INTRODUCTION

The proposed rules amend rules that are mandated by Minnesota Statutes, are needed to address Minnesota's climatic conditions, or are otherwise determined to be necessary to provide a minimum safe level of construction.

The proposed rules are about updating the rules governing the Minnesota provisions of the State Building Code, Minnesota Rules, Chapter 1303, and repeal of parts 1303.1900. The proposed rules amend language to maintain the intent of the rules as it relates to footing depth for frost protection in light of changes that have been made to the occupancy classifications of the International Building Code (Minn. R. ch. 1305) and the International Residential Code (Minn. R. ch. 1309). The proposed rules also modify the ground snow load requirements for Clay County to more accurately reflect the ground snow load map for the southwestern half of the county. Finally, the proposed rules provide an alternative method of determining wind loads on simple buildings.

These proposed rules, should they be adopted, are intended to be effective on May 31, 2007, which corresponds with the proposed effective dates for several other rule chapters comprising the Minnesota State Building Code that are currently being amended.¹

ALTERNATIVE FORMAT

Upon request, this Statement of Need and Reasonableness can be made available in an alternative format, such as large print, Braille, or cassette tape. To make a request, contact Carrie Rohling, Department of Labor and Industry, 443 Lafayette Road North, St. Paul, Minnesota 55155-4341; phone (651) 284-5217; FAX: (651) 284-5725. TTY users may call the Department of Labor and Industry at (651) 297-4198.

STATUTORY AUTHORITY

The Department's statutory authority to adopt the rules is set forth in Minnesota Statutes

¹ The Department is also engaged in rulemaking for the following chapters of Minnesota Rules: Chapter 1300, Building Code Administration; chapter 1305, Adoption of the International Building Code; chapter 1306, Special Fire Protection Systems; chapter 1309, Adoption of the International Residential Code; chapter 1341, Accessibility Code, and chapter 1346, the Mechanical and Fuel Gas Codes. The Department is also engaged in rulemakings related to the Minnesota Fire Code, chapter 7510 (proposed as chapter 7511). Each of these rule chapters has a proposed effective date of May 31, 2007, or five working days after publication of the notice of intent to adopt in the State Register, whichever occurs later.

sections 16B.59, 16B.61, and 16B.64.²

Minnesota Statutes, section 16B.59 states in pertinent part,

[T]he State Building Code governs the construction, reconstruction, alteration, and repair of buildings and other structures to which the code is applicable. The commissioner shall administer and amend a state code of building construction which will provide basic and uniform performance standards, establish reasonable safeguards for health, safety, welfare, comfort, and security of the residents of this state and provide for the use of modern methods, devices, materials, and techniques which will in part tend to lower construction costs. The construction of buildings should be permitted at the least possible cost consistent with recognized standards of health and safety.

Minnesota Statutes, section 16B.61, subdivision 1, states in part,

[T]he commissioner shall by rule establish a code of standards for the construction, reconstruction, alteration, and repair of buildings, governing matters of structural materials, design and construction, fire protection, health, sanitation, and safety, including design and construction standards regarding heat loss control, illumination, and climate control. The code must also include duties and responsibilities for code administration, including procedures for administrative action, penalties, and suspension and revocation of certification. The code must conform insofar as practicable to model building codes generally accepted and in use throughout the United States, including a code for building conservation. In the preparation of the code, consideration must be given to the existing statewide specialty codes presently in use in the state. Model codes with necessary modifications and statewide specialty codes may be adopted by reference. The code must be based on the application of scientific principles, approved tests, and professional judgment. To the extent possible, the code must be adopted in terms of desired results instead of the means of achieving those results, avoiding wherever possible the incorporation of specifications of particular methods or materials. To that end the code must encourage the use of new methods and new materials...

Minnesota Statutes, section 16B.64, subdivision 6, states, "The commissioner shall approve any proposed amendments deemed by the commissioner to be reasonable in conformity with the policy and purpose of the code and justified under the particular circumstances involved..."

Pursuant to the *Department of Administration Reorganization Order No. 193*, dated April 4, 2005, the responsibilities of the Department of Administration in relation to State Building

² All sources of statutory authority were adopted and effective prior to January 1, 1996, and so Minnesota Statutes, section 14.125, does not apply. See Minnesota Laws 1995, chapter 233, article 2, section 58.

Codes and Standards as set forth in Minnesota Statutes, sections 16B.59 through 16B.76 (2004) were transferred to the Department of Labor and Industry.³

Pursuant to these statutes and the reorganization order, the Department of Labor and Industry has the authority to adopt these proposed rules.

REGULATORY ANALYSIS

Minnesota Statutes, section 14.131, sets out seven factors for a regulatory analysis that must be included in the SONAR. Paragraphs (1) through (7) below quote these factors and then give the agency's response.

(1) a description of the classes of persons who probably will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule:

The classes that will be affected by the rules include: municipal building officials and inspectors who must become familiar with and administer and enforce the MSBC; various types of building contractors, including commercial and residential, who perform both new construction and remodeling; architects and professional engineers who must become familiar with and incorporate applicable provisions into their design of new and remodeled buildings and structures; building material suppliers who must become familiar with and incorporate applicable provisions into the manufacture and assembly of their product(s); and members of the general public who live, work, shop, and conduct business in buildings or other structures will benefit from new safety standards.

The classes that will bear the costs of the rules include: building owners who ultimately must pay for any costs associated with construction, and material suppliers and building contractors.

The classes that will benefit from the proposed rules include building officials and inspectors that administer and enforce the MSBC; contractors, installers, and design professionals; building owners and managers; and the general public that live, work, shop, and conduct business in the buildings and structures constructed under these rules.

(2) the probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues:

There are no anticipated additional costs to this agency or any other agency in the implementation and enforcement of these rules. There are no anticipated effects on state revenues.

³ Reorganization Order No. 193 was effective upon filing with the Secretary of State on May 16, 2005, and shall remain in effect until amended, repealed, or superseded. For a copy of the reorganization order, please contact Carrie Rohling by e-mail at dli.rules@state.mn.us, or phone to (651) 284-5217.

(3) a determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule:

There are no less costly or less intrusive methods for achieving the purpose of this proposed rule.

(4) a description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule:

No alternatives were considered.

(5) the probable costs of complying with the proposed rule, including the portion of the total costs that will be borne by identifiable categories of affected parties, such as separate classes of governmental units, businesses, or individuals:

There will be a small cost reduction.

(6) the probable costs or consequences of not adopting the proposed rule, including those costs or consequences borne by identifiable categories of affected parties, such as separate classes of government units, businesses, or individuals:

Costs would stay the same as they are currently.

(7) an assessment of any differences between the proposed rule and existing federal regulations and a specific analysis of the need for and reasonableness of each difference:

The Department is unaware of any federal regulations that are applicable to the subject of these rules.

PERFORMANCE-BASED RULES

Minnesota Statutes, section 16B.61 authorizes the Department to, by rule, establish a code of standards for construction. This statute also mandates, that to the extent possible, the code must be adopted in terms of desired results instead of the means of achieving those results, avoiding wherever possible the incorporation of specifications of particular methods or materials. Many of the provisions contained in this chapter are mandated by Minnesota Statute. Others are options to complying with the more restrictive provisions of the International Building Codes.

ADDITIONAL NOTICE

This Additional Notice Plan was reviewed by the Office of Administrative Hearings and approved in a January 30, 2007 letter by Administrative Law Judge Steve M. Mihalchick.

The Department will mail or email the Dual Notice of Intent to Adopt Rules to the following interested parties:

- a. All certified building officials. This includes all municipal building officials that are responsible for the administration of the State Building Code;
- b. the Metropolitan Council;
- c. Building Owners and Managers Association;
- d. Builders Association of Minnesota;
- e. Builders Association of the Twin Cities;
- f. Minnesota State Fire Chiefs Association;
- g. Minnesota Mechanical Contractors Association;
- h. Minnesota Plumbing, Heating, and Cooling Contractors Association;
- i. American Society of Civil Engineers – Minnesota;
- j. American Council of Engineering Companies of Minnesota;
- k. American Society of Plumbing Engineers;
- l. American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc.;
- m. Minnesota Electrical Association;
- n. National Electrical Contractors Association;
- o. North Central Electrical League;
- p. Minnesota Utility Contractors Association;
- q. Association of Minnesota Counties;
- r. Minnesota Association of Townships;
- s. League of Minnesota Cities;
- t. American Institute of Architects – Minnesota;
- u. Minnesota Pipe Trades Association;
- v. Minnesota Utility Contractors Association; and
- w. the State Fire Marshal Division.

We will also publish the proposed rules, Statement of Need and Reasonableness, and Dual Notice on the Department's website.

Our Notice Plan also includes giving notice required by statute. We will mail the Dual Notice to everyone who has registered to be on the Department's rulemaking mailing list pertaining to all rulemakings related to the construction codes under Minnesota Statutes, section 14.14, subdivision 1a. Those persons include:

- a. Cities, townships, and counties;
- b. Colleges and universities;
- c. Architectural and professional engineering firms; and
- d. the Association of Minnesota Building Officials.

Chief Administrative Law Judge Raymond R. Krause, Office of Administrative Hearings, waived the publication of the proposed rules in the *State Register* by letter dated August 15, 2006. The proposed rules will be published on the Department's website at http://www.doli.state.mn.us/rulemaking_activity.html.

We will also give notice to the Legislature per Minnesota Statutes, section 14.116.

CONSULT WITH FINANCE ON LOCAL GOVERNMENT IMPACT

As required by Minnesota Statutes, section 14.131, the Department has consulted with the Commissioner of Finance. We did this by sending Keith Bogut, Executive Budget Officer at the Department of Finance, copies of the documents sent to the Governor's Office for review and approval by the Governor's Office prior to the Department publishing the Notice of Intent to Adopt. We sent the copies on December 20, 2006. The documents included the Governor's Office Proposed Rule and SONAR Form, almost final draft rules, and an almost final SONAR. Mr. Bogut sent a memorandum dated December 21, 2006, which included the following comments:

"On behalf of the Commissioner of Finance, I have reviewed the proposed rule and related Statement of Need and Reasonableness to explore the potential impact these changes may have on local governments. The changes appear to be minor in nature and do not appear to impose any additional cost on local governments."

COST OF COMPLYING FOR SMALL BUSINESS OR CITY

As required by Minnesota Statutes, section 14.127, the Department has considered whether the cost of complying with the proposed rules will exceed \$25,000 for any small business with less than 50 full-time employees⁴ or any statutory or home rule charter that has less than 10 full-time employees⁵ in the first year after the rules take effect. The Department has determined that the cost of complying with the proposed rules in the first year after the rules take effect will not exceed \$25,000 for any small business or small city because the proposed rules only affect footing depth for frost protection, ground snow load, and wind loads as it relates to new construction and modifications to existing structures. Any small city or small business contemplating new construction or remodeling will decide whether and when the new construction or remodeling will occur. Because no new construction or remodeling is required by the proposed rules, no new construction or remodeling needs to be undertaken during the first year after the rules take effect.

LIST OF WITNESSES

If these rules go to a public hearing, the Department anticipates having Construction Codes and Licensing Division staff testify in support of the need for and reasonableness of the rules.

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⁴ Hereinafter referred to as a "small business."

⁵ Hereinafter referred to as a "small city."

RULE-BY-RULE ANALYSIS

1303.1600 FOOTING DEPTH FOR FROST PROTECTION.

Subpart 2. Soil under slab on grade construction for buildings. Modifications to the existing language is necessary because this amendment clarifies the intent of this section. This section is intended to apply to detached one-story private garages, carports, and shed buildings not larger than 3,000 square feet. This amendment is necessary to maintain the intent of this subpart due to changes in the definition occupancies in the 2006 International Building Code (the "IBC") and the 2006 International Residential Code (the "IRC").

1303.1700 GROUND SNOW LOAD

This amendment modifies the ground snow load requirements for Clay County. The ground snow load has been changed from 60 pounds per square foot to 50 pounds per square foot. This amendment is necessary to more accurately reflect the ground snow load map for the Southwestern half of the county. This will keep the cost for building structures in this part of the county consistent with the cost in the adjacent cities North Dakota. It was determined that the whole county should be in one ground snow load zone in order to accommodate more effective and consistent use and enforcement of the building code.

1303.1900 CONVENTIONAL FOUNDATION CONSTRUCTION.

This rule part has been identified for repeal because most of the requirements are in the 2006 IRC, which is currently being incorporated by reference into Minnesota Rules, Chapter 1309, with amendments, in a separate and concurrent rulemaking.

1303.2200 SIMPLIFIED WIND LOADS.

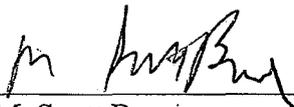
The Wind Load Method in the 2006 IBC needs to be modified to provide clarity and to ensure uniform application in the State of Minnesota. The proposed rule is an alternate method that provides a clear and concise approach to determining wind loads on simple buildings in Minnesota. The Department believes its use will reduce errors in calculating wind loads, thereby enhancing public safety.

CONCLUSION

Based on the foregoing, the proposed rules are both needed and reasonable.

2/15/07

Date



M. Scott Brener
Commissioner