

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-04778

Proposed Amendment to Rules Governing Adoption of the 2023 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 (“OAH”), *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 19, 2023**, the Board will hold a public hearing via WebEx. An Administrative Law Judge will conduct the hearing starting at **9:30 a.m. on Tuesday, May 23, 2023**, and continuing until the hearing is completed. You may participate in the hearing, if one is held, via an internet connection with a computer, smart phone, or tablet. You may also participate via phone with an audio connection only.

To register to join the hearing through an internet connection, please go to:

<https://tinyurl.com/2023NEChearing>

Webinar number: 2486 558 5655

Webinar Password: daVH2YpCM35

For audio connection only, join the hearing by phone:

Call: 1-855-282-6330 or 1-415-655-0003

Access code: 2486 558 5655

Password: 32842972

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 19, 2023, and before May 23, 2023.

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 2023 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”). The 2023 NEC is available online and free-of-charge at: <https://www.nfpa.org/codes-and-standards/all-codes-and-standards/list-of-codes-and-standards/detail?code=70>. To view the 2023 NEC, click on the link above, select “Free Access,” choose the 2023 National Electrical Code in the dropdown menu,

and then select “View.” You will then be asked to either sign-in or create a free profile for access to the 2023 NEC. It is expected that these online resources will remain accessible during the comment period. For assistance with accessing the 2023 NEC please contact the Agency Contact Person listed below.

Notable changes to the 2023 NEC relate to receptacles installed at peninsular or island countertops, calculation of service or feeder loads for dwelling units, and a minimum discharge current rating for surge protection devices. The 2023 NEC also expands Ground-Fault Circuit-Interrupter (“GFCI”) protection for dwellings, garages, dwelling accessory structures, and boathouses. The statutory authority to adopt the rules is *Minnesota Statutes*, section 326B.32, subdivision 2, clause (a), subitem (3) (2022). 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 19, 2023, 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 19, 2023. 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 a sufficient number of 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 23, 2023, 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 19, 2023, 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: <https://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 Suzanne Todnem is assigned to conduct the hearing. Judge Todnem's Legal Assistant, William Moore, 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 email: William.t.moore@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/discussions>. 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 Todnem 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 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 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 14, 2023

/s/ Duane Hendricks
Duane Hendricks, Chair
Minnesota Board of Electricity