

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 1176

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 6-27-85
DATE FOR REVIEW 7-6-85
DATE DUE 7-11-85

Adopted w/a hearing _____
Adopted w/o hearing ✓
Temporary rule _____

Approved 7-9-85 mjC Disapproved _____ Returned to Agency _____

Resubmitted _____ Due _____
Approved _____ Disapproved _____ Returned to Agency _____

Date filed w/Secretary of State 7-9-85 Revisor approved 6/28/85 disapproved _____

✓ Rule as Adopted

✓ Rule as Proposed

✓ Order Adopting 6.18.85 Date

✓ Notice of Intent to Solicit Outside Opinion SR. 2.18.85. includes small biz statement

✓ Order for rulemaking
N/A date of Hearing

✓ Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking minor deviation from 14.22
? Sufficiency no small biz statement but above inclusion deemed sufficient by agency.

✓ Affidavit of Mailing Notice or rulemaking
4.30.85 At least 30 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate dated 4.16.85, 14 days before mailing

✓ Publication in State Register
5.6.85 At least 30/~~20~~ days prior to ~~hearing~~/adoption

N/A Hearing Examiner's Report

Chief Hearing Examiner's Report(s)
_____ Approving H.E.'s Report
_____ Approving agency action

✓ Agency's Findings of Fact

N/A LCRAR Report or agency Affidavit

Certificate of Board's Resolution Adopting Rules

Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness includes small biz statement - possible direct impact.

N/A Petition for Adoption of a Rule

✓ Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

✓ Certificate of Compliance w/Rulemaking Procedures

N/A Affidavit of Mailing Notice of Submission to Attorney General

✓ Notice of Submission to the Attorney General

SF-00006-04

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT : ATTORNEY GENERAL

PHONE : 296-2921

DATE : June 26, 1985

TO : JUDITH WEHRWEIN

FROM : TOM PURSELL TP

SUBJECT : DEPARTMENT OF ENERGY AND ECONOMIC DEVELOPMENT RULES RELATING TO ENERGY EFFICIENCY STANDARDS FOR RESIDENTIAL RENTAL UNITS

Enclosed for your review please find the above-referenced rules.

TP/smo
Enclosure

cc: Bill Grant

RECEIVED
JUN 27 1985
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

SF 00006-03

DEPARTMENT ATTORNEY GENERAL

STATE OF MINNESOTA

Office Memorandum

TO: MARK DAYTON, Commissioner
Department of Energy and Economic Development

DATE: 7-9-85

ATTN: THOMAS PURCELL
Special Assistant Attorney General

FROM: MARTHA J. CASSERLY MJC
Special Assistant Attorney General

PHONE: 296-4692

SUBJECT: In the Matter of the Proposed Adoption of Rules of the State Department of Energy and Economic Development Governing Minimum Mandatory Energy Efficiency Standards for Residential Rental Units: Definition of Good Cause; Establishment of Fine Schedule.

The above-referenced rule has been approved as to its legality by the Attorney General on July 9, 1985.

Enclosed is the agency's copy of the approved rule. This office has already filed two copies of the approved rule with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth copy is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submission or comments received by the agency and any extra copies of documents which the agency submitted to the Attorney General.

In order for a permanent rule without a hearing to become effective, your agency must publish a notice of adoption in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

If you have any questions in this regard, please contact me.

MJC:sz

Enclosures

cc: Maryanne Hruby
Executive Director
Legislative Commission to Review
Administrative Rules

Duane Harves
Chief Administrative Law Judge
Office of Administrative Hearings

AG copy

Department of Energy and Economic Development
Energy Division

Adopted Rules Relating to Minimum Mandatory Energy Efficiency Standards for Residential Rental Units; Definition of Good Cause; Establishment of Fine Schedule

Rules as Adopted

4170.4105 GOOD CAUSE.

As required by Minnesota Statutes, section 116J.27, subdivision 4b, "good cause" means any one of the following:

A. That the installation of a program measure to comply with a standard in part 4170.4100 is economically infeasible as defined in part 4170.0100, subpart 8.

B. That the installation of a program measure to comply with a standard in part 4170.4100 is technologically infeasible. Technological infeasibility means that the installation of the measure would threaten the structural integrity of the building.

C. That the installation of a program measure to comply with a standard in part 4170.4100 would necessarily violate the building's esthetic or historic value.

4170.4110 FINE SCHEDULE.

If an administrative law judge finds that an owner or an owner's agent has not demonstrated good cause for failure to comply with the minimum mandatory energy efficiency standards, the judge shall assess the following penalties:

A. For a one-to-four unit building, an immediate fine of $100 plus $200 each month beginning 120 days after the finding of failure to show good cause, until the owner demonstrates to the administrative law judge that he or she has complied with the standards. If a person certified to conduct evaluations under this chapter certifies that an owner complies with the applicable standards, the judge shall consider the certification as proof of compliance by the owner.

B. For a building with five or more units, an immediate fine of the greater of $10 per unit or $100, up to a maximum of $500. The maximum fine of $500 is also the maximum fine for a residential complex situated on one or more contiguous parcels of land under common ownership. In addition, a fine each month of two times the amount assessed beginning 180 days after the finding of failure to show good cause, until the owner demonstrates to the administrative law judge that he or she has complied with the standards. If a person certified to conduct evaluations under this chapter certifies that an owner complies with the applicable standards, the judge shall consider the certification as proof of compliance by the owner.

10:25 AM

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JUL - 9 1985
Joan Anderson Growe
Secretary of State

APPROVED AS TO FORM AND LEGALITY
July 9 1985
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY M J Carsley
SPECIAL ASSISTANT ATTORNEY GENERAL

Rules as Proposed (all new material)

4170.4105 GOOD CAUSE.

As required by Minnesota Statutes, section 116J.27, subdivision 4b, "good cause" means any one of the following:

A. That the installation of a program measure to comply with a standard in part 4170.4100 is economically infeasible as defined in part 4170.0100, subpart 8.

B. That the installation of a program measure to comply with a standard in part 4170.4100 is technologically infeasible. Technological infeasibility means that the installation of the measure would threaten the structural integrity of the building.

C. That the installation of a program measure to comply with a standard in part 4170.4100 would necessarily violate the building's esthetic or historic value.

4170.4110 FINE SCHEDULE.

If an administrative law judge finds that an owner or an owner's agent has not demonstrated good cause for failure to comply with the minimum mandatory energy efficiency standards, the judge shall assess the following penalties:

A. For a one-to-four unit building, an immediate fine of $100 plus $200 each month beginning 120 days after the finding of failure to show good cause, until the owner demonstrates to the administrative law judge that he or she has complied with the standards. If a person certified to conduct evaluations under this chapter certifies that an owner complies with the applicable standards, the judge shall consider the certification as proof of compliance by the owner.

B. For a building with five or more units, an immediate fine of the greater of $10 per unit or $100, up to a maximum of $500. The maximum fine of $500 is also the maximum fine for a residential complex situated on one or more contiguous parcels of land under common ownership. In addition, a fine each month of two times the amount assessed beginning 180 days after the finding of failure to show good cause, until the

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

owner demonstrates to the administrative law judge that he or she has complied with the standards. If a person certified to conduct evaluations under this chapter certifies that an owner complies with the applicable standards, the judge shall consider the certification as proof of compliance by the owner.

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

OFFICE OF THE REVISOR OF STATUTES

Proposed Rule

RD767

Agency: Department of Energy and Economic Development

Division: Energy Division

Agency Contact: Greg Hubinger 297-2117

Minnesota Rules: Parts 4170.4105 and 4170.4110

Title: Proposed Rules Relating to Minimum Mandatory Energy Efficiency Standards for Residential Rental Units; Definition of Good Cause; Establishment of Fine Schedule.

Type of Rules: Permanent

Incorporations by Reference: None

APPROVED AS TO FORM AND LEGALITY
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY
SPECIAL ASSISTANT ATTORNEY GENERAL
19

Steven C. Cross
Revisor of Statutes

David S. Niss
Assistant Revisor
Phone: 297-2948
Date: April 19, 1985

STATE OF MINNESOTA

DEPARTMENT OF ENERGY AND ECONOMIC DEVELOPMENT

In the Matter of the Proposed Adoption of Rules of the State Department of Energy and Economic Development Governing Minimum Mandatory Energy Efficiency Standards for Residential Rental Units: Definition of Good Cause; Establishment of Fine Schedule

ORDER ADOPTING RULES

Notice of the Commissioner's intent to adopt the above-entitled rules without a public hearing was published in the State Register on Monday, May 6, 1985, and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes section 14.14, subdivision 1 on Tuesday, April 30, 1985. After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, receiving fewer than twenty-five written requests for a public hearing within the 30-day comment period, reviewing and considering the comments, and determining the need for and reasonableness of the above-captioned rules,

NOW, THEREFORE, IT IS ORDERED that these rules identified as Minimum Mandatory Energy Efficiency Standards for Residential Rental Units: Definition of Good Cause; Establishment of Fine Schedule are adopted this 14th day of June, 1985, pursuant to authority vested in me by Minnesota Statutes section 116J.10(a) (1984), and Section 116J.27 subd.4b (1984).

STATE OF MINNESOTA

COMMISSIONER OF
ENERGY AND ECONOMIC DEVELOPMENT

OFFICIAL NOTICES

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Department of Energy and Economic Development Energy Division Office of Energy Conservation and Development

Outside Opinion Sought Concerning Proposed Permanent Rules Relating to Minimum Mandatory Energy Efficiency Standards for Residential Rental Units: Definition of Good Cause; Establishment of Fine Schedule

The Order to Adopt Emergency Rules regarding the above-entitled matter was published in the *State Register* on December 10, 1984 (9 SR 1337), and was mailed to all persons who had registered their names with the Department. These emergency rules appear at Minn. Rule pt. 4170.4110. The Department is preparing to propose the adoption of the above-referenced rules as permanent rules without modification of the adopted emergency rule language, and without holding a public hearing on the matter.

Therefore, notice is hereby given that the Department of Energy and Economic Development is seeking information or opinions in preparing to adopt rules in the above-entitled matter. The promulgation of these rules is authorized by Minn. Stat. sect. 116J.27, subd. 4b, which permits the commissioner of the Department to adopt rules or temporary rules defining good cause for failure to comply with the standards and establishing a schedule of fines for non-compliance.

Pursuant to Minn. Stat. sect. 14.115, subd. 4a (1984), notice is also hereby given that the above-referenced proposed rule will have an impact on small businesses. Owners of residential rental housing who might also be considered "small business" owners as defined by the aforementioned statute should be aware of the probable economic impact of the proposed rules. If, after an inspection of an owner's residential rental property, the Department finds the owner out of compliance with the energy efficiency standards, the Department may initiate a hearing against the owner through the Office of Administrative Hearings. During the hearing, if the owner is unable to prove a good cause for failure to comply, as defined by the proposed rule, the Administrative Law Judge is required to assess a fine against the owner in accordance with the schedule of fines established by the proposed rule.

Any persons desiring to submit information or comment in this matter may do so either orally or in writing. All statements of information or comment must be received by March 22, 1985. Any written materials received by this date will become part of the record in the event that the rules are adopted.

Written or oral comment should be addressed to:

William B. Grant
DEED/Energy Division
900 American Center Building
150 E. Kellogg Blvd.
St. Paul, MN 55101
(612) 297-1773

Department of Energy and Economic Development Financial Management Division

Availability of Issuance Authority in Competitive Pool—Cities of Crosby, Northfield, Robbinsdale, Rockford

Pursuant to Minn. Laws 1984, ch. 582 § 17, subd. 2, to be codified as 474.20, the Department gives notice that the amount of Industrial Development Bond issuance authority available in the Competitive Pool as of February 5, 1985, is $22,520,000.00, and will be available to qualifying Industrial Development Bond Issuers submitting qualification criteria applications by February 20, 1985. Pursuant to Minn. Laws 1984, ch 582 § 16, to be codified as 474.19, non Entitlement Issuers must submit an application, a preliminary resolution, an application deposit and any other supporting documents required.

STATE OF MINNESOTA
DEPARTMENT OF ENERGY AND ECONOMIC DEVELOPMENT
ENERGY DIVISION

In the Matter of Proposed Adoption of Rules of the State Department of Energy and Economic Development Governing Minimum Mandatory Energy Efficiency Standards for Rental Units: Definition of Good Cause; Establishment of Fine Schedule

Order For Notice of Intent to Adopt Rules Without Public Hearing

IT IS ORDERED this twenty-second day of April, 1985, that a Notice of Intent to Adopt Rules Without Public Hearing in the above-entitled matter be given to all persons who have registered their names with the State Department of Energy and Economic Development for that purpose and be published in the State Register.

STATE OF MINNESOTA

Mark B. Dayton
Commissioner

Subp. 4. **Non-ASTM test methods.** All other incorporations by reference in this chapter not developed by ASTM can be the subject of a petition for removal, adoption of a replacement by an ASTM standard test version, and a temporary variance as outlined in subpart 2, when an ASTM standard test method has been developed and is substantially the same. Substantiality shall be determined by the department, based in part, on whether the manufacturers who satisfy the existing standard might fail to meet the requirements of the proposed ASTM standard, and the criteria listed in subpart 2.

Department of Energy and Economic Development Energy Division

Proposed Rules Relating to Minimum Mandatory Energy Efficiency Standards for Residential Rental Units; Definition of Good Cause; Establishment of Fine Schedule

Notice of Intent to Adopt Rules without a Public Hearing

NOTICE IS HEREBY GIVEN that the State Department of Energy and Economic Development proposes to adopt the above-entitled rules without a public hearing. The Commissioner has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, sections 14.21 to 14.28.

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

Unless 25 or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions on Minnesota Statutes, sections 14.13 to 14.18.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or request to:

William Grant
Department of Energy and Economic Development
900 American Center Building
150 East Kellogg Boulevard
St. Paul, MN 55101 (612) 297-1773

Authority for the adoption of these rules is contained in Minnesota Statutes, section 116J.27, subdivisions 4a and 4b. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from William Grant upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the Statement of Need and Reasonableness, all written comments received, and the final Rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to William Grant. A copy of the proposed rules is attached to this notice.

Copies of this notice and the proposed rules are available and may be obtained by contacting William Grant.

Mark Dayton
Commissioner
Department of Energy
and Economic Development

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Rules as Proposed (all new material)

4170.4105 GOOD CAUSE.

As required by Minnesota Statutes, section 116J.27, subdivision 4b, "good cause" means any one of the following:

A. That the installation of a program measure to comply with a standard in part 4170.4100 is economically infeasible as defined in part 4170.0100, subpart 8.

B. That the installation of a program measure to comply with a standard in part 4170.4100 is technologically infeasible. Technological infeasibility means that the installation of the measure would threaten the structural integrity of the building.

C. That the installation of a program measure to comply with a standard in part 4170.4100 would necessarily violate the building's esthetic or historic value.

4170.4110 FINE SCHEDULE.

If an administrative law judge finds that an owner or an owner's agent has not demonstrated good cause for failure to comply with the minimum mandatory energy efficiency standards, the judge shall assess the following penalties:

A. For a one-to-four unit building, an immediate fine of $100 plus $200 each month beginning 120 days after the finding of failure to show good cause, until the owner demonstrates to the administrative law judge that he or she has complied with the standards. If a person certified to conduct evaluations under this chapter certifies that an owner complies with the applicable standards, the judge shall consider the certification as proof of compliance by the owner.

B. For a building with five or more units, an immediate fine of the greater of $10 per unit or $100, up to a maximum of $500. The maximum fine of $500 is also the maximum fine for a residential complex situated on one or more contiguous parcels of land under common ownership. In addition, a fine each month of two times the amount assessed beginning 180 days after the finding of failure to show good cause, until the owner demonstrates to the administrative law judge that he or she has complied with the standards. If a person certified to conduct evaluations under this chapter certifies that an owner complies with the applicable standards, the judge shall consider the certification as proof of compliance by the owner.

Department of Human Rights

Proposed Rules Relating to Human Rights & Processing of Discrimination Charges (Second Notice)

Notice of Intent to Adopt Rule without a Public Hearing

Notice is hereby given that the State Department of Human Rights proposes to adopt the above-entitled rule without a public hearing. This notice originally appeared in the *State Register* on April 8, 1985. It is being republished to include the department's position regarding whether the proposed rules will have an impact on small business as defined in Minn. Stat. § 14.115.

The Commissioner of Human Rights has determined that the proposed adoption of this rule will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, Sections 14.21 to 14.28.

These rules are procedural in nature, establishing some definitions, criteria for certain dismissals (frivolous/without merit, failure to provide required information), establishing factors to be considered in reopening cases, requiring preservation of records and other such matters. For the most part, these rules have been in effect as temporary rules for the past year.

1. A new 30-day comment period commencing from the date of publication of this notice is established. The Department of Human Rights encourages all interested persons to submit comments in support of or opposition to the proposed rules. Comments should be mailed to the address listed below and received no later than June 6, 1985.

2. Each comment should identify the portion of the rule addressed, the reason for the comment and any proposed change(s).

3. The department has determined that these rules will not have an impact on small business as defined in Minn. Stat. § 14.115 because they are essentially procedural in nature. Persons are encouraged to submit comments regarding the probable impact of these proposed rules upon small business.

4. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes, Section 14.13 through 14.20.

5. Any interested person may request a public hearing by writing to the address listed below. The request must contain the name and address of the person requesting the hearing. Any person requesting a hearing may also identify the portion of the proposed rule addressed, the reason for the hearing request and any proposed change(s) in the rule.

STATE OF MINNESOTA

DEPARTMENT OF ENERGY AND ECONOMIC DEVELOPMENT
ENERGY DIVISION

In the Matter of the Proposed Adoption of Rules of the State Department of Energy and Economic Development Governing Minimum Mandatory Energy Efficiency Standards for Residential Rental Units: Definition of Good Cause; Establishment of Fine Schedule.	NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the State Department of Energy and Economic Development proposes to adopt the above-entitled rules without a public hearing. The Commissioner has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, sections 14.21 to 14.28.

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

Unless 25 or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions on Minnesota Statutes, sections 14.13 to 14.18.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or request to:

William Grant
Department of Energy and Economic Development
900 American Center Building
150 East Kellogg Boulevard
St. Paul, MN 55101 (612) 297-1773

Authority for the adoption of these rules is contained in Minnesota Statutes, section 116J.27, subdivisions 4a and 4b. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from William Grant upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this Notice, the Statement of Need and Reasonableness, all written comments received, and the final Rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to William Grant.

OVER

A copy of the proposed rules is attached to this Notice.

Copies of this Notice and the proposed rules are available and may be obtained by contacting William Grant.

STATE OF MINNESOTA

COMMISSIONER OF THE
DEPARTMENT OF ENERGY
AND ECONOMIC DEVELOPMENT

#7-25

4170.4105 GOOD CAUSE.

As required by Laws of Minnesota 1984, chapter 595, section 4, "good cause" means any one of the following:

A. That the installation of a program measure to comply with a standard in part 4170.4100 is economically infeasible as defined in part 4170.0100, subpart 8, that the costs of the measure do not exceed energy savings, amortized over the subsequent ten-year period.

B. That the installation of a program measure to comply with a standard in part 4170.4100 is technologically infeasible. Technological infeasibility means that the installation of the measure would threaten the structural integrity of the building.

C. That the installation of a program measure to comply with a standard in part 4170.4100 would necessarily violate the building's esthetic or historic value.

4170.4110 FINE SCHEDULE.

If an administrative law judge finds that an owner or an owner's agent has not demonstrated good cause for failure to comply with the minimum mandatory energy efficiency standards, the judge shall assess the following penalties:

A. For a one-to-four unit building, an immediate fine of $100 plus $200 each month beginning 120 days after the finding of failure to show good cause, until the owner demonstrates to the administrative law judge that she or he has complied with the standards. If a person certified under chapter 4170 to conduct evaluations certifies that an owner complies with the applicable standards, the judge shall consider the certification as proof of compliance by the owner.

B. For a building with five or more units, an immediate fine of the greater of $10 per unit or $100, up to a maximum of $500. The maximum fine of $500 is also the maximum fine for a residential complex situated on one or more contiguous parcels of land under common ownership. In addition, a fine each month of two times the amount assessed beginning 180 days after the finding of failure to show good cause, until the owner demonstrates to the administrative law judge that she or he has complied with the standards. If a person certified under chapter 4170 to conduct evaluations certifies that an owner complies with the applicable standards, the judge shall consider the certification as proof of compliance by the owner.

In the Matter of the Proposed Adoption of Rules of the State Department of Energy and Economic Development Governing Minimum Mandatory Energy Efficiency Standards for Residential Rental Units: Definition of Good Cause; Establishment of Fine Schedule

AFFIDAVIT OF MAILING

Debra Caswell, being first duly sworn deposes and says:

That on the 30th day of April, 1985, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Intent to Adopt Rules Without Public Hearing by depositing in the United States mail at said City of St. Paul, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who have requested that their names be placed on file with the State Department of Energy and Economic Development for the purpose of receiving notice of the proposed adoption of rules by this Department.

Debra Caswell

Subscribed and sworn to before me this 30 day of APRIL, 1985.

Dennis M. Devereaux

DENNIS M. DEVEREAUX
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
My Comm. Expires April 1, 1988

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

CERTIFICATE

In the Matter of the Proposed Adoption
of the Permanent rules for the Department
of Energy and Economic Development governing the
Minimum Mandatory Energy Efficiency Standards for
Residential Rental Units

I hereby certify that the list of persons, associations and other interested groups who have requested, pursuant to Minnesota Statute 14.14 subd.1, that their names be placed on file with and maintained by the State Department of Energy and Economic Development for both the Department and the Energy Economic Development Authority for the purpose of receiving notice of the proposed adoption of rules by both the Energy and Economic Development Authority and the Department of Energy and Economic Development is accurate and complete as of Tuesday, this 16 day of April, 1985.

Mary Anderson

MINN DEPT OF ENERGY & ECONOMIC DEVELOPMENT
ENERGY DIVISION
POSTAL DATA BASE
RULES & REGULATIONS

COMPILED BY
MARY ANDERSEN

LABELS CONTAINING
THE FOLLOWING NAMES
DELIVERED 04/16/85
TO Bill Grant

LIST OF CODE RULES-POSTAL DATA BASE
85/04/16.

***	ID#	COMPANY	LAST NM	FIRST NM	ADDRESS	CITY	ZIP
*	6680		ALFERS	MARK	2496 145TH ST W	ROSEMOUNT	55068
*	8544		ANDERSON	HERBERT K	418 EIGHTH ST S	VIRGINIA	55792
*	8555		BROOKS JR	WILLIAM F	405 SECOND AVE S-RM 900	MPLS	55401
*	16845		BUCKLER	ROBERT	336 ROBERT ST N-RM 908	ST PAUL	55101
*	16966		DEML	BERNARD J	BOX 76	CARLOS	56319
*	8514		DIRACLES	JAMES C	80 EIGHTH ST S-RM 4040	MPLS	55402
*	8515		DRAWZ	JOHN E	120 SIXTH ST S-RM 2000	MPLS	55402
*	16789		EDEL	SUSAN	86 HILLSDALE COURT	WINONA	55987
*	36904		ELLER	CHRISTIE B	BREMER TOWER-RM 1100	ST PAUL	55101
*	8571		FITZPATRICK	LEO C	8138 HENSLOWE AVE S	COTTAGE GROVE	55016
*	12363		FLOHRS	WAYNE	COURTHOUSE-RM 105	FAIRMONT	56031
*	2267		FRANK	DONALD J	STATE CAPITOL BLDG-RM G28	ST PAUL	55155
*	6682		GREENWALD	MARTHA	2222 ELM ST SE	MPLS	55414
*	65317		JENSEN	JAMES	BOX 459	RUSHFORD	55971
*	8446		JERONIMUS	DAVID	4808 TIOGA ST	DULUTH	55802
*	1630		LINDBERG	CLARENCE P	750 PLAZA DR S	MENDOTA HTS	55118
*	16941		LOCKYEAR	ROBERT	14900 61ST ST N	STILLWATER	55082
*	6917		OHMAN	JON G	1732 LONDON RD	DULUTH	55812
*	6691		OLSON	GEOFF	1380 FROST AVE	MAPLEWOOD	55109
*	16763		OLSON	ROLAND E	5416 70TH ST W-RM 2	EDINA	55435
*	30025		OSMUNDSON	MICHAEL	240 GEORGIA AVE W	MPLS	55427
*	16799		RENNER JR	ROBERT G	120 SIXTH ST S-RM 1700	MPLS	55402
*	8641		ROSS	ALFRED J	6356 WARE RD	LINO LAKES	55014
*	16835		TROSKA	GREGORY F	804 11TH ST E	GLENCOE	55336
*	6694		UNMACHT	DAVID J	420 MAIN ST E	BELLE PLAINE	56011
*	16864		VIRKUS	THERESA	1031 SIXTH ST E	DULUTH	55805
*	8508	A F L-C I O	BROMMER	BERNARD L	175 AURORA AVE	ST PAUL	55103
*	16889	ALBANY CITY OF	WEIVODA	CLYDE A		ALBANY	56307
*	36525	ALEXANDRIA CITY OF	TADDEL	JAMES	114 SEVENTH AVE W-BOX 369	ALEXANDRIA	56308
*	8605	ANOKA CITY HALL	KIRCHNER	ROBERT	2015 FIRST AVE	ANOKA	55303
*	8547	ARROWHEAD REG DEVEL COMM	ILSE	RICHARD	200 ARROWHEAD PL	DULUTH	55802
*	65316	ASSOC BLDRS & CONTRACTORS INC	BAUMGARTNER	JANET	6300 WALKER ST-STE 109	MPLS	55416
*	8582	ASSOCIATED MOTOR CARRIERS	HALLMAN	W A	1745 UNIVERSITY AVE	ST PAUL	55104
*	9759	AUSTIN COMM COLLEGE	FLANNERY	JAMES D	1600 EIGHTH AVE NW	AUSTIN	55912
*	16972	BARR ENGINEERING CO	CREME	FRANCINE	6800 FRANCE AVE S	MPLS	55435
*	16625	BARTON-ASCHMAN ASSOC	CHAPMAN	B B	610 SIXTH ST S	MPLS	55454

* 6677	BASS BROOK TOWN OF			BOX 146	COHASSET	55721
* 16863	BECHTEL POWER COMPANY	SLATER JR	JAMES E	15740 SHADY GROVE RD	GAITHERSBURG	20877
* 16854	BEMIDJI CHAMBER OF COMMERCE			BOX 806	BEMIDJI	56601
* 16853	BEMIDJI CHAMBER OF COMMERCE			BOX 806	BEMIDJI	56601
* 16706	BENNET RINGROSE WOLSFELD INC	WEBER	WILLIAM	700 THIRD ST	MPLS	55415
* 5	BENSON CITY OF	SHUKLE JR	EDWARD J	1411 PACIFIC AVE	BENSON	56215
* 16760	BENTON CO LAND USE TECH	BARTHELEMY	AL	COURTHOUSE	FOLEY	56329
* 8602	BLAINE CITY OF	JOHNSON	LESLIE M	9150 CENTRAL AVE NE	BLAINE	55434
* 16780	BLANDIN PAPER CO	LICKE	W J	115 FIRST ST SW	GRAND RAPIDS	55744
* 8455	BLOOMINGTON BLDG & INSPECT DIV	GASTERLAND	JAN P	2215 OLD SHAKOPEE RD W	BLOOMINGTON	55431
* 8454	BLOOMINGTON CITY MGRS OFFICE	MEYER	HERBERT W	2215 OLD SHAKOPEE RD W	BLOOMINGTON	55431
* 16862	BOISE CASCADE WOODLAND	BARKER	BRUCE	BOX 1152	INTL FALLS	56649
* 16618	BONNESTRO & ASSOCIATES	PFEFFERLE	ROBERT	2335 HWY 36 W	ST PAUL	55113
* 16775	BRAINERD AREA CHAMBER OF COMMERCE	FRAZIOR	DOUGLAS	SIXTH & WASHINGTON STS	BRAINERD	56401
* 16828	BRAINERD COMM DEVEL ADMIN	BREKKE JR	CURT	CITY HALL	BRAINERD	56401
* 11	BRAINERD LIGHT & WATER DEPT	SJOLUND	WALTER C	501 LAUREL ST-BOX 373	BRAINERD	56401
* 8511	BRECKENRIDGE CITY OF	CASPER	M D	420 NEBRASKA AVE	BRECKENRIDGE	56520
* 11695	BROEKER HARTFELDT HEDGES & GRANT	BROEKER	JOHN M	2850 METRO DR-STE 800	BLOOMINGTON	55429
* 16673	BROOKLYN PARK CITY OF	BERG	GARY	5800 85TH AVE N	BROOKLYN PK	55430
* 8516	BROOKLYN PARK CITY OF	DULLINGER	GIL A	5800 85TH AVE N	BROOKLYN PK	55443
* 6686	BUREAU OF NATIONAL AFFAIRS	KESSLER	MARTHA	420 FORD RD-RM 318	ST LOUIS PK	55426
* 16871	BUTLER RESEARCH & ENG CO INC	BUTLER	ROBERT S	1306 CO RD F W	ST PAUL	55112
* 17200	CARLTON COUNTY OFFICES	TURNQUIST	P JEROME	COURTHOUSE-BOX 316	CLOQUET	55720
* 16636	CARVER CO OFFICES	HARRIS	VIRGINIA	600 FOURTH ST E	CHASKA	55318
* 17266	CHAMPION INTL CORP	FLAIM	JOSEPH J	2250 WABASHA ST-BOX 43260	ST PAUL	55114
* 16724	CHANHASSEN CITY OF	MARTIN	SCOTT A	690 COULTER DR	CHANHASSEN	55317
* 803	CIRCLE PINES UTILITIES	RAPP	CRAIG R	9201 LEXINGTON AVE N	CIRCLE PINES	55014
* 36556	CLOQUET CITY OF	SCHLENVOGT	WILLIAM	508 CLOQUET AVE	CLOQUET	55720
* 16725	COLUMBIA HTS HOUSING & REDEVEL AUTH	STUTZ	TODD M	590 40TH AVE	COLUMBIA HTS	55421
* 16990	COMMONWEALTH ASSOC	TAKATS	JOSEPH	209 WASHINGTON AVE E	JACKSON	49201
* 6685	CONSULTING ENGINEERS DIVERSIFIED	JOHNSON	ZACK	7200 HEMLOCK LN N-STE 200	MAPLE GROVE	55369
* 16884	CONSULTING ENGINEERS DIVERSIFIED	SCHOENECKER	MICHAEL A	7200 HEMLOCK LANE-STE 200	MAPLE GROVE	55369
* 5261	CONTROL DATA CORP	BELAU	JANE	8100 34TH AVE S	MPLS	55440
* 10691	COOPERATIVE POWER ASSN	AMBROSE	ROBERT P	14615 LONE OAK RD	EDEN PRAIRIE	55344
* 8486	COOPERATIVE POWER ASSN	MUSSELL	ADE	14615 LONE OAK RD	EDEN PRAIRIE	55344
* 16824	COTTONWOOD CO OFFICES	GRUNIG	FARLEY	COURTHOUSE	WINDOM	56101
* 16837	DAIRYLAND POWER COOPERATIVE	DIAL	ALBERT D	BOX 817	LACROSSE	54601
* 8478	DAIRYLAND POWER COOPERATIVE	LEIFER	JOHN P	2615 EAST AVE S	LACROSSE	54601
* 8562	DAYTON HERMAN GRAHAM & GETTS	DAYTON	CHARLES K	10 FIFTH ST S-STE 930	MPLS	55402
* 4741	DAYTON HERMAN GRAHAM & GETTS	HERMAN	JOHN H	10 FIFTH ST S-STE 930	MPLS	55402
* 16934	DAYTON HERMAN GRAHAM & GETTS	PEPIN JR	RICHARD G	10 FIFTH ST S-STE 930	MPLS	55402
* 6681	DETROIT LAKES CITY OF	GRABOW	RICHARD	10225 ROOSEVELT AVE-BOX 647	DETROIT LAKES	56501
* 8470	DEVAC INC	HETMAN	FRANK W	10130 HWY 55	MPLS	55441
* 6689	DEVAC INC	MCGRATH	FRANCIS X	10130 HWY 55	MPLS	55441
* 16947	DONALDSON CO	LUNN	ROBERT	1400 94TH ST W-BOX 1299	MPLS	55440
* 16839	DONOHUE & ASSOCIATES	HOFF	MICHAEL	7400 METRO BLVD-STE 450	MPLS	55435
* 16905	DONOVAN COMPANIES INC	SMITH	JAMES A	1080 MONTREAL AVE	ST PAUL	55116
* 4722	DONOVAN MCCARTHY CRASSWELLR LARSN&M	CRASSWELLER	DONALD B	ALWORTH BLDG-RM 1000	DULUTH	55802
* 16742	DORSEY WINDHRST HANNAFRD WHITNY&HAL	COMSTOCK	BECKY A	220 SIXTH ST S-RM 2300	MPLS	55402
* 5263	DORSEY & WHITNEY LIBRARY			2200 FIRST BANK PL E	MPLS	55402
* 16719	DULUTH CHAMBER OF COMMERCE	RAIMO	DAVID A	325 HARBOR DR	DULUTH	55802
* 16754	DULUTH CITY OF	NELSON	DOUGLAS	CITY HALL-RM 409	DULUTH	55802
* 8676	DULUTH COMM HEALTH SERV	ROWE	BRUCE T	325 LAKE AVE S-STE 604	DULUTH	55802
* 16663	E W A INC	NGO	VIET	12800 INDUS PK BLVD	PLYMOUTH	55441
* 2286	EAGAN BLDG INSPEC DEPT	PETERSON	DALE S	3795 PILOT KNOB RD-BOX 21 199	EAGAN	55121

*	36557	EAGAN CITY OF	HEDGES	THOMAS L	3830 PILOT KNOB RD	EAGAN	55123
*	16643	EDEN PRAIRIE CITY OF	ENGER	CHRIS	8950 EDEN PRAIRIE RD	EDEN PRAIRIE	55344
*	16674	EDINA CHAMBER OF COMMERCE	BODINE	VIRGINIA	5200 73RD ST W	EDINA	55435
*	9861	EDINA COMMUNITY ED	BRANNON	ROD	5701 NORMANDALE RD	MPLS	55424
*	16935	ENRIGHT & ASSOC	EDMAN	JOHN F	220 ROBERT ST S	ST PAUL	55107
*	16952	EXPERIENCE INC	PIETRUS	JOSEPH T	527 MARQUETTE AVE-RM 1930	MPLS	55402
*	16965	FABYANSKE SUOBODA & WESTRA	WESTRA	MARK	400 ROBERT ST N-RM 100	ST PAUL	55101
*	16703	FARIBAULT AREA CHAMBER OF COMMERCE	HERING	DIANA	228 CENTRAL AVE-BOX 434	FARIBAULT	55021
*	16890	FERGUS FALLS CHAMBER OF COMMERCE	WIEBER	STANLEY	202 COURT ST S-BOX 724	FERGUS FALLS	56537
*	8521	FORSBERG AGRIC SERV	FORSBERG	WINFIELD	518 SUMMIT AVE	NEW ULM	56073
*	60688	FRIDLEY CITY OF	DEBLON	WILLIAM S	6431 UNIVERSITY AVE NE	FRIDLEY	55432
*	12455	FRUNDT FRUNDT & JOHNSON			117 FIFTH ST W-BOX 95	BLUE EARTH	56013
*	8584	GENERAL MILLS INC	HAUN	DR J W	BOX 1113	MPLS	55440
*	8549	GOLDEN VALLEY CITY OF	BECKER	LLOYD G	7800 GOLDEN VALLEY RD	GOLDEN VALLEY	55427
*	16620	GRAND MARAIS CITY OF	KENNEDY	TIMOTHY	COURTHOUSE	GRAND MARAIS	55604
*	16786	GRAND RAPIDS CHAMBER OF COMMERCE			WELCOME HOUSE	GRAND RAPIDS	55744
*	16716	GRANITE FALLS AVTI	HAWK	JACK	HWY 212 W	GRANITE FALLS	56241
*	16687	GRAVEN & ASSOCIATES			9800 ANN LN	MINNETONKA	55343
*	16915	GREATER DULUTH COACT	FURE	ERIC	2904 THIRD ST W	DULUTH	55806
*	16743	HAMLINE UNIV SCHOOL OF LAW	ROBERTS	MARILYNNE K	1536 HEWITT AVE	ST PAUL	55104
*	5281	HASTINGS CITY OF	GERLOCK	FRANK	100 SIBLEY ST	HASTINGS	55033
*	59166	HEADWATERS REGIONAL DEVEL COMM	OSTREM	JOHN	722 15TH ST NW-BOX 906	BEMIDJI	56601
*	8560	HENKEL CORP	DAILEY	THOMAS M	7900 78TH ST W	MPLS	55435
*	10562	HENNEPIN CO ENVIRON & ENERGY OFFICE	NELSON	LUTHER D	HENNEPIN CO GOVERNMENT CTR	MPLS	55487
*	8465	HENNEPIN CO OFFICES	LEE	A J	300 SIXTH ST S-RM A2307	MPLS	55487
*	8460	HENNEPIN CO OFFICES	MCMILLAN	JOHN G	300 SIXTH ST S-RM A2208	MPLS	55487
*	5433	HENNEPIN CO PUBLIC WORKS	WINTER	DAVID G	320 WASHINGTON AVE S	HOPKINS	55343
*	16831	HENNINGSON DURHAM & RICHARDSON	MCMICHAEL	DALE	5401 GAMBLE DR-RM 300	MPLS	55416
*	36538	HERMANTOWN CITY OF	RUTH	HELMER A	3161 MAPLE GROVE RD	HERMANTOWN	55811
*	16781	HESSIAN MCKASY & SODERBERG	KNAPP	JOHN A	1500 MIDWEST PLAZA	MPLS	55402
*	6166	HILL ASSOCIATION	HILL	JAMES R	8200 HUMBOLDT AVE S	BLOOMINGTON	55431
*	8661	HONEYWELL INC	VIITALA	W C	HONEYWELL PLAZA-BOX 524	MPLS	55440
*	16886	HOPKINS ENVIRONMENT & ENERGY DEPT	LIE	GREGORY B	320 WASHINGTON AVE S	HOPKINS	55343
*	9485	HORMEL & CO	HAHN	DOUGLAS	BOX 800	AUSTIN	55912
*	11596	HOUSTON CO OFFICES	FRANK	RICHARD	COURTHOUSE	CALEDONIA	55921
*	8464	HUBER LTD	HUBER	PAUL	1821 UNIVERSITY AVE	ST PAUL	55104
*	4654	IND SCHOOL DIST 623	VANDERWALL	JAN	1251 CO RD B2 W	ROSEVILLE	55113
*	16767	INTERSTATE POWER CO	CORDES	AL D	1000 MAIN ST	DUBUQUE	52001
*	16731	INVER HILLS COMM COLLEGE	MITCHELL	RUSTY	8445 COLLEGE TR	INVER GROVE HTS	55075
*	16975	ISBERG & ASSOC	ISBERG	GUNNAR	BOX 115	NORTHFIELD	55057
*	6693	JANESVILLE CITY OF	PLUYM	JANET	219 MAIN ST N	JANESVILLE	56048
*	16984	JENOS INC	STROBEL	JACK C	100 LIVE OAK GARDENS-BOX 200	CASSELBERRY	32707
*	8574	JOHNSON FREDIN KILLEN THIBODEAU&SEI	FREDIN	CONRAD M	NORWEST CTR-RM 811	DULUTH	55802
*	16712	KLEINSCHMIDT & WEBBER INC	WEBBER	ROBERT	4240 FIFTH ST	WINONA	55987
*	36663	LACRESCENT CITY OF	JILK	STEPHAN	315 MAIN ST	LACRESCENT	55947
*	8573	LAKE SUPERIOR INDUSTRIAL BUREAU	FRANCE	ALFRED E	NORWEST CTR-RM 828	DULUTH	55802
*	10030	LAKEWOOD COMM COLLEGE	WISCHMANN	ROBERT	3401 CENTURY AVE N	WHITE BEAR LK	55110
*	16991	LEFEUERE LAW FIRM	STRAND	JEFFREY J	120 SIXTH ST S-RM 2000	MPLS	55402
*	6688	LEHMANN & ASSOC INC	LEHMANN	ERNEST K	1409 WILLOW ST-RM 300	MPLS	55403
*	8480	LEVANDER GILLEN MILLER & MAGNUSON	MILLER	ROGER C	633 CONCORD ST-RM 402-BOX 298	S ST PAUL	55075
*	8600	LUTHERAN SOCIAL SERVICE	JOHNSON	GORDON	2414 PARK AVE	MPLS	55404
*	16974	LUVERNE CITY OF	GUHIN	MARY	203 MAIN ST E	LUVERNE	56156
*	16632	MAIER STEWART ASSOC	STEWART	JOHN	BREMER BLDG-RM 600	ST PAUL	55101
*	16696	MANKATO AREA CHAMBER OF COMMERCE			BOX 999	MANKATO	56001
*	6690	MANKATO COMM DEVEL OFFICE	MELENA	THOMAS	202 JACKSON ST E	MANKATO	56001

*	60188	MANKATO STATE UNIV	JACK	JAMES	BOX 36	MANKATO	56001
*	16793	METRO COUNCIL	MICHAND	CARL	121 SEVENTH ST E-RM 300	ST PAUL	55101
*	16971	METRO COUNCIL	RUTFORD	JOHN	121 SEVENTH ST E	ST PAUL	55101
*	16848	METRO MUNICIPAL ASSN	PETERSON	VERNON	183 UNIVERSITY AVE E	ST PAUL	55101
*	61113	MICHAUD COOLEY ERICKSON & ASSOC INC	HARTRANFT	FRANK F	625 FOURTH AVE S-STE 1325	MPLS	55415
*	16708	MILACA CITY OF	HESTER	RALPH K	145 CENTRAL AVE S	MILACA	56353
*	16761	MINN ATTORNEY GEN OFC-ANTITRUST DIV	CATANIA	THOMAS F	117 UNIV AVE-SECOND FLR	ST PAUL	55155
*	8512	MINN AUTO DEALERS ASSN	CLAESON JR	LOUIS W	277 UNIVERSITY AVE	ST PAUL	55103
*	16648	MINN BOARD OF AGING	ORSELLO	JEAN	121 SEVENTH ST E-RM 204	ST PAUL	55101
*	16962	MINN COACT-LEGAL SERV ADVOC PROJ	OSTERUD	DRU	60 FOURTH ST E-RM 300	ST PAUL	55101
*	8625	MINN COMMERCE & INDUSTRY ASSN OF	OCONNELL	RAYMOND E	480 CEDAR ST-RM 300	ST PAUL	55109
*	8651	MINN COOPERATIVES ASSN OF	SLETTOM	EDWARD E	480 CEDAR ST-RM 380	ST PAUL	55101
*	8649	MINN COUNTIES ASSN OF	SHIPMAN	JAMES C	555 PARK ST-STE 300	ST PAUL	55103
*	8586	MINN DEPT OF ADMIN	HINIKER JR	JAMES J	50 SHERBURNE AVE-RM 200	ST PAUL	55155
*	16762	MINN DEPT OF AGRICULTURE	HEIL	GERALD	90 PLATO BLVD W	ST PAUL	55107
*	16803	MINN DEPT OF HEALTH-COMM DEVEL			717 DELAWARE ST SE	MPLS	55440
*	16647	MINN DEPT OF HEALTH-COMM DEVEL OFF	SKUBIC	MARK	717 DELAWARE ST SE	MPLS	55440
*	6684	MINN DEPT OF REVENUE	HANSON	DOROTHY M	CENTENNIAL BLDG	ST PAUL	55145
*	16876	MINN DEPT OF TRANS-DRIVER&SERV	SWANSON	MARLENE	JOHN IRELAND BLVD-RM 161	ST PAUL	55155
*	6692	MINN GOVERMENT REPORT	DAWSON	JEAN	STATE CAPITAL BLDG-PRESS RM B2	ST PAUL	55155
*	16894	MINN HOUSING FINANCE AGENCY	SOLEM	JAMES	333 SIBLEY ST-RM 200	ST PAUL	55101
*	4742	MINN LEGIS AUDITOR	BAUMGARTEN	ALLAN	VETERANS SERVICE BLDG-RM 122	ST PAUL	55155
*	8502	MINN LEGIS COMM TO REVIEW ADMIN RUL	BURCH	BETTY ANN	CAPITOL BLDG-B 46	ST PAUL	55155
*	4651	MINN MULTI HOUSING ASSN	HORNER	JOHN	3100 LAKE ST W	MPLS	55416
*	8015	MINN PETROLEUM COUNCIL	BUNGE	DARREL	386 WABASHA ST N-RM 1025	ST PAUL	55102
*	16650	MINN PLANT FOOD & CHEM ASSN	SALLSTROM	CRAIG	1821 UNIVERSITY AVE-RM 253	ST PAUL	55104
*	10133	MINN POLLUTION CONTROL AGENCY	GARDENBRING	SANDRA S	1935 CO RD B2 W	ROSEVILLE	55113
*	8646	MINN POLLUTION CONTROL AGENCY	SCHADE	BARRY C	1935 CO RD B2 W	ROSEVILLE	55113
*	8671	MINN POWER CO	DEBEIR	ELAINE	30 SUPERIOR ST W	DULUTH	55802
*	16683	MINN POWER CO	HANSMEYER	LEN	30 SUPERIOR ST W	DULUTH	55802
*	8538	MINN POWER CO	ROBERTS	JAMES A	30 SUPERIOR ST W	DULUTH	55802
*	16978	MINN PROJECT-S E OFFICE	KEMP	LONI	BOX 4	PRESTON	55965
*	7390	MINN PUBLIC INTEREST RESEARCH GROUP	GOSTOVICH	JOHN	2412 UNIVERSITY AVE SE	MPLS	55414
*	16669	MINN RETAIL MERCHANTS ASSN	MORRIS	RANDY	121 SEVENTH ST E-STE 180	ST PAUL	55101
*	8505	MINN RURAL ELECTRIC ASSN	BARNIER	LEON	4901 77TH ST W	MPLS	55435
*	8568	MINN SERVICE STATION ASSN	ETTESVOLD	BRIAN	2700 RICE ST	ST PAUL	55113
*	12760	MINN STATE UNIV SYSTEM	STANTON	MARY E	555 PARK ST-STE 230	ST PAUL	55105
*	16817	MINN TOWNSHIPS ASSN OF	FRICKE	DAVID	BOX 246	ST MICHAEL	55376
*	8640	MINN TRANSPORT SERV ASSN	ROSENTHAL	ABE	1821 UNIVERSITY AVE-RM 310N	ST PAUL	55104
*	16858	MINN VOLUNTARY SOC SERV ASSN OF	KAUFMAN	BARBARA W	1821 UNIVERSITY AVE-RM 141S	ST PAUL	55104
*	800	MINNEGASCO			201 SEVENTH ST S	MPLS	55402
*	16951	MINNEGASCO	KOMAREK	LUKE R	201 SEVENTH ST S	MPLS	55402
*	16721	MONTEVIDEO CITY OF	BIFOSS	R BEN	BOX 676	MONTEVIDEO	56265
*	16728	MONTICELLO CITY OF	ELDEM	THOMAS	250 BROADWAY ST E	MONTICELLO	55362
*	8459	MOSS FLAHERTY CLARKSON & FLETCHER	AHERN	MICHAEL J	200 SIXTH ST S-STE 1200	MPLS	55402
*	8617	MOSTCA INC	AICHINGER	CLIFF	2225 WHITE BEAR AVE	MAPLEWOOD	55109
*	16795	MPLS ADMIN HEARING OFFICE	RUHLE	SAM	310 FOURTH AVE-RM 400	MPLS	55415
*	8536	MPLS BLDG OWNERS & MGRS ASSN	OLOFSON	ARTHUR W	105 FIFTH ST S-RM 927	MPLS	55402
*	16829	MPLS CITY COORDINATORS OFFICE	MEININGER	PHILIP G	350 FIFTH ST S-RM 210	MPLS	55415
*	16705	MPLS PUBLIC LIBRARY-ENVIRON CONSERV			300 NICOLLET MALL	MPLS	55401
*	16642	N A H R O-MINN CHAPTER	KEMP	WILLIAM A	14 FIFTH ST S-STE 300	ST CLOUD	56301
*	8667	N E C A	FRISON	FRANK	200 ROBERT ST S-RM 305	ST PAUL	55107
*	4723	NATIONAL HOMES MFG CO	PETTRY	SHELBY	BOX 7680	LAFAYETTE	47903
*	8591	NATIONAL SOCIAL WORKERS ASSN	INGRAM	ALAN W	614 PORTLAND AVE	ST PAUL	55102
*	16697	NEW HOPE CITY OF	DONAHUE	DANIEL J	4401 XYLON AVE N	NEW HOPE	55428

*	8482	NORTHERN STATES POWER	BIZZANO JR	JOSEPH D	414 NICOLLET MALL	MPLS	55401
*	8663	NORTHERN STATES POWER	WELK	G V	414 NICOLLET MALL	MPLS	55401
*	16764	NORTHERN STATES POWER CO	WIETECKI	KEITH H	414 NICOLLET MALL	MPLS	55403
*	16987	NORTHERN SUN ALLIANCE	FIELDSETH	HENRY	1519 FRANKLIN AVE E	MPLS	55404
*	16666	NORTHFIELD CITY OF	MARONEY	DAVID	801 WASHINGTON ST	NORTHFIELD	55057
*	60405	NORTHWEST REG DEVEL COMM	JORGENS	THOMAS	425 WOODLAND AVE	CROOKSTON	56716
*	8539	NORTHWEST REG DEVEL COMM	SCHARMER	PAT	425 WOODLAND AVE	CROOKSTON	56716
*	16822	OLMSTED CO PLANNING DEPT	MOORE	THOMAS O	1421 THIRD AVE SE	ROCHESTER	55901
*	8619	OTTERTAIL POWER CO	MYSTER	JAY D	215 CASCADE ST S	FERGUS FALLS	56537
*	88	OWATONNA PUBLIC UTILITIES	MARTIN	DAVID M	208 WALNUT AVE S-BOX 800	OWATONNA	55060
*	16988	PEOPLES NAT GAS CO	HAUBENSAK	RICHARD	25 MAIN PLACE	COUNCIL BLUFFS	51501
*	8628	PHILLIPS LEGISLATIVE SERVICE INC	PHILLIPS	WILLIAM L	459 RICE ST	ST PAUL	55103
*	4672	PILLSBURY CO	SMITH	CARL A	200 SIXTH ST S	MPLS	55402
*	16960	PLANNING & DEVEL CONST	REICHERT	ROBERT J	ALWORTH BLDG-RM 505	DULUTH	55802
*	8674	POPHAM HAIK SCHNOBRICH KAUFMN&DOTY	BURK	ROBERT S	80 EIGHTH ST S-RM 4344	MPLS	55402
*	10211	POPHAM HAIK SCHNOBRICH KAUFMN&DOTY	HAIK	RAYMOND A	414 NICOLLET MALL	MPLS	55401
*	8599	POPHAM HAIK SCHNOBRICH KAUFMN&DOTY	JOHNSON	G ROBERT	80 EIGHTH ST S-RM 4344	MPLS	55402
*	16807	PROJECT ENVIRONMENT FOUNDATION			2929 FOURTH AVE S	MPLS	55408
*	8635	Q S S INC	KROEGER	CHARLES	BOX 838	FARIBAULT	55021
*	8448	RAMSEY CO COMM BOARD	KARON	JUDY	COURTHOUSE-STE 316	ST PAUL	55102
*	16893	REGION EIGHT REG DEVEL COMM	PERKINS	STEVEN L	214 SECOND ST NW	PIPESTONE	56164
*	42736	REGION FIVE REG DEVEL COMM	KNOSALLA	LARRY	611 IOWA AVE	STAPLES	56479
*	4639	REGION NINE REG DEVEL COMM	WALDRON	CRAIG	410 FIFTH ST S-BOX 3367	MANKATO	56001
*	1786	REGION SIX EAST REG DEVEL COMM	HIPPE	H EUGENE	311 SIXTH ST W	WILLMAR	56201
*	16810	RICHFIELD CITY OF	JOPKE	RICHARD	6700 PORTLAND AVE	RICHFIELD	55423
*	1088	RIEKE CARROLL MULLER ASSOC	HENNEMUTH	WILLIAM H	1011 FIRST ST S-BOX 130	HOPKINS	55343
*	11999	ROCHESTER BLDG & SAFETY DEPT	SATHER	GORDON 1	1605 CASCADE ST NW	ROCHESTER	55901
*	16637	ROCHESTER CHAMBER OF COMMERCE	WELTY	LLOYD	212 FIRST ST SW	ROCHESTER	55902
*	16661	ROSEVILLE CITY OF	ANDRE	JAMES	2024 CLEVELAND AVE N	ROSEVILLE	55113
*	16682	SALO INC	SALO	JACK D	15 FIRST ST E	DULUTH	55802
*	6678	SCOTT CO HOUSING & REDEVEL AUTH			16049 FRANKLIN TR SE-RM 104	PRIOR LAKE	55372
*	16662	SOUTH ST PAUL CHAMBER OF COMMERCE	OLSEN	RICHARD A	LIVESTOCK EXCH BLDG-RM 217	S ST PAUL	55075
*	10681	SOUTHERN MINN MUNI POWER AGENCY	LANDWEHR	MARY ELLEN	21 FIRST ST SW-STE 400	ROCHESTER	55902
*	16880	SOUTHERN MINN REG LEGAL SERVICES	LANSDOWNE	PETER	MEDICAL ARTS BLDG-RM 310	ALBERT LEA	56007
*	60067	SOUTHWEST REG DEVEL COMM	SHORTEN	BRIAN	2524 BROADWAY AVE-BOX 265	SLAYTON	56172
*	10789	ST CLOUD AREA CHAMBER OF COMMERCE	CARLSON	GLENN	20 FOURTH AVE S-BOX 487	ST CLOUD	56302
*	16641	ST CLOUD STATE UNIV	BIXBY	ROBERT	STEWARD HALL-RM 301	ST CLOUD	56301
*	16640	ST LOUIS CO PLANNING & ZONING OFF	JOHNSON	MARK	COURTHOUSE	DULUTH	55802
*	8675	ST LOUIS PARK CITY OF	THIBAULT	WILLIAM	5005 MINNETONKA BLVD	ST LOUIS PK	55416
*	8518	ST PAUL CITY OF	ERICKSON	GLENN A	25 FOURTH ST W-RM 445	ST PAUL	55102
*	8565	ST PAUL PORT AUTHORITY	DZUGAN	KENNETH	25 FOURTH ST W-STE 1305	ST PAUL	55102
*	6683	ST PAUL PUB HOUSING AGENCY	GROSSMAN	BARB	BREMER BLDG-RM 380	ST PAUL	55107
*	7005	ST PAUL PUBLIC HOUSING AUTHORITY	HARJU	RUSS	419 ROBERT ST N-RM 380	ST PAUL	55101
*	5254	ST PAUL T V I	MUCKENHIRN	FRANK A	235 MARSHALL ST	ST PAUL	55102
*	65319	STATE SERV GROUP	SAHAGUN	BETSY L	1015 15TH ST NW	WASHINGTON	20005
*	16840	STEARNS CO OFFICES	HOPKE	KENNETH	BOX 604	ST CLOUD	56301
*	16896	SUBURBAN ENGINEERING INC	PRICE	WILLIAM	12350 RIVER RIDGE BLVD	BURNSVILLE	55337
*	5565	SUN CONTROL PRODUCTS	KLAMPE	E J	431 FOURTH AVE SE	ROCHESTER	55904
*	16852	THIEF RIVER FALLS CITY OF	QUINLIVAN	JOHN	CITY HALL-BOX 528	THIEF RIVER FLS	56701
*	8461	TRI COUNTY COMM ACTION PROG	SEXTON	MARK G	404 SECOND AVE NE	LITTLE FALLS	56345
*	5885	TROMMALD CITY OF			RT 3-BOX 160	CROSBY	56441
*	8653	U OF M	SNYDER	ROBERT W	1994 BUFORD AVE-RM 248C	ST PAUL	55108
*	16787	U OF M-DULUTH POLITICAL SCIENCE DEP	OLSEN	DR DALE	HOME EC BLDG-RM 242	DULUTH	55812
*	16806	U OF M-FORESTRY DEPT	LEWIS	BERNARD J	GREEN HALL-RM 10	ST PAUL	55108
*	16811	U OF M-GEOLOGY DEPT	GREEN	JOHN C	10550 OLD NORTH SHORE RD	DULUTH	55812

*	16777	U OF M-SCHL OF BUSINESS & ECON	IRELAND	DR DONALD W		DULUTH	55812
*	8545	U S DEPT OF AG-FARMERS HOME ADM	BJORHUS	RUSS	316 ROBERT ST N-RM 252	ST PAUL	55101
*	16872	U S DEPT OF COMMERCE	MATSON	GLENN A	110 FOURTH ST S-RM 108	MPLS	55401
*	16922	U S DEPT OF INTERIOR-FISH &WILDLIFE	SMITH	JAMES L	333 SIBLEY ST-RM 570	ST PAUL	55101
*	16928	U S HOUSING & URBAN DEVEL	OLSON	ROGER	220 SECOND ST S	MPLS	55401
*	452	UNION OIL OF CALIFORNIA			1650 GOLF RD E	SCHAUMBURG	60196
*	121	UNITED POWER ASSN	HAUSCHULZ	BRUCE		ELK RIVER	55330
*	8673	UNITED POWER ASSN	RAHKO	REYNOLD S	HWY 10 E	ELK RIVER	55330
*	16739	UPPER MINN VALLEY REG DEVEL COMM	SCHMID	OTTO	323 SCHLIEMAN AVE W	APPLETON	56208
*	6687	VAN DOREN HAZARD STALLINGS	KOEGLER	MARK	3030 HARBOR LN N-STE 104	PLYMOUTH	55441
*	16741	WADENA AVTI	KINN	PAUL D	405 COLFAX AVE SW-BOX 566	WADENA	56482
*	16658	WASHINGTON CO PLANNING DEPT	ODONNELL	DENNIS	14900 61ST ST N	STILLWATER	55082
*	16913	WATERVILLE CITY OF	HANSEN	LAWRENCE D	BOX 9	WATERVILLE	56096
*	8637	WEST CENTRAL COMM SERV CTR INC	REARDON	HELEN J	1125 SIXTH ST SE-BOX 787	WILLMAR	56201
*	6679	WEST CENTRAL INDUS IMPROVEMENT CORP			STEVENS CO COURTHOUSE	MORRIS	56267
*	8660	WHITE BEAR LAKE CITY OF			1281 HAMMOND RD	WHITE BEAR LK	55110
*	8474	WHITE EARTH RESERVATION	LANZ	JOHN	BOX 418	WHITE EARTH	56591
*	91	WHYT WATER HEATERS	LANNES	ERIC	BOX 60129	RENO	89506
*	16785	WILLMAR AVTI	WILDE	DENNIS L	BOX 1097	WILLMAR	56201
*	8588	WILLMAR CITY OF	HOGLUND	RICHARD C	333 SIXTH ST SW-BOX 755	WILLMAR	56201
*	16652	WINONA CITY HALL	MOCOL	DAVID L	FOURTH & LAFAYETTE ST-BOX 378	WINONA	55987
*	16898	WOODBURY CITY OF	PICHA	DWIGHT W	2100 RADIO DR	WOODBURY	55125
*	16710	YAGGY ASSOCIATES			717 THIRD AVE SE	ROCHESTER	55904
*	16980	YELLOW MEDICINE PLANNING OFFICE	HOLIEN	JERRY	BOX 675	CLARKFIELD	56223
*	16943	ZENK ENGINEERING	READ	LARRY A	BOX 689	ALBERT LEA	56007
*	16660	3 M COMPANY	LANGLOIS	WILLIAM J	2501 HUDSON RD-BOX 225 2N06	ST PAUL	55144

STATE OF MINNESOTA

DEPARTMENT OF ENERGY AND ECONOMIC DEVELOPMENT

In the Matter of the Proposed Adoption of Rules of the State Department of Energy and Economic Development Governing Minimum Mandatory Energy Efficiency Standards for Residential Rental Units: Definition of Good Cause; Establishment of Fine Schedule

FINDINGS OF FACT AND CONCLUSIONS

Notice of Intent to Adopt Rules Without a Public Hearing regarding the above-entitled matter was published in the State Register on May 6, 1985, (9 S.R. 2437-2438), and was mailed to all persons who had registered their names with the Department. The notice afforded interested parties 30 days in which to submit comments to the Department on the proposed rules.

The Department received one comment during that period. No requests for mailing notice of submission of the rules to the Attorney General were received.

After affording interested parties an opportunity to submit comments on the proposed rules, and having received the one comment, the Commissioner makes the following:

Findings

1. The Department received one request for a hearing from Mr. Bernard Deml. The request contained no specific comments on the proposed rule, but was generally critical of the rule's intent.

Conclusions

1. The Department gave proper notice of its intent to adopt the proposed rules.

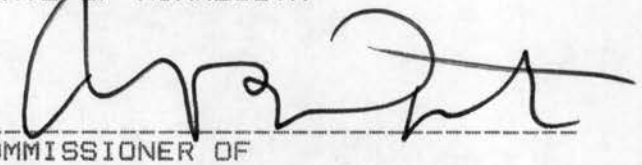
2. The Department has fulfilled the procedural requirements of Chapter 14, and all other procedural requirements of law or rule.

3. The Department has statutory authority to adopt the proposed rule, and has fulfilled all other substantive requirements of the law or rule within the meaning of the Administrative Procedures Act.

4. The comments received by Mr. Deml do not offer substantive recommendations and are therefore rejected.

5. The Department has determined the need for and reasonableness of the adopted rules.

STATE OF MINNESOTA



COMMISSIONER OF
ENERGY AND ECONOMIC DEVELOPMENT

State of Minnesota
Department of Energy and Economic Development
Energy Division

In the Matter of Proposed Permanent Rules Relating to Minimum Mandatory Energy Efficiency Standards for Residential Rental Units: Definition of Good Cause; Establishment of Fine Schedule. Minn. Rule pt. 4170.4105-4170.4110 [Emergency]

Statement of Need and Reasonableness

General Statement - Statutory Authority

The Department is proposing to adopt the above-referenced emergency rules as permanent rules without modification of the adopted emergency rule language. The promulgation of these rules is authorized by Minn. Stat., § 116J.27, subd. 4b, which requires the commissioner to adopt rules defining good cause for failure to comply with the minimum mandatory energy efficiency standards for residential rental units, set forth at Minn. Rule pt. 4170.4100, and to establish a schedule of fines for non-compliance.

Procedural History

Notice of Intent to Adopt Emergency Rules in the above-entitled matter was published in the State Register on August 27, 1984 at 9S.R. 411-412, and was mailed to all persons who had registered their names with the Department. The Notice afforded interested parties 25 days in which to submit their comments to the Department. After reviewing the comments received, the Department accepted a recommendation to amend the fine schedule portion of the rule. The rule was amended by establishing a maximum fine of $500 for a residential complex situated on one or more contiguous parcels of land under common ownership.

The Order to Adopt Emergency Rules was published in the State Register on December 10, 1984 (9S.R.1337-1339). These Emergency Rules appear at Minn. Rule pt. 4170.4105-4170.4110.

Purpose

The purpose of the "good cause" portion of the rule is twofold. First, to recognize and define those circumstances under which it would not be reasonable or cost-effective to require owners of residential rental properties to comply with one or more of the minimum energy efficiency standards. Second, to provide guidance to the administrative law judge in determining an owner's good cause for failure to comply during a contested case hearing brought by the Department.

The fine schedule is set to provide a uniform penalty for noncompliance with the standards. Minn. Stat., § 116J.27, subd. 4b states that if

the owner of a residential rental property is not able to prove a good cause for failure to comply with the standards, then the Administrative Law Judge "shall assess a fine against the owner in accordance with a schedule of fines adopted by the commissioner by rule or temporary rule."

Classes of Persons Affected

Both the good cause and fine schedule portions of this rule will have a direct impact on owners of residential rental property, and perhaps an indirect affect on tenants of such property. The rule may also affect energy evaluators (auditors) certified by the Department to certify compliance by an owner following a contested case administrative hearing.

Additionally, those municipalities or political subdivisions that have been authorized by the commissioner to conduct inspections or otherwise enforce the standards will be affected by the rule. This will be true to the extent that municipalities will be bound by the definitions of good cause.

Since tenants of rental housing will most likely not participate in the resolution of good cause arguments between their landlords and the Department, and will not be subject to the assessment of fines for noncompliance, this rule will not affect them directly.

Department-certified evaluators will be affected by the rule only to the extent that they may be employed by building owners to certify compliance following a finding of noncompliance by an administrative law judge.

As to whether there are less costly or intrusive methods of achieving the purpose of the proposed rules, the basic thrust of the rules is to mitigate the costs of the energy standards by allowing for good cause exemptions. These rules also provide guidance for an expedited enforcement process through the Office of Administrative Hearings, a process that will allow contested cases to be brought for hearing in one month, as opposed to the much lengthier process through district court. It was important in setting the fine schedule to weigh the costs of complying with the standards against the proposed penalty for noncompliance. Building owners can not be encouraged to accept fines as a less expensive option to meeting the minimum standards. When viewed in this light, the fine schedule should provide the necessary incentives to comply without being overly severe.

Anticipated Consequences

In general, the Department anticipates that the proposed rules will help further the goal of saving energy in residential rental buildings. This result will derive from the establishment of guidelines for cost-effectiveness and reasonableness (i.e. good cause provisions), and incentives for meeting the minimum energy efficiency standards in the form of a fine for noncompliance (i.e. fine schedule). Together, these provisions will promote compliance with the standards, thus improving the overall energy efficiency of the state's rental housing stock.

One result of the good cause portion of the rule will be the constant re-examination of the reasonableness and cost effectiveness of the current standards. The Department's experience may lead to the revision or elimination of particular standards or cost savings calculation procedures. The Department may also decide to conduct further research into particular areas of conservation retrofit technology. Such research could lead to improvements in our state-of-the-art understanding of what works and what does not work in multi-family residential structures.

As to the fine schedule portion of the rule, the Department plans to pursue legal remedies only in cases of clearly documented noncompliance and failure to take steps towards compliance; it is our hope that very few building owners will need to be fined. It is difficult to predict how many building owners will be fined in a given time period since this will be dependent on the types of cases we receive and the volume of cases that can be realistically pursued given limitations on Department staff resources, Attorney General's Office support, and the Administrative Hearing Office's caseload.

It should be clear, though, that the adoption of a fine schedule is an expression of the Department's committment to requiring compliance with the standards. The fact that the fine is doubled and assessed monthly after an initial fine and a reasonable period of time to comply, is an indication that noncompliance will not be tolerated indefinitely without penalty. It should also be understood that the adoption of the proposed fine schedule in no way limits the Department's ability to seek more severe civil or criminal sanctions pursuant to Minn. Stat. sect. 116J.30 when deemed necessary.

Impact on Small Business

Minnesota Statutes § 14.115, subd. 2, requires an agency proposing new rules to consider the impact those rules would have on small businesses. The statute requires the agency to consider methods of reducing the impact of the rule by a variety of methods, including less stringent compliance or reporting requirements, less stringent schedules, simplification of compliance requirements, the establishment of performance standards to replace design standards, or total exemption from the rule's requirements.

Although the statute only requires the Department to consider the impact on small businesses, it is apparent to the Agency that data are not available which indicate the financial worth of rental property owners. However, it is the belief of the Department that the majority of the landlords whose rental units are covered by the statute would be included under the definition of a small business. Since almost half of Minnesota's rental housing stock is comprised of buildings with 4 units or less, it is likely that most owners would be defined as a small business operation with 50 or fewer employees, or gross annual sales less than $4 million.

It is the Department's position that the proposed rule is essential to effectively implement legislative intent. With the 1982 addition of subdivision 4b. to Minnesota Statute § 116J.27, the legislature clearly

required the Commissioner to adopt rules defining good cause and establishing a schedule of fines. The proposed rules answer both of these legislative directives.

Minnesota Statutes § 14.115, subd. 2 (a) calls for an agency to consider the establishment of less stringent compliance or reporting requirements for small businesses. It is difficult to see how this provision applies to the good cause portion of the rule since these define exceptions to compliance with a rule rather than requiring compliance, per se. This provision has been considered, however, in the establishment of the fine schedule. The schedule calls for significantly smaller fines for owners of one to four unit rental properties; in most cases, fines for these smaller buildings will be one fifth the size of fines for larger buildings. And since, as noted above, owners of smaller buildings may also be considered small business owners, the proposed rule does call for a less stringent fine for small businesses.

The proposed rule does not provide for mandatory reporting requirements, so consideration of less stringent provisions for reporting was not necessary.

Subdivision 2 (b) calls for less stringent schedules or deadlines for small businesses. Again, to the extent that the fine schedule is a schedule of sorts, and for the reasons noted above, the proposed rule does call for a less stringent schedule for owners of small businesses. However, the rule does not call for the meeting of time schedules or deadlines and so consideration of this provision was not necessary. The fine schedule does provide for periods of time after which fines are doubled and assessed monthly. These time periods vary from 120 days for one to four unit buildings, and 180 days for 5 unit or larger buildings. Although this may seem to be a more stringent "schedule" for smaller buildings (and thus small businesses), the rationale for varying time schedules is that owners of larger buildings may have more difficulty in finding and employing contractors capable of performing work in larger structures. This issue will be addressed in more detail in the need and reasonableness section to follow.

Subdivision 2(c) asks the agency to consider ways of consolidating or simplifying compliance or reporting requirements. Again, the proposed rule does not contemplate these issues, but rather provides for exemptions from compliance and fines for non-compliance. To the extent possible, though, this rule is simple and straightforward in providing guidance to affected persons as to its implementation.

The rule also does not contemplate any design or operational standards and so to propose an alternative performance standard for small businesses, as suggested under subdivision 2 (d), would not be appropriate.

Subdivision 2(e) requires consideration of exemption of small business owners from the rule. To exempt this class (or any other class) of rental housing owners from the good cause portion of the rule would clearly be a disservice since this portion spells out the only opportunities for exemptions from the standards. As to an exemption from the fine schedule, the legislature established its clear intent that rental housing

be made more energy efficient through the adoption of minimum energy efficiency standards and enforcement powers. This enforcement authority clearly includes the power to seek the levy of fines for noncompliance through the administrative hearings process. The Department therefore has no authority to exempt owners of rental housing from the penalties for non-compliance as set forth in the proposed fine schedule. Instead, the Department has proposed a variable fine schedule which provides for a smaller fine for owners of small buildings, the majority of whom the Department believes are small business operators.

Need and Reasonableness

Each section of the proposed rule will be cited in bold face. Following each citation, the Department will explain the need and reasonableness of that section.

MN Rule pt. 4170.4105 GOOD CAUSE

As required by Laws of Minnesota 1984, Chapter 595, section 4, "good cause" means any one of the following:

This sentence simply cites the statutory authority for the promulgation of rules defining good cause.

The proposed rule defines three good cause categories, any one of which a building owner may exercize in his/her defense of noncompliance with a particular standard. Again, these good cause categories define those circumstances under which it would not be reasonable or cost effective to require a standard (or standards) to be met. The rule is also needed to provide guidance to the Office of Administrative Hearings in determining good cause during a contested case hearing.

A. That the installation of a program measure to comply with a standard in part 4170.4100 is economically infeasible as defined in part 4170.0100, subpart 8.

This section follows the legislative directive that the minimum standards be economically feasible, meaning that energy savings which result from the implementation of these standards "will exceed the cost of the energy conserving requirements amortized over the ten-year period subsequent to the incurring of the cost" (M.S. § 116J.27, subd. 1). In general, this means that where the cost of making an energy related improvement, otherwise required by law, does not have a "simple payback" (i.e. cost of installation amortized) of ten years, that improvement will not be required. Improvements required by law are set forth at Minn. Rule pt. 4170.4100 (cited throughout this part of the rule) where the minimum standards for rental housing are enumerated.

Economic feasibility is defined by rule at Minn. Rule pt. 4170.0100, subpart 8, to wit:

> For the purpose of these rules, the test of economic feasibility is met when the savings in energy procurement costs, based on residential energy costs as certified by the commissioner in the State Register, or on local fuel costs, exceed the cost

of acquiring and installing each standard as amortized over the subsequent ten-year period. The costs of acquiring and installing each standard may include the costs of restoring the building to the condition that existed immediately before the standard was installed, costs to install a vapor barrier where determined necessary, and displacement costs of temporary tenant relocation where determined necessary.

This reference speaks to several issues. First, "energy procurement costs" (i.e. fuel bills) will be based on standardized average costs of fuel reported statewide or on local fuel costs. Second, that the costs of "acquiring and installing" (i.e. materials and labor) can include certain costs beyond strict materials and labor costs for the improvement in question. The costs of restoring a building to its original condition, of installing a vapor barrier and of tenant relocation during construction may be included in the payback analysis. It is reasonable to assume that in some instances, including such costs will drive the payback for that particular standard over the ten year limit, thereby removing that standard as a requirement. This definition of economic feasibility is reasonable in that it provides a uniform basis for determining cost-effectiveness while allowing certain unforeseen yet necessary costs to be included in the payback calculation.

The calculation procedures which the Department will use to estimate paybacks are established in rule at Minn. Rule 4170.9920. These procedures allow for the actual derivation of payback periods by taking into account the costs and quantities of energy saved, heat losses before and after improvements are made, and adjustments for changes in weather conditions from year to year. These calculation procedures represent the latest methods for determining energy savings for a wide variety of conservation measures.

B. That the installation of a program measure to comply with a standard in part 4170.4100 is technologically infeasible. Technological infeasibility means that the installation of the measure would threaten the structural integrity of the building.

This section, dealing with technological feasibility, is intended (as are all three good cause categories) to provide relief for building owners from unreasonable, or in this case, structurally unsafe requirements. Given the nature of the required improvements, it is the Department's contention that there will be very few instances in which requiring a program measure would "threaten the structural integrity of the building." In most cases, a knowledgeable contractor will be aware of the appropriate installation techniques to avoid the potentital for structural damage. Such precautions would include the installation of a vapor barrier when insulating a wall or foundation wall, ventilation devices designed to avoid moisture buildup when insulating an attic and repair of a damaged or leaky roof before adding attic insulation. It is expected that contractors engaged to perform work to meet the standards will be experienced in the field, and licensed and bonded for the type of work being performed.

There will be cases, however, in which the installation of a particular program measure would not be advisable and therefore not required as

a condition of full compliance with the law. Some examples of possible cases of technologically infeasible measures and building types may include, but are not limited to:

1. Flat-roofed buildings with common joists for the ceiling and roof. Such attic structures are at present very difficult to insulate by any conventional means (i.e., drilling the attic cavities and blowing in insulation), and are also problematic due to the difficulty in ventilating the attic properly after insulation.

2. Stone and mortar foundation walls. Because these walls do not provide a reasonably flat surface to apply rigid insulation to, and because the spray-on urethane products are, as yet, an unproven alternative to the conventional insulation strategy, it is not reasonable, in most cases, to require insulation of these foundation walls.

3. Interior foundation wall insulation in certain soil/moisture type situations. There is some anectotal evidence collected from contractors around the State which suggests that interior insulation in some cases can lead to moisture and frost heave problems in certain clay soil types or where good water drainage away from the foundation wall is not possible.

4. Double brick walls with an uninsulated cavity. In most cases, if there is a cavity between the two layers of brick, the cavity is generally very small and inconsistent in dimension. Drilling these walls to insulate them is, in most cases, not recommended for these reasons.

This is not intended as an exhaustive list of technologically infeasible situations,and the cases cited above may not constitute grounds for exemptions under this section in a specific case. For these reasons, the Department has not included specific exemptions under this section in rule language. Given that our base of understanding of technological issues related to conservation retrofitting is expanding, alternative installation strategies may be found to resolve these issues over the course of the program.

C. That the installation of a program measure to comply with a standard in part 4170.4100 would necessarily violate the buildings esthetic or historic value.

This section, as with the previous two, exists to mitigate the effect of the standards where they would otherwise be unreasonable or not cost effective. In this case, owners of buildings which have a particular esthetic and historic value may seek an exemption from a standard because the installation of that standard would, in some way, irreparably damage those historic or esthetic qualities. At this point, the Department is not aware of specific examples of how such damage may occur. However, the Department recognizes that in some situations it may be difficult

or impossible to restore a building component to its exact or similar condition after installation as provided for by Minn. Rule pt. 4170.0100, subpart 8.

Although broadly defined, types of buildings which may be considered for exemptions under this category include those buildings on a historic register (i.e., national, state or local register), those buildings within a historic preservation district as designated by a governing body, or those buildings with clear historic or esthetic significance or qualities. In the case of buildings on a historic register or in a historic preservation district, certain construction or modification restrictions may apply which would prevent the installation of program measures. Where this is the case, it is expected that the building owner will submit documentation to this effect with his/her application for an exemption. Again, the Department does not consider it an obligation to define all of the possible cases where this category of exemption may apply.

MN RULE pt. 4170.4110 Fine Schedule

If an administrative law judge finds that an owner or an owner's agent has not demonstrated good cause for failure to comply with the minimum mandatory energy efficiency standards, the judge shall assess the following penalties:

The fine schedule portion of the rule sets out a uniform, mandatory schedule of fines for noncompliance with the standards. The first paragraph of this section makes it clear that when, in the course of a contested case administrative hearing, an owner or owner's agent has been unable to prove a good cause for non-compliance, the administrative law judge will assess penalties (fines) in accordance with the fine schedule. The reference to "an owner's agent" could mean anyone the owner chooses to represent him/her in the case including his/her attorney, property manager or caretaker, or licensed professional engineer.

It is the Department's contention that there is a need and reasonableness for a uniform and mandatory fine schedule. First, such a schedule is required by statute (see Minn. Stat. § 116J.27, subd. 4b). Second, the schedule needs to be uniform across building size graduations (i.e., 1-4 units and 5 or more units) so that owners of like rental dwellings are treated similarly and equitably. Third, the fine needs to be mandatory (i.e. in cases of failure to prove good cause) in order to assure that penalties will be assessed against noncompliant owners. Without this requirement, some administrative law judges may be inclined to simply warn an owner without penalty, or vary the fine schedule based on some arbitrary set of criteria. Finally, it is important as an incentive that all rental housing owners are aware that there are mandatory fines for non-compliance. The Department expects that this awareness will encourage voluntary compliance among owners who are "waiting to see" if the Department is serious about enforcing the standards.

A. For a one-to-four unit building, an immediate fine of $100 plus $200 each month beginning 120 days after the finding of failure to show good cause, until the owner demonstrates to the administrative law judge that she or he has complied with the standards. If a person certified under chapter 4170 to conduct evaluations certifies that an owner complies

with the applicable standards, the judge shall consider the certification as proof of compliance by the owner.

This proposed section of the rule establishes the schedule of fines for one-to-four unit rental buildings.

Two types of rental housing are specified in the fine schedule--one-to-four unit buildings, and five-plus unit buildings. These categories were chosen to correspond with the building size breakdowns contemplated by the energy efficiency standards. These categories also reflect standard industry practice for delineating smaller and larger rental building types.

The fine schedule for one-to-four unit buildings calls for an immediate fine of one hundred dollars. As with the other fine schedule amounts, the $100 initial fine is not based on any other schedule of fines, however, this amount does seem to be consistent with minimum penalties set for minor misdemeanor violations of all types. Especially in the case of the initial fine, the penalty is intended to motivate the building owner to comply before larger penalties are imposed. At the same time, the penalty is not so large that the owner's resources have been depleted to the point where he/she can no longer afford the required improvements.

Following a judgment of noncompliance and failure to show good cause, owners of 1-4 unit buildings will have 120 days in which to make the required improvements and present proof of compliance to the administrative law judge. If proof of compliance is not presented by this time the administrative law judge will order that the fine be doubled to two hundred dollars, and assessed monthly until compliance is demonstrated. This escalation of penalties is seen by the Department as a necessary vehicle for assuring compliance in cases involving highly recalcitrant owners. However, it seems likely that following a negative finding by a law judge and an initial $100 fine, most owners will begin taking the necessary steps towards compliance. Thus, an owner who argues that he/she has a good cause, but fails to persuade the administrative law judge, has a reasonable amount of time to make the necessary improvements.

The demonstration of compliance following a contested case hearing can take place in two ways. When an owner feels that the required improvements have been completed, he/she can either contact the compliance officer with the Department who had made the initial determination of noncompliance, or contact a DEED-certified auditor if she/he prefers an independent inspection for compliance. It is reasonable to include an independent compliance certification process following a contested case hearing since an adversarial relationship may have developed between a building owner and the Department.

B. For a building of five or more units, an immediate fine of the greater of $10 per unit or $100, up to a maximum of $500. The maximum fine of $500 is also the maximum fine for a residential complex situated on one or more contiguous parcels of land under common ownership. In addition, a fine each month of two times the amount assessed beginning 180 days after the finding of failure to show good cause, until the owner demonstrates to the administrative law judge that she or he has complied

with the standards. If a person certified under chapter 4170 to conduct evaluations certifies that an owner complies with the applicable standards, the judge shall consider the certification as proof of compliance by the owner.

The fine schedule for buildings of five or more units is somewhat different from the schedule for one-to-four unit buildings. The initial fine is bounded by a range of minimum and maximum fine amounts dependent on the number of units in the building rather than a flat amount for every building. The minimum fine is $100 regardless of the number of units. For buildings with ten to fifty units the fine is based on $10 per unit; the maximum initial fine for buildings with fifty or more units is $500. This variable schedule recognizes the wide variation in building sizes in the five-plus-unit category while establishing a reasonable maximum penalty for non-compliance. As with the schedule for one-to-four unit buildings, this schedule will encourage compliance following a contested case hearing while not unnecessarily depleting the resources to gain full compliance.

The establishment of $500 as the maximum fine against a "complex situated on one or more contiguous parcels of land under common ownership" is an amendment to the emergency rule suggested by Mr. John Horner of the Minnesota Multi-Housing Associtaion. The suggestion by Mr. Horner clarifies an ambiguity in the proposed rule regarding the applicability of the maximum fine against a building, or a number of buildings in a complex. It is the Department's contention that the initial maximum penalty of $500 and $1000 per month after 180 days will motivate the owners of even the largest complex to make the improvements required to comply with the standards. Setting the maximum fine against a complex eliminates an inequity that would otherwise exist between a large building and a series of smaller ones, all under common ownership.

The fine against an owner who does not comply after a contested case hearing, in this case within 180 days of the hearing, is doubled and assessed monthly. Owners of five-plus-unit buildings are given 60 more days (i.e., 180 rather than 120 days) than owners of one-to-four unit buildings. It is the Department's belief that owners of larger buildings will need extra time to arrange for bids, to hire contractors, and to get the work completed, than will owners of smaller buildings. This will be especially true in large multi-building complexes or multi-story high-rise buildings. Six months, however, is a reasonable amount of time in which to expect full compliance.

The two methods for confirming compliance following a contested case hearing (i.e., DEED staff compliance officer or DEED-certified evaluator certifications) are also available to owners of five-plus-unit buildings.

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STATE OF MINNESOTA
DEPARTMENT OF ENERGY AND ECONOMIC DEVELOPMENT

In the Matter of the Proposed Adoption of Rules of the State Department of Energy and Economic Development Governing Minimum Mandatory Energy Efficiency Standards for Residential Rental Units: Definition of Good Cause; Establishment of Fine Schedule

STATEMENT OF COMPLIANCE WITH RULEMAKING PROCEDURES

I, Thomas F. Pursell, do hereby declare that I have examined the rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedure Act, the rules of Administrative Hearings and the rules of the Attorney General have been followed. Any exceptions are noted below.

Dated: June 25, 1985

Thomas F. Pursell
Special Assistant
Attorney General