

Minnesota Attorney General: Administrative Rules Proceedings

Copyright Notice:

This material may be protected by copyright law (U.S. Code, Title 17). Researchers are liable for any infringement. For more information, visit www.mnhs.org/copyright.

Version 3
August 20, 2018

DEPARTMENT: Office of the Attorney General **STATE OF MINNESOTA**

OFFICE MEMORANDUM

DATE: November 30, 1990

TO: ROBERT SEANGER
President
State Board of Electricity

FROM: MARTHA J. CASSERLY
Special Assistant Attorney General
525 Park Street, Suite 500 (55103)

PHONE: 296-6839

SUBJECT: **In the Matter of the Proposed Adoption of the Repeal of Permanent Rules Relating to Duplicate Rules**

The above-referenced rule has been approved as to its legality by the Attorney General on November 28, 1990.

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

Also enclosed are any petitions, requests, submissions or comments along with any extra copies of documents which you submitted to the Attorney General.

Your next step is to arrange for publication of the Notice of Adoption in the State Register. In a day or two, you should receive from the Revisor's Office three copies of the notice of adoption of your rule. You should submit two copies of the Notice of Adoption to the State Register for publication. A permanent rule without a hearing does not become effective until five days after a notice of adoption is published 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:cy
Enclosures
cc: William Brown, Chief Judge
MaryAnn Hruby
Louis Hoffman

Board of Electricity

Adopted Repeal of Permanent Rules Relating to Duplicate Rules

Rules as Adopted

REPEALER. Minnesota Rules, parts 3800.1700, 3800.1800, 3800.1900, 3800.2000, 3800.2100, 3800.2200, 3800.2300, 3800.2400, 3800.2500, and 3800.2600 are repealed.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

NOV 29 1990

Joan Anderson Growe
Secretary of State 12:09 PM

APPROVED AS TO FORM AND LEGALITY
November 28 19 90
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY M J Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

2 issues

1. Why weren't rules repealed before (apparently inadvertent - mjc + CBE were both gone) should've been - but apparently weren't

2. Why were earlier version of rules repealed why not new renumbered rules

- as per P. Marinac - b/c Revisors never renumbered - They disregarded rqst to renumber - he says they have authority to do that cuz solely an editorial + format issue

- OK -

STATE BOARD OF ELECTRICITY

Proposed Repeal of Permanent Rules Relating to Duplicate Rules

Statement of Need and Reasonableness

MINNESOTA RULES PARTS 3800.17 through 3800.2600.

The Rules proposed and published at State Register pages 21,028 to 21,041 March 6, 1989 and adopted and published at the State Register Volume 14 Number 10, pages 505 through 508, parts 3800.1700 to 3800.2600 are duplicated as parts 3800.3800, 3800.3810, 3800.3660, 3800.3670, 3800.3680, 3800.3700, 3800.3610, 3800.3640, 3800.3650, 3800.3740. Parts 3800.17 through 3800.2600 are repealed.

SMALL BUSINESS CONSIDERATIONS IN RULEMAKING

Most of the businesses regulated by the Board are small business. The Board estimates that 80 percent of all licensed electrical contractors are small businesses within the meaning of Minn. Stat. § 14.115 (1988).

The proposed rule would have no effect on small businesses whatsoever as the Board is repealing duplicate numbered rules only.

Stat Authority 326.241 subd 6
wrong cite should be 326.241 subd 2 (6)

The board shall have power to
(6) Adopt reasonable rules to carry out its duties under sections 326.241 to 326.248 and to provide for the amount and collection of fees for inspection and other services. All rules shall be adopted in accordance with chapter 14.

I don't think this is a significant error. I think from the Statute it is obvious that it is subd 2 because that is the only section that has a subpart 6

Statement of Need
no reason why the rules are repealed

SF-00006-05 (4/86)

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT : **ATTORNEY GENERAL**

DATE : November 14, 1990

TO : **PATRICIA S. NOLTE**
Legal Assistant
Public Finance Division

FROM : **LOUIS HOFFMAN**
Special Assistant
Attorney General LH

Rec Nov 15

PHONE : 6-9418

SUBJECT : **ATTACHED PROPOSED RULES**

Enclosed please find documents listed in the attached index in connection with the Board of Electricity's proposed rules.

Should you have any further questions with respect to these proposed rules, please let me know.

LH:ew/.rm5

Enclosure(s)

INDEX

1. Certificate of Board of Electricity's Authorizing Resolution, Minn. Rules pt. 2010.0300C.

2. Copy of proposed rule with a Certificate of Approval as to Form by the Revisor of Statutes, Minn. Rules pt. 2010.0300D.

3. Notice of Intent to Adopt Rules Without a Public Hearing, as Mailed, Minn. Rules pt. 2010.0300E.

4. Statement of Need and Reasonableness, Minn. Rules pt. 2010.0300F.

5. Affidavit of Mailing Notice of Intent to Adopt Rules Without a Public Hearing plus mailing list. Minn. Rules pt. 2010.0300G.

6. Copy of the Notice of Intent to Adopt Rules Without a Public Hearing as published in the State Register, Minn. Rules pt. 2010.0300H.

7. Four copies of the Rules as adopted, Minn. Rules pt. 2010.0300I.

8. Certificate of Board of Electricity's Resolution Adopting the Rule, Minn. Rules pt. 2010.0300J.

9. Findings of Fact, Conclusions, and Order Adopting Rule Without Public Hearing, Minn. Rules pt. 2010.0300K.

10. Declaration of Counsel, Minn. Rules pt. 2010.0300M.

BOARD OF ELECTRICITY

In the Matter of the Proposed
Repeal of Permanent Rules
Relating to Duplicate Rules

CERTIFICATE OF BOARD'S

AUTHORIZING RESOLUTION

I, Robert Seanger, do hereby certify that I am a member and the President of the State Board of Electricity, a board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete and correct copy of a resolution adopted at a meeting of the Board of Electricity duly and properly called and held on the 11th day of September, 1990, that a quorum was present at said meeting, that a majority of those present voted for the resolution and that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

"Resolved, that John Quinn, Executive Secretary of the State Board of Electricity, is hereby granted the authority and directed to take all the steps necessary to adopt rules without a public hearing governing the repeal of permanent rules relating to duplicate rules.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 11th day of September, 1990.

Robert Seanger, President
State Board of Electricity

George Meyer, Vice President
State Board of Electricity

Office of the Revisor of Statutes
Administrative Rules

Carla M. Riehle
Assistant Revisor
297-2948

700 State Office Building
100 Constitution Avenue
St. Paul, MN 55155-1297

October 1, 1990

John Quinn
Board of Electricity
1821 University Avenue, Room 5173
St. Paul, MN 55104

RE: File No. 1747

Dear Mr. Quinn:

Enclosed are stripped copies of your proposed rules as published in the State Register. The copy shows the text of the rules as you proposed them with the stricken text deleted and the underscoring removed.

If your emergency rules or rules adopted without public hearing are adopted without modification, please submit the required number of copies of this document to the Attorney General for final approval. If these rules are to be modified, please use this copy to indicate the modifications you wish to make. Our office will then input the changes, approve the document as to form, and provide you with copies to submit to the Attorney General.

If your rules are adopted after public hearing without modification, please submit one copy of this document to our office for final approval as to form. If these rules are to be modified, please use this copy to indicate the modifications you wish to make. Our office will input the changes, approve the document as to form, and provide you with copies.

Very truly yours,

Carla M. Riehle
MR

Carla M. Riehle

RECEIVED
OCT 4 1990
State Board of Electricity

Department of Administration

Board of Electricity

Proposed Repeal of Permanent Rules Relating to Duplicate Rules

Notice of Intent to Adopt Rules Without a Public Hearing

(1) Notice is hereby given that the State Board of Electricity ("board") proposes to adopt the above-entitled rule without a public hearing. The Board has determined that the proposed adoption of this rule will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. §14.22 to 142.8. Authority for the adopting of this rule is contained in Minn. Stat. §326.241, subd. 6. Additionally, a statement of need and reasonableness that describes the need for and identifies the data and information relied upon to support the proposed rule, has been prepared and is available from Mr. Quinn upon request.

(2) All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. (3) Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

(4) Any person may make a written request for a public hearing on the rule within the 30-day comment period. 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 unless a sufficient number withdrew their requests in writing. (6) Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. (7) If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, section 14.13 to 14.20. If no hearing is requested, the agency will adopt the proposed rule effective five working days after final publication in the State Register.

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

(5) Mr. John Quinn
Executive Secretary
State Board of Electricity
S-173 University Avenue
St. Paul, Minnesota 55104
Telephone: 612/642-0800

(8) The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule noticed.

(11) A copy of the proposed rule is attached to this notice. Additional copies may be obtained by contacting Mr. Quinn.

(14) You are hereby advised, pursuant to Minn. Stat. § 14.115 (1986), "Small business considerations in rulemaking," that the proposed rule amendments will have no adverse effect on small businesses.

Minnesota Statutes, Chapter 10A, requires each lobbyist to register with the Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minnesota Statutes, section 10A.10, Subdivision 11, as an individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250.00, not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislation or administrative action by communicating or urging others to communicate with public officials; or,

(b) Who spends more than $250.00, not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101, (612) 296-5148.

(9) If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General's Office for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit a written request to the State Board of Electricity.

John Quinn, Executive Secretary
State Board of Electricity

In the Matter of the Proposed Repeal of Permanent Rules of the Board of Electricity relating to Duplicate Rules

AFFIDAVIT OF MAILING THE NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING AND CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Joanne P. Peterson, being sworn says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minnesota Statutes, Sections 14.14, Subdivision 1a and 14.22 or 14.30, that their names be placed on the State Board of Electricity rulemaking mailing list is accurate, complete, and current as of this 28th day of September, 1990.

That on the 28th day of September, 1990, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt a Rule Without a Public Hearing by depositing in the United States mail a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

Joanne P. Peterson
Office Manager

Subscribed and sworn to before me this 28th day of September 1990.

Helen P. Conrad

HELEN P. CONRAD
NOTARY PUBLIC — MINNESOTA
RAMSEY COUNTY
My Commission Expires Nov. 1, 1994

RULES MAILING LIST
Rev. 09/28/90
Rules.lst

Building Code Division
408 Metro Square Bldg.
St. Paul, MN 55101
ATTN: Elroy Berdahl

R. K. Larson
Outdoor Amusement Bus.
4600 W. 77th Street
Mpls, MN 55435

Dennis R. Johnson
3837 24th Ave. S.
Mpls, MN 55406

Wolverton Engineering
3953 N.E. Arthur Street
Columbia Hgts, MN 55421

Jim Grant
Jim's Elec. Co., Inc.
1250 Industrial Park Rd.
Baxter, MN 56401

Assoc. Builders & Cont.
6989 Washington Ave. So.
Edina, MN 55435

Jean Dawson, Editor
Minnesota Govnmt. Report
B-12 Press Rm. St. Cap'l
St. Paul, MN 55155

Robert Buescher
Bomar Elec. Co., Inc.
7026 13th Ave. So.
Mpls, MN 55423

Mr. Glenn Strub, Mgr.
Minn. Electrical Assoc.
3100 Humboldt Ave. So.
Mpls, MN 55408

Assoc. Bldrs & Contrs.
Dan Foth, Exec. Dir.
6989 Washington Ave. S.
Edina, MN 55435

L.C. Brethorst,
Isenberg Electric
Lafayette, MN 56054-0365

MN School of Elec. Inc.
Mr. Wm. Polta
8053 E. Bloomington Fwy
Bloomington, MN 55420

Phillips Legis. Service
459 Rice Street
St. Paul, MN 55103

Terry Korthof
Wright Electric, Inc.
15080 23rd Ave. No.
Plymouth, MN 55447

Mankato State University
Mr. Steve Olinger,
Elect. Foreman
Mankato, MN 56001

Antitrust Div., Atty Gen
Mr. Tom Catania
117 University
St. Paul, MN 55155

Ken L. Javens
Javens Electric
Route 3, Box 20A
Mankato, MN 56001

Frundt, Frundt & Johnson
117 W. 5th Street
Blue Earth, MN 56013

Mpls. Tribune
425 Portland Ave.
Mpls, MN 55488

Walt Passe
717 W. 5th Street
Wabasha, MN 55981

POST Board
333 Sibley St., Ste 495
St. Paul, MN 55101

Fredrik M. Christiansen
Capitol Square Bldg.
Room 911
St. Paul, MN 55101

James Neil
Neil Electric Co.
Box 724
St. Cloud, MN 56302

Lowell Torseth
Bd of Architecture,
500 Metro Square Bldg.
St. Paul, MN 55101

Sam Ruhle
Off of Adm. Hearings
310 S. 4th Ave. Ste 400
Mpls, MN 55415

Sherlan J. Baker
Baker Electric, Inc.
340 45th Street NW
Willmar, MN 56201

Building Code Division
408 Metro Square Bldg.
St. Paul, MN 55101
ATTN: Peggi Opalinski

Kathleen Burek
L.C.R.A.R.
Rm. 510 State Off Bldg.
St. Paul, MN 55155

David Hanson
Hanson Electric
908 E. 1st St.
Park Rapids, MN 56470

Building Code Division
408 Metro Square Bldg.
St. Paul, MN 55101
ATTN: Dick Brooks

Bulletin Publ. Corp.
Eldon R. Anderson
7163 E. Pt. Douglas Rd.
Cottage Grove, MN 55016

Mr. Loren Halder
Loran's Electric Serv.
360 S. 4th Street
Bird Island, MN 55310

Mr. Roger Garner
5342 132nd St. S.
Savage, MN 55378

Mr. Bob Gfroerer
702 Dunwoody Blvd.
Mpls, MN 55403

Ron Klick
Gorgen Co.
2301 No. 2nd St.
Mpls, MN 55411

Richard P. Owen
Bldg. Insp. & Design
445 City Hall
St. Paul, MN 55102

Randy Redetzke
Bentec Engineering Corp
13050 Pioneer Trail
Eden Prairie, MN 55347

Randy Huyck
Pro Tech Power
Suite 260
2499 N. Rice Street
St. Paul, MN 55113

2890.0070 ELIGIBLE COSTS.

Subpart 1. **Reimbursable corrective actions.** Costs associated with the following corrective actions may be eligible for reimbursement from the fund:

[For text of items A to E, see M.R.]

~~F. Removal or closure in place of the tank that is the source of the release.~~

[For text of subp 2, see M.R.]

2890.0090 APPLICATION PROCESS.

[For text of subps 1 and 2, see M.R.]

Subp. 3. **Subsequent applications.** An eligible responsible person or volunteer who has already obtained partial reimbursement from the board and who has incurred additional or continuing eligible costs due to the same release may reapply if:

A. the amount of the person's original reimbursement was less than 90 percent of the eligible costs ~~up to $250,000~~ or $1,000,000, whichever is less.

B. the eligible costs submitted on a subsequent application are not related to any new releases at the site. The total reimbursement to a responsible person or volunteer for a release shall not exceed 90 percent of the total eligible costs ~~up to $250,000~~ or $1,000,000, whichever is less, regardless of the number of applications for reimbursement submitted by the responsible person or volunteer.

[For text of subp 4, see M.R.]

Subp. 5. **Certification.** A person who signs an application for reimbursement shall make the following certification: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. ~~I further certify that I have the authority to submit this application on behalf of _____~~."

I certify that if I have submitted invoices for costs that I have incurred but that remain unpaid, I will pay those invoices within 30 days of receipt of reimbursement from the board. I understand that if I fail to do so, the board may demand return of all or any portion of reimbursement paid to me and that if I fail to comply with the board's demand, that the board may recover the reimbursement, plus administrative and legal expenses in a civil action in district court. I understand that I may also be subject to a civil penalty."

Additionally, if the responsible person is not an individual, the person authorized under subpart 4 shall make the following certification: "I further certify that I am authorized to sign and submit this application on behalf of (entity)."

Subp. 6. **Report of the commissioner.** Upon notification by the board's staff that a complete application has been received, the commissioner shall, in a timely manner, provide the board with a written report on the applicant's compliance or noncompliance with *Minnesota Statutes*, section 115C.09, subdivision 2, ~~paragraph~~ paragraphs (b)~~,~~ ~~clauses (1) to (5)~~ and (c). The report shall include documentation supporting the commissioner's findings. The commissioner shall file the report with the board no later than 15 days after notification.

In addition, the board may, as it deems necessary, request additional information from the commissioner or can request participation of agency staff at a board meeting. All responses to requests for information shall be delivered in a timely manner. The board may delegate these powers to its staff.

2890.0110 RIGHT TO APPEAL.

~~A decision of the board is to be considered a final order, decision, or judgment for purposes of Rule 103.3 of the Rules of Civil Appellate Procedure.~~ If a request is denied, the responsible person may appeal the decision as a contested case hearing under chapter 14.

Board of Electricity

Proposed Repeal of Permanent Rules Relating to Duplicate Rules

Rules as Proposed (all new material)

REPEALER. *Minnesota Rules*, parts 3800.1700, 3800.1800, 3800.1900, 3800.2000, 3800.2100, 3800.2200, 3800.2300, 3800.2400, 3800.2500, and 3800.2600 are repealed.

DEPARTMENT OF ADMINISTRATION

BOARD OF ELECTRICITY

In the Matter of Proposed
Adoption of the Repeal of
Permanent Rules Relating to
Duplicate Rules

CERTIFICATE OF BOARD'S

AUTHORIZING RESOLUTION

"Resolved, that the Board of Electricity has examined all the documents and has received two requests for explanation of any change that was duly noted and no requests for hearing and that the repeal of permanent rules relating to duplicate rules published in the State Register October 1, 1990, pp. 824, are hereby adopted as published effective five working days after final publication in the State Register, and that John Quinn, Executive Secretary of the Board of Electricity, is hereby authorized to take all steps necessary for final adoption of these rules."

I hereby certify that the following is a true and correct copy of a resolution adopted by the Board of Electricity.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 13th day of November, 1990.

ROBERT SEANGER, PRESIDENT
State Board of Electricity

SHIRLEE PUELSTON, ACTING SECRETARY
State Board of Electricity

STATE OF MINNESOTA
DEPARTMENT OF ADMINISTRATION
BOARD OF ELECTRICITY

In the Matter of Proposed Adoption of the Repeal of Permanent Rules Relating to Duplicate Rules

FINDING OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULE WITHOUT PUBLIC HEARING

(1) Notice of the Board's intent to adopt the above-entitled rule was published in the State Register on October 1, 1990 and was sent by United States mail to all persons on the list maintained by the agency, pursuant to Minnesota Statues, sections 14.14, subdivision 1a and 14.22 on September 28, 1990. (2) The statement of need and reasonableness was prepared before the notice of intent to adopt a rule without a public hearing was mailed to all persons on the rulemaking list and published in the State Register and was available to the public.

(4) All persons were given the opportunity to submit comment on the rule for 30 days after the notice of proposed rulemaking.

(5) No request for public hearing was received by the agency. (7) No requests for notice of submission to the attorney general were received by the agency.

Based on the comments and evidence in the record before the agency, we find the following:

(8) The above-captioned rule is needed and reasonable.

(9) NOW, THEREFORE, IT IS ORDERED that the rule identified as Uniform Electrical Violation Citation be adopted this 13th day of November, 1990, pursuant to the authority vested in the Board.

ROBERT SEANGER, PRESIDENT
State Board of Electricity

STATE OF MINNESOTA
DEPARTMENT OF ADMINISTRATION
BOARD OF ELECTRICITY

In the Matter of Proposed
Adoption of the Repeal of
Permanent Rules Relating to
Duplicate Rules

DECLARATION
OF COUNSEL

I, Louis Hoffman, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rules, and the supporting rulemaking record, and that, based on my examination, the Administrative Procedures Act and Minnesota Rules, chapter 2010, have been followed. Any exceptions are listed below. For Attorney General billing purposes, the four-digit docket client code is 6138.

Louis Hoffman
LOUIS HOFFMAN
Special Assistant Attorney General

Dated: November 13, 1990

RECEIVED

NOV 15 1990

Office of the Attorney General
Government Services Section
Capitol Office Bldg., Suite 500
525 Park Street
St. Paul, MN 55103