

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

DEPARTMENT: Office of the Attorney General

STATE OF MINNESOTA

OFFICE MEMORANDUM

DATE: January 28, 1991

TO: JOHN QUINN
Executive Secretary
State Board of Electricity

FROM: MARTHA J. CASSERLY
Special Assistant
Attorney General

PHONE: 296-6839

SUBJECT: In the Matter of the Adopted Rule Relating to Approval of Electrical Equipment

The above-referenced rule has been approved as to its legality by the Attorney General on January 23, 1991.

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:sc

cc: Louis Hoffman
William Brown, Chief Judge
MaryAnn Hruby

MJC

RULE REVIEW CHECKLIST

File No. 1781
DATE RECEIVED 1-11-91
REVIEW DATE 1-21-91
DUE DATE 1-25-91
(DIS)APPROVED 1-23-91
WITHDRAWN _____

Docket No. 05.6009.0138
ADOPTED W/O HEARING _____
EMERGENCY RULE _____
TO REVISOR ON 1/14/91
REVISOR (DIS)APPROVED 1/16/91
FILED W/SEC. OF STATE 1-25-91
RETURNED TO AGENCY _____

✓ Rule as adopted (4 copies)

_____ Notice to Solicit Outside Information/Opinion (if applicable)
_____ Date published in State Register
_____ Comments

_____ Petition for Adoption of a Rule

✓ Board's Authorizing Resolution
Sept 11, 1990 Date adopted

✓ Proposed Rule
✓ Revisor's Certificate

_____ Notice of Intent to Adopt Rule
326.241 sub-6 Statutory Authority
_____ Small Business Statement
_____ Expenditure of public money statement
undated Signature

✓ Statement of Need and Reasonableness (if applicable)
✓ Small Business Statement
NA Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
Nov 15, 1990 Dated 30/25 days before adoption
✓ Notice attached indicates it is attached
_____ Copy of rule or summary attached

✓ Publication in State Register
Nov 19, 1990 Date 30/25 days before adoption

✓ 180-day deadline from:
✓ Effective date of law requiring rule (14.12) (both rules) amendments don't apply
✓ end of comment period (§ 14.26) (rules without hearing)
_____ effective date of statutory authority (§ 14.29) (emergency rules)

✓ Resolution Adopting
January 8, 1991 Date adopted

✓ Findings of Fact, Conclusions & Order Adopting
Jan 8, 1991 Date

✓ Stat Written Requests, Submissions or Comments

_____ Declaration of Attorney
Lous Hoffman Name of SAAG representing agency

_____ Notice of Submission to Attorney General (if applicable) Call for Comments

_____ Affidavit of Mailing Notice to Attorney General (if

Board of Electricity

Adopted Permanent Rules Relating to Approval of Electrical Equipment

Rules as Adopted

3800.3619 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of part 3800.3620, the terms defined in this part have the meanings given them.

Subp. 2. **Labeled.** "Labeled" has the meaning given in Article 100 of the National Electrical Code.

Subp. 3. **Listed.** "Listed" has the meaning given in Article 100 of the National Electrical Code.

Subp. 4. **National Electrical Code.** "National Electrical Code" means the National Electrical Code as incorporated by reference in part 1315.0200.

Subp. 5. **Testing laboratory.** "Testing laboratory" means an electrical testing laboratory that has provided a written report to the board showing that it has the facilities listed in Section 90-6 of the National Electrical Code or that is accredited under the federal Occupational Safety and Health Administration Nationally Recognized Testing Laboratory program.

3800.3620 APPROVAL OF ELECTRICAL EQUIPMENT.

Subpart 1. **National standards.** Except as otherwise provided in subpart 2 or 3, as a condition for approval under Minnesota Statutes, section 326.243, and Section 110-2 of the National Electrical Code, all electrical equipment, including material, fittings, devices, apparatus, fixtures, appliances, and utilization equipment, used as part of, or in connection with, an electrical installation shall be listed and labeled by a testing laboratory.

Subp. 2. **Alternatives to listing and labeling.** With the exception of electrical equipment of types specifically required to be listed by the National Electrical Code, the board shall accept one of the applicable methods described in item A or B as

an alternative to listing and labeling.

A. Evaluation by a testing laboratory or by a registered or licensed electrical engineer who has no financial or other interest in the manufacture or sale of the equipment, provided that any deficiencies identified by the evaluation are corrected and the equipment complies with the listed requirements. A written report of the evaluation shall be submitted directly to the board, and shall state the standards that were applied in the evaluation. Evaluation reports by an electrical engineer acting independently of a testing laboratory shall also include an item-by-item comparison of the equipment with the requirements to be listed. If the board finds that the evaluation or evaluation report is incomplete or inaccurate, it retains the right to require further evidence of compliance or to reject the equipment.

Evaluations conducted according to the procedures in this item shall be considered evidence of compliance of all identical equipment produced by that manufacturer for a period of one year from the time the evaluation was completed, or until the equipment has been listed, whichever is less, provided that the manufacturer has applied for listing of the equipment, or produces fewer than 100 such units per year. Where additional identical equipment will be produced, the manufacturer shall provide the board with a written statement giving the equipment model number and agreeing that all subsequent equipment will be identical to that which was evaluated and, where the equipment has not been submitted for listing, shall also provide a written report to the board 12 months from the date of the evaluation report which lists the serial numbers of the equipment installed in Minnesota over the preceding 12 months.

Where deficiencies are identified by the initial evaluation report, those deficiencies shall be corrected for all subsequent units, the changes shall be verified by the person who performed the initial evaluation, and an amended report shall be submitted to the board. If the manufacturer deviates from the construction established by the evaluation report, the equipment

shall be reevaluated and any noncomplying equipment that was sold brought into compliance.

Where the evidence of compliance is an evaluation according to this item, the manufacturer shall affix a durable permanent label to the equipment in a readily visible location, which states: "This equipment is identical to equipment that was evaluated by (name), and found to be in compliance with the requirements to be listed. A copy of the evaluation report was filed with the Minnesota State Board of Electricity on (date)."

B. Where procedures acceptable to the testing laboratory are followed, a manufacturer of unlisted equipment shall be permitted to submit the equipment to another manufacturer of similar listed equipment for evaluation, correction of noncomplying construction, and labeling.

Subp. 3. **Equipment exempt from listing requirements.** Equipment described in items A to C is exempt from the requirements in subparts 1 and 2.

A. Industrial machinery as defined by Section 670-2 of the National Electrical Code is not required to be listed where all electrical components of the equipment, including electrical control panels and solid-state motor controls, are in compliance with subpart 1 or 2, and all of the machine electrical wiring is in compliance with the National Electrical Code.

B. Electrical control equipment constructed according to the listed requirements, enclosed in a listed cabinet or box suitable for the environment in which it is installed, and electrically connected only to circuits supplied from listed Class 2, logic level, communications, or other circuits with maximum open circuit voltage of 30 volts rms AC, or DC, and overcurrent protection of two amperes or less, or to any combination of such circuits, is not required to be listed, provided that any printed wiring boards shall be of listed material.

C. Electrical control equipment constructed according to the listed requirements and enclosed in a listed cabinet or

box suitable for the environment in which it is located, where the enclosed equipment consists of four or fewer listed components, other than wires, cables, cords, terminal assemblies, nonelectrical components, and those covered under item B, provided that the devices are not electrically connected to circuits on a printed wiring board other than those circuits covered under item B, is not required to be listed.

APPROVED AS TO FORM AND LEGALITY

January 23 1991

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY MJ Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

JAN 25 1991

Joan Anderson Growe
Secretary of State

330pm

S T A T E O F M I N N E S O T A

B O A R D O F E L E C T R I C I T Y

O F F I C E M E M O R A N D U M

Date: January 14, 1991

To: Patricia F. Nolte

From: John D. Quinn, Executive Secretary

Phone: (612) 642-0804

Subject: Comments received by the Board of Electricity relating to Approval of Electrical Equipment

Louis Hoffman, Special Assistant Attorney General, requested that I forward to you the comments received by the Board for the Proposed Permanent Rules Relating to the Approval of Electrical Equipment.

Please be advised that a copy of the Rules and the Statement of Need and Reasonableness was mailed to Mary Ann Hruby.

Schindler Elevator Corporation

20 Whippany Road
P.O. Box 1935
Morristown, NJ 07962-1935

Telephone: (201) 984-9500

November 28, 1990

Mr. John Quinn, Executive Secretary
State Board of Electricity
S-173 University Avenue
St. Paul, Minnesota 55104

Subject: Proposed Permanent Rules Relating to Approval of Electrical Equipment

Dear Mr. Quinn:

I would like to advise that Schindler Elevator Corporation has no opposition to the 11/2/90 proposal to adopt revised permanent rules 3800.3619 & 3800.3620; however, I would like to be sure that the agreement reached pursuant to the prior existing Rule 3800.3620 is still valid. (Reference my letter of 3/6/90 to you and William E. Bickner's response of 4/5/90).

In accordance with this, we have been diligently upgrading our controller approvals to CSA Class 2411 02 which cover examination to both ANSI/UL 508 and CSA standard C22.1 No. 14. Enclosed is our notification of the upgrade on our Miconic VM Static Power Controller. It has been our understanding, per the reference correspondence, that you currently agree that C.S.A. has the facilities listed in Section 90-6 of the National Electrical Code as well as Section 2 of the Canadian Electrical Code. If any reports, etc. you now have on hand are not adequate to conform to the new Subp. 5, please let us know so this can be addressed.

We have also been planning to convert all approvals to the harmonized standard ASME/ANSI-A17.5, CNA/CSA-B44.1-M under the Canadian/USA Free Trade Agreement when it is adopted. Latest draft enclosed (there may be more revisions) for your reference. It is our understanding you agree with this per the reference correspondence and we are to do so by 3/1/93. This harmonized standard is currently out for reconsideration (2nd ballot with changes to resolve objections) in the United States and also initial ballot in Canada. If there is anything which will affect this understanding, please advise us.

These questions are being submitted within the 30 day comment period. There is no intent to request a public hearing. We just want to be sure that Schindler Elevator Corporation is proceeding in an appropriate manner to have equipment satisfactorily listed in accord with the requirements of the State of Minnesota.

We do want a final copy of the adopted rule and so request in writing as required by the last paragraph of the Notice of Intent.

M00010 N:11-28-1.TGK

Schindler

If there is a public hearing, we would also like to know, and receive the statement of need and reasonableness. As you will note in the "FOREWORD" of A17.5 the need for listing and labeling elevator equipment is endorsed. If there are sufficient objections by others, we might want to testify in support of listing and labeling within the context of the work being done by ASME and CSA.

George Kappenhagen

George Kappenhagen
Code Consultant - North America

GK/wp

Encl.: A17.5/B44.1-M
Miconic VM Change

cc: Minnesota
R. Wysocki

N:11-28-1.TGK

Piston & Sleeve Division

JPI Transportation Products, Inc.

P.O. Box 456 • Lake City, Minnesota 55041
Telephone 612/345-4541 • Fax 612/345-3570

November 21, 1990

Mr. John Quinn
Executive Secretary
State Board of Electricity
S-173 University Avenue
St. Paul, MN 55104

Reference: Notice of Intent to Adopt Rules Without a Public Hearing; Relating to Approval of Electrical Equipment

Dear Mr. Quinn:

This letter is two fold:

a) J.P. Industries wishes to submit comments on the above reference.

B) This letter is to be considered J.P. Industries' written request for a public hearing.

After reviewing the proposed rule changes and the existing rule, we find the rule both difficult and costly to comply with.

We have found that Minnesota is unique in this requirement and equipment manufacturers and distributors located both within and outside the state have not heard of this type of requirement before. It appears that your agency neither communicated nor consulted with the machine and equipment industry prior to enacting or initiating enforcement of this requirement. We question why this sort of resolution was not promoted on a national basis.

On a national and state level, machine manufacturers are uncertain as to what is required and challenge the need as they most likely have been producing the equipment in question for many years and utilized all approved components. As these manufacturers and distributors attempt to comply, they are running into costs ranging from a few hundred dollars to several thousand. Recently, a single milling machine purchased by us cost $5,000.00 for the inspection by an electrical engineer to get the required approval. The costs are passed on to the buyer of the equipment and ultimately it affects our ability to operate a business profitably in the state of minnesota.

On an international level, machines being imported to the United States should be governed by the import laws, just as pollution control equipment is on cars. The proposed rule change is not universal in all 50 states and is not being applied equally. This then puts the State of Minnesota at a competitive disadvantage with our out of state competition.

We feel that this approval requirement should be dropped and industry in Minnesota be allowed to compete on an equal basis with other states in this regard.

It is not believed that the State Board of Electricity has:

- done an adequate job of conveying this rule and rule change to all industry (manufacturers and distributors).
- investigated all 50 states on their stance relating to this rule and how they apply it equally in their state.
- investigated the potential of implementing this requirement through the importing laws.

To confront the international problem, an avenue to pursue might be to have the State work with the Federal legislature to implement laws to resolve this problem.

Sincerely,

Martin Whetsel

Martin Whetsel
Plant Engineer

cc: Senator Lyle Mehrkens
State Capitol
St. Paul, MN 55155

Representative Robert Waltman
State Capitol
St. Paul, MN 55155

David Krohn
General Manager
JPI Transportation Products, Inc.

Ed Bauman
Foundries Manager
JPT Transportation Products, Inc.

PRUDEN PRODUCTS, INC.

2101 NW Gorton Avenue - P.O. Box 795 - Willmar, MN 56201
(612) 235-5717 or 1-800-848-7998 FAX: (612) 235-0922

December 13, 1990

Mr. John Quinn
Executive Secretary
State Board of Electricity
S-173 University Avenue
St. Paul, MN 55104

Dear Mr. Quinn:

This is to request a public hearing on the **Proposed Permanent Rules Relating to Approval of Electrical Equipment.**

Thank You.

Sincerely,

PRUDEN PRODUCTS, INC.

Dennis Chappell
General Manager

DC/rr

DEC 17 1990

TOOL & DIE HEAT TREATING
PHONE: (612) 646-1316
OFFICE: (612) 646-1317

MTI

METAL TREATERS, INC.
859 NORTH PRIOR AVE. • ST. PAUL. MN 55104

VACUUM HEAT TREATING
EXPERT WORKMANSHIP

December 5, 1990

Mr. John Quinn
Executive Secretary
State Board of Electricity
1821 University Ave.
St. Paul, MN 55104

RE: Proposed Permanent Rules Relating to Approval of Electrical Equipment

Dear Mr. Quinn:

We wish to voice our objection to the above named rule change and we are hereby requesting a public hearing so that we may be heard.

Yours truly,

METAL TREATERS, INC.

Dale Roberts

Dale Roberts
President

DR:gb

DEC 7 - 1990
Board of El

gillis
Agricultural
Systems, Inc.

Box 250, East Highway 12, Willmar, Minnesota 56201 Tel: (612) 235-0444
Toll Free in Minnesota 800-992-8986, Out-of-State 800-328-8844
Box 1369, North Highway 71, Storm Lake, Iowa 50588 Tel: (712) 732-6446
Toll Free in Iowa 800-792-6828, Out-of-State 800-628-0204
Box 229B Rt. 3, North Highway 151, Monticello, Iowa 52310 Tel: (319) 465-5948
Toll Free in Iowa 800-223-1058, Out-of-State 800-423-8138

December 13, 1990

Mr. John Quinn
Executive Secretary
State Board of Electricity
S-173 University Ave.
St. Paul, MN 55104

Mr. Quinn:

I am writing in regards to the proposed permanent rules relating to approval of electrical equipment. I feel we need to have a hearing in order to explain in detail the new rules. I have many questions in regards to page 4 of the revised rules.

Thank You.

Sincerely,

Tom Gillis

Tom Gillis
President

CHORE-TIME EQUIPMENT

"MADE TO WORK – BUILT TO LAST"

December 14, 1990

Mr. John Quinn
Executive Secretary
State Board of Electricity
S-173 University Avenue
St. Paul, Minnesota 55104

CHORE-TIME Equipment requests a public hearing on the "Proposed Permanent Rules Relating to Approval of Electrical Equipment."

We are particularly concerned with 3800.3620 Approval of Electrical Equipment, Subpart 3, Items B and C. We would like a general clarification of these two items to eliminate the possibility of misinterpretation on our part.

Specific questions and comments are:

What is meant by the phrase "constructed according to the listed requirements?" A more detailed definition is needed.

Why is the exemption for equipment enclosed in a listed cabinet or box limited to that equipment consisting of four or fewer listed components? This could be no more than a box containing a toggle switch, fuseholder, fuse, and pilot light. Allowing the equipment to include ten listed components would be more reasonable.

Is the above exemption confined only to UL listed products or does it also include UL recognized components?

Approximately when would the proposed rules become effective? Obtaining UL approvals is a lengthy process.

Mr. Bill Bickner has recently stated in telephone conversation that the board has decided to accept equipment that has CSA approval. This policy should be stated specifically in the proposed rules. As our company manufactures a number of products with CSA approval, we request a letter confirming your acceptance of CSA.

The proposed rules are a great improvement over the original requirements, but a public hearing is needed to insure that all parties are interpreting them as intended.

Sincerely,

Michael N. Grossman

Michael N. Grossman
Electrical Engineer

MNG/cv

cc: Michael Kohls

CHORE-TIME®
P.O. Box 2000 • State Road 15 North • Milford, Indiana 46542-2000 U.S.A.
Telex 4973655 or 232488 CTBINT • Telephone (219) 658-4101 • Telefax (219) 658-9296

Jerome Foods

December 4, 1990

Mr. John Quinn
Executive Secretary
State Board of Electricity
S-173 University Avenue
St. Paul, MN 55104

RE: PROPOSED PERMANENT RULES RELATING
TO APPROVAL OF ELECTRICAL EQUIPMENT

REQUEST FOR PUBLIC HEARING

Dear Mr. Quinn:

On behalf of Jerome Faribo Farms, Inc. we are requesting that a public hearing be held on the proposed changes to MN Administrative Code 3800.3619 and 3800.3620, as referenced above.

Specifically, we are concerned with the entire rule and change. We do not believe that the equipment exists or that the alternatives are viable.

Sincerely,

JEROME FAIRBO FARMS, INC.

Gregg C. Gleichert
Vice President

GCG:vt
GCG9001.233

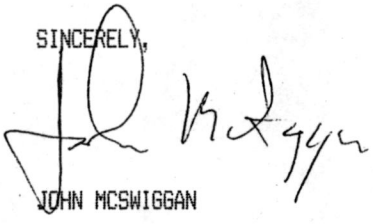
JEROME FOODS • 34 North Seventh Street • P.O. Box 70 • Barron, WI 54812-0070
(715) 537-3131 • Telex 756321+

11-21-90

STATE BOARD OF ELECTRICITY
1821 UNIVERSITY AVE.
ST. PAUL, MN. 55104

PLEASE KEEP ME ADVISED OF NEW DEVELOPMENTS THAT APPLY TO MINNESOTA RULE 3800.3620.

SINCERELY,



JOHN MCSWIGGAN

C/O
DESIGN-RITE INC.
6570 EDENVALE BLVD.
EDEN PRAIRIE, MN. 55346



MINNESOTA-DAKOTAS CONFERENCE
NATIONAL ELECTRICAL CONTRACTORS ASSOCIATION
~~305 MINNESOTA STATE BANK BLDG. / 200 SO. ROBERT STREET, ST. PAUL, MINN. 55107 / 224-3377~~
240 MINNESOTA STATE BANK BLDG. / 175 WEST LAFAYETTE FRONTAGE RD. / ST. PAUL, MN 55107 / 224-3377

NECA
CHAPTER OFFICES

MINNEAPOLIS
2101 HENNEPIN AVENUE
MINNEAPOLIS, MN 55405

ST. PAUL
200 SOUTH ROBERT ST., RM. 305
ST. PAUL, MN 55107

TWIN PORTS-ARROWHEAD
244 LAKE AVE. SO.
DULUTH, MN 55802

DAKOTAS
509 25TH AVE. NORTH
FARGO, N.D. 58102

December 18, 1990

Mr. John Quinn
Minnesota State Board of Electricity
1821 University Avenue, Room S-173
St. Paul, MN 55104

Dear Mr. Quinn:

The Minnesota-Dakotas Conference National Electrical Contractors Association support your proposal, permanent rules 3800.3619 and 3800.3620, relating to approval of electrical equipment.

As contractors, it is important we know that the equipment that we connect has third party certification and will operate safely in the environment where it is installed.

Sincerely,

Frank Frison
Director
Governmental Relations

FF/cw



NORTH DAKOTA MINNESOTA SOUTH DAKOTA

DEC 18

326.241 subd 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 of and collection of fees for inspection and other services. All rules shall be ~~d~~ ~~e~~ adopted in accordance with chapter 14.

MINN. RULES PT. 3800.3620
STATEMENT OF NEED AND REASONABLENESS

Many electrical products available to consumers today have no engineering design and are not built to any known or accepted safety standards. Virtually all foreign-manufactured equipment is not built to any American safety standard and has been found to have many violations of the minimum safety requirements provided for by statute. Minn. Stat. § 326.243 (1988).

The Board of Electricity ("Board") has found examples of all types of electrical equipment, material and fittings that are being sold in the State of Minnesota that do not meet the minimum safety standards provided for by statute. Many fires of electrical origin and many electrical accidents resulting in personal injury or death are caused by this defective electrical equipment.

The Board does not investigate electrical accidents, and has no authority to do so. But it learns of many such incidents through its area electrical representatives, contract electrical inspectors, licensed electrical contractors and various publications.

Electrical equipment constructed in compliance with nationally recognized standards, such as those promulgated by the American National Standards Institute, National Fire Protection Association, Underwriters Laboratories, Factory Mutual Research, and where not in conflict with the National Electrical Code, the Canadian Standards Association, will assure end users that the

electrical equipment is free from safety hazards, thus minimizing the safety risk posed by hazardous electrical equipment. Combined with the Board's inspection of new installations of electrical wiring, third-party certification of electrical equipment further reduces the risk to life and property of electrical accidents.

The Board believes that effective enforcement of electrical safety codes substantially reduces the incidence of electrical accidents. Accident statistics show that equipment failures and design flaws account for a substantial percentage of all electrical accidents. Safe design and construction of electrical equipment is therefore vital to electrical safety. One means of assuring equipment safety is evaluation, listing, and labeling of electrical equipment by a competent testing laboratory. Although some unlisted equipment complies with established safety standards, the Board's experience is that most of it does not. There is also ample evidence that such unlisted equipment is substantially more likely to fail than listed equipment.

The Board and municipal electrical inspection departments do not have the ability or the equipment to determine if unlisted electrical equipment and apparatus has been constructed to the appropriate safety standard. An electrical inspector can determine the compliance of a wiring system connected to manufactured equipment in the field, but it is impractical, and in many cases, impossible, for him or her to perform the tests and examination necessary to evaluate the manufactured equipment.

The Board thus concludes that listing of electrical equipment is necessary to assure its safety.

The Board has verified that most other states, including Iowa, North Dakota, South Dakota and Wisconsin, and many municipalities require third-party certification. In addition, the following organizations also support third-party certification: the State Fire Marshal, many electrical cooperatives, the National Electrical Contractors Association and the Minnesota Electrical Association, which represent many electrical contractors within the state, and the Minnesota Reinsurance Association.

The Board has addressed the complaints of the cost of third-party certification within its new rule by providing for alternate means of compliance under those circumstances where third-party certification is not feasible. Further, the Board has clearly indicated that third-party certification is not necessary under certain circumstances.

THE NEED FOR THE RULE IN THE AGRICULTURAL INDUSTRY

The cost of third-party certification has been of special concern to the agricultural industry. Because the Board has found numerous examples of unsafe electrical equipment in agricultural buildings which are not third-party certified, it is especially important that there be no exception to this rule for such buildings.

The article, "No Farm Safe to Insure," in the April, 1990 issue of SUCCESSFUL FARMING, is a fairly accurate report of the types of problems encountered on farms. The condition of farm

wiring in Minnesota is somewhat better than that depicted in the SUCCESSFUL FARMING article because of Minnesota's licensing and inspection laws and rules. It is, nonetheless, of serious concern to the Board. Electrical installations in older buildings often becomes unsafe through deterioration and alteration by unlicensed and unskilled persons. Further, a substantial amount of wiring is improperly installed by property owners or unlicensed and unskilled persons unfamiliar with the National Electrical Code and is not submitted for inspection, as required by law.

The Minnesota Reinsurance Association became so concerned with farm electrical safety in the 1970's that it was instrumental in the adoption of Article 547 - "Agricultural Buildings" - in the 1978 National Electrical Code ("Code").

In addition, the manager of a large rural electric cooperative recently called a meeting of persons from the United Power Association, the Minnesota Rural Electric Association, the Rural Electric Administration and the Board to explore means to eliminate the many hazardous conditions they are finding on their customers' electrical wiring systems. The cooperative's safety director stated that most of the farms they serve have some electrical wiring that they consider hazardous. These are obvious conditions that are seen when their personnel are on the premises on routine utility matters, and not the result of any formal inspection by the cooperative. Since the cooperative's employees generally do not see much of the interior wiring of buildings, there is reason to believe that they are only seeing a

small portion of the unsafe wiring. The Board has received correspondence from other power suppliers concerning the same problem.

The comparison of agricultural building insurance rates discussed below further demonstrates the increased risks where there is no or insufficient enforcement of safety standards.

THE RULE IS REASONABLE WHEN APPLIED TO THE AGRICULTURAL INDUSTRY

Representatives of the agricultural industry have cited the Board's enforcement of the predecessor of this rule as a reason for higher costs of agricultural buildings built in Minnesota as compared to those built in Iowa. It is true that the electrical work in an agricultural building in Minnesota, which must meet minimum safety standards, may cost more. But the cost difference is much less than has been implied to the Board.

A Minnesota electrical contractor who wires agricultural buildings has told the Board that the typical total cost of wiring such a building in Minnesota is between $9,000.00 and $9,500.00, not including the cost of the underground wire to the building. This contractor has told the Board that an Iowa electrical contractor offered to do similar buildings for $6,000.00 and that he had observed one of this contractor's jobs. It was wired with type NM cable and ordinary wiring devices intended for use in homes, not for the more severe environment found in agricultural barns. The cable was draped over the building's rafters and hung in mid-air without proper support or physical protection.

The savings due to the use of hazardous materials and shoddy installation methods, added to the lower labor rates which are possible because electrical work in Iowa can be done by unlicensed and unskilled persons who are not required to be employees of a licensed, bonded and insured electrical contractor, may make a substantial difference in up-front cost, but will, without doubt, result in an inferior electrical installation resulting in safety hazards and in higher costs at a later date.

One indicator of the relative safety of these buildings is a comparison of insurance premiums in Iowa, where there is no electrical code enforcement, and in Minnesota, where there is. Officials of Farm Mutual Insurance Company of Sibley, Iowa and Wilmont Mutual Insurance were questioned by the Board about their rates. These companies were selected because Farm Mutual insures Campbell Soup Company agricultural barns in Iowa and Wilmont Mutual insures them in Minnesota. Farm Mutual's premium rate for Iowa agricultural barns is $6.60 per $1,000.00 of insured valuation. Farm Mutual does not write insurance on livestock, but if it did, the rate for named perils would be $9.43 per $1,000.00. In contrast, Wilmont Mutual's rate for Minnesota agricultural barns is $5.10 per $1,000.00 and it will insure the livestock for named perils for $2.90 per $1,000.00. Based on this sample, the Iowa rate on buildings is about 130 percent of the Minnesota rate and the Iowa rate on livestock, if coverage was even available, would be 330 percent of the Minnesota rate.

Although the differences in construction costs and insurance rates do not directly support the conclusion that there is a payback on code-complying agricultural buildings, if the insurability of livestock and prospective loss of income are also considered, it appears that the advantage may be with the complying structures. There is also a factor for which everyone involved should have the gravest concern, but on which it is difficult to place a value: that of the risk of death or injury to the farmer, the farm family, farm workers, equipment servicers, fire fighters, other persons and livestock.

The cost of having equipment listed is not insignificant, but the Board believes that it is not prohibitive. The costs some manufacturers have reported to the Board for testing of control panels are not typical and may be related to substantial safety problems with the equipment for which the listing is being sought.

A representative of Underwriter's Laboratories, Inc. ("UL") has informed the Board that if certain types equipment commonly used in agricultural barns were properly submitted to UL, the cost of listing would typically be in the range of $2,800.00 to $3,100.00. If the manufacturer produced only 60 units, the cost would be approximately $47.00 to $51.00 additional per unit. From this, it would appear that the total cost of listing all products in a typical agricultural building would be, at the most, several hundred dollars, and most likely a great deal less.

Aside from the compelling safety factors, third-party certification is evidence of safe design that could be invaluable

to the manufacturer in the event of a fire of electrical origin or electrical accident. Whether a manufacturer's equipment has failed or not, when there is a loss, the manufacturer will often be named in lawsuits involving subrogation of insurance claims. Further, laboratory evaluation will frequently reveal design flaws which would adversely affect reliability, thus avoiding warranty service costs and possible liability. Finally, a testing agency label is an assurance of safety that helps to sell products.

CONCLUSION

The Board therefore believes that the cost of using third-party certified electrical equipment is reasonable, that safety considerations mandate the necessity of such certification, and that the relatively small actual cost of certification will be offset by safety and reliability considerations.

ps9

Board of Electricity

Proposed Permanent Rules Relating to Approval of Electrical Equipment

Rules as Proposed

3800.3619 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of part 3800.3620, the terms defined in this part have the meanings given them.

Subp. 2. **Labeled.** "Labeled" has the meaning given in Article 100 of the National Electrical Code.

Subp. 3. **Listed.** "Listed" has the meaning given in Article 100 of the National Electrical Code.

Subp. 4. **National Electrical Code.** "National Electrical Code" means the National Electrical Code as incorporated by reference in part 1315.0200.

Subp. 5. **Testing laboratory.** "Testing laboratory" means an electrical testing laboratory that has provided a written report to the board showing that it has the facilities listed in Section 90-6 of the National Electrical Code or that is accredited under the federal Occupational Safety and Health Administration Nationally Recognized Testing Laboratory program.

3800.3620 APPROVAL OF ELECTRICAL EQUIPMENT.

Subpart 1. **National standards.** ~~No~~ Except as otherwise provided in subpart 2 or 3, as a condition for approval under Minnesota Statutes, section 326.243, and Section 110-2 of the National Electrical Code, all electrical equipment, including material, fittings, devices, apparatus, fixtures, appliances, and utilization equipment, ~~and the like~~ used as part of, or in connection with, an electrical installation shall be ~~approved pursuant to Minnesota Statutes, sections 326.242 and 326.243, and National Electrical Code, Section 110-2, unless the electrical equipment has been listed by a qualified electrical testing laboratory that is recognized as having the facilities listed in Section 90-6 of the National Electrical Code and that~~

Approved by Revisor

~~requires suitability for installation under the National Electrical Code. If (a) no suitable published safety standard for a specific type of equipment exists, or (b) the equipment is one of a kind or limited production, or (c) the equipment is a new product that has been submitted for listing, but for which the listing procedure has not been completed, the board may require field testing by a qualified electrical testing laboratory or other procedures that satisfy the board that the equipment is safe. The costs of inspection shall be paid by the manufacturer of the component, apparatus, or appliance or, at the election of the board, the owner or lessee of the property on which the component, apparatus, or appliance is located~~ listed and labeled by a testing laboratory.

Subp. 2. **Alternatives to listing and labeling.** With the exception of electrical equipment of types specifically required to be listed by the National Electrical Code, the board shall accept one of the applicable methods described in item A or B as an alternative to listing and labeling.

A. Evaluation by a testing laboratory or by a registered or licensed electrical engineer who has no financial or other interest in the manufacture or sale of the equipment, provided that any deficiencies identified by the evaluation are corrected and the equipment complies with the listed requirements. A written report of the evaluation shall be submitted directly to the board, and shall state the standards that were applied in the evaluation. Evaluation reports by an electrical engineer acting independently of a testing laboratory shall also include an item-by-item comparison of the equipment with the requirements to be listed. If the board finds that the evaluation or evaluation report is incomplete or inaccurate, it retains the right to require further evidence of compliance or to reject the equipment.

Evaluations conducted according to the procedures in this item shall be considered evidence of compliance of all identical equipment produced by that manufacturer for a period of one year from the time the evaluation was completed, or until the

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by Revisor _____

equipment has been listed, whichever is less, provided that the manufacturer has applied for listing of the equipment, or produces fewer than 100 such units per year. Where additional identical equipment will be produced, the manufacturer shall provide the board with a written statement giving the equipment model number and agreeing that all subsequent equipment will be identical to that which was evaluated and, where the equipment has not been submitted for listing, shall also provide a written report to the board 12 months from the date of the evaluation report which lists the serial numbers of the equipment installed in Minnesota over the preceding 12 months.

Where deficiencies are identified by the initial evaluation report, those deficiencies shall be corrected for all subsequent units, the changes shall be verified by the person who performed the initial evaluation, and an amended report shall be submitted to the board. If the manufacturer deviates from the construction established by the evaluation report, the equipment shall be reevaluated and any noncomplying equipment that was sold brought into compliance.

Where the evidence of compliance is an evaluation according to this item, the manufacturer shall affix a durable permanent label to the equipment in a readily visible location, which states: "This equipment is identical to equipment that was evaluated by (name), and found to be in compliance with the requirements to be listed. A copy of the evaluation report was filed with the Minnesota State Board of Electricity on (date)."

B. Where procedures acceptable to the testing laboratory are followed, a manufacturer of unlisted equipment shall be permitted to submit the equipment to another manufacturer of similar listed equipment for evaluation, correction of noncomplying construction, and labeling.

Subp. 3. **Equipment exempt from listing requirements.** Equipment described in items A to C is exempt from the requirements in subparts 1 and 2.

A. Industrial machinery as defined by Section 670-2 of the National Electrical Code is not required to be listed

Approved
by Revisor _____

where all electrical components of the equipment, including electrical control panels and solid-state motor controls, are in compliance with subpart 1 or 2, and all of the machine electrical wiring is in compliance with the National Electrical Code.

B. Electrical control equipment constructed according to the listed requirements, enclosed in a listed cabinet or box suitable for the environment in which it is installed, and electrically connected only to circuits supplied from listed Class 2, logic level, communications, or other circuits with maximum open circuit voltage of 30 volts rms AC, or DC, and overcurrent protection of two amperes or less, or to any combination of such circuits, is not required to be listed, provided that any printed wiring boards shall be of listed material.

C. Electrical control equipment constructed according to the listed requirements and enclosed in a listed cabinet or box suitable for the environment in which it is located, where the enclosed equipment consists of four or fewer listed components, other than wires, cables, cords, terminal assemblies, nonelectrical components, and those covered under item B, provided that the devices are not electrically connected to circuits on a printed wiring board other than those circuits covered under item B, is not required to be listed.

Approved
by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Approval of Electrical Equipment

AGENCY: Board of Electricity

MINNESOTA RULES: Chapter 3800

The attached rules are approved for publication in the State Register

Carla M. Riehle
Assistant Revisor

SF-00006-05 (4/86)

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT :

ATTORNEY GENERAL

DATE :

January 11, 1991

TO :

PATRICIA S. NOLTE
Legal Assistant
525 Park, Suite 500

FROM :

LOUIS HOFFMAN
Special Assistant
Attorney General

PHONE :

6-9418

SUBJECT :

In the Matter of the Proposed Amendments to Permanent Rules Relating to Approval of Electrical Equipment

Enclosed please find the documents listed in the attached index in connection with the above-referenced matter for your review and approval.

Should you have any questions with respect to these Rules, please let me know.

LH:ew/.sm9

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

Proposed Permanent Rules Relating to Approval of Electrical Equipment

Notice of Intent to Adopt Rules Without a Public Hearing

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 Minnesota Statutes § 14.22 to 14.28. Authority for the adopting of this rule is contained in Minnesota Statutes § 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.

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

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 withdraw their requests in writing. 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. 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:

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

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.

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

You are hereby advised, pursuant to Minnesota Statutes § 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.

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 Permanent Rules Relating to Approval of Electrical Equipment

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)

Barbara K. Ellinger, being sworn says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minnesota Statues, 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 15th day of November, 1990.

That on the 15th day of November, 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.

Barbara K. Ellinger
Asst. Office Manager

Subscribed and sworn to before me this 15th day of November, 1990.

Joanne P Peterson

JOANNE P. PETERSON
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My Commission Expires Sept. 19, 1996

SMALL BUSINESS CONSIDERATIONS IN RULEMAKING

Most of the businesses regulated by the Board of Electricity are small businesses. The Board estimates that 80 percent of all licensed electrical contractors are small businesses as defined by Minn Stat. § 14.115 (1986). The Board has framed all of these regulations considering the needs of small businesses by making the regulations easy to understand and comply with.

a) The Board has established less stringent compliance by creating alternative methods to listing and labeling by a recognized testing laboratory.

b) The Board has established a procedure for manufacturers of electrical equipment producing fewer than 100 units per year and has exempted some electrical equipment under certain conditions.

c) The Board has simplified the compliance for reporting by manufacturers, by requiring an annual report.

d) Separate standards for small businesses, comprising 80 percent of the Board's licensees, would compromise safety standards.

e) It is not possible to exempt small business from this rule since it would compromise safety standards if 80 percent of the Board's licensees were exempt from the rules.

RULES MAILING LIST
Rev. 11/15/90
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
1600 University Ave W200
St. Paul, MN 55104

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

Robert L. Mathews
3M Electrical
Bldg 42 - 7W-C3
900 Bush Ave
St. Paul, MN 55133

Thomas A. Renshaw
Mgr. of Engineering
Grist Mill Company
21340 Hayes Avenue
Lakeville, MN 55044

Richard W. Freeman
3M Consumer Prod Plant
Highway 22 South
Hutchinson, MN 55350

Marty Johnson
c/o Martin Automatic
1661 Northrock Crt.
Rockford, IL 61103

Proposed Rules

Pursuant to Minn. Stat. §§ 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless 25 or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules; and
4. that the rule may be modified if the modifications are supported by the data and views submitted.

If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Board of Electricity

Proposed Permanent Rules Relating to Approval of Electrical Equipment

Notice of Intent to Adopt Rules Without a Public Hearing

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 *Minnesota Statutes* § 14.22 to 14.28. Authority for the adopting of this rule is contained in *Minnesota Statutes* § 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.

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

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 withdraw their requests in writing. 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. 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.*

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

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.

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

YOU ARE HEREBY ADVISED, pursuant to *Minnesota Statutes* § 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.

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John Quinn, Executive Secretary
State Board of Electricity

Rules as Proposed

3800.3619 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of part 3800.3620, the terms defined in this part have the meanings given them.

Subp. 2. **Labeled.** "Labeled" has the meaning given in Article 100 of the National Electrical Code.

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Subp. 4. **National Electrical Code.** "National Electrical Code" means the National Electrical Code as incorporated by reference in part 1315.0200.

Subp. 5. **Testing laboratory.** "Testing laboratory" means an electrical testing laboratory that has provided a written report to the board showing that it has the facilities listed in Section 90-6 of the National Electrical Code or that is accredited under the federal Occupational Safety and Health Administration Nationally Recognized Testing Laboratory program.

3800.3620 APPROVAL OF ELECTRICAL EQUIPMENT.

Subpart 1. **National standards.** ~~No~~ Except as otherwise provided in subpart 2 or 3, as a condition for approval under *Minnesota Statutes*, section 326.243, and Section 110-2 of the National Electrical Code, all electrical equipment, including material, fittings, devices, apparatus, fixtures, appliances, and utilization equipment, ~~and the like~~ used as part of, or in connection with, an electrical installation shall be ~~approved pursuant to *Minnesota Statutes*, sections 326.242 and 326.243, and National Electrical Code, Section 110-2, unless the electrical equipment has been listed by a qualified electrical testing laboratory that is recognized as having the facilities listed in Section 90-6 of the National Electrical Code and that requires suitability for installation under the National Electrical Code. If (a) no suitable published safety standard for a specific type of equipment exists; or (b) the equipment is one-of-a-kind or limited production; or (c) the equipment is a new product that has been submitted for listing, but for which the listing procedure has not been completed, the board may require field testing by a qualified electrical testing laboratory or other procedures that satisfy the board that the equipment is safe. The costs of inspection shall be paid by the manufacturer of the component, apparatus, or appliance or, at the election of the board, the owner or lessee of the property on which the component, apparatus, or appliance is located~~ listed and labeled by a testing laboratory.

Subp. 2. **Alternatives to listing and labeling.** With the exception of electrical equipment of types specifically required to be listed by the National Electrical Code, the board shall accept one of the applicable methods described in item A or B as an alternative to listing and labeling.

A. Evaluation by a testing laboratory or by a registered or licensed electrical engineer who has no financial or other interest in the manufacture or sale of the equipment, provided that any deficiencies identified by the evaluation are corrected and the equipment complies with the listed requirements. A written report of the evaluation shall be submitted directly to the board, and shall state the standards that were applied in the evaluation. Evaluation reports by an electrical engineer acting independently of a testing laboratory shall also include an item-by-item comparison of the equipment with the requirements to be listed. If the board finds that the evaluation or evaluation report is incomplete or inaccurate, it retains the right to require further evidence of compliance or to reject the equipment.

Evaluations conducted according to the procedures in this item shall be considered evidence of compliance of all identical equipment produced by that manufacturer for a period of one year from the time the evaluation was completed, or until the equipment has been listed, whichever is less, provided that the manufacturer has applied for listing of the equipment, or produces fewer than 100 such units per year. Where additional identical equipment will be produced, the manufacturer shall provide the board with a written statement giving the equipment model number and agreeing that all subsequent equipment will be identical to that which was evaluated and, where the equipment has not been submitted for listing, shall also provide a written report to the board 12 months from the date of the evaluation report which lists the serial numbers of the equipment installed in Minnesota over the preceding 12 months.

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.

Where deficiencies are identified by the initial evaluation report, those deficiencies shall be corrected for all subsequent units, the changes shall be verified by the person who performed the initial evaluation, and an amended report shall be submitted to the board. If the manufacturer deviates from the construction established by the evaluation report, the equipment shall be reevaluated and any noncomplying equipment that was sold brought into compliance.

Where the evidence of compliance is an evaluation according to this item, the manufacturer shall affix a durable permanent label to the equipment in a readily visible location, which states: "This equipment is identical to equipment that was evaluated by (name), and found to be in compliance with the requirements to be listed. A copy of the evaluation report was filed with the Minnesota State Board of Electricity on (date)."

B. Where procedures acceptable to the testing laboratory are followed, a manufacturer of unlisted equipment shall be permitted to submit the equipment to another manufacturer of similar listed equipment for evaluation, correction of noncomplying construction, and labeling.

Subp. 3. **Equipment exempt from listing requirements.** Equipment described in items A to C is exempt from the requirements in subparts 1 and 2.

A. Industrial machinery as defined by Section 670-2 of the National Electrical Code is not required to be listed where all electrical components of the equipment, including electrical control panels and solid-state motor controls, are in compliance with subpart 1 or 2, and all of the machine electrical wiring is in compliance with the National Electrical Code.

B. Electrical control equipment constructed according to the listed requirements, enclosed in a listed cabinet or box suitable for the environment in which it is installed, and electrically connected only to circuits supplied from listed Class 2, logic level, communications, or other circuits with maximum open circuit voltage of 30 volts rms AC, or DC, and overcurrent protection of two amperes or less, or to any combination of such circuits, is not required to be listed, provided that any printed wiring boards shall be of listed material.

C. Electrical control equipment constructed according to the listed requirements and enclosed in a listed cabinet or box suitable for the environment in which it is located, where the enclosed equipment consists of four or fewer listed components, other than wires, cables, cords, terminal assemblies, nonelectrical components, and those covered under item B, provided that the devices are not electrically connected to circuits on a printed wiring board other than those circuits covered under item B, is not required to be listed.

Department of Health

Proposed Permanent Rules Governing Residential Lead Abatement Methods and Standards for Lead in Paint, Dust, and Drinking Water

Notice of Intent to Adopt Rules Without a Public Hearing, Notice of Intent to Adopt Rules With a Public Hearing If 25 or More Persons Request a Hearing, and Notice of Intent to Cancel Hearing on the Proposed Rules If Fewer than 25 Persons Request a Hearing

I. Explanation of Alternative Notices

The Minnesota Department of Health (hereinafter "Department") hereby proposes to adopt rules without a public hearing under the noncontroversial rulemaking procedure of *Minnesota Statutes*, sections 14.22 to 14.28. However, if 25 or more persons request a hearing on the proposed rules, one will be held according to *Minnesota Statutes*, section 14.25. To expedite the rulemaking process should that occur, the Department is at the same time giving notice of hearing on the proposed rules according to *Minnesota Statutes*, sections 14.131 to 14.20. The hearing on the proposed rules will be cancelled if 25 or more persons do not request that one be held. With the comment period closing on December 19, 1990, there will be seven days before the scheduled hearing date. This seven-day period will give interested persons time to contact the Department to find out whether the hearing will be cancelled.

II. Notice of Intent to Adopt Proposed Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Department of Health (hereinafter "Department") proposes to adopt the above-captioned rules without a public hearing unless 25 or more persons submit written requests for a public hearing with respect to the proposed rules. The Department has determined that the proposed rules will be noncontroversial in nature and has elected to follow the procedures set forth in *Minnesota Statutes*, sections 14.22 to 14.28.

Interested persons shall have 30 days from the date this notice is published in the *State Register* to submit comments in support of or in opposition to the proposed rules. The 30 days will expire on December 19, 1990. Comment is encouraged. Each comment should

DEPARTMENT OF ADMINISTRATION

BOARD OF ELECTRICITY

In the Matter of the Proposed
Adoption of the Permanent Rules
the State Board of Electricity
Relating to Approval of
Electrical Equipment

CERTIFICATE OF BOARD'S

RESOLUTION

"Resolved, that the Board of Electricity has examined all the documents and has received six requests for public hearing, two comments for support of the rule and one comment requesting to be advised of any new development of the rule which have been duly noted. The Rules Relating to Approval of Electrical Equipment published in the State Register November 19, 1990, pages 1214 through 1216 are hereby adopted as published effective five (5) 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 the 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 8th day of January, 1991.

George Meyer

George Meyer, Vice President
State Board of Electricity

Robert Seanger

Robert Seanger, President
State Board of Electricity

STATE OF MINNESOTA
DEPARTMENT OF ADMINISTRATION
BOARD OF ELECTRICITY

In the Matter of Proposed
Adoption of Permanent Rules
Relating to Approval of
Electrical Equipment

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 Statutes, 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) Six requests for public hearing were received by the agency, two comments for support of the rule and one comment requesting to be advised of any new developments of the rule. (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.

NOW, THEREFORE, IT IS ORDERED that the rule identified as Approval of Electrical Equipment be adopted this 8th day of January, 1991, pursuant to the authority vested in the Board.

Robert A Seanger

ROBERT SEANGER, PRESIDENT
State Board of Electricity

STATE OF MINNESOTA
DEPARTMENT OF ADMINISTRATION
BOARD OF ELECTRICITY

In the Matter of Proposed
Adoption of Permanent Rules
Relating to Approval of
Electrical Equipment

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 0138.

Louis Hoffman
LOUIS HOFFMAN
Special Assistant Attorney General

Dated: January 8, 1991

BOARD OF ELECTRICITY

In the Matter of the Proposed
Amendments to Permanent Rules
Relating to Approval of Electrical Equipment

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 governing amendments to permanent rules relating to approval of electrical equipment, including setting up the required administrative hearing upon receiving the rule approved as to form from the revisor of statutes.

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