



JAN 6 1995

State of Minnesota Board of Electricity

January 5, 1995

Ms. Maryanne V. Hruby, Executive Director
Legislative Commission to Review Administrative Rules
55 State Office Building
100 Constitution Avenue
St. Paul, MN 55155

Dear Ms. Hruby:

Subject: In the Matter of Proposed Rules of the Board of Electricity Relating
to Continuing Education

The Minnesota Board of Electricity intends to adopt rules governing continuing education for licensed electricians. We plan to publish a Notice of Intent to Adopt Rules in the January 23, 1994 State Register.

As required by Minnesota Statutes, sections 14.131 and 14.23, the Board has prepared a Statement of Need and Reasonableness which is now available to the public. Also as required, a copy of this Statement is enclosed with this letter.

For your information, we are also enclosing a copy of the Notice of Intent to Adopt Rules and a copy of the proposed Rules in this matter.

If you have any questions about these rules, please contact me.

Sincerely,

STATE BOARD OF ELECTRICITY

A handwritten signature in cursive script, appearing to read "William E. Bickner".

William E. Bickner
Executive Secretary

enclosures: Statement of Need and Reasonableness
Notice of Intent to Adopt Rules
Rules

STATE OF MINNESOTA
BOARD OF ELECTRICITY

**In the Matter of the Proposed Rules
of the Board of Electricity**
Relating to Continuing Education
Minnesota Rules Chapter 3800

**STATEMENT OF NEED
AND REASONABLENESS**

General Statement

The Board of Electricity administers Minnesota Statutes Section 326.242, which requires electrical wiring and equipment to be installed by or under the personal supervision of electricians properly licensed by the board. An applicant who passes the board's examination and pays the license fee is issued a license for a two-year period, which may be renewed by simply paying the renewal fee. Applicants for renewal are not presently required to show that they have been active in electrical construction or have received additional training during the preceding license period.

The *National Electrical Code* ("code") is revised every three years, and the revised code is adopted as the safety standard for electrical systems and equipment in Minnesota as provided by Minnesota Statutes, section 326.243 and Chapter 14. There are hundreds of substantive changes in each new edition of the code. New types of electrical wiring materials and equipment are continually being introduced. Some licensees do not keep abreast of these changes and are no longer well qualified to perform electrical work safely.

Approximately twenty percent of all new installations have code violations that require correction. Corrections are often costly to installers, and ultimately, the consumer. Some violations may not be detected and may remain as latent hazards to life and property. A continuing education program will at least assure that all licensees are exposed to new code requirements and wiring methods, and is in the public interest. Many electricians and electrical contractors have requested the board to consider adoption of a requirement for continuing education. A survey of available information shows that of the forty states that have some form of state-wide electrical licensing law, fourteen require continuing education.

The board began the present rule notification process by publishing a solicitation of outside information or opinions on July 25, 1994 in the State Register, Volume 19, Number 4.

Statutory Authority

The board's authority to adopt the rule is set forth in Minnesota Statute section 214.12, subdivision 1, which states:

Subdivision 1. Requirements. The health-related and non-health-related licensing boards may promulgate by rule requirements for renewal of licenses designed to promote the continuing professional competence of licensees. These requirements of continuing professional education or training shall be designed solely to improve professional skills and shall not exceed an average attendance requirement of 50 clock

hours per year. All requirements promulgated by the boards shall be effective commencing on January 1, 1977, or at a later date as the board may determine. The 50 clock hour limitation shall not apply to the board of teaching.

The board also has general rule-making authority under Minnesota Statutes, section 326.241, subdivision 2, which states:

Subdivision 2. Powers. The board, or the complaint committee on behalf of the board where authorized by law, shall have power to: [clauses (1) to (5) irrelevant] (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.

Small Business Considerations

Minnesota Statutes, section 14.115, requires the board to consider the effect on small businesses when it adopts rules.

Section 14.115, subdivision 2, states in part:

When an agency proposes a new rule, or an amendment to an existing rule, which may affect small businesses ..., the agency shall consider each of the following methods for reducing the impact of the rule on small businesses:

- (a) the establishment of less stringent compliance or reporting requirements for small businesses;
- (b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- (c) the consolidation or simplification of compliance or reporting requirements for small businesses;
- (d) the establishment of performance standards for small businesses to replace design or operational standards required in the rule; and
- (e) the exemption of small businesses from any or all requirements of the rule.

A majority of the electrical contractors and alarm and communications contractors licensed by the board are small businesses as defined in section 14.115, subdivision 1. The board has evaluated the effect of the proposed rules on small businesses. The individual license holders and applicants affected by the rule are not small businesses. Therefore, none of the items (a) through (e) above are applicable to small businesses.

The rule will benefit small electrical contractors and alarm and communications contractors. Small contractors often do not have the means to provide training for their employees. The training required by the rule will reduce the number of code violations by employees of such contractors,

thereby reducing the time and expense involved in correcting errors. Employers are not required to provide continuing education, which is generally available through area technical colleges and other providers.

Departmental Charges Imposed By the Rules

Minnesota Statutes, section 16A.1285 does not apply because the rules do not establish or adjust charges for goods and services, licenses, or regulation. The present board staffing levels and information system are adequate for the additional information that must be processed.

Fiscal Impact

Minnesota Statutes, section 14.11, subdivision 1, does not apply because the adoption of these rules will not result in additional spending by local public bodies in excess of \$100,000 per year for the first two years following adoption of the rules.

Agricultural Land Impact

Minnesota Statutes, section 14.11, subdivision 2, does not apply because adoption of these rules will not have an impact on agricultural land.

Witnesses

If these rules go to a public hearing, it is anticipated that there will be no witnesses called to testify on behalf of the agency.

Rule-By-Rule Analysis

A. The Rules as a Whole.

The rules are needed because the number of code violations found in electrical installations shows that some licensees do not maintain an adequate knowledge of current code requirements. Non-complying installations are hazardous to life and property and result in corrections that increase the costs of electrical installations. The rules will require licensees to have additional instruction in the code requirements, with the option of some instruction in related subjects, during each two year period preceding their license expiration date. The rules are reasonable because the number of hours and subject matter of instruction are consistent with continuing education requirements for electricians in other states and other professions in Minnesota, and have been determined by the board staff to be the minimum required to keep abreast of code changes.

B. Rule-by Rule Analysis.

3800.3600 Authority; Purpose.

This rule is necessary to advise the reader of the board's statutory rule-making authority and the purpose of the rules, and is reasonable because the authority and purpose are clearly stated.

3800.3601 Definitions.

Subpart 1. Words, terms and phrases.

This rule is needed to inform the reader that the definitions following must be applied where those terms are used in the rules. The rule is reasonable because it clearly identifies those parts to which the definitions are applicable.

Subpart 2. Educational Program.

This definition is needed to identify the type of instruction that is acceptable under the rules. Interactive instruction; i.e., settings where the instructor and student can immediately communicate with each other, is required to ensure that individual students can ask questions and receive answers on points they do not understand. The inclusion of interactive television facilitates acceptable educational programs throughout greater Minnesota. The rule is reasonable because the broad definition will accommodate a variety of offerings throughout the state and ensure availability to all licensees.

Subpart 3. Hours of Instruction.

This definition is needed to provide a concise term to use in place of the defining language, which states that the hours credited for an educational program will be determined by the board. The definition is reasonable because it will require the board to analyze the content of educational programs and allow credit for actual instructor-student contact hours.

Subpart 4. Electrician License.

This term must be defined to clearly inform the reader what types of licenses are subject to the rules. The definition sets forth the specific types of licenses currently authorized to which the rules apply, and has a provision for additional types of licenses that may be established by statute or rule. The definition is reasonable because it includes all personal electrical licenses that require the holder to have a substantial knowledge of the code. The lineman license is not included because the type of work permitted with that license is exempt from licensing and inspection under Minnesota Statutes, section 326.242, subdivision 12(c). The provision for additional license types will avoid the need to revise the rules if additional license types are established.

Subpart 5. Provider.

This definition is needed to provide a concise term for use throughout the rules in place of the list of entities that may provide educational programs for credit under the rules. The definition includes any legal entity that offers educational programs for credit, and cites the applicable rule. The definition is reasonable because it lends clarity and brevity to the rules.

3800.3602 Requirements for Renewal of Electrician License.

Subpart 1. License Renewal

This rule is needed to assure that all licensees will obtain the required continuing education and to establish the license renewal period for which the applicant must have the required hours of instruction. The rule provides that the board shall not renew the licenses of licensees who have not acquired the required hours of instruction, and makes the requirement applicable to renewal of licenses that have been in effect at least 24 months after the rules were adopted. This rule is reasonable because it will assure that all licensees will be subject to the same requirements, but will have not less than one full licensing period (two years) to comply after adoption of the rule.

Subpart 2. Hours of Instruction.

This rule is needed to establish the required number of hours of instruction and the period of time during which the instruction is acquired. Sixteen hours of instruction is required during the 24-months immediately preceding the license renewal date. Allowable credits may be counted only once for a given type of license, but may be applied to each type of license the licensee holds. The rule is reasonable because it provides for the hours of instruction necessary to study the most recent changes in the code and code requirements in general, but limits the time to that which may be readily achieved through evening or weekend classes. It further prohibits receiving credit for the same educational program more than once in any 24-month period. The requirement to acquire the hours of instruction during the immediately preceding licensing period will assure that the instruction received is of current value. Allowing credit only once for a given program during a license period will assure a greater diversity of instruction.

Subpart 3. Acceptable Subjects.

It is necessary to specify acceptable subjects to assure that the instruction received is relevant to the desired goal of safe electrical installations. At least 12 hours of instruction is required to be on the code, with the balance on the statutes and rules governing electrical installations or technical topics related to electrical installations and equipment. The rule is reasonable because it will maximize instruction in code requirements, which is the most important information related to safety, while still recognizing important, but less important, instruction on other topics.

Subpart 4. False information.

This rule is necessary to discourage cheating. Providing false information is subject to disciplinary action as provided under Minnesota Statutes, section 326.242, subdivision 9, and is a misdemeanor under section 326.246(1). The rule is reasonable because the rules are ineffective without means to prevent fraudulent acts.

3800.3603 Credit for Instruction.

Subpart 1. Approval of educational programs.

The rule is needed to assure that the educational programs offered meet the requirements of the rules. Providers are required to submit formal applications for approval

at least 30 days prior to the first presentation of the offering, and must provide information concerning instructors. The applications are evaluated by the board to determine hours of instruction provided and program offering according to part 3800.3602, subpart 3. The rule is reasonable because it is necessary to determine conformity of educational programs with the rules. Advance approval is necessary to reduce the likelihood that licensees will attend programs that are subsequently not approved. Advance notification of time and place of presentations are needed to provide means for the board to audit programs if there have been complaints. The use of forms provided by the board will assure uniformity of evaluations.

Subpart 2. Notification of presentations.

This rule is needed to assure that there will be an opportunity to audit presentations for continuing conformity with the course outline and to investigate any complaints of irregularities. It will also provide means to inform licensees of available educational programs. The rule is reasonable because it provides information necessary for audit of presentations according to subpart 4.

Subpart 3. Exceptions to pre-approval.

This rule is needed to provide licensees, particularly non-residents, an opportunity to receive credit for hours of instruction for educational programs conducted in other states. Credit will be granted for programs conducted in other states where the board is provided with evidence that the educational offering meets the requirements of part 3800.3602 and is approved for continuing education credit by the public authority licensing electricians in the other state. The rule is reasonable because it assures that the requirements of the rules will be met and will make it possible for non-residents licensed in Minnesota to meet the requirements.

Subpart 4. Review of educational programs.

This rule is needed for the board to determine that educational programs initially meet and continue to meet the requirements of the rules. The board is required to review all programs, and is given the authority to audit presentations, review the provider's records concerning persons who have attended the presentations for credit, and withdraw approval of programs not in compliance with the rules. The rule is reasonable because the board must have means to monitor the content of the programs offered, review records to ensure that credit is not fraudulently claimed, and withdraw approval of non-complying programs.

Subpart 5. Qualifications of instructors.

This rule is needed to assure that instructors have the knowledge and skills to conduct an educational program. Experience and training requirements are established that will accommodate all persons with substantial training and expertise concerning the code requirements, and, limited to four hours credit, persons with lesser credentials who have expertise in a particular technical subject. The rule is reasonable because it is necessary to set minimum qualifications for instructors. A journeyman or master needs to demonstrate additional skills through experience as an inspector, supervising electrician, or teacher. Teachers licensed pursuant to Minnesota Statutes, section 135C.04, subdivision 9, are required to be licensed electricians and are therefore also qualified. There are many areas of expertise in electrical engineering, and an instructor should be experienced in the area of concern,

electrical power systems. Manufacturer's representatives and others with intensive knowledge of a particular type of product or particular code article are well qualified to present information in their area of expertise, and should be accepted as instructors for that limited area, but any one such presentation should not receive credit for more than four of the required hours of instruction because of the limited scope of expertise.

Subpart 6. Credit for teaching.

This rule is needed to provide an incentive for qualified licensees to become instructors. The rule will allow three hours credit for an instructor for each hour of instruction allowable under subpart 1. The rule is reasonable because persons willing to be instructors have a real interest in the code and/or electrical technology, and will have acquired training on their own initiative. and spend much more than the time allowed studying the code in preparation for their program.


Subpart 7. Report of credits earned.

This rule is needed to provide a record of the hours of instruction credited to licensees. The provider is required to forward to the board a list of persons who have completed an educational program for credit on forms provided by the board, and to provide each person with a certificate of completion. The rule is reasonable because it involves the minimum amount of record-keeping necessary to provide the required information. The redundancy of the record by the provider and the certificate provided to the person receiving the instruction is necessary to avoid the inevitable situation where there would be no record available because the provider has failed his obligation to file a report or the person taking the course lost the certificate.

Conclusion

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

Date: January 4, 1995



William E. Bickner, Executive Secretary
State Board of Electricity