

Minnesota Board of Electricity

STATEMENT OF NEED AND REASONABLENESS

Proposed Amendment to Rules Governing the Expiration of Request for Inspection Certificates, Minnesota Rules 3800.3780.

INTRODUCTION

Minnesota Rules 3800.3780 establish conditions under which a request for inspection certificate expires or becomes void. This rule was originally adopted in March 1976 and has not been amended in the interim. The rule only consists of two sentences and over the interim installation practices have changed, fee rates have increased due to inflation, and questions have risen regarding the Minnesota Board of Electricity's (Board) application of the rule. As a result, the Board believes it is necessary to amend the rule as to be consistent with current installation practices and to clarify administrative detail. The amendments were developed to meet the following objectives:

- a. Require installers of electrical wiring to schedule a final inspection or otherwise notify the Board upon completion and before the wiring is utilized as part of an occupied space;
- b. Clarify that request for inspection certificate fees are not refundable after a request for inspection certificate reaches expiration;
- c. Upon expiration, require installers of electrical wiring to file a new request for inspection certificate and submit additional inspection fees to continue the wiring to completion;
- d. Increase the inspection fee value of certificates that are affected by this rule from \$100 to \$250; and
- e. Shorten the term of request for inspection certificates from 18 months to 12 months.

ALTERNATIVE FORMAT

Upon request, this Statement of Need and Reasonableness can be made available in an alternative format, such as large print, Braille, or cassette tape. To make a request, contact John A. Schultz at Board of Electricity, Griggs-Midway Building, Suite S-128, 1821 University Avenue, Saint Paul, MN 55104, telephone (651) 642-0800, facsimile (651) 642-0441. TTY users may call (800) 627-3529.

STATUTORY AUTHORITY

The Board's general statutory authority to adopt the rules is set forth in Minnesota Statutes section 326.241, subdivision 2 (6), which provides: "The Board, or the complaint committee on behalf of the Board where authorized by law, shall have the power to: (6) Adopt reasonable rules to carry out its duties under sections 326.241 to 326.248 and to provide for the amount and collection of fees for inspection and other services. All rules shall be adopted in accordance with chapter 14." This authority was most recently established by the legislature in 1967, and is not subject to the provisions of Minnesota Statutes, section 14.125. Under this statute, the Board has the necessary statutory authority to adopt the proposed rules.

REGULATORY ANALYSIS

“(1) a description of the classes of persons who probably will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule”

The classes of persons or entities affected by the proposed amendment include installers of electrical wiring and persons and entities that are exposed to, or utilize the installed wiring. Installers of electrical wiring include electrical contractors, employers, and owners as defined in Minnesota Statutes, section 326.01, subdivision 6e.

“(2) the probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues”

Because rules exist that address this situation, the proposed amendment does not have a fiscal impact on the Board or any other state agency, therefore there will not be any effect on state revenues.

“(3) a determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule”

The Board believes that the current rule as amended is the least costly and least intrusive method that results in the least amount of time from completion of an installation to final inspection and utilization of the installed wiring.

“(4) a description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule”

Alternative methods were not seriously considered because the expiration rules and similar rules regarding rough-in inspection of wiring before it is concealed have been in place for many years and are well understood and complied with by installers of electrical wiring. The Board believes that modification to the subject rules to better achieve the goal of ensuring electrical safety through inspection is a better method than creating a separate or alternative method.

“(5) the probable costs of complying with the proposed rule”

Because installers of electrical wiring currently have regular interaction with the Board’s electrical inspectors and many local jurisdictions currently require final electrical inspections as a condition of final building inspection, there will be minimal costs incurred by installers to comply with the proposed amendment.

“(6) an assessment of any differences between the proposed rule and existing federal regulations and a specific analysis of the need for and reasonableness of each difference”

There are no federal regulations that are applicable.

COMMISSIONER OF FINANCE REVIEW OF CHARGES

Minnesota Statutes, section 16A.1285, does not apply because the rules do not set or adjust fees or charges.

PERFORMANCE-BASED RULES

The Board's primary responsibility is to ensure electrical safety. Licensing and inspection are the two primary programs administered by the Board to meet this responsibility. The proposed amendment deals with inspection and provides a mechanism by which electrical installations are assured to be in compliance with applicable safety standards in the shortest time frame. Minnesota Rules 3800.3780 currently does not require an installer to schedule a final inspection or otherwise notify the Board that the installation is completed. In most instances this results in the installed wiring being utilized for extended periods of time before a final inspection is performed, exposing the user and others to unnecessary risk and potential hazard. Requiring the installer to schedule or otherwise notify the Board upon completion of the installation will result in final inspections being performed as soon as possible after completion of the installation and therefore minimize this risk and exposure to potential hazard. Because the proposed amendment requiring that the installer of electrical wiring schedule a final inspection or otherwise notify the Board that the installation is complete before being utilized is similar to the requirement that the installer schedule a rough-in inspection before any wiring is concealed, installers will not be unduly subjected to a new or different process. Because a specific method of notification is not identified, the proposed rule allows the installer to notify by any common method. This may include in-person, direct telephone contact, telephone messaging, facsimile, e-mail, mail, or other person-to-person messaging method.

ADDITIONAL NOTICE

The Board will mail the rules and Notice of Intent to Adopt to every entity who has registered to be on the Board's rulemaking mailing list under Minnesota Statutes, section 14.14, subdivision 1a. The Notice of Intent to Adopt will also be included in the Board's newsletter, which is mailed to every person and business that is licensed by the Board. The Board will also give notice to the Legislature per Minnesota Statutes, section 14.116. Additionally, the Board will place the notice on its web site. The Board's Notice Plan also includes giving notice required by statute by publishing the notice in the State Register.

LIST OF WITNESSES

If these rules go to a public hearing, the Board anticipates having the following witnesses testify in support of the need for and reasonableness of the rules:

1. Mr. John A. Schultz, Executive Secretary, Board of Electricity, will testify about the process used to develop the rules as well as the need and reasonableness.
2. Mr. John I. Williamson, Assistant Executive Secretary, Board of Electricity, will testify about the Board's inspection program and why this amendment is both necessary and reasonable.

RULE-BY-RULE ANALYSIS

Proposed amendments:

(deleted words and punctuation are struck-through and new wording and punctuation is underlined)

3800.3780 REQUEST FOR INSPECTION CERTIFICATES, NOTIFICATION FOR FINAL INSPECTION AND EXPIRATION.

~~Request for inspection certificates on installations with inspection fees of \$100 or less are void 18 months from the original filing date. A new request for inspection shall be filed on all unfinished work.~~

Subpart 1. Final Inspection. Installers of electrical wiring shall schedule a final inspection or otherwise notify the electrical inspector that the work associated with a specific request for inspection certificate is completed prior to the wiring being utilized by the intended user and the associated space being occupied.

Subp. 2. Expiration. Request for inspection certificates on installations with inspection fees of \$250 or less are void 12 months from the original filing date regardless of whether the wiring is completed. A new request for inspection certificate shall be filed on all unfinished work when the work is not completed within 12 months from the filing date of the original request for inspection certificate. An inspection fee calculated according to Minnesota Statutes, section 326.2441 for all unfinished work shall be submitted with the new request for inspection certificate. Request for inspection certificate inspection fees of \$250 or less are not refundable after 12 months from the original filing date.

Subp. 3. Authority. The authority to install electrical wiring associated with a specific request for inspection certificate is void at the time of a final inspection or expiration, whichever occurs first. The Board's authority to inspect wiring covered by a request for inspection certificate continues until the installation is approved at a final inspection.

Overall Objectives:

The overall objectives of the proposed rule amendments are to minimize the amount of time partially completed or uninspected electrical work is utilized by the end user, thereby minimizing risk and exposure to potential hazards. The current rule is included on all request for inspection certificates and the amended rule will be subsequently included with or on all request for inspection certificates after adoption. Providing this information on the request for inspection certificate forms provides full notification to installers of the governing rules.

Subpart 1.

Effect: Require installers of electrical wiring to schedule a final inspection, or otherwise notify the Board upon completion of the electrical installation and before the wiring is utilized as part of an occupied space.

Need: This addresses a problem where installers do not notify the inspector when a job is completed and ready for final inspection, thereby requiring the inspector to guess when a specific job has been completed and is ready for inspection. This causes the final inspection of the installed wiring to be delayed, subjecting the user to unnecessary risk and potential hazard.

Reasonableness: This scheduling or notification requirement would parallel the current requirement for scheduling a rough-in inspection. It is reasonable to require the installer of the electrical wiring who is

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“requesting the inspection” to notify the inspection authority that the installation is ready for inspection. Many installers have complained because they have been required to make corrections on installations long after they have completed them. In some instances, the installer does not recognize on-site factors that impact the electrical installation and when required to make corrections to their installation long after they have completed the installation, have no recourse to secure payment from their customer. In almost all of these instances, the installer did not notify the inspector that the installation was completed and ready for a final inspection. Requiring the installer to notify the inspector when the installation is completed will minimize this type of situation. Requiring the installer to notify the inspector when the installation is ready for final inspection gives clear direction to the inspector and will result in final inspections to be completed in a more timely manner. Completing inspections in a more timely manner will result in citizens of the state being assured that their electrical installation is in compliance with the applicable safety standards in the shortest amount of time from completion of the installation.

Subpart 2.

Effect: Clarify that request for inspection certificate fees are not refundable after a request for inspection certificate reaches expiration.

Need: This clarification was suggested by the Legislative Auditor to provide clear notice to installers and to properly place Board policy with general effect into rule.

Reasonableness: This provision allows an installer to request a refund of inspection fees if the installation covered by a specific request for inspection certificate is not performed within the term of the certificate.

Subpart 2.

Effect: Upon expiration of a request for electrical inspection, require installers of electrical wiring to file a new request for inspection certificate and submit additional inspection fees to continue the wiring to completion.

Need: Clarify that additional fees are required for additional or continued work. This language is similar to current language.

Reasonableness: The fees associated with the replacement request for inspection certificate are due only for the portion of the installation that is not completed.

Subpart 2.

Effect: Shorten the term of request for inspection certificates from 18 months to 12 months for certificates with inspection fees of \$250 or less.

Need: Inspections need to be completed in the shortest possible time after the work is completed to ensure the greatest degree of electrical safety.

Reasonableness: Board records reveal, with limited exception, installations with inspection fees of \$250 or less are completed within 12 months. Additionally, Board experience indicates that most of the jobs that aren't completed within 12 months generally aren't completed in 18 months either. Many of the jobs that currently reach expiration are for recreational or seasonal properties and the 18-month time period places the expiration out of sync with normal use, whereas a 12-month time period maintains expiration within a time period that the properties are normally being occupied/utilized.

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Another category of installations where the final inspections are not completed within the 18 month term are performed by owners, such as the finishing of a lower level in a home. In most of these instances the space is being utilized even though the wiring installation is not complete or has not had a final inspection and the expiration notices prompt the owner to complete the installation and have the final inspection completed. In all but limited instances, a 12-month time frame to complete the work is more than adequate and reducing the time frame from 18 months to 12 months results in exposure to less risk and potential hazard. The \$100/18 month condition was established by rule in 1976. A \$250 inspection fee under the current fee schedule correlates to a similar job under the 1976 fee schedule.

Subpart 3.

Effect: Clarify that only the authority to install electrical wiring expires after a specified time or at the time of final inspection and that the Board's authority to inspect the electrical wiring continues until the installation is approved.

Need: This clarification was suggested by the Legislative Auditor to provide clear notice to installers and to properly place Board policy with general effect into rule.

Reasonableness: The Board's responsibility to inspect installations specified in Minnesota Statutes, section 326.244, subdivision 1 can not be amended by Board policy or rule. This clarification makes it clear to installers and others that the Board's responsibility and authority continues until a final inspection is performed on the installation. Additionally, some installers contend that a request for inspection certificate authorizes any electrical installation to be made on a specific premises during the term of the request for inspection certificate regardless of whether the wiring is identified on the certificate or whether a final inspection has been performed. This provision clarifies that the authority to install wiring covered by a specific request for inspection certificate is void at the time of final inspection or expiration, whichever occurs first. Installers of electrical wiring are required to provide complete information regarding the scope of work covered by a request for inspection certificate at the time of filing, and to continue work after expiration or after a final inspection may result in this additional work to not be inspected.

CONCLUSION

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

Date

John A. Schultz
Executive Secretary
Minnesota Board of Electricity