

October 10, 2019

VIA EMAIL ONLY

Wendy Wilson Legge
Minnesota Department of Labor and Industry
443 Lafayette Ave N
Saint Paul, MN 55155
wendy.legge@state.mn.us

**Re: *In the Matter of the Proposed Rule Relating to Chapter 1305 -
Commerical Building Code*
OAH 8-9001-35629; Revisor R04509**

Dear Ms. Wilson Legge:

Enclosed and served upon you please find the **AMENDED ORDER ON REVIEW**
OF RULES UNDER MINN. STAT. § 14.26 in the above-entitled matter.

If you have any questions regarding this matter, please contact Sheena Denny at (651)
361-7881, sheena.denny@state.mn.us, or via facsimile at (651) 539-0310.

Sincerely,



LISA ARMSTRONG
Legal Assistant

Enclosure

cc: Legislative Coordinating Commission
Revisor of Statutes
Sheena Denny

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of the Proposed Rules of the
Department of Labor and Industry Governing
the Adoption of the International Building
Code, Minnesota Rules Chapter 1305

AMENDED ORDER ON REVIEW
OF RULES UNDER
MINN. STAT. § 14.26 (2018)

This matter came before Administrative Law Judge Eric L. Lipman upon the application of the Minnesota Department of Labor and Industry (Department) for a legal review under Minn. Stat. § 14.26 (2018).

Following the receipt of the submissions of the Department, this matter was reassigned by the Chief Administrative Law Judge to Judge Lipman's docket for review.

Based upon a review of the written submissions by the Department, and all of the documents in the rulemaking record,

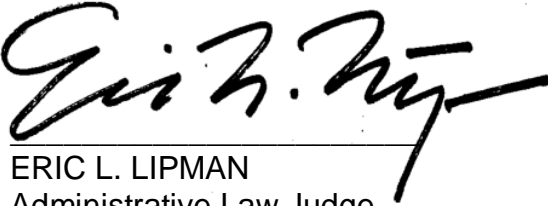
IT IS HEREBY DETERMINED THAT:

1. The Department has the statutory authority to adopt the rules.
2. The rules were adopted in compliance with the procedural requirements of Minnesota Statutes, chapter 14, and Minnesota Rules, chapter 1400.
3. The proposed rules are needed and reasonable.

IT IS HEREBY ORDERED THAT:

1. The docket number in this matter is **MODIFIED** to OAH 8-9001-35629.
2. The adopted rules are **APPROVED**.

Dated: October 10, 2019


ERIC L. LIPMAN
Administrative Law Judge

MEMORANDUM

Technical Correction:

The Administrative Law Judge recommends one technical correction to the rules for the Department's review and consideration. Technical corrections are not defects in the rules. The suggested correction is a recommendation that the agency may choose to adopt, if it sees fit, to aid in the administration of the rules.

Proposed Minn. R. 1305.3111.1.3(3) – Solar Energy Systems, Roof Access Points:

The Department proposes to modify and reorder features of the existing rule governing access points to rooftop solar energy systems.¹ The proposed rule states in part:

Roof access points shall meet all the following criteria:

....

3. Roof access points shall be located at strong points of building construction.²

While the descriptor “strong points of building construction” is not so vague and indeterminate as to render the proposed rule defective, the breadth of the phrase seems to invite later disputes. For that reason, the Commissioner should consider revising this subpart to read something like “[r]oof access points shall be located at strong points of building construction, such as corners, pilasters, hips, and valleys, and other areas capable of supporting the live load from emergency responders.” A revision that clarified this portion of the regulation, and its purpose, is needed and reasonable and would not be a substantial change from the rules as proposed.³

E. L. L.

¹ Minn. R. 1305.3113 (2017); Exhibit (Ex.) D at 74-75, 78.

² Ex. C at 117.

³ Ex. D at 75 (“The roof access points must not require the ladder to be placed over window or door openings and must be at strong points of building construction so *that the ladder can be secured to the building to allow firefighters safe access to the roof*”) (emphasis added).