

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of the Proposed Rules
Governing the Adoption of the International
Mechanical Code and International Fuel Gas
Code, Minnesota Rules, Chapter 1346

**ORDER ON REVIEW
OF RULES UNDER
MINN. STAT. § 14.26 (2018)
AND MINN. R. 1400.2300 (2017)**

This matter came before Administrative Law 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).

On February 18, 2020, the Department filed documents with the Office of Administrative Hearings seeking review and approval of the above-entitled rules under Minn. Stat. § 14.26 and Minn. R. 1400.2300 (2019)

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

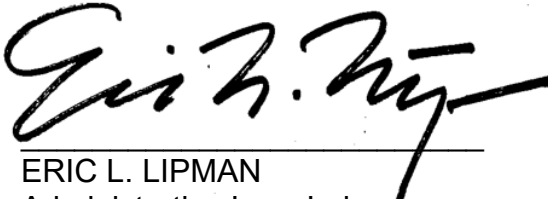
IT IS HEREBY DETERMINED THAT:

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.

IT IS HEREBY ORDERED THAT:

1. The adopted rules are **APPROVED**.
2. The Department shall consider the technical suggestion in the accompanying Errata sheet prior to finalizing its Order Adopting Rules. See Exhibit N to the Agency's Submissions under Minn. Stat. § 14.26.

Dated: February 27, 2020


ERIC L. LIPMAN
Administrative Law Judge

ERRATA

1. The Administrative Law Judge recommends one technical change to the proposed rules. A technical correction is not a defect in the proposed rule; but rather a recommendation that the agency may adopt, if it sees fit, so as to aid in the administration of the rule.

2. Under the proposed amendments, the Department establishes particular standards for different configurations of cooking exhaust equipment, stating that the equipment shall comply with the listed standards “as applicable.” While the best reading of the proposed amendments is that different code standards apply to different arrangements of exhaust equipment, as detailed in that regulation, the text can also be read to imply that the standards are not self-executing and that none of the standards are applicable by reason of being placed into Minn. R. 1346.0505. Because the meaning of the words “as applicable” is not as precise as it should be, the text is wobbly and invites confusion and debate about the reach of the rule.

3. The Administrative Law Judge recommends an editorial change to the text of the amendments to Minn. R. 1346.0505. So as to make the proposed rule clearer and easier to understand, the first sentence that follows the headnote should read: “Where any of the following configurations of domestic cooking exhaust equipment is provided, the equipment shall comply with the accompanying standard stated below.” See Exhibit C, at 24, lines 24.15 – 24.16 (RD4515) (July 8, 2019).

4. Such a revision of the text is needed and reasonable and would not be a substantial change from the rule as originally proposed.