

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

RULE REVIEW CHECKLIST

File No. 1365 Docket No. 05.0009.04/8

DATE RECEIVED 5/05/87
REVIEW DATE 5/14/87
DUE DATE 5/19/87

ADOPTED W/O HEARING X
EMERGENCY RULE

APPROVED 5.18.87
DISAPPROVED
WITHDRAWN

REVISOR APPROVED
REVISOR DISAPPROVED
FILED W/SEC. STATE
RETURNED TO AGENCY

✓ Rule as adopted (4 copies)

✓ Notice to Solicit Outside Information/Opinion
May 12, 1986 Date published in State Register
Yes Comments

~~Petition for Adoption of a Rule~~

~~Board's Authorizing Resolution~~

✓ Proposed rule
Yes Revisor's Certificate

✓ Notice of Intent to Adopt Rule
325F.20 subd 1 + 325F.20 subd 1+2 Statutory Authority
Yes Small business statement
Yes Expenditure of public money statement
Yes Signature

✓ Statement of Need and Reasonableness

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
3/3/87 Date 30/25 days before adoption

✓ Publication in State Register
3/9/87 Date 30/25 days before adoption

~~Resolution Adopting~~

✓ Findings of Fact, Conclusions & Order Adopting
4/29/87 Date

✓ Written requests, submissions or comments

✓ Declaration of attorney
Liz Cutter Name of SAAG representing agency

✓ Notice of Submission to Attorney General

✓ Affidavit of Mailing Notice to Attorney General

✓ Affidavit of Certificate of Mailing List

SF-00006-05 (4/86)

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT : ATTORNEY GENERAL

DATE : May 28, 1987

TO : Liz Cutter
Special Assistant
Attorney General

FROM : Martha Casserly
Special Assistant
Attorney General

PHONE : 6-6204

SUBJECT : In the Matter of the Adopted Rule Relating to Testing Requirements

The above-referenced rule has been approved as to its legality by the Attorney General on May 18, 1987.

Enclosed is the agency's 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, submission or comments received by the agency and any extra copies of documents which the agency submitted to the Attorney General.

In order for a permanent rule without a hearing to become effective, your agency must publish a notice of adoption 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:nah

Enclosures

cc: Maryanne Hruby
Executive Director
Legislative Commission to Review
Adminsitrative Rules

Duane Harves
Chief Administrative Law Judge
Office of Administrative Hearings

AG Copy

RECEIVED
MAR 13 1987
DEPT. OF PUBLIC SERVICE

Department of Public Service

Adopted Permanent Rules Relating to Testing Requirements

Rules as Adopted

4155.0130 INSULATION MATERIALS STANDARDS.

Subpart 1. [Unchanged.]

Subp. 2. **General testing and reporting requirements.** General testing and reporting requirements for regulated thermal insulation materials in this part are as follows:

A. All regulated thermal insulation materials shall be tested for compliance with the standards in this part within 120 days of the effective date of this chapter. Testing procedures are as follows:

(1) Testing must be performed at least every other year. The testing must be completed by June 1 of every even-numbered year.

(2) to (6) [Unchanged.]

B. to D. [Unchanged.]

Subp. 3. **Cellulose fiber in loose-fill form.** The following requirements apply to cellulose fiber in loose-fill form:

A. [Unchanged.]

B. All manufacturers shall contract with an independent NVLAP approved laboratory for the following two purposes:

(1) The laboratory shall pick up three unopened bags of manufacturer's cellulose from the marketplace for testing under this chapter.

(2) [Unchanged.]

C. [Unchanged.]

Subp. 4. to 15. [Unchanged.]

APPROVED AS TO FORM AND LEGALITY

May 18 1987

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY M T Casserly
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
MAY 19 1987
Joan Anderson Growe
Secretary of State
4:06 P.M.

Department of Energy and Economic Development, Business Financial Management Division

Notice of Tax Exempt Financing Issuance Authority

Notice of Availability

Pursuant to Minn. Laws 1986, Ch. 465, Article 1, Section 22

The Department gives notice that the amounts of tax exempt financing issuance authority available to qualified issuers as of May 5, 1986, is as follows:

COMPETITIVE POOL (EXISTING LAW)

Pursuant to Minn. Laws 1986, Ch. 465, Article 1, Section 13

Total Pool Available (Priority to Manufacturing Projects)	$306,022,800.
For:	
Pollution Control/Waste Management Projects	$ 70,064,560.
Commercial Redevelopment Projects	$ 95,312,980.

COMPETITIVE POOL (FEDERAL VOLUME LIMITATION ACT)

Pursuant to Minn. Laws 1986, Ch. 465, Article 1, Section 19

Total Pool Available (Priority to a—General Obligation Projects, b—Manufacturing Projects)	$295,081,237.
For:	
Pollution Control/Waste Management Projects	$ 59,856,247.
Commercial Redevelopment/Multifamily Housing Projects	$104,748,432.

QUALIFIED 501(c)(3) BOND POOL (FEDERAL VOLUME LIMITATION ACT)

Pursuant to Minn. Laws 186, Ch. 465, Article 1, Section 20

Total Pool Available	$ 77,500,000.

Pursuant to Minnesota Laws 1986, Ch. 465, Article 1, Section 13, Subd. 2, Section 19, Subd. 2, Section 20, Subd. 3, and Section 21, Subd. 2, issuers requesting allocations of issuance authority must submit applications, any applicable deposit and any other supporting documents required. Application forms are available from the Department upon request.

Department of Energy and Economic Development, Energy Division

Outside Opinion Sought for Proposed Amendments to Residential Thermal Insulation Standards

Notice is hereby given that the Department of Energy and Economic Development, Energy Division (DEED) is seeking information or opinions from sources outside the agency in preparing amendments to Minn. Rules Chapter 4155, Residential Thermal Insulation Standards (as proposed at 9 S.R. 2424 and as adopted at 10 S.R. 1208). The adoption of these rules is authorized by Minnesota Statutes, sections 325F.20, subdivision 1 and 325F.21, subdivisions 1 and 2.

DEED requests information and comments on any part of the rules, but in particular on 4155.0120, subp. 14, Definitions; 4155.0130, subp. 1, Scope; 4155.0130 subp. 2, General testing and reporting requirements; 4155.0130 subp. 3, Cellulose fiber in loose-fill form; 4155.0130 subp. 4, Cellulose fiber spray applied; 4155.0130 subp. 10, Polystyrene in board form; 4155.0130 subp. 11, Polyurethene and polyisocyanurate in board form; 4155.0130 subp. 12, Reflective foil; 4155.0130 subp. 13, Urea formaldehyde foam field applied; 4155.0130 subp. 13, Urea formaldehyde foam insulation safety notice; and 4155.0150, subp. 2, Report of intended application and installation.

Interested persons may submit statements of information or comment orally or in writing. Written statements should be addressed to: Bruce Nelson, Insulation Standards Program, DEED, 900 American Center Building, 150 E. Kellogg Blvd., St. Paul,

MN 55101. Oral statements will be received during regular business hours by telephone at (612) 297-2313 and in person at the above address.

All statements and comments pertaining to this matter shall be accepted until September 13, 1986, or until the end of the comment period for any proposed rules. Any written material received by DEED shall become part of the rulemaking record in the event that amendments to these rules are proposed.

Mark B. Dayton,
Commissioner

Department of Human Rights

Outside Opinion Sought on Proposed Rules Governing Processing of Discrimination Charges

Notice is hereby given that the Department of Human Rights is seeking information or opinions from persons or groups in preparing to promulgate new and amended rules governing case processing procedures.

The promulgation of these rules is authorized by Minnesota Statutes 363.05 subdivision 1 (8) (1984) which authorizes the commissioner to adopt suitable rules and regulations of effectuating the purposes of Chapter 363.

The Department of Human Rights requests information and comments concerning the subject matter of these rules, including comment on the issue of whether or not these rules and amendments are likely to have a qualitative or quantitative impact upon small businesses as defined by Minn. Statutes § 14.115. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to:

David Nelson, Management Services
Minnesota Department of Human Rights
500 Bremer Tower — 7th and Minnesota Streets
St. Paul, Minnesota 55101

Oral statements will be received during regular business hours over the telephone at (612) 296-5678.

All statements of information and comment shall be accepted until May 26, 1986. Any written material received by the Department of Human Rights pursuant to this notice shall become part of the rulemaking record in the event that the rules are promulgated.

Department of Jobs and Training

Notice of Solicitation of Outside Opinion Regarding Rules to Operate Employment and Training Services and the Child Care Sliding Fee Program

Pursuant to Minnesota Statutes, sections 14.10, notice is hereby given that the State Department of Jobs and Training is seeking information or opinions from sources outside the agency in preparing to propose the adoption of permanent rules governing the operation of the programs assigned the department by Minnesota Laws 1985, 1st Special Session Chapter 14, Article 9.

The adoption of these rules is authorized by Minnesota Statutes, Section 268.021, which permits the agency to adopt rules with respect to programs it administers. More specific rulemaking authority is given in sections 17, 30, 31, 40, 53, 66, 67, 71 and 72 of Minnesota Laws 1985, 1st Special Session, chapter 14, article 9, which amended Minnesota Statutes, chapters 256, 256D, and 268.

The State Department of Jobs and Training requests information and comments concerning the subject matter of the rules. Interested or affected persons or groups submitting data or views may wish to refer to the Proposed Emergency Rules Relating to Employment, parts 3301.0010-3301.0650, in the December 2, 1985 (Volume 10, Number 23) issue of the *State Register*, pp. 1240-1265 and the Adopted Rules in the March 17, 1986 (Volume 10, Number 38) issue, pp. 1911-1927. Data or views on the subject matter of concern may be submitted orally or in writing. Written statements should be addressed to:

Colleen Gunderson
Minnesota Department of Jobs and Training
390 North Robert Street, Room 302
St. Paul, MN 55101

Department of Public Service

Proposed Permanent Rules Relating to Testing Requirements

Rules as Proposed

4155.0130 INSULATION MATERIALS STANDARDS.

Subpart 1. [Unchanged.]

Subp. 2. **General testing and reporting requirements.** General testing and reporting requirements for regulated thermal insulation materials in this part are as follows:

A. All regulated thermal insulation materials shall be tested for compliance with the standards ~~set forth~~ in this part within 120 days of the effective date of this chapter. Testing procedures are as follows:

(1) Testing ~~shall, at a minimum,~~ must be performed ~~annually and the testing shall be completed prior to June 1 of~~ at least every other year. ~~Annual tests shall be performed at least ten months apart~~ The testing must be completed by June 1 of every even-numbered year.

(2) to (6) [Unchanged.]

B. to D. [Unchanged.]

Subp. 3. **Cellulose fiber in loose-fill form.** The following requirements apply to cellulose fiber in loose-fill form:

A. [Unchanged.]

B. All manufacturers shall contract with an independent NVLAP approved laboratory for the following two purposes:

(1) The laboratory shall pick up three unopened bags of manufacturer's cellulose from the marketplace for ~~annual~~ testing under this chapter.

(2) [Unchanged.]

C. [Unchanged.]

Subp. 4. to 15. [Unchanged.]

Approved by Revisor Craig E. Finseth

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Testing Requirements

AGENCY: Department of Public Service

MINNESOTA RULES: Chapter 4155

The attached rules are approved for publication
in the State Register

Craig E. Lindeke
Senior Assistant Revisor

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SERVICE
7TH FLOOR AMERICAN CENTER BLDG.
KELLOGG & ROBERT STS.
SAINT PAUL 55101
PHONE: _____

Residential Thermal Insulation Standards

Notice of Intent to Amend Rules without a Public Hearing

Notice is hereby given that the Minnesota Department of Public Service proposes to adopt amendments to Minnesota Rules, Chapter 4155.0130, .subpart 2.A.(1), without a public hearing. The Director has determined that the proposed amendment of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in the Minn. Stat., sections 14.22 to 14.28. Authority for the adoption of these rules is contained in Minn. Stat., sections 325F.20, subd. 1 and 325F.21, subd. 1 and 2.

Minnesota Rules, Chapter 4155 apply to manufacturers of all residential thermal insulation products sold or installed in Minnesota.

All persons have 30 days in which to submit comment in support of or in opposition to any part of the proposed amendments. Comment is encouraged. Each comment should identify the proposed amendment addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the proposed amendments 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 must state his or her name and address and is encouraged to identify the portion of the proposed amendment addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to Minn. Stat., sections 14.131 to 14.20.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or requests to: Bruce D. Nelson, Department of Public Service, Energy Division, 900 American Center Building, 150 East Kellogg Boulevard, St. Paul, Minnesota 55101, (612)297-2313.

Comments or requests for a public hearing must be received by the Department of Public Service, Energy Division by 4:00 p.m., April 9, 1987. The proposed amendments may be modified if the modifications are supported by the data and views submitted to the Department and do not result in a substantial change in the proposed amendments as noticed.

A Copy of the proposed rule amendment is attached to this notice.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed amendments and identifies the data and information relied upon to support the proposed amendments has been prepared and is available by requesting a copy from Mr. Nelson at the address listed above.

The implementation of these amendments will not require the expenditure of public money in excess of $100,000 by local bodies in either of the two years following their adoption, nor do the rules have any impact on agricultural land.

The adoption of these amendments will affect small businesses in Minnesota. The Department has evaluated the effect of the proposed rules on small businesses and has considered each of the methods prescribed by Minn. Stat. Section 14.155, subd. 2, for reducing the impact of the rules on small businesses. Small businesses would benefit from the proposed rule, since the required frequency of testing is reduced, resulting in less stringent compliance, schedules and deadlines in conformance with Minn. Stat. Section 14.155, subd. 2(a) and (b). The proposed rule would have no effect on reporting requirements addressed by Minn. Stat. Section 14.155, subd. 2(a), (b) or (c). The requirements of Chapter 4155 are already performance standards for all insulation types in conformance with Minn. Stat. Section 14.155, subd. 2(d). The Department has determined that small businesses cannot be exempted from any or all requirements of the rules in conformance with Minn. Stat. Section 14.155, subd. 2(e).

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent that form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rules must submit a written request for such to Mr. Nelson at the above address.

Dated: 20 February 1987

Tony Perpich, Director
Department of Public Service

Department of Public Service

Proposed Permanent Rules Relating to Testing Requirements

Rules as Proposed

4155.0130 INSULATION MATERIALS STANDARDS.

Subpart 1. [Unchanged.]

Subp. 2. **General testing and reporting requirements.** General testing and reporting requirements for regulated thermal insulation materials in this part are as follows:

A. All regulated thermal insulation materials shall be tested for compliance with the standards ~~set forth~~ in this part within 120 days of the effective date of this chapter. Testing procedures are as follows:

(1) Testing ~~shall, at a minimum,~~ must be performed ~~annually and the testing shall be completed prior to June 1 of~~ at least every other year. ~~Annual tests shall be performed at least ten months apart~~ The testing must be completed by June 1 of every even-numbered year.

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Subp. 3. **Cellulose fiber in loose-fill form.** The following requirements apply to cellulose fiber in loose-fill form:

A. [Unchanged.]

B. All manufacturers shall contract with an independent NVLAP approved laboratory for the following two purposes:

(1) The laboratory shall pick up three unopened bags of manufacturer's cellulose from the marketplace for ~~annual~~ testing under this chapter.

(2) [Unchanged.]

C. [Unchanged.]

Subp. 4. to 15. [Unchanged.]

Department of Public Service, Energy Division

In the matter of the Proposed Amendment of the Rule of the State Department of Public Service, Energy Division Governing Residential Thermal Insulation Standards

STATEMENT OF NEED AND REASONABLENESS
March, 1987

The Director of the Minnesota Department of Public Service proposes to adopt amendments to Minnesota Rules Chapter 4155.0130, subpart 2.A.(1), without a public hearing. The Director has determined that the proposed amendment of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes sections 14.22 to 14.28. The above-captioned proposed rules are amendments to the existing Minnesota Residential Thermal Insulation Standards.

The Director is authorized by Minnesota Statutes sections 325F.20, subdivision 1, and 325F.21, subdivisions 1 and 2, to establish standards for the product quality, safety, installation, and labeling of thermal insulation products, and to establish test programs and procedures to ensure that standards established by this chapter will be met.

Minnesota Rules 4155.0100 through 4155.0180 were adopted on November 30, 1985.

Two editorial changes are proposed by the Revisor of Statutes to conform with current style regulations. These editorial changes appear at lines 12 and 15 of the proposed rule. The proposed amendment at lines 16, 17, 18 and 19 striking language referring to annual testing and adding language referring to testing every even-numbered year would change the requirement for complete testing of insulation products from annually to biennially, beginning June 1, 1988. The proposed amendment at line 30 deleting the word "annual" makes this portion of the rule consistent with the proposed amendment at lines 16 through 19.

In summary, the proposed rule amendment makes only one substantial change to the Minnesota Residential Thermal Insulation Standards: to reduce the frequency of required testing to biennially instead of annually. The proposed amendment will prevent an unnecessary expenditure on the part of insulation manufacturers for a complete test of insulation products prior to June 1, 1987. This will allow time for more comprehensive modifications to these rules which are being developed and are expected to be proposed.

The adoption of these amendments will affect small businesses in Minnesota. The Department has evaluated the effect of the proposed rules on small businesses and has considered each of the methods prescribed by Minnesota Statutes Section 14.155, subd. 2, for reducing the impact of the rules on small businesses. Small businesses would benefit from the proposed rule, since the required frequency of testing is reduced, resulting in less stringent compliance, schedules, and deadlines in conformance with Minnesota Statutes section 14.115, subd. 2(a) and (b). The proposed rule would have no effect on reporting requirements addressed by Minnesota Statutes section 14.115, subd. 2(a), (b), or (c). In its second year of the administration of these rules, the Department is taking steps to simplify all reporting requirements. The requirements of Chapter 4155 are already performance standards for all insulation types in conformance with Minnesota Statutes section 14.115, subd. 2(d). Minnesota Statutes section 14.115, subd. 2(e) requires the

Department to consider exempting small businesses from any or all requirements of the rules. To assure that insulation products sold or installed in the state are safe and effective, it is essential that all manufacturers of insulation be subject to the requirements of these rules. To exempt some businesses from these requirements would raise the possibility that insulation products could be sold and installed in Minnesota which were neither safe nor effective. Thus, the Department concludes that small businesses cannot be exempted from any or all requirements of these rules.

The implementation of these amendments will not require the expenditure of public money in excess of $100,000 by local bodies in either of the two years following their adoption and meets the test of the exceptions to fiscal notes as provided by Minnesota Statutes 3.983 subpart 2. The proposed amendments would not have any impact on agricultural land.

If a public hearing is required, Bruce Nelson, Senior Engineer and Greg Hubinger, Acting Manager of the Conservation Programs section of the Energy Division will appear on behalf of the proposed rules at the hearing. They will testify regarding the need for and reasonableness of the proposed rules.

The following is the evidence and argument which supports the need for and reasonableness of the proposed rules.

Background

The proposed rule revision is intended as a temporary measure until the Department has the opportunity to propose a comprehensive revision to these rules. The Department is currently engaged in an effort to develop such a comprehensive proposed revision. The consulting firm of Stewart & Associates, Roseville, MN, has been retained by the Department to prepare a report recommending revisions to these rules. meetings are being held in the months of February, March, and April to obtain industry input on the proposed comprehensive revisions. It is anticipated that the proposed comprehensive revisions would include eliminating the annual (or biennially) testing requirement for some of the physical characteristics of insulation, while requiring testing more frequently than annually for other physical characteristics. The Department anticipates that by September 1, 1987, the comprehensive revisions to these rules will be proposed in a Notice of Intent to Amend Rules.

Need

The proposed rule revision is needed because a complete retesting of all insulation products before June 1, 1987, is unnecessary; while a requirement for a complete retest of products by June 1, 1988 is necessary. If left unchanged, the present rule would require such retesting. This would cause a substantial burden on thermal insulation manufacturers selling products in Minnesota and with minor benefits. The cost for complete retesting of an insulation product as required by the present rule is estimated to be between $4,000 and $8,000. A requirement for a complete retest of products by June 1, 1988, and biennially thereafter is necessary in order to minimally assure that the products are safe and effective. In addition, the

biennial testing requirement is needed to provide incentive for adoption of the more comprehensive revisions which will soon be proposed. These comprehensive revisions may require testing more frequently than annually for some physical characteristics of insulation.

Reasonableness

The proposed rule revision is reasonable because the benefits of a complete retesting of insulation products before June 1, 1987, would be minimal. However, requiring a complete retesting of products before June 1, 1988, and biennially thereafter is reasonable. For insulation products other than cellulose, a complete retest of all physical characteristics would result in a minor fine-tuning of manufacturing processes which were set up following the initial test of products as required by Rules 4155.0130 subp. 2.A.(2). For cellulose insulation, rule 4155.0130, subp. 3.B.(2) requires surprise inspections set up following the initial test of products as required by Rules 4155.0130 subp. 2.A.(2). For cellulose insulation, Rule 4155.0130, subp. 3.B.(2) requires surprise inspections and more than annual testing of some physical characteristics. The proposed rule amendments do not affect the surprise inspection requirements for cellulose insulation manufacturers. The proposed amendments are reasonable because it is anticipated that the comprehensive rule revisions will have been proposed and comprehensive revisions adopted prior to June 1, 1988. Thus it is anticipated that manufacturers may not need to perform biennial testing of some of the physical characteristics of insulation, but would need to perform testing more frequently than annually for other physical characteristics. Periodic testing of insulation products is reasonable because it is a primary method of assuring quality of the insulation product.

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC SERVICE

In the Matter of the Proposed Amendment of the Rule of the Minnesota Department of Public Service, Energy Division, Governing Residential Thermal Insulation Standards

AFFIDAVIT OF MAILING THE NOTICE OF SUBMISSION OF RULE ADOPTED WITHOUT PUBLIC HEARING TO THE ATTORNEY GENERAL

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Debra J. Ellis, being first duly sworn deposes and says:

That on the 5th day of May, 1987, in the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Submission to the Attorney General by depositing in the State of Minnesota Central Mail System for United States mailing, a copy thereof, with postage prepaid, to all persons and associations who requested notice that the rule in the above-entitled matter has been submitted to the Attorney General.

Debra J. Ellis
(Name)

Secretary
(Title)

Subscribed and sworn to before me
this 5th day of May, 1987.

Brooke L Manley
Notary Public

BROOKE L. MANLEY
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
My Comm. Expires June 28, 1988

INSULATION STANDARDS RULE REVISIONS
INDEX OF WRITTEN COMMENTS RECEIVED

** David Karels

* Letter Dated 01/05/87
MEPS below grade

** Paul F. Juneau Alfol, Inc.

* Letter Dated 11/20/86
Test version for reflective foil insulation
Applicability of surface buring requirements

** E. W. Fairweather BASF Corporation

* Letter Dated 01/07/87
MEPS below ground

* Letter Dated 01/05/87
MEPS below ground

* Letter Dated 11/25/86
MEPS below ground

** Brent Anderson Brent Anderson Assoc. Inc.

* Letter Dated 01/26/87
Below grade applications of XEPS, MEPS, and spray urethane foam

** Joe Fisher Builders Insulation

* Letter Dated 03/06/87
cellulose insulation

** John J DiCesare, Jr. CertainTeed Corporation

* Letter Dated 04/25/86
Annual testing
Application instructions for foil faced products

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** Jeff Carroll CertainTeed Corporation

* Letter Dated 05/15/86
Annual Testing

** Wayne Sanders City of Eden Prairie

* Letter Dated 12/22/86
XEPS below grade
MEPS below grade

** Philip D. Hendrickson Dow Chemical USA

* Letter Dated 09/11/86
R-value test method, revised ASTM standard for XEPS,
Below ground insulation: performance rating,
approved laboratories, freeze-thaw test

Installation instructions

* Letter Dated 03/20/87
Annual Testing
Requests notification of filing with Attorney General & copy of adopted rules

* Letter Dated 04/06/87
Independant NVLAP accredited laboratory testing

* Letter Dated 03/18/87
MEPS below ground

** Laverne Wheeler Edwards Sales

* Letter Dated 12/30/86
Products name change, Aged R-value,
Testing by trade associations on behalf of members

* Letter Dated 03/11/87
Annual testing

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** James Larson Energy Zone Mfg.

* Letter Dated 01/07/87
NVLAP testing for cellulose, Annual testing, cellulose below ground
Applicator standards, Theoritical testing,
CAP agencies specifying chemical formulation

** Jerry Fenna Fenna Construction

* Letter Dated 01/07/87
XEPS polystyrene, above & below ground
Spray Urethane, below ground

** James E. Shannon Huntsman Chemical Corp.

* Letter Dated 07/01/86
MN Rules vs. other Federal redulations, Annual testing,
NVLAP testing requirement, SPI quality assurance
program, Standard for MEPS

* Letter Dated 09/29/86
MEPS below-grade

** Henry J. Mader Koppers Company, Inc.

* Letter Dated 01/22/87
Annual testing

** Jon Schwichtenberg Lester's of Minnesota

* Letter Dated 12/30/86
MEPS use below grade

** Roger Trammell Macklanburg-Duncan

* Letter Dated 04/06/87
Follow-up testing for "other" insulations.

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** Richard J. Ray Manville Sales Corp.

* Letter Dated 09/11/86
Annual testing
Editorial suggestions
Test versions

* Letter Dated 03/16/87
Annual Testing

** Kenneth D. Mentzer Mineral Insul. Mfrs. Assn.

* Letter Dated 09/05/86
Annual testing, Reporting requirements

** Dexter W. Johnson N. Dak. Coop. Ext. Serv.

* Letter Dated 01/12/87
Below ground use of MEPS, XEPS, sprayed-on urethane, and foil-covered urethane

** Kathleen Diller Owens-Corning Fiberglas

* Letter Dated 09/12/86
Annual testing

** Timothy C. Grether Owens-Corning Fiberglas

* Letter Dated 03/23/87
Annual testing

** Bryan McGroarty Paramount Technical Products

* Letter Dated 12/22/86
Urethane foam for below ground use

* Letter Dated 04/06/87
Spray-on urethane below ground

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INDEX OF WRITTEN COMMENTS RECEIVED

** Paul Shea — Paul Shea & Associates

* Letter Dated 12/12/86
MEPS below grade

** R. E. Humboldt — Poly-Foam Inc.

* Letter Dated 12/22/86
List of people to contact regarding MEPS below ground

** Bowen Hyma — Reflective Insulation Mfgrs.

* Letter Dated 09/02/86
Test standards for R-value for reflective foil insulation

* Letter Dated 04/07/87
Request for public hearing

** H. Patrick Toner — Society of Plastics Industry

* Letter Dated 09/11/86
Insulation Standards vs. other regulations
Test standard for MEPS
NVLAP testing requirement
Annual testing

** Sam Thiel — Trend Products

* Letter Dated 01/15/87
Above-ground protective coverage for foundation wall insulation

** Herbert Slone — UC Industries

* Letter Dated 08/14/86
Comments on SPI letter dated July 1, 1986 regarding quality assurance requirements followed by EPS manufacturs

INSULATION STANDARDS RULE REVISIONS
INDEX OF WRITTEN COMMENTS RECEIVED

* Letter Dated 07/24/86
Annual testing

* Letter Dated 07/25/86
XEPS and MEPS for exterior below ground insulation

** B.A. Wittrup USG Acoustical Products

* Letter Dated 04/02/86
Annual testing

** R.K. Laymon/J. VelandrUnderwriters Laboratories Inc

* Letter Dated 11/26/86
Testing cellulosic loose fill
Classified insulation products

** Ray Sterling Univ. of Minnesota

* Letter Dated 10/15/86
Extruded & expanded polystyrene
below grade

** David Kliefgen Waterproofing, Inc.

* Letter Dated 02/17/87
MEPS below ground

. SET PRINT OFF

Department of Public Service, Energy Division

Proposed Permanent Rules Relating to Testing Requirements

Notice of Intent to Amend Rules without a Public Hearing

Notice is hereby given that the Minnesota Department of Public Service proposes to adopt amendments to Minnesota Rules, Chapter 4155.0130, subpart 2.A.(1), without a public hearing. The Director has determined that the proposed amendment of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in the Minn. Stat., sections 14.22 to 14.28. Authority for the adoption of these rules is contained in Minn. Stat., sections 325F.20, subd. 1 and 325F.21, subd. 1 and 2.

Minnesota Rules, Chapter 4155 apply to manufacturers of all residential thermal insulation products sold or installed in Minnesota.

All persons have 30 days in which to submit comment in support of or in opposition to any part of the proposed amendments. Comment is encouraged. Each comment should identify the proposed amendment addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the proposed amendments 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 must state his or her name and address and is encouraged to identify the portion of the proposed amendment addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to Minn. Stat., sections 14.131 to 14.20.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or requests to: Bruce D. Nelson, Department of Public Service, Energy Division, 900 American Center Building, 150 East Kellogg Boulevard, St. Paul, Minnesota 55101, (612) 297-2313.

Comments or requests for a public hearing must be received by the Department of Public Service, Energy Division by 4:00 p.m., April 9, 1987. The proposed amendments may be modified if the modifications are supported by the data and views submitted to the Department and do not result in a substantial change in the proposed amendments as noticed.

A Copy of the proposed rule amendment is attached to this notice.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed amendments and identifies the data and information relied upon to support the proposed amendments has been prepared and is available by requesting a copy from Mr. Nelson at the address listed above.

The implementation of these amendments will not require the expenditure of public money in excess of $100,000 by local bodies in either of the two years following their adoption, nor do the rules have any impact on agricultural land.

The adoption of these amendments will affect small businesses in Minnesota. The Department has evaluated the effect of the proposed rules on small businesses and has considered each of the methods prescribed by Minn. Stat. Section 14.155, subd. 2, for reducing the impact of the rules on small businesses. Small businesses would benefit from the proposed rule, since the required frequency of testing is reduced, resulting in less stringent compliance, schedules and deadlines in conformance with Minn. Stat. Section 14.155, subd. 2(a) and (b). The proposed rule would have no effect on reporting requirements addressed by Minn. Stat. Section 14.155, subd. 2(a), (b) or (c). The requirements of Chapter 4155 are already performance standards for all insulation types in conformance with Minn. Stat. Section 14.155, subd. 2(d). The Department has determined that small businesses cannot be exempted from any or all requirements of the rules in conformance with Minn. Stat. Section 14.155, subd. 2(e).

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent that form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rules must submit a written request for such to Mr. Nelson at the above address.

Dated: 20 February 1987

Tony Perpich, Director
Department of Public Service

Rules as Proposed

4155.0130 INSULATION MATERIALS STANDARDS.

Subpart 1. [Unchanged.]

Subp. 2. **General testing and reporting requirements.** General testing and reporting requirements for regulated thermal insulation materials in this part are as follows:

A. All regulated thermal insulation materials shall be tested for compliance with the standards ~~set forth~~ in this part within 120 days of the effective date of this chapter. Testing procedures are as follows:

(1) Testing ~~shall, at a minimum,~~ must be performed ~~annually and the testing shall be completed prior to June 1 of~~ at least every other year. ~~Annual tests shall be performed at least ten months apart~~ The testing must be completed by June 1 of every even-numbered year.

(2) to (6) [Unchanged.]

B. to D. [Unchanged.]

Subp. 3. **Cellulose fiber in loose-fill form.** The following requirements apply to cellulose fiber in loose-fill form:

A. [Unchanged.]

B. All manufacturers shall contract with an independent NVLAP approved laboratory for the following two purposes:

(1) The laboratory shall pick up three unopened bags of manufacturer's cellulose from the marketplace for ~~annual~~ testing under this chapter.

(2) [Unchanged.]

C. [Unchanged.]

Subp. 4. to 15. [Unchanged.]

ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 14.14-14.28 have been met and five working days after the rule is published in *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

An emergency rule becomes effective five working days after the approval of the Attorney General as specified in Minn. Stat. § 14.33 and upon the approval of the Revisor of Statutes as specified in § 14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted emergency rule will be published in the manner provided for adopted rules under § 14.18.

Ethical Practices Board

Adopted Permanent Rules Relating to Ethics in Government

The rules proposed and published at *State Register*, Volume 11, Number 23, pages 1027-1031, December 8, 1986 (11 S.R. 1027) are adopted with the following modifications:

Rules as Adopted

4525.0200 COMPLAINTS OF VIOLATIONS.

Subp. 5. **Confidentiality.** Any portion of a meeting during which the board is hearing testimony or taking action concerning any complaint, investigation, preparation of a conciliation agreement, or a conciliation meeting must be closed to the public. The minutes and tape recordings of ~~the~~ a meeting closed to the public must be kept confidential.

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.

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC SERVICE

In the matter of the Proposed Amendment of the Rule of the State Department of Public Service, Energy Division Governing Residential Thermal Insulation Standards	FINDINGS OF FACT, CONCLUSIONS AND ORDER ADOPTING RULE WITHOUT PUBLIC HEARING

Notice of the Director's intent to adopt the above-entitled rule was published in the State Register on March 9, 1987, 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 March 3, 1987. 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 mailing list and published in the State Register and was available to the public.

All persons were given the opportunity to submit comment on the rule for 30 days after notice of proposed rulemaking. The agency received one request for a public hearing. Therefore, the agency did not receive request for a public hearing from 25 or more persons which were not withdrawn.

One request for notice of submission to the attorney general was received by the agency.

Based on the comments and evidence in the record before the agency, I find the following:

1) The agency received 44 written comments in response to the solicitation of outside opinion published in 10 S.R. 2295. Fifteen of these comments pertained to the annual testing requirement addressed by the proposed-rule amendment.

2) All of the written comments received which addressed the annual testing requirement supported the proposed rule amendment. None of the written comments received provided evidence or opinions in opposition to the proposed rule amendment.

The above-captioned rule amendment is needed and reasonable.

NOW, THEREFORE, IT IS ORDERED that the rule identified as proposed amendment to the rule of the state Department of Public Service, Energy Division, governing residential thermal insulation standards is adopted this 29 day of April, 1987, pursuant to authority vested in me by Minnesota Statutes, sections 325F.20, subdivision 1 and 325F.21, subdivisions 1 and 2.

O'Reilly
Name

Director
Title

Department of Public Service, Energy Division

In the matter of the Proposed Amendment of the Rule of the State Department of Public Service, Energy Division Governing Residential Thermal Insulation Standards

AFFIDAVIT OF MAILING THE NOTICE OF INTENT TO AMEND RULES WITHOUT A PUBLIC HEARING

STATE OF MINNESOTA)
)ss.
COUNTY OF RAMSEY)

Debra J. Ellis, being sworn says:

That on the 3rd day of March, 1987, 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 State of Minnesota Central Mail System for United States mailing a copy thereof, with postage prepaid, to all persons and associations and other interested groups who have requested, pursuant to Minnesota Statute 14.14, subd. 1 and 14.22 or 14.30, that their names be placed on file with and maintained by the State Department of Energy and Economic Development for the purpose of receiving notice of the proposed adoption of rules to the Department of Energy and Economic Development.

Debra J. Ellis
(Name)

Secretary
(Title)

Subscribed and sworn to before me this 4th day of MARCH, 1987.

Dennis M. Devereaux

DENNIS M. DEVEREAUX
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
My Comm. Expires April 1, 1988

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC SERVICE

In the matter of the Proposed Amendment of the Rule of the State Department of Public Service, Energy Division Governing Residential Thermal Insulation Standards	NOTICE OF SUBMISSION OF RULES ADOPTED WITHOUT PUBLIC HEARING TO THE ATTORNEY GENERAL

Pursuant to your request and in accordance with Minnesota Statutes, section 14.16.

PLEASE TAKE NOTICE that the above-captioned rule as adopted has been submitted to the Office of the Attorney General on the date of this notice, May 5, 1982, for review as to legality and form to the extent form relates to legality. The proposed rule, the rule as adopted, all the notices, the Statement of Need and reasonableness, all written comments and requests for a hearing received, and other required documents also have been submitted to the Attorney General.

The rule must be approved or disapproved by the Attorney General within 14 calendar days of the date of submission to the attorney general. You may submit written comments to the attorney genral on the legality of the rule. Any written comments must be submitted within eight calendar days of the date of submission of the rule to the Attorney General. Your comments must address only the issue of legality of the rule or the legality of the specific parts of subparts of the rule. The attorney general standards for review are set forth in Minnesota Rules, part 2010.1000. You may receive a copy of the attorney general decison upon written request to the attorney general. Your comments or requests for the decision must be directed to:

The Office of the Attorney General
204 Administration Building
50 Sherburne Avenue
Saint Paul, Minnesota 55155
Telephone Number: 612/296-1288

Any written comments submitted to the Attorney General must be submitted simultaneously to:

Bruce D. Nelson, Senior Engineer
Department of Public Service, Energy Division
900 American Center Building
150 East Kellogg Boulevard
St. Paul, Minnesota 55101
Telephone Number: 612/297-2313

Dated: May 5, 1982

Bruce D Nelson
(Name)

Senior Engineer
(Title)

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

AFFIDAVIT OF CERTIFICATE
OF MAILING LIST

In the Matter of the Proposed Adoption of the Permanent Rules of the State Department of Energy and Economic Development Governing Residential Thermal Insulation Standards.

Mary Andersen, being sworn says:

I hereby certify that the list of persons, associations and other interested groups who have requested, pursuant to Minnesota Statute 14.14, subd. 1 and 14.22 or 14.30, that their names be placed on file with and maintained by the State Department of Energy and Economic Development for the purpose of receiving notice of the proposed adoption of rules by the Department of Energy and Economic Development is accurate, complete and current as of Monday March 2, 1987.

Subscribed and sworn to before me

this 4th day of MARCH, 1987. Dennis M. Devereaux
NAME

NOTARY PUBLIC
TITLE

DENNIS M. DEVEREAUX
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
My Comm. Expires April 1, 1988

In the matter of the Proposed Amendment of the Rule of the State Department of Public Service, Energy Division Governing Residential Thermal Insulation Standards

Declaration of Counsel

I, Elizabeth V. Cutter, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rule, and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure 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 0418.

Elizabeth V. Cutter

ELIZABETH V. CUTTER
Special Assistant
Attorney General

Is this something like that you would want me to call on + ask "why" or doesn't matter? Pete

Notice to Solicit

Titled "Department of Energy + Economic Developement" and not "Department of Public Safety"

It doesn't seem to have harmed anyone - many comments were rec'd.

Written Comments

0 requests for a hearing

Affidavit of Certificate of Mailing List

Refers to "D.E.E.D." and not "D.P.S."

Notice of Intent

OK

Authority

325 F.20 Subd 1 ✓

325 F.21 Subd 1+2

Rule

Not All New Material ✓

Office of the Revisor of Statutes
Administrative Rules

Craig E. Lindeke
Senior Assistant Revisor
296-0946

700 State Office Building
435 Park Street
St. Paul, MN 55155-1297

March 11, 1987

RECEIVED
MAR 13 1987
DEPT. OF PUBLIC SERVICE

Bruce Nelson
Department of Public Service, Energy Division
900 American Center Building
Saint Paul, Minnesota 55101

RE: AR1068 Testing Requirements

Dear Mr. Nelson:

Enclosed is a stripped copy of your proposed rules as published in the State Register. The copy shows the text of the rules as you proposed them with the stricken text deleted and the underscoring removed.

If your proposed emergency rules or proposed rules adopted without public hearing are adopted without modification, please submit the required number of copies of this document to the Attorney General for final approval. If these rules are to be modified, please use this copy to indicate the modifications you wish to make. Our office will then input the changes, approve the document as to form, and provide you with copies to submit to the Attorney General.

If your proposed rules are adopted after public hearing without modification, please submit one copy of this document to our office for final approval as to form. If these rules are to be modified, please use this copy to indicate the modifications you wish to make. Our office will input the changes, approve the document as to form, and provide you with copies.

Very truly yours,

Craig E. Lindeke
mm

Craig E. Lindeke

CEL/mm
Encl.

RECEIVED
ATTORNEY GENERAL'S OFFICE
MAY 05 1987
204 ADMINISTRATION BLDG.
50 SHERBURNE AVENUE
ST PAUL, MN 55155