

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

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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.