



## Minnesota Nursery & Landscape Association

1813 Lexington Ave N • Roseville, MN 55113  
651-633-4987 • Fax 651-633-4986 • www.MNLA.biz

February 18, 2013

Mr. Ken Peterson, Commissioner  
Minnesota Department of Labor and Industry

Mr. John Parizek, Chair  
Minnesota Plumbing Board  
c/o Minnesota Department of Labor and Industry  
443 Lafayette Road North  
St. Paul, MN 55155

RECEIVED  
FEB 20 2013  
Asst. Commr - Safety Codes & Svcs  
Dept. of Labor & Industry

Dear Commissioner Peterson and Chair Parizek:

The Minnesota Nursery and Landscape Association (MNLA), its 1,100 member companies employing thousands of Minnesotans and generating over \$2 billion in annual revenue, notes with concern that the Minnesota Plumbing Board is enacting new rules in Minnesota Rules Chapter 4716 that will amend the process of certification and recertification of those who install, test and repair backflow prevention assemblies without giving due consideration for all affected individuals and stakeholder groups. The program being replaced is over 20 years old and has enabled many MNLA member companies to employ non-plumber individuals accredited by the Minnesota Department of Labor and Industry to lawfully test and inspect backflow prevention assemblies.

While acknowledging that the new rules include a provision to "grandfather" existing accredited individuals to continue to practice, the new rules also call for practitioners to obtain training via an American Society of Sanitary Engineering (ASSE)-approved 5110 backflow prevention assembly tester course for new certified professionals and an ASSE-approved course as part of periodic continuing education credits. The ASSE 5110 program appears to require an approved 40-hour course of training with practical and written exams, similar to the former accreditation process but, adds a provision that applicants must "*demonstrate five years of experience in a plumbing, pipefitting or related industry field*".

MNLA submitted comments about the then-proposed new rules in October 2012, expressing concerns about this new experience requirement and about ASSE's potential acceptance or rejection of the landscape irrigation field as a "related industry field". MNLA received verbal assurance from members of the Minnesota Plumbing Board that those who have five or more years of experience working in the landscape irrigation profession(s) may qualify as working in a "related industry field" but, MNLA would like to receive written assurance to this effect. **MNLA requests written verification from the Commissioner of Labor and Industry and the Minnesota Plumbing Board that individuals with five or more years of experience in landscape irrigation will qualify as "working in a related industry field" for purposes of ASSE's 5110 certification and will therefore not be excluded from eligibility to gain or renew credentials now or in the future, to practice as Minnesota certified backflow prevention testers.**

ASSE offers an option for "certification without examination" as backflow prevention assembly testers for those who have been previously certified by another agency. MNLA assumes that this option will be available to MNLA members who are currently certified by the Minnesota Department of Labor and Industry as backflow prevention testers. However, review of the ASSE-Plumbing.org website shows no apparent mechanism for MNLA members to provide their backflow tester credentials to ASSE for certification without examination. **MNLA requests written clarification from the Commissioner of Labor and Industry and the Minnesota Plumbing Board providing a mechanism for currently-DLI-certified backflow prevention testers to be eligible for "certification without examination" by ASSE.**

Finally, according to the ASSE-Plumbing.org website, there are currently no approved schools or training centers in Minnesota that furnish ASSE-approved 5110 training and there appear to be only four 5110-certified individuals in the state. MNLA finds this situation disturbing in light of the hundreds of currently accredited individuals who are now being directed to gain recertification in order to continue to lawfully deliver backflow prevention assembly services. **MNLA requests written clarification from the Commissioner of Labor and Industry and the Minnesota Plumbing Board as to what options MNLA's plumber or non-plumber members have to obtain ASSE-approved backflow prevention tester training and how soon those options will be available or expanded upon to accommodate new trainees and currently certified persons who will need to obtain recertification.**

The general health, safety and protection of the public is a top priority among MNLA members. Nearly all landscape irrigation systems and related appurtenances must have included and installed, backflow prevention assemblies. As regards the original over twenty-year-old program of backflow prevention assembly installation, testing and repair accreditation, MNLA knows of no documented occasions or trends that necessitated major changes to Minnesota's program based on health and safety concerns. A minor adjustment could have realigned the program in accordance with MN DLI's adoption of standardized certification and recertification protocols .

The insertion of ASSE-approved schooling and certification adds an extra step and extra expense to a backflow tester process that was working well. Individuals seeking initial backflow prevention tester certification must obtain an ASSE 5110 certification before applying to become a Minnesota backflow prevention tester. Though currently-DLI-certified individuals have a two-year window in which to gain ASSE 5110 certification as a requirement for future Minnesota recertification, they must still deal with ASSE eventually under the new rules. MNLA respectfully requests that the Commissioner of Labor and Industry and the Minnesota Plumbing Board provide a path to compliance for our members as soon as possible.

Should anyone have questions in this matter, please contact me at 651-295-5910, [timpower@powerconsults.com](mailto:timpower@powerconsults.com) or via US mail at the address listed below.

Sincerely,



Timothy H. Power

Interim Director of Government Affairs  
Minnesota Nursery & Landscape Association  
1813 Lexington Ave. N.  
Roseville, MN 55113

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5199 Neal Ave. S.  
Afton, MN 55001

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Mr. John Parizek, Chair  
Minnesota Plumbing Board  
c/o Minnesota Department of Labor and Industry  
443 Lafayette Road North  
St. Paul, MN 55155

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Minnesota Department of Labor and Industry

Mr. John Parizek, Chair  
Minnesota Plumbing Board  
c/o Minnesota Department of Labor and Industry  
443 Lafayette Road North  
St. Paul, MN 55155

Dear Commissioner Peterson, Chair Parizek and Minnesota Plumbing Board members:

The Minnesota Plumbing Board is considering the adoption of a model plumbing code to replace the MN State Plumbing Code. I understand that (the current) code and product approvals are conducted by the Minnesota Plumbing Board and maintained through the Minnesota rules process.

I am a resident of this state and a concerned individual. I request a hearing to enable all concerned and/or affected parties to have opportunity to furnish testimony and hear the testimony of others regarding this significant departure from a long-established and thoroughly integrated program.

I will appreciate acknowledgement of receipt of this letter and request to be kept apprised of activities and scheduling of events and meetings related to this topic.

I can be reached at:

Cassie Larson  
1813 Lexington Ave N  
Roseville, MN 55113  
651-633-4987  
[cassie@mnla.biz](mailto:cassie@mnla.biz)

Sincerely,

Cassie Larson, MNLA Interim Executive Director

Cc: Mr. Tim Power  
Government Affairs Director, Minnesota Nursery & Landscape Association

AR2024/RA139

**SENATOR JULIE A. ROSEN**  
Senate District 24  
Chair • Energy, Utilities and  
Telecommunications Committee

**RECEIVED**



**DEC 11 2012**

**DEPT OF LABOR & INDUSTRY  
COMMISSIONER'S OFFICE**

**Senate**

**State of Minnesota**

317 State Capitol  
St. Paul, MN 55155  
(651) 296-5713  
sen.julie.rosen@senate.mn

December 10, 2012

Ken Peterson, Commissioner  
Minnesota Department of Labor & Industry  
443 Lafayette Road N.  
St. Paul, Minnesota 55155

Members, Minnesota State Plumbing Board  
Minnesota Department of Labor & Industry  
443 Lafayette Road N.  
St. Paul, Minnesota 55155

**RE: Possible Amendment to Rules Governing the Minnesota Plumbing Code,  
Minnesota Rules, Chapter 4715**

Dear Commissioner Peterson and Minnesota State Plumbing Board:

I am writing to submit my recommendation to the Minnesota State Plumbing Board (MSPB) regarding the current state plumbing code adoption process.

I understand that the mission of the MSPB is to adopt and maintain a plumbing code that provides acceptable sanitation standards, allows for the use of advancing methods and materials in a timely fashion, and is coordinated with all other construction codes in Minnesota. Of course the ultimate purpose of this code is to protect the health of the public. Still, I have become aware that this request for comments on new rules for the Minnesota Plumbing Code (MPC) is considering only the adoption of the Uniform Plumbing Code (UPC) and is not considering the International Plumbing Code (IPC). I urge the MSPB to give the IPC a serious review in an open forum before adopting the UPC.

Just as it is customary policy to consider all qualified bids in the selection of the best bid for state and local governments, and since the UPC is an industry-produced model code, my hope is the MSPB will carefully consider both codes before adopting the UPC. If the MSPB were to adopt its industry code, without careful consideration



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**SERVING:** Blue Earth, Faribault, Martin, Waseca and Watonwan Counties

of its competitor that is not considered an industry-crafted code, it may send the wrong message to the public and businesses that the board owes a duty to protect.

My hope is that a serious review and comparison of the UPC and IPC is made involving the MSPB, the Governor's Construction Codes Advisory Council, and the interested public. This format would allow the public to participate fully in the process and ensure their voice is heard.

Here are some additional concerns with an adoption of the UPC by the MSPB in a process that circumvents an open rules process for adoption:

- There are no apparent technical advantages of adopting the UPC over the IPC. However the history of code advancements in each of these codes indicates that the IPC process responds more quickly to new methods and materials and allows for more options in its performance versus prescriptive format.
- There is little, if any, impact on licensing reciprocity agreements with neighboring states. Iowa uses both the IPC and UPC, North Dakota uses the UPC, and Wisconsin has a state code.
- The IPC is already integrated with the other Minnesota State Codes, which makes referencing to related codes easier for adoption as well as for builders, businesses, and designers.
- Local governments and Minnesota's state and local building officials who use the ICC family of codes already understand the IPC code format and its integration with other Minnesota codes. Some inspectors in Minnesota are already certified plumbing inspectors under the MPC and the IPC.
- Adoption of the UPC will induce greater financial and personnel management difficulties for already cash-strapped local units of government throughout Minnesota. The path of adopting the UPC will include the requirement that plumbing inspections be done by certified plumbers. Currently, small towns and rural counties have plumbing inspections completed by building inspectors.
- Local governments finance the expenses of local code officials to participate in the code development process. With adoption of the UPC, these local governments will need to duplicate their effort and costs by also participating in the UPC code development process.

It is important to use common sense and economy when making decisions that affect the cost and quality of services provided by local and state government. The adoption of the IPC may be the most economical and easiest to implement. This will benefit not only the state plumbing board, but also consumers and the people they rely upon to protect their property and well-being.

A serious consideration of the UPC's marketplace competitor seems warranted considering that the IPC is endorsed by several different entities. These include: Target Corporation; Minnesota Chapters of the American Society of Heating, Refrigerating and Air Conditioning; the U.S. Green Building Council; and the Building Owners and Managers Association. These endorsements give strong merit to the case for fair and objective analysis.

Time allows for an open and transparent code adoption process to replace the MPC that has served our state for decades. It would be prudent for MSPB to analyze both model codes critically, as well as the resulting financial obligations incurred by local governments. This process should result in an informed and considerate choice in the best interests of Minnesota's consumers, builders and communities. Thank you for considering my recommendations.

Sincerely,

A handwritten signature in black ink that reads "Julie Rosen". The signature is written in a cursive, flowing style.

Julie Rosen  
State Senator  
District 24

Cc. Construction Codes Advisory Council; C/O Julie Klejewski

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