



Minnesota Nursery & Landscape Association

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October 12, 2012

To: Ms. Patricia Munkel-Olson
Minnesota Plumbing Board
c/o Minnesota Department of Labor and Industry
443 Lafayette Road N., St. Paul, MN 55155

From: Timothy Malooly
Chair, Government Affairs Committee
Board Member, Minnesota Nursery and Landscape Association
2008 US EPA WaterSense® Partner of the Year
1813 Lexington Ave. N, Roseville, MN 55113

Two total pages via email and US Postal mail

Subject: Comments on the Minnesota Plumbing Board's Proposed Rules Regulating Reduced Pressure Zone Backflow Prevention Device Rebuilder and Tester Certifications, Minnesota Rules 4716

This document constitutes official comments of the Minnesota Nursery and Landscape Association (MNLA), as follows:

- Non-plumbers in Minnesota including MNLA member landscape irrigation practitioners have enjoyed a 20-year peaceful coexistence with Minnesota's plumbing industry in regard to the testing and inspection of reduced pressure zone (RPZ) backflow prevention assemblies. Currently, anyone who attends an approved 40-hour course and passes the associated written and practical exam can be accredited to test and inspect any backflow prevention assemblies that require such attention. Minnesota licensed plumbers who undergo the same training and pass the exams can be accredited to test/inspect/install/repair/rebuild. This arrangement has enabled high compliance with backflow assembly testing requirements in that, accredited landscape irrigation practitioners may complete required testing, inspection and recordkeeping of RPZ assemblies assigned to landscape irrigation systems without the need to subcontract the services of a plumber, unless and until the tested RPZ assemblies require repair or rebuilding.
- The rule changes proposed by the Minnesota Plumbing Board will require future applicants for backflow prevention assembly testing certification to first obtain an American Society of Sanitary Engineering (ASSE) Standard 5110 Backflow Prevention Assembly Tester certification. The ASSE 5110 certification requires an approved 40-hour course of training with practical and written exam, similar to the current accreditation process but, contains the additional requirement that an applicant must "...demonstrate five years of experience in a plumbing,

pipefitting or related industry field..." MNLA requests clarification as to whether, under the proposed rules, landscape irrigation practitioners would be considered to be employed in a "related industry field" by the ASSE definition. Additionally, MNLA considers this experience requirement to constitute "fencing out" of otherwise fully-eligible practitioner candidates. MNLA requests that either 1) this and any other experience requirement provision be stricken from consideration or 2) other reasonable training and testing programs that do not include such fencing be included as options for backflow prevention testing certification of non-licensed plumbers.

- The proposed rules changes by Minnesota Plumbing Board allow the "grandfathering" of current backflow prevention assembly accredited individuals. The underlying ASSE 5110 certification process appears to do the same. MNLA requests clarification as to whether ASSE's "current backflow prevention tester certifications issued by the department prior to January 1, 2012" will include all current backflow prevention tester accreditations documented in DLI's searchable database of licenses/certificates/registrations/bonds.
- The Minnesota statute that directs the Minnesota Plumbing Board to adopt rules changes (MS 326B.437) indicates that Minnesota RPZ backflow prevention assembly certificates and renewals are issued for two-year periods. The ASSE 5110 certification and/or recertification required in the proposed rules changes are issued for three-year periods. MNLA requests that the proposed DLI certification/recertification periods and those of any underlying certificate be made consistent with one another.
- MNLA understands that the Minnesota Department of Labor and Industry and the Plumbing Board are working to standardize procedures for licensure and for continuing education of licensed individuals. MNLA seeks clarification from the Plumbing Board that 1) currently-accredited non-licensed plumbers who held a backflow prevention tester certificate issued prior to January 1, 2012 will be grandfathered as certified backflow prevention testers under the proposed rules and what specific requirements if any, will be placed upon these individuals to retain their accreditation over time and, 2) future non-licensed plumbers can obtain backflow prevention tester certification and recertification, using a method that does not include an experience requirement or other fence.

Sincerely,



Timothy R. Malooly
Cell 612-363-0611





October 14, 2012

Patricia Munkel-Olson
Minnesota Plumbing Board
c/o Department of Labor and Industry
443 Lafayette Road North
Saint Paul, MN 55155-4344

RE: Proposed New Expedited Rules Regulating Reduced Pressure Backflow Prevention Device Rebuilder and Tester Certifications; *Minnesota Rules, Chapter 4716*

I am writing to comment on the Proposed New Expedited Rules Regulating Reduced Pressure Backflow Prevention Device Rebuilder and Tester Certifications; Minnesota Rules, Chapter 4716.

The University of Wisconsin – Madison Department of Engineering Professional Development (UW-Madison EPD) has an interest in the rules because we provide approved qualifying training for the backflow tester and backflow rebuilder certifications in Minnesota.

In section 4716.0097, Subpart 3 paragraph A, the proposed rules states, *“A backflow prevention tester shall maintain a current ASSE 5110 Backflow Prevention Assembly Tester certification. Exception: An individual possessing a current backflow prevention tester certification issued by the department prior to January 1, 2012, shall be exempt from the requirements in subpart 1. This exemption expires December 31, 2014. Renewal applications submitted after January 1, 2015, shall include documentation of the applicant's current ASSE Standard 5110 Backflow Prevention Assembly Tester certification as a condition of renewal.”* Subpart 2 paragraph A has a similar statement that applies to Backflow Rebuilders.

This paragraph in Subpart 3 and the similar paragraph in Subpart 2 are unfair in that they create a class of currently Certified Backflow Prevention Testers and Certified Backflow Rebuilders – those who were granted their certification during calendar year 2012 – who are not granted the exemption. The clause appears to require this class of certified testers and certified rebuilders to comply with the requirement “A backflow prevention tester shall maintain a current ASSE 5110 Backflow Prevention Assembly Tester certification” immediately, without giving these testers and rebuilders a window of time to gain the training necessary to comply. I hope that this was an unintentional oversight in the drafting of the rule, which will be immediately corrected.

In calendar year 2012 there was, to my knowledge, no ASSE approved training for backflow testers or backflow rebuilders available in Minnesota or surrounding states. It is unfair to single out this one group of certified testers and rebuilders and require them to have training that is currently not available in order to continue to maintain their certification, while allowing all other currently certified testers and rebuilders an exemption.

In 2012, UW-Madison EPD conducted two 40-hour training classes in Minnesota, which were approved qualifying training for the Minnesota Backflow Tester and Backflow Rebuilder certifications. At these courses

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thirty-four Minnesota residents completed the qualifying training and likely applied for either the tester or rebuilders certification. In addition five Minnesota resident successfully completed the same training in Madison, Wisconsin and several Wisconsin residents who successfully completed training indicated their intention to apply for Minnesota certification. From UW-Madison EPD training alone there may be as many 45 people who applied for and received tester or rebuilders certification in the State of Minnesota during calendar year 2012. Singling out these testers and rebuilders and all others who received certification in 2012 would adversely affect them economically and would adversely affect the strength and integrity of the cross-connection control program in Minnesota.

In order to be fair to all currently certified testers and rebuilders, I believe that 4716.0097 Subpart 2 paragraph A and Subpart 3 paragraph A should be revised as follows:

Subpart 2 A . Backflow Prevention Rebuilder. A backflow prevention rebuilders shall maintain current ASSE Standard 5110 Backflow Prevention Assembly Tester and ASSE Standard 5130 Backflow Prevention Assembly Repairer certifications. Exception: An individual possessing a current backflow prevention rebuilders certification issued by the commissioner prior to December 31, 2012, is exempt from the requirements in subpart 1. This exemption expires December 31, 2014. Renewal applications submitted for renewal dates on or after January 1, 2015, shall include documentation of the applicant's current ASSE Standard 5110 Backflow Prevention Assembly Tester and ASSE Standard 5130 Backflow Prevention Assembly Repairer certifications as a condition of renewal.

Subpart 3 A. Backflow Prevention Tester. A backflow prevention tester shall maintain a current ASSE 5110 Backflow Prevention Assembly Tester certification. Exception: An individual possessing a current backflow prevention tester certification issued by the department prior to December 31, 2012, shall be exempt from the requirements in subpart 1. This exemption expires December 31, 2014. Renewal applications submitted for renewal dates on or after January 1, 2015, shall include documentation of the applicant's current ASSE Standard 5110 Backflow Prevention Assembly Tester certification as a condition of renewal.

I hope that you will adopt the suggested changes so that all current Minnesota certified backflow testers and rebuilders will be treated fairly and will have the opportunity to continue their work to protect the safety of drinking water in Minnesota.

Sincerely,

Benjamin J. Jordan, P.E.
Program Director

Munkel-Olson, Patricia (DLI)

From: DLIRULES (DLI)
Sent: Monday, October 15, 2012 9:10 AM
To: Munkel-Olson, Patricia (DLI)
Subject: FW: Proposed rules for backflow tester and rebuilder certification

Hi Pat,

Another message received this morning; Please let me know if I should redirect/forward to another individual.

Thank you,
Laura A.

From: Eric Levine [<mailto:ELevine@ci.hutchinson.mn.us>]
Sent: Monday, October 15, 2012 8:34 AM
To: DLIRULES (DLI)
Cc: Dick Nagy
Subject: Proposed rules for backflow tester and rebuilder certification

This summer I took a 40 hour class at Anoka Technical College to become a certified backflow tester. The course instructors had been told previously by a Department of Labor and Industry representative that people who were granted the certification would have 2 years -- the time until their next renewal -- to obtain ASSE certification.

Now, from the way I read these proposed rules, people who became certified as testers or rebuilders in 2012 would not be given a 2 year period to obtain ASSE certification. This does not seem fair to me.

I would like my Minnesota certification granted in 2012 to be valid until my next renewal date. The 2 year exception should be granted to all individuals possessing a current backflow prevention rebuilder or backflow prevention tester certification issued by the department prior to **January 1, 2013**.

Thank you,

Eric Levine
City of Hutchinson
Water Department
320-583-5457

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Munkel-Olson, Patricia (DLI)

From: DLIRULES (DLI)
Sent: Wednesday, October 17, 2012 11:10 AM
To: Munkel-Olson, Patricia (DLI)
Subject: FW: Public Comment for Backflow tester and rebuilder certifications.

From: Brian Clausen [<mailto:ClausenB@owatonnautilities.com>]
Sent: Wednesday, October 17, 2012 10:49 AM
To: DLIRULES (DLI)
Subject: Public Comment for Backflow tester and rebuilder certifications.

The 2 year exception should be granted to **ALL** individuals possessing a current backflow prevention rebuilder or backflow prevention tester certification issued by the department prior to January 1, 2013.

To exempt those individuals that received a tester certification after January 1, 2012 does not make sense. The plumbing code change that references the ASSE device requirements were not even in effect when I took my class and became certified. To require that I receive additional training in such a short time period causes a hardship. If you make this abrupt change it will financially impact me. My license will become invalid as of the inception date.

Brian Clausen

Brian R. Clausen - Engineering Technician
Owatonna Public Utilities
208 South Walnut Avenue
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Kevin O'Laughlin
505 E North St
Rushford MN 55971
(507) 351-7215

October 14, 2012

Plumbing Board
c/o Department of Labor and Industry
443 Lafayette Road North
Saint Paul, MN 55155-4344
submitted via e-mail to dli.rules@state.mn.us

RE: Proposed New Expedited Rules Regulating Reduced Pressure Backflow Prevention Device Rebuilder and Tester Certifications; *Minnesota Rules, Chapter 4716*

As a long time plumber, cross-connection control specialist and trainer of plumbers, backflow testers and backflow rebuilders in Minnesota, I feel that it is important for me to comment on the intent and the specifics of the Proposed New Expedited Rules Regulating Reduced Pressure Backflow Prevention Device Rebuilder and Tester Certifications; Minnesota Rules, Chapter 4716.

In section 4716.0097 the verbiage seems to be written to exclude Certified Testers and Certified Rebuilders who received certification in 2012 from the Exception that is provided to all other currently certified Testers and Rebuilders. In 2012, I have personally trained many people to be qualified for tester or rebuilder certification. These people trained in 2012 are just as well trained and well qualified as those who received certification before 2012. In 2012, there was no ASSE approved tester or rebuilder training available in Minnesota and there was no State of Minnesota requirement for ASSE approved training. It is unreasonable to require testers and rebuilders who received certification in 2012 to immediately obtain ASSE approved certification when all other currently certified testers and rebuilders are being given two years to obtain ASSE certification.

In order to treat people who obtained certification in 2012 the same as all other certified testers and rebuilders, 4716.0097 Subpart 2 Paragraph A and Subpart 3 Paragraph A should be changed to extend the exception to all individuals possessing a current backflow prevention rebuilder certification or backflow prevention tester certification issued by the commissioner prior to December 31, 2012.

I have additional significant concerns about the overall intent of the revisions to 4716. Recent proposed revisions to 4715 have adopted ASSE standards for all four testable backflow prevention assemblies. The ASSE standards require testing of each of these testable assemblies. Minnesota rules 4715 currently have language in several sections that require protection from cross-connection and maintenance of cross connection-control assemblies. In order to maintain a testable assembly it is necessary to test it per the manufacturers recommendations. The pertinent Minnesota code sections are:

4715.1920 CROSS-CONNECTION CONTROL.

Cross-connections between potable water systems and other systems or equipment containing water or other substances of unknown or questionable safety are prohibited, except when and where, as approved by the authority having jurisdiction, suitable protective devices such as break tanks, reduced pressure zone backflow preventer, or equal, are installed, tested, and maintained to ensure proper operation on a continuing basis. (emphasis added)

4715.2030 APPROVAL OF DEVICES OR ASSEMBLIES.

Before any device or assembly for the prevention of backflow or back-siphonage is installed, it shall have first been certified by a recognized testing laboratory acceptable to the administrative authority. Devices or assemblies installed in a building potable water supply distribution system for protection against backflow shall be

maintained in good working condition by the person or persons responsible for the maintenance of the system. (emphasis added)

4715.2120 LOCATION OF BACKFLOW PREVENTERS.

Backflow and back-siphonage preventing devices or assemblies must be located so as to be readily accessible, preferably in the same room with the fixture they serve. Installation in utility or service spaces, provided they are readily accessible, is also permitted. **The access area must provide enough space for testing and maintenance of the device.** (emphasis added)

4715.2161 INSTALLATION OF REDUCED PRESSURE BACKFLOW PREVENTERS.

Subpart 1. Notification of installation. The administrative authority must be notified before installation of a reduced pressure backflow preventer assembly.

Subp. 2. Testing and maintenance. **The installation of reduced pressure backflow preventers shall be permitted only when a periodic testing and inspection program conducted by qualified personnel will be provided by an agency acceptable to the administrative authority. Inspection intervals shall not exceed one year,** and overhaul intervals shall not exceed five years. The administrative authority may require more frequent testing if deemed necessary to assure protection of the potable water. Backflow preventers shall be inspected frequently after initial installation to assure that they have been properly installed and that debris resulting from the piping installation has not interfered with the functioning of the assembly. (Emphasis added)

The bolded and underlined portions of these code sections show the intent of the code: other testable assemblies can be considered equal to the Reduced Pressure Principle Backflow Preventer (RPZ) for the purposes of the codes; assemblies must be maintained in good working condition (which cannot be done without testing); assemblies shall be installed such as to allow adequate space for testing and maintenance; and RPZs must be inspected (tested) annually.

Taken together these sections along with the adoption of ASSE standards for assemblies make it clear that all testable assemblies—RPZs, double check valves, pressure vacuum breakers and spill-resistant vacuum breakers—must be tested annually.

Given these requirements it is unimaginable to me why the proposed revisions to 4716 are written to require tester certification or rebuilder certification **only** for reduced pressure principle backflow preventers (RPZs). The training I provide always trains the students on testing, troubleshooting and repair of all four types of testable assemblies. ASSE approved training must train students on all four testable assembly types. It is accepted industry practice throughout the United States to test all four assemblies. If Minnesota's updated rules only require testing of RPZs, the Minnesota Cross-connection Control program is severely compromised and it does not, in my opinion, meet the requirements of the Federal Safe Drinking Water Act.

In order to address these issues and be consistent with Code Intent of Section 4715, Federal Law and current industry practice, the proposed code section 4716 and Minnesota Statutes 326B.437 should be revised to include all four testable backflow preventer assemblies.

Lastly, I have attached a letter that I sent to Jim Peterson (cc: Randy Ellingboe and Milton Bellin) on August 16, 2004 in which I express my concern about Minnesota Cross Connection Control and Backflow Prevention. I did not receive a reply to this letter.

Sincerely,

/S/ Kevin O'Laughlin

James Peterson
Health Plumbing Program Supervisor
Minnesota Department of Health
Environmental Health
Environmental Health Services
Engineering/Plumbing Unit
121 East 7th Place
P.O. Box 64975
St. Paul, MN. 55101

August 16, 2004

Dear Jim,

My question to you and the MDH Plumbing Unit is, “Why are we not requiring the testing of all four of the following backflow prevention assemblies that are found in 4715.2100 B. Pressure vacuum breaker (PVB)-ASSE # 1020, C. Spill-proof vacuum breaker (SVB)-ASSE #1056(Back Siphonage vacuum breaker), F. Reduced pressure zone (RPZ)-ASSE 1013(Reduced pressure principle), G. Double check valve (DCV)-ASSE 1015?” I understand that the department does require RPZ backflow preventers to be tested; so why not the other three (PVB, SVB, DCV), since they too are backflow prevention assemblies? In forming your answer to my question, I would like you to consider the following four things: Plumbing Code sections, precedents that have been set, manufacture installation requirements and the Minnesota Department of Health background history information.

Consideration #1 – 4715.1900 states: “A potable water supply system shall be designed, installed and maintained in such a manner as to prevent contamination from nonpotable liquids, solids or gases, from being introduced into the potable water supply through cross-connection or any other piping connection to the system.”

Jim, we design, install, (test) and maintain some RPZ in the state, not all, because of the lack of a good comprehensive Cross Connection Control & Backflow Prevention program. This can be discussed at another time in another letter. I have concerns that the State is allowing the potable water supply systems to be designed with the installations of PVB, SVB and DCV, and then, not requiring those backflow prevention assemblies to be tested

and maintained. We would not permit a cross connection to exist with black iron pipe (a solid) or any other non-approved material for potable water piping. Nor would we allow the contaminated atmosphere (gases) that is in a fume hood to be drawn into the potable water supply system. I hope that you and the department would see that if the installation of the PVB and SVB for high hazard applications, DCV for the low hazard applications are for the protection of our potable water supply systems, then it follows that it is necessary to require them to be tested and maintained in such a manner as to prevent contamination or pollution of the water systems. Not requiring this would raise questions; are non-potable liquids, solids or gases being introduced into our potable water supply systems? Could the water at the non-tested and non-maintained backflow prevention assemblies meet the potable water standard as stated in 4715.0100 subpart 82? We have to keep in mind that a failing backflow assembly is an unprotected cross connection.

Consideration #2-4715.1920 reads: “Cross connections between potable water systems and other systems or equipment containing water or other substances of unknown or questionable safety are prohibited, except when and where, as approved by the authority having jurisdiction, suitable protective devices such as break tank, reduced pressure zone backflow preventer, or equal, are installed, tested, and maintained to ensure proper operation on a continuing basis.”

I asked Randy Ellingboes predecessor, Milt Bellin, on November 21, 1991, the question, “Where in the plumbing code does it say that all the backflow prevention assemblies need to be tested?” His answer was and I quote, “All backflow devices that are testable need to be tested.” He used 4715.1920 to back-up his statement. He read ...reduced pressure zone backflow preventer, OR EQUAL, are installed, tested and maintained to ensure proper operation on a continuing basis. He said “or equal” refers to the PVB and DCV” (the SVB was not manufactured at that time). I asked him how the PVB and DCV are equal to the RPZ. His answer was they have two shut off valves #1, the supply valve and #2, the outlet valve, along with test cocks and the backflow preventer between the two shut off valves. They are designed to prevent backflow and are testable, just like the RPZ.

Jim, I received a Division of Environmental Health document # EH-24, dated 2/23/88 signed by Raymond W. Thron, Ph.D., Director. This is a three part document that pertains to the actual foundation or the root of how the backflow testing program came into existence. Part III of the documents heading is "Background Information," it then goes on to say, Minn. Rules, 4715.1920 requires, in part, that devices (assemblies is today's terminology) used to prevent backflow at cross-connections between potable water systems and other systems be "...tested and maintained to ensure proper operation on a continuing basis." Jim, you have to agree that's why Milt said what he said. I too, believe that the evidence of the presence of test cocks the manufacturers install on their backflow prevention assemblies would warrant his statement to be true. What other reason would the manufacturer put test cocks on assemblies if they did not want them to be tested and maintained to ensure proper operation on a continuing basis. I will have more on the manufacturer's requirements later in the letter.

Consideration #3a- 4715.2030 reads in part, "...Before any device or assembly for the prevention of backflow or backsiphonage is installed, it shall have first been certified by a recognized testing laboratory acceptable to the administrative authority."

Jim, the department depends on agencies and organizations like CSA, AWWA, USC and ASSE to keep watch and ensure that the backflow preventers are meeting certain standards. Series 5000 is a standard that ASSE uses to demonstrate the proper ways for all the assemblies, not just the RPZ, but also PVB, SVB & DCV to be tested. USC's-10th edition and of course the EPA's own manual on Cross Connection Control also show proper testing methods. We have national organizations and public agencies giving us ways to keep the assemblies in good working condition, for the protection of our drinking water. Manufacturers of the PVB, SVB, & DCV require in their installation, testing and maintenance instructions, that are in every box accompanying the assemblies, that the backflow prevention assembly be tested after properly being installed and the water being turned on. Agencies, organizations, federal government and manufacturers all provide the tools for you and the department, to require these assemblies (PVB, SVB & DCV) to be

tested, maintained and repaired. In a court case they would say, “The precedent has been set.”

Consideration #3b - 4715.2030 reads in part, “...Devices or assemblies installed in a building potable water supply distribution system for the protection against backflow shall be maintained in good working condition by the person or persons responsible for the maintenance of the system.”

Jim, I hope that you would agree with me, assemblies (PVB, SVB and DCV) can only be kept in good working condition by being tested, maintained and repaired. The need for you and the MDH Plumbing Unit to require all assemblies to be tested is apparent in this reference. Let us remember what 4715.0200 reads in part,...“This code is founded upon certain basic principles of environmental sanitation and safety through properly designed, acceptably installed and adequately maintained plumbing systems...” The PVB, SVB and DCV are part of the plumbing system referenced in 4715.0100 subpart 81. It reads in part “...devices and appurtenance,” also 4715.0100 subpart 78 reads in part “...a manufactured device, or a prefabricated assembly”, these code references describe a backflow assembly. Assemblies are a part of the plumbing systems.

Farther on in 4715.0200 “A” reads, “All premises intended for human habitation, occupancy, or use shall be provided with a potable water supply which meets the requirements of the Commissioner of Health. Such water supply shall not be connected with unsafe water sources nor shall it be subject to the hazards of backflow or backsiphonage.” A PVB, SVB or DCV that’s not tested, maintained or repaired would or could allow the potable water to be subjected to the hazards of backflow!

Again 4715.0200 “L” reads... “The plumbing system (backflow assembly) shall be subjected to adequate tests and to inspections in a manner that will disclose all leaks and defects in the work or the material.” Lastly 4715.0200 “M” reads, “Plumbing systems (backflow assembly) shall be maintained in a safe and serviceable condition from the standpoint of both mechanics and health.”

4715.0200 reads in part...”the basic sanitary and safety principles desirable and necessary to protect the health of the people are the same everywhere.” By not requiring

the testing and maintenance of all the backflow assemblies, including PVC, SVB and DCV, are you and the MDH Plumbing Unit overlooking the very foundation of the basic plumbing principles?

Consideration #4, the history and the precedent has been set in the Cross Connection Control and Backflow Prevention field. The following documents (items #1-5) were given to me ten plus years ago. As you will see even the code references for the RPZ and DCV have been changed. It's the content or the intent of the documents that matters. The code sections referred to are 4715.2161 and 4715.2162. The letters also make reference to testing all testable devices (assemblies). These letters were sent by MDH to 100 out of 850 plus cities in the State, the 100 cities are named on one of the pages. All of these cities received all four letters. The first letter dated November 18th 1987, says to refer questions to Don Stanley or Milt Bellin, sent by Raymond W. Thron, Director. The second dated October 12th 1990, says to refer questions to Roger Foster or Milt Bellin and was sent by Milt Bellin, Supervisor. The Minnesota Commissioner of Health Marlene E. Marschall sent the third dated February 13th 1992. The fourth letter dated January 21, 1993 was sent by Milt Bellin clarifying the October 12th 1990 letter.

In 1986 the State of Minnesota took primacy over the drinking water of the State from the Federal government (Safe Drinking Water Act). I was told that sending these letters out was proof that the State of Minnesota had met their responsibility to the 1974 Safe Drinking Water Act. I was then told by Randy Ellingboe's predecessor that it was now up to education to help people see the need for installing, testing, maintaining and repairing the backflow preventers for the protection of their potable water along with educating cities to the need for a comprehensive Cross Connection Control program. It's been over 10 years and we are still trying to accomplish that. In 1987 I received my training and accreditation in backflow assemblies testing at the University of Wisconsin, Madison and taught my first tester course in 1990 at Winona Technical College. At the present I am head instructor at the U of W Madison, for the Cross Connection Control and Backflow Prevention Programs and have taught Cross Connection Control and Backflow Prevention classes in all four of the upper Midwest states. I have conducted classes in surveying water

systems, as well as conducting many field surveys, and have been a consultant to many large companies. I have spoken to small groups of people and large national conferences about protecting our drinking water. Some say, I am considered an expert in this field.

Jim, I can really say that education has and is continually trying to complete the task given to us. I am finding it much tougher these days. The testers I have trained go back to the cities where they work only to be told by city plumbing inspectors and building officials, “you don’t need to test PVB, SVB and DCV and we are not going to start any backflow programs until the state makes us!”

There is one point I must make having to do with responsibility and liability. Cities/water purveyors are responsible and liable for the water they sell to the public. In my classes, seminars and informational meetings I teach responsibility and liability for the water purveyor and the tester of the backflow preventers. I have also attended three classes given by attorneys on the subject of responsibility and liability of the water purveyor and tester. Ray Ann Brammer is an attorney who taught on the subject. She passed out literature (following items #6-7) on how she would prosecute a purveyor and tester if they would be named in a lawsuit where a backflow incident caused contamination or pollution of the potable water causing damage, sickness or death. I have included these documents for you to review. As you will see after reading the literature, it comes down to this: did the water purveyor or the tester do what was reasonable to prevent the potable water from becoming contaminated or polluted which caused the damage, sickness or death? By the State not enforcing the testing, maintenance and repair of the PVB, SVB and DCV are they negligent in their job of enforcing the code?

I want to thank you for allowing me to express my concerns and look forward to receiving a written response.

Sincerely,

Kevin O’Laughlin
50 Woodview Drive
Mankato, MN. 56001

cc: Randy Ellingboe
Milton Bellin

Munkel-Olson, Patricia (DLI)

From: DLIRULES (DLI)
Sent: Wednesday, October 17, 2012 11:11 AM
To: Munkel-Olson, Patricia (DLI)
Subject: FW: Comment period ends Wednesday for Minn DLI on proposed rules for Backflow tester and rebuilder certification

From: Jesse Viall [mailto:Jviall@ci.hastings.mn.us]
Sent: Wednesday, October 17, 2012 11:03 AM
To: DLIRULES (DLI)
Subject: FW: Comment period ends Wednesday for Minn DLI on proposed rules for Backflow tester and rebuilder certification

To whom it may concern

I recently obtained training from Anoka Tech and UofWisconsin in August of this year for the city of Hastings. The city was told that I would be able to hold this certification and obtain ASSE certification with further training provided I passed and obtained the current backflow tester course. If the city would have known that the license was not going to be valid we would have not paid the \$900 for the course. I think there was some major miscommunication here and I would hope that the DLI would re consider that rules for this license. We were told that January 1st, 2013 was the date to be certified by. I think by not allowing the persons that took the course with this understanding, you may be opening up some doors to legal action by many parties. I don't know, but for myself, the city of Hastings will be very upset with knowing that my license does not mean anything. I hope you re consider this issue and allow us 2012 certified backflow testers to be in the same group as others.

Jesse Viall
Parkkeeper

City of Hastings | Parks and Recreation | 920 10th St West | Hastings MN 55033 | PH: 651-480-6175 | F: 651-437-5396



From: Jesse Viall [mailto:jesse.viall@greencompaniesllc.com]
Sent: Wednesday, October 17, 2012 10:58 AM
To: Jesse Viall
Subject: Fwd: Comment period ends Wednesday for Minn DLI on proposed rules for Backflow tester and rebuilder certification

Sent from my iPhone
Jesse Viall

Begin forwarded message:

From: Ben Jordan <jordan@epd.engr.wisc.edu>

Date: October 14, 2012 7:34:16 PM CDT

To: jesse.viall@greencompaniesllc.com

Subject: Comment period ends Wednesday for Minn DLI on proposed rules for Backflow tester and rebuilder certification

The Plumbing Board has proposed rules for backflow tester and rebuilder certification that appear to be different than what Department of Labor and Industry had explained to us in person earlier this year. I have sent a letter commenting on the proposed rules. I wanted to make you aware of the rules because they may impact your backflow tester or backflow rebuilder certification in Minnesota.

The proposed rule language states:

Subp. 2. Backflow prevention rebuilder.

A backflow prevention rebuilder shall maintain current ASSE Standard 5110 Backflow Prevention Assembly Tester and ASSE Standard 5130 Backflow Prevention Assembly Repairer certifications. Exception: An individual possessing a current backflow prevention rebuilder certification issued by the commissioner prior to January 1, 2012, is exempt from the requirements in subpart 1. This exemption expires December 31, 2014. Renewal applications submitted after January 1, 2015, shall include documentation of the applicant's current ASSE Standard 5110 Backflow Prevention Assembly Tester and ASSE Standard 5130 Backflow Prevention Assembly Repairer certifications as a condition of renewal.

Subp. 3. Backflow Prevention Tester. A backflow prevention tester shall maintain a current ASSE 5110 Backflow Prevention Assembly Tester certification. Exception: An individual possessing a current backflow prevention tester certification issued by the department prior to January 1, 2012, shall be exempt from the requirements in subpart 1. This exemption expires December 31, 2014. Renewal applications submitted after January 1, 2015, shall include documentation of the applicant's current ASSE Standard 5110 Backflow Prevention Assembly Tester certification as a condition of renewal.

From the way I read these proposed rules, people who became certified as testers or rebuilders in 2012 would not be given a 2 year period to obtain ASSE certification. I had been told previously by a Department of Labor and Industry representative that people who were granted the certification would have 2 years -- the time until their next renewal -- to obtain ASSE certification.

Department of Labor and industry is taking comments on the proposed rule until 4:30 pm this Wednesday, October 17th. You may email comments to them at dli.rules@state.mn.us. You can also comment by telephone to (651) 284-5006 or fax to (651) 284-5725

If you would like your Minnesota certification granted in 2012 to be valid until your next renewal date it may be in your best interests to comment to DLI that the 2 year exception should be granted to all individuals possessing a current backflow prevention rebuilder or backflow prevention tester certification issued by the department prior to January 1, 2013.

I can be reached by phone or email if you have any questions related to cross-connection control and backflow prevention.

Ben

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