

Board of High Pressure Piping Systems

Meeting Minutes

June 5, 2008

Minnesota Room – Department of Labor and Industry

443 Lafayette Road North, Saint Paul

DLI.CCLDBOARDS@State.MN.US

Members Present:

Mark Kincs
David Grong
Larry Jordan
Peg Larsen
Bob Bastianelli
Maureen Hanson
Pat Galatz
Larry Stevens, Jr.
Therese Bozicevich
Todd Green (DLI Commissioner's designee)
Vicki Sandberg

Members Absent:

Jim Andrie
Mark Geisenhof

Staff Present:

John Schultz
Annette Trnka
Wendy Legge

Visitors:

Phil Raines
Todd Brewster
Lee McGrath
Rick Kadansky
Bob Heise
Gary Majewski
Earl Gruis
Meghan McDaniel
Gary Thaden

I. Call To Order

The meeting was called to order by Chair Larry Jordan at 1:03 p.m.

II. Approval of Meeting Agenda

Stevens moved to accept the Agenda, seconded by Grong. The vote was unanimous and the motion passed.

III. Approval of Previous Meeting Minutes

Grong moved to approve the 05-01-08 Minutes, amending page two regarding the Ammonia Committee's report to the Board; they did not work under direct supervision, seconded by Hanson. The vote was unanimous and the motion passed.

IV. Regular Business

- A. Minnesota High Pressure Piping Code
- B. Licensing

- i. Presentation to the Board by Bob Heise – President of Associated Builders and Contractors. Regarding the area of people being tested under HPP license, Mr. Heise feels that when a person does steam all his life and never works with ammonia, it's difficult for that person to test on steam, and vice versa. Mr. Heise would like to see limited licenses. One for Steam, one for Ammonia, and one for Bio-Processing. This would allow people to work in his or her given trade only. MN is unique in that MN is the only state where you need to have a license in HPP. MN is also the only state to have both ammonia and steam on the same test, and now possibly, bio-processing. The second issue Mr. Heise wanted to discuss is the ratio – which he feels is heavy handed, regarding only being able to have two registered unlicensed apprentices being supervised by a journeyman. Mr. Heise stated he feels that the ratio issue was inserted on the Department of Labor and Industry's Bill at the "eleventh hour" in the legislature and would like the Board to reconsider the ratio issue. He then spoke about the integrity of having DLI administer the tests. Mr. Heise feels these tests should be legally defensible, by having the tests administered by a third party. He'd like the Board to look at limited licensing, ratio, and the tests being legally defensible by being administered by a third party. Legge stated the ratios are in Statute, and asked if Mr. Heise is asking that the Board make a recommendation to the Legislature? Mr. Heise said he would like the Board to make the recommendation to the Legislature. Wendy then asked if it is Mr. Heise's position that the Board has the authority to create limited licenses? Mr. Heise stated that he felt that limited licenses could be created by rule. Legge ask if Mr. Heise was aware of any other agency that has created by rule a limited license? Mr. Heise isn't aware of any other entity that has created limited licenses by rule, instead of Statute. Mr. Heise asked if there was any other license that tests for more than one trade, besides the High Pressure Piping license. Galatz pointed out that for electrical, if an electrician does residential wiring, and then does industrial high voltage wiring, it's covered under the same license.
- ii. Presentation to the Board by Lee McGrath – he is with the Institute for Justice, and would like to see three licenses created. The Institute for Justice is a not-for-profit public interest litigation & lobbying firm. They defend property rights, free speech and economic liberty: constitutionally protected right to earn an honest living free from unreasonable regulations. They have litigated cases against irrational licensing. They are also lobbyists to open markets and protect property rights. The Institute for Justice is headquartered in Arlington, VA. He is in charge of the state chapter in MN. Mr. McGrath said he wanted to talk about MN Statute 214, which is the State's policy on occupational regulation, which he feels answers the questions previously asked. He stated he feels that there should be three licenses for High Pressure Piping. He states that there is very little evidence that consumers are protected by licensing. He hasn't studied in detail pipefitting, nor does he know of any other agency that has done studies on pipefitting. Legge

asked if Mr. McGrath knows of any license where the legislature in Minnesota has established one license, and a state agency or board has created separate licenses by rule. Mr. McGrath stated that he believes the Board would be allowed to create separate licenses, and not by rule. His reading of the statute allows the Board to create licenses has sufficient flexibility to create multiple licenses. Legge asked if that wouldn't be un-promulgated rulemaking. Mr. McGrath felt it would not be, and Legge disagreed. Grong states that he thought it could be done by rule, and read a portion of a Statute. Mr. McGrath believes it's unconstitutional to create just one license. Legge stated that the better place to make his argument is before the Legislature, to have it established by Statute, to clearly outline limited licenses, so there wouldn't be any confusion or challenges. McGrath states that "the horse has left the barn" and now it's up to the Board. He feels it would be productive for the Board to consider the fact that with the case of Dalson that it would allow the Board to create limited licensing. Chair Jordan states that he feels that the difference is that the Dalson case deals with building codes and this Board only deals with piping. He also pointed out that the Sub-committee's don't have any authority, they can only bring recommendations to the Board. McGrath states that there should be some reasonableness of licensing in the industry. Galatz stated that ammonia and steam are all in the same industry, that's why the license is for all. McGrath stated that he feels that Galatz's skills are not reflective of the entire industry, and that laws should reflect the practice of the industry. Legge states that the Board does not have authority to do anything in respect for licensing other than adopt Rules. Legge asked for clarification that McGrath wants the Board to do. McGrath states that he wants the Board to give serious consideration under its mandate to create three separate licenses, by regulation. Jordan asked if McGrath is defining those three as steam, ammonia, and bio-process. McGrath stated yes. Larsen suggested that Legislators come in and speak about the process and clarify what the Legislature's intent was for the Board.

- iii. Department report on Ratio of Licensed High Pressure Pipe Fitters to Apprentices or Registered Unlicensed Individuals. Todd Green went over his report given in the packet, titled HPP License Ratio Report. The current number of pipefitter apprentices registered with the Department is listed as 250, but the correct number is actually 209. Stevens asked if the recommendation that was to be done by October 1, 2008 is the ratio, which Legge confirmed that yes, the recommendations should be made to House and Senate on the ratio of licensed individual contracting high pressure pipefitters or licensed journeyman high pressure pipefitter to pipefitter apprentices or registered unlicensed individuals for purposes of supervision. Grong asked what should be considered to be reasonable for a ratio? He believes it to be more than 2, and that also length of years of training of apprentices should be taken into consideration, that someone who is a first year apprentice would need more supervision than a fourth year apprentice. Perhaps a sliding scale should be established regarding length of service. Jordan asked

how that could be enforced or regulated, as a practical purpose to have an inspector to know how long an apprentice has been in the field. Grong states by registration card. Galatz stated that because you haven't taken the test yet, whether they're a fourth year or first year apprentice, they haven't proven themselves and therefore need that supervision. Jordan states the Board's main duty is safety and what is in the best interest of the public. Jordan likes the sliding scale.

Todd Brewster, Marathon Petroleum, spoke from the audience regarding ratio. He feels that the ratio is too low, that in refineries, the ratio is 8 to 1. Jordan asked if the job would be just as safe with the ratio of 8 to 1. Mr. Brewster answered yes, that it comes down to the training programs and inspection of the work. Jordan feels that 8 to 1 is too high. Sandberg pointed out the refineries' safety standards are very high, but the Board has to consider all areas of the industry throughout the State, and not everyone has those same high standards of safety.

Gary Thaden then spoke, Government Affairs Director for the Minnesota Mechanical Contractor's Association. He had spoken to members of the Department for a matter of months regarding ratio. He can't give an exact date as to when the words were put into legislation, but it was under discussion for most of the session. He stated that a number of people in the HPP industry were involved in those discussions, so his view is that this issue wasn't a surprise. Ratios alone don't guarantee a safe job, that ratio is only one part of keeping jobs safe. Legge asked Mr. Thaden if he had any knowledge regarding separation of licenses under Legislation. Mr. Thaden states that it's been an ongoing topic for 10-15 years. MMCA feels that the whole scope should be covered under one license. Wendy asked if Mr. Thaden knows who the Legislators were who were involved in the discussions regarding licenses. Mr. Thaden states that to his knowledge, the only one that may have been involved, since he holds a license in it, is Rep. Tim Mahoney. Mr. Thaden doesn't know if Mr. Mahoney was actually involved in those discussions, nor did he know if separating licenses had ever been voted on.

Grong asked at which point the Board plans to act on this issue. Legge stated that August 7th should be the latest date the Board should vote on a recommendation. Jordan sees three things that need to be voted on; the status of the licenses, the ratio, and third party testing. Sandberg stated she feels the Licensing Committee should plan to discuss the issue of limited licensing and ratio and make recommendations back to the Board, after having had time to give it due consideration. Legge reminded the Board that she had earlier stated that she would not be able to start researching whether the Board would have the authority to create endorsements for licenses until after today's meeting. So far, Legge hasn't been able to find an example where this is legal to be done by any agency in Minnesota, but if anyone knows of or finds an example of

different license endorsements that are not specified by Statute, they should let her know. Green stated that there are three new chapters in statute, 326B.94 states “the applicant shall be licensed only after passing an examination developed and administered by the Department.” Mr. Heise stated it would be “safer” to have a third party write and administer the test. Green states that the DLI test was developed in coordination with a third party. Inspectors are not giving the exam, a proctor is used. Galatz stated that he can’t find anything in the Board’s authority where the Board has authority over testing, only the Department of Labor and Industry does. Jordan said that should be discussed at the next Committee meeting.

C. Continuing Education – No discussion.

V. Special Business

A. Status of Tests (DLI Representative.) Kevin Wilkins’ memo was read stating that the new exam will be implemented the following Tuesday (June 10, 2008.)

The meeting took at break at 2:30 and reconvened at 2:42.

B. Data Practices Responsibilities. Wendy Legge gave a presentation giving information on the data practices act (is the Freedom of Information Act in Minnesota) and the need for the Board to assign a Responsible Authority and a Data Practices Compliance Official, meaning a Board member or member of DLI staff, which would be responsible to answer questions on data practices. The person assigned can be both the Responsible Authority and the Data Practices Compliance Official. The data inventory needs to describe each category of record filed or processed relating to private or confidential data on individuals maintained. Legge states there’s limited private or confidential data that the Board has, so it will be a short data inventory. Procedures need to be established and placed in writing for people who write in wanting access to public data. Data subject access to information needs to be determined. If the Board wants to require that data requests be in writing, it should be included in the written access procedures, and if the Board decides to charge for copies, the policy should include information on copy charges. Written policies and procedures should be established to insure that only authorized individuals have access to private and confidential data.

Stevens made a motion, seconded by Sandberg to appoint Todd Green as the Data Practices Responsible Authority for the Board. Green voted Nay. Bastianelli, Bozicevich, Galatz, Grong, Hanson, Kincs, Larsen, Sandberg, Jordan and Stevens voted Aye. The majority ruled and the motion passed.

Schultz brought up that the Legislature had re-codified the Construction Code Advisory Council and that the appointment by the Board would have to be re-done. Sandberg made a motion, seconded by Galatz to have Larry Stevens be

the Board's representative on the CCAC. The vote was unanimous and the motion passed.

VI. Committee Reports

A. Sub-committees Reports

- i.** Licensing Committee- Language to present to the Board. Definition of Repairs 6-5-08 document. "Repairs. Repairs on an existing installation are the in-kind replacement of manufactured threaded nipples or flanged or threaded valves, strainers, traps, fittings, or gaskets for these items." This is not the complete definition, and continues to be worked on.
- ii.** Ammonia Committee - Grong stated they reviewed the IIAR 2-1999 version, along with the previous Minnesota High Pressure Piping Code on ammonia and compared that to the soon to be released IIAR 2-2008 version. IIAR has revised their standard. It is going through the ANSI review process and within a week or two, the IIAR Board will approve their 2008 version, and the Committee wanted to make sure that was the version that was being referenced, as opposed to an older version. The Committee is drafting language that they hope to have finalized at the next Committee meeting for presentation to the Board at the July 1 meeting.
- iii.** Bio-Processing Committee- Completed – the proposed language has been given to Wendy Legge.
- iv.** Welding Committee- Welding will meet on July 1, and make a presentation to the Board. (This Committee did not meet today.)
- v.** Steam Committee – Bastianelli stated they still continue to discuss the approach on adopting ASME B 31.1 in its entirety, or by reference. He feels the Committee has come to the consensus they will adopt it by reference and have decided to meet on Wednesday, June 18 at 9:30 a.m. (This has since been changed to June 16 at 10:00 a.m.)

VII. Complaints - None

VIII. Open Forum – No further requests for open forum

IX. Board Discussion

Galatz asked about electrical requirements, ventilation, etc. in ammonia. Electrical enforces the electrical requirements and the inspectors determine the ventilation. Grong states that in the IIAR code that lists the normative, (required sections of the code) and informative, which isn't enforceable, but would be a good guide. Grong recommends adopting the IIAR 2-2008. Wendy asked if it's not enforceable, does it need to be in Rule. Grong stated that the Board's job is safe performance and this could be a good guide for the public to be able to turn to. Jordan said that it would be a good thing to do.

X. Announcements

a. Next Regularly Scheduled Meeting

- i.** July 1, 2008 – Minnesota Room, DLI. Ammonia and Licensing sub-committees to meet at 8:00 a.m. Welding and Steam sub-committees to meet at 10:00 a.m. Board meeting to start at 1:00 p.m.
- ii.** August 7, 2008 – Minnesota Room, DLI. The Steam sub-committee to meet at 10:00 a.m. Licensing and Ammonia sub-committees to meet at 12:50 p.m. Welding will meet at 12:55 p.m. Board meeting to start at 1:00 p.m.

XI. Adjournment

A motion was made by Galatz, seconded by Sandberg to adjourn the meeting. All voted in favor and the motion passed. The meeting adjourned at 3:22 p.m.

Respectfully Submitted,

Bob Bastianelli

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