Minnesota Plumbing Board

STATEMENT OF NEED AND REASONABLENESS

In the Matter of Proposed Revisions of Minnesota Rules Chapter 4714; R-04713

October 2021

General information:

1) Availability: The State Register notice, this Statement of Need and Reasonableness (SONAR), and the proposed rule will be available on the Agency's Public Notices website: Rulemaking docket for Minn. R. Chapt. 4714 (non-hearing) | Minnesota Department of Labor and Industry (mn.gov).
2) View older rule records at: Minnesota Rule Statutes https://www.revisor.mn.gov/rules/status/
3) Agency contact for information, documents, or alternative formats: Upon request, this Statement of Need and Reasonableness can be made available in an alternative format, such as large print, braille, or audio. To make a request, contact Brittany Wysokinski, Department of Labor and Industry, 443 Lafayette Road North, St. Paul, MN 55155; telephone 651-284-5006; email dli.rules@state.mn.us; or use your preferred telecommunications relay service.

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Acronyms

2015 MPC	2015 edition of the Minnesota Plumbing Code
APA	Administrative Procedures Act
IAPMO	International Association of Plumbing and Mechanical Officials
Minn. Stat.	Minnesota Statutes
MMB	Minnesota Management and Budget
MN	Minnesota
MPC	Minnesota Plumbing Code
OAH	Office of Administrative Hearings
SONAR	Statement of Need and Reasonableness
UPC	Uniform Plumbing Code

Introduction and Overview

Introduction

The Minnesota Plumbing Board ("Board") presents these proposed permanent rule amendments to update the existing Plumbing Code to accurately reflect the language vetted and approved by the Plumbing Board when it adopted the 2018 UPC with amendments.

Background

Plumbing in Minnesota has been supervised by a state entity since 1933. In 2007, the rulemaking authority for the Minnesota Plumbing Code was transferred to the then newly-established Minnesota Plumbing Board. Pursuant to statute, the Board consists of 14 members.

The Minnesota Plumbing Code ("Plumbing Code" or "Code") is part of the Minnesota State Building Code.[1] Although the Plumbing Code is adopted by the Board, it is administered and enforced by the Minnesota Department of Labor and Industry ("Department") and some local jurisdictions.[2] The Board recently incorporated by reference the 2018 Uniform Plumbing Code (UPC), with amendments, in a rulemaking numbered R-04633 ("R-04633"). The Notice of Adoption was published on March 22, 2021, and the rule will become effective on December 17, 2021, due to the mandatory 270-day lag period in Minn. Stat. § 326B.13, subd. 8. The Uniform Plumbing Code is published by the International Association of Plumbing and Mechanical Officials ("IAPMO") every three years.

For R-04633, the Board formed an advisory committee, the Ad Hoc Code Review and Rulemaking Committee ("Committee"), to review the 2018 UPC. The Committee approached this review with the following principles in mind: 1) maintain current Minnesota amendments as much as possible and 2) minimize amendments to the 2018 UPC to the extent possible. Over the course of 19 months, the Committee met 16 times. All advisory committee meetings followed the Open Meeting Law.[3] The Committee's recommendation was to incorporate by reference the 2018 UPC with specific recommended Minnesota amendments that the Committee had received and vetted. The Board then met nine times over the following one-and-a-half years to review and discuss the Committee's recommendations, including each proposed Minnesota amendment. After publishing a Dual Notice and receiving zero requests for a hearing, the proposed rule was adopted on March 22, 2021.[4] The Board meetings were also open to and attended by the public and included the public's participation. The Minnesota amendments adopted in R-04633 on March 22, 2021, Notice of Adoption, were thoroughly vetted by the Board and the public.

Shortly after the adoption of the 2018 UPC as the base code with Minnesota amendments, R-04633, it came to the Board's attention that due to renumbering, when combined with the existing and soon-to-be-effective Minnesota amendments, there are some provisions of the 2018 UPC base code that were inadvertently retained and conflict with, or may cause confusion with, Minnesota amendments that were vetted by the Board and the public. The proposed rule addresses the passively and inadvertently retained items so that the rule is consistent with the language vetted and approved by the Board. The Board initially proposed to make these changes through the expedited process, but it was disapproved (R-04704). This proposed rule proposes largely the same changes but utilizes the regular rulemaking process.

[1] *See* Minn. R. 1300.0050.
[2] See Minn. Stat. § 326B.43, subd. 1.
[3] *See* Minn. Stat. chapter 13D.
[4] For additional detail about the full rulemaking process that was followed, see the rulemaking docket.

Public Participation and Stakeholder Involvement

The Board held public Board meetings. All meetings were open to the public and members of the public were invited to comment. The Board is following and will meet all Minnesota Administrative Procedures Act requirements including notice requirements and public comment periods.

Statutory Authority

The Board's statutory authority to adopt the proposed rules is stated in the following Minnesota Statutes:

§ 326B.43, Subdivision 1. **Rules.** The Plumbing Board may, by rule, prescribe minimum standards which shall be uniform and which shall be effective for all new plumbing installations performed anywhere in the state, including additions, extensions, alterations, and replacements.

§ 326B.435, Subd. 2. **Powers; duties; administrative support.**

(a) The board shall have the power to: … (3) adopt the Plumbing Code that must be followed in this state and any Plumbing Code amendments thereto. The Plumbing Code shall include the minimum standards described in sections 326B.43, subdivision 1, and 326B.52, subdivision 1. The board shall adopt the Plumbing Code and any amendments thereto pursuant to chapter 14 and as provided in subdivision 6, paragraphs (b), (c), and (d).

This rulemaking amends existing rules for which the Legislature has not newly revised the statutory authority; therefore, time limits in Minnesota Statutes, section 14.125, do not apply.

Under these statutes, the Board has the necessary statutory authority to adopt the proposed rules.

Reasonableness of the Amendments

General Reasonableness

The Board, with members representing various parts of the plumbing industry and affected parties, thoughtfully considered every proposed amendment and weighed multiple factors and parties' interests while keeping public safety at the forefront when adopting the 2018 UPC and associated Minnesota amendments. The proposed rule amends the Plumbing Code to reflect this thoughtfulness so that the Plumbing Code is consistent with the intent of the Board and aligns with what the Board and the public understand the code to mean.

Rule-by-Rule Analysis

Most of the proposed amendments renumber sections or delete UPC sections, in order to correct the unintentional retention of UPC sections that were retained due to renumbering and conflict with Minnesota amendments. One amendment updates the Referenced Standards table to accurately reflect Minnesota amendments for codebook users' convenience. The rule-by-rule analysis is in numerical order but with one logical exception as you will see below.

4714.0609 INSTALLATION, TESTING, UNIONS, AND LOCATION.

Subpart 4. The Plumbing Board added the Water Meters section to the end of section 609 of the UPC for the 2015 MPC. Section 609.10 was the last section in the base model code at the time so the Minnesota amendment was added as a new section to the end. However, the 2018 UPC added its own section 609.11. As a result, the Plumbing Board renumbered its amendment in section 609.11 to 609.12. The Board intended to keep the Minnesota amendment and effectively replace the 2018 UPC section 609.11 language because the UPC language regulates pipe insulation.[5] Pipe insulation is under the purview of the Minnesota Energy Code. As a result of the base code renumbering and in the midst of the multiple amendments in R-04633, this renumbering was incorrectly applied. Maintaining regulation of pipe insulation in the Minnesota Plumbing Code might lead to confusion and conflict with the Minnesota Energy Code. Renumbering the Minnesota amendment from 609.12 to 609.11 will remove the inadvertently retained section on pipe insulation. The proposed rule is necessary and reasonable to reflect the Board's original intention and to remove a provision outside the scope of the Plumbing Code.

4714.1107 TESTING

Subpart 1. The proposed rule amends rule part 4714.1107 by amending the reference to "1107.2.3" to "1107.2" for consistency with the proposed change in subpart 2 below.

Subpart 2. The proposed rule renumbers subsection 1107.2.3 to section 1107.2. Due to renumbering in the base code and the Board's intention to follow the incorporated base code as closely as possible, the currently effective Minnesota amendment was renumbered from 1109.2 to 1107.2.3 in R-04633. As a result of the renumbering, one section paragraph (1107.2) and two subsection paragraphs (1107.2.1 and 1107.2.2) of the base code were passively retained that were not previously retained when it was numbered 1109.2. That is, in matching heading for heading ("Exceptions" for "Exceptions") and adjusting the numbering accordingly, some language was passively and inadvertently retained that is largely redundant with Minnesota amendments and contains language the Minnesota amendment deleted due to the frigid Minnesota winters.

Specifically, the base code prohibits air testing on plastic pipes; the Board addressed this issue when it first incorporated and amended the 2012 UPC. The Minnesota amendment allows air testing on plastic pipes because it is unsafe to perform water tests during the winter season in Minnesota. The passively retained paragraph contains the air testing prohibition that the existing Minnesota amendment removes. The only changes made to this section in R-04633 was updating the numbering.[6] Industry professionals know that water testing is not safe to perform in the winter in Minnesota. The Minnesota amendment has been in the Minnesota Plumbing Code since 2015. To avoid any possible confusion, the Board proposes to adjust the numbering accordingly so the new Minnesota Plumbing Code will remain the same as the 2015 MPC for this provision. The proposed rule is necessary and reasonable to ensure safe testing on plastic pipes in winter in Minnesota.

4714.0712 TESTING

Subpart 2. The proposed rule amends section 712.4 so that the reference to "section 1107.2.3(B)" is modified to read "section 1107.2(B)" for consistency with the proposed renumbering change to

[5] The Plumbing Board discussed this issue at its June 17, 2019, meeting and is reflected in the handouts at the July 16, 2019, meeting. See page 43, line 51 of the proposed amendment chart.
[6] See lines 42.15 – 43.16 of the July 23, 2020 draft of R-04633.

4717.1107 explained above. There is no substantive change to section 712.4. The proposed amendment is necessary and reasonable for a clear rule with accurate references and consistent numbering.

4714.1601 GENERAL.

Subpart 2. The proposed rule deletes UPC sections 1601.2 and 1601.3 in their entirety. Section 1601.2 is deleted because it could cause confusion with the Minnesota amendment in section 1601.1. Due to renumbering from chapter 17 in the 2015 MPC to chapter 16 in the 2018 UPC, section 1601.2 was passively retained. Section 1601.2 addresses qualification requirements of design professionals who design rainwater catchment systems, which is outside the scope of the Plumbing Code. In addition, section 1601.2 provides an exception for a rainwater catchment system used for irrigation. However, the Minnesota amendment in section 1601.1.1 specifically excludes rainwater catchment systems used solely for lawn irrigation from this chapter. Therefore, UPC section 1601.2 is not relevant to the Plumbing Code in Minnesota nor consistent with the Minnesota amendment. It is necessary and reasonable to delete section 1601.2 because it is not relevant to the Plumbing Code.

UPC section 1601.3 is deleted because it addresses permit requirements. However, all construction code permitting requirements are in Minnesota Rules, chapter 1300. Again, due to renumbering and the Board's intention to follow renumbering by matching heading for heading, the 2015 MPC section that addresses Nonpotable Rainwater Catchment Systems is in section 1701. Section 1701.1 titled "Applicability" is numbered 1601.1 in the 2018 UPC. The 2015 MPC has only two subsections 1701.1.1 and 1701.1.2, which were renumbered to 1601.1.1 and 1601.1.2 respectively in the recent rulemaking (R-04633) that substantively amended chapter 4714. In renumbering the "Applicability" section to 1601.1, inclusion of 1601.3 was passively retained. Other sections of 1601 (including 1601.4 - 1601.10 and 1601.12) that were retained as a result of restructuring in the 2018 UPC are sections that are not otherwise addressed by Minnesota rules or amendments, unlike 1601.2 and 1601.3.

Subpart 2a. Table 1601.5 is amended so that it matches the version of the table in the 2015 MPC, which was numbered Table 1702.12. As stated above, one of the Board's intentions in R-04633 was to retain the Minnesota amendments unless otherwise decided. The model base code version of Table 1601.5 is very similar to Table 1702.12 in the 2015 MPC, but there are some Minnesota-specific requirements in Table 1702.12 and the associated footnote. Specifically, the Minnesota footnote references Minn. Stat. § 326B.46 and ASSE Standard 5120. This is important to keep attached to this table because Minnesota statute requires the person performing the test to be both a licensed plumber and certified as a backflow prevention tester.[7] Therefore, Table 1601.5 is amended so that it matches Table 1702.12 in the 2015 MPC.

Subpart 3. Section 1601.7 is amended to remove two exceptions that apply to rainwater catchment systems that are explicitly excluded by Minnesota amendment in subsection 1601.1.1. Due to renumbering and restructuring, as described in Subpart 2 above, these added exceptions that do not apply in Minnesota were passively and inadvertently retained. It is necessary and reasonable to remove them from the Minnesota Plumbing Code to avoid potential confusion.

4714.1602 NONPOTABLE RAINWATER CATCHMENT SYSTEMS.

Subpart 6a. The proposed rule deletes subsection 1602.9.4 in its entirety. Subsection 1602.9.4 relies on and references a section in chapter 15 of the UPC; chapter 15 of the UPC is not incorporated by reference

[7] *See* Minn. Stat. § 326B.437(b).

into the Minnesota Plumbing Code. Therefore, it is necessary and reasonable to delete a subsection that references a chapter that is not a part of the Minnesota Plumbing Code to avoid potential confusion.

4714.1701 REFERENCED STANDARDS.

Subpart 1. Subpart 1 modifies Table 1701.1 by adding Standards that are not listed in the UPC Table to reflect referenced standards in Minnesota amendments. In this rulemaking, no new standards are added. Rather, the reference to "1107.2.3(B)" in the Table is updated to "1107.2(B)," to reflect the proposed amendments above.

Subpart 2. Subpart 2 modifies Table 1701.1 by amending the list of referenced sections for Standards that are already included in the UPC Table. The proposed rule adds referenced sections that were inadvertently left out of the chart. The added referenced sections reflect references that were added in Minnesota rule amendments. Specifically, the added referenced sections as a result of Minnesota amendments are as follows:

Standard Number:	Minnesota amendment:
ASME A112.3.1-2007	423.1
ASME A112.6.3-2001	423.1
NSF 14-2016 through NSF 58-2015, NSF 62-2015	611.3
NSF 61-2016	611.1.1

All other listed referenced sections for those Standards are in the 2018 UPC. They appear underlined because they are new to Minnesota rule.

The modification of Table 1701.1 is necessary and reasonable so that the table accurately reflects the relevant Standards and Referenced Sections for the ease of the codebook user. These modifications are not substantive but rather make the Table more codebook user-friendly as it will more accurately reflect what is in the substantive part of the 2020 Minnesota Plumbing Code.

Effective date of rules.

Effective date language has been added so that the proposed rules are effective on December 17, 2021, the same date as the recent rulemaking that amended chapter 4714, or five working days after publication of the Notice of Adoption, whichever comes later. The Board considered Minnesota Statutes §326B.13, Subdivision 8, which states:

> Subd. 8. **Effective date of rules.** A rule to adopt or amend the State Building Code is effective 270 days after publication of the rule's notice of adoption in the State Register. The rule may provide for a later effective date. The rule may provide for an earlier effective date if the commissioner or board proposing the rule finds that an earlier effective date is necessary to protect public health and safety after considering, among other things, the need for time for training of individuals to comply with and enforce the rule. . .

The Board determined that an effective date of December 17, 2021, or five working days after publication of the Notice of Adoption in the State Register, whichever is later, is necessary to protect public health and safety. Coordinating the effective date of this proposed rule with the effective date of R-04633 or as close in time as possible protects public health and safety because this rule clarifies any inconsistencies or inadvertent points of confusion in R-04633. The Board considered the need for time for training of individuals to comply with and enforce the rule. The proposed amendments clarify the language of

chapter 4714 and better align the Minnesota Plumbing Code with what the Board intended and what the Board and the public understood the recent substantive amendments in R-04633 to mean. The proposed amendments here are not substantive changes in and of themselves. Therefore, no additional training will be necessary to what the industry has been providing since completion of R-04633.

Regulatory Analysis

This part addresses the requirements of Minnesota Statutes, section 14.131, which require state agencies to address a number of questions in the SONAR. The proposed rules are not substantive and are expected to be noncontroversial because they amend the Plumbing Code language for clarity and consistency with the Board's intention and understanding of the substantive changes in R-04633.

A. Description of the classes of persons who probably will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.

The proposed rules will likely affect plumbing contractors, journeyworkers, apprentices, master plumbers, restricted master plumbers, restricted journeyworkers, plumber's apprentices, registered unlicensed individuals, employers of persons who perform plumbing work, persons who wish to perform plumbing work, plumbing inspectors, building officials, engineers, persons in the water conditioning industry, residential and commercial building contractors and owners, and the general public.

B. The probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

The Board adopts the Plumbing Code but does not administer or enforce it; therefore, the Board will not incur any costs associated with the adoption of the proposed rules.

Typical costs to the Department usually consist of purchasing code books for certain state employees. However, due to the types of amendments proposed here, the Department will not purchase new books as a result of these amendments. It is anticipated that IAPMO will issue an errata that contains these amendments for no additional cost to those who have purchased a 2020 MPC codebook. Because the Department already enforces the current Plumbing Code, there are no additional costs to the Department as a result of the proposed rule. Adoption of the proposed rules will not affect state revenues because it is a self-funded program through the collection of fees.

C. A determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

The purpose of the proposed rules is to amend the recently adopted Plumbing Code so that it is consistent with the intent of the Board and aligns with that which the Board and the public understand the code to mean. There are no other less costly or less intrusive methods to tweak the Plumbing Code to clarify and align it with the intent and understanding of the Board and the public. R-04633 prioritized maintaining the current Minnesota amendments and the 2018 UPC to the greatest extent possible because both were thoroughly vetted by a variety of industry professionals and went through rigorous approval processes. The proposed rules effectuate the intended standards of the Minnesota Plumbing Code in the simplest, least costly manner possible.

D. A description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the Agency and the reasons why they were rejected in favor of the proposed rule.

The Board seriously considered and attempted to make these changes using the exempt process for good cause under Minnesota Statute Section 14.388, arguing that these changes did not alter the sense,

meaning, or effect of the rule. This proposed rule was not approved under the exempt process. Therefore, the Board determined that the same rules should be adopted through the regular rulemaking process.

E. The probable costs of complying with the proposed rule, including the portion of the total costs that will be borne by identifiable categories of affected parties, such as separate classes of governmental units, businesses, or individuals.

The proposed rule does not significantly alter the requirements of the recently adopted Plumbing Code. Therefore, costs to new home or commercial building owners or other plumbing work to which the code applies is anticipated to be neutral, minimal, or more likely lower as the proposed rule resolves potential conflicts and confusion. The cost of training on these changes is also expected to be neutral or minimal because training is already required under Minnesota Rules, chapter 4716. There are no additional costs for training as a result of the proposed rule.

F. The probable costs or consequences of not adopting the proposed rule, including those costs or consequences borne by identifiable categories of affected parties, such as separate classes of government units, businesses, or individuals.

Not adopting the proposed rule could result in confusion as it primarily clarifies the Minnesota Plumbing Code. The proposed rule removes parts that do not apply in Minnesota, is addressed in other rules, or conflicts in some capacity with Minnesota amendments. Not adopting these changes could result in uncertainty and difficulties in enforcement.

G. An assessment of any differences between the proposed rule and existing federal regulations and a specific analysis of the need for and reasonableness of each difference.

There are no applicable federal regulations that address Plumbing Code issues in the construction of non-federally owned buildings. There are some provisions in the overall Plumbing Code that coordinate with the Federal Safe Drinking Water Act as enforced by the Minnesota Department of Health.

H. An assessment of the cumulative effect of the rule with other federal and state regulations related to the specific purpose of the rule.

There are no other state or federal regulations related to the specific purpose of the proposed rules so there are no cumulative effects.

Notice Plan

Minnesota Statutes, section 14.131, requires that an agency include in its SONAR a description of its efforts to provide additional notification to persons or classes of persons who may be affected by the proposed rule or must explain why these efforts were not made.

Notice and Additional Notice

This Additional Notice Plan was reviewed by the Office of Administrative Hearings ("OAH") and approved in an October 27, 2021 order by Administrative Law Judge James E. LaFave.

This Notice Plan includes giving notice required by statute. The Board will mail or email the Notice of Intent to Adopt to everyone who has registered to be on the Department's and Board's rulemaking mailing or emailing lists under Minnesota Statutes, section 14.14, subdivision 1a. The Board will also give notice to the Legislature per Minnesota Statutes, section 14.116.

In addition to the rulemaking lists required by statute, the Board will be mailing or emailing the Notice of Intent to Adopt to organizations and trade associations anticipated to be substantially affected by the proposed rules. Those organizations and associations are as follows.

1. American Backflow Prevention Association (ABPA) – Region 10
2. American Society of Plumbing Engineers (ASPE) – Minnesota Chapter
3. American Society of Civil Engineers – Minnesota Section
4. American Council of Engineering Companies of Minnesota
5. American Society of Heating, Refrigeration, and Air Conditioning Engineers (ASHRAE) – Minnesota Chapter
6. American Waterworks Association – Minnesota Chapter
7. Associated Builders and Contractors
8. Association of General Contractors of Minnesota
9. Association of Minnesota Building Officials (AMBO)
10. Association of Minnesota Counties
11. Building Officials licensed in Minnesota
12. Building Owners and Managers Association (BOMA)/Duluth
13. Building Owners and Managers Association (BOMA)/Minneapolis
14. Building Owners and Managers Association (BOMA)/St. Paul
15. Builders Association of Minnesota (BAM)
16. Builders Association of the Twin Cities, nka Housing First Minnesota
17. City Engineers Association of Minnesota
18. Laborers-Employers Cooperation Education Trust – Minnesota Chapter (LECET)
19. League of Minnesota Cities
20. Metropolitan Council
21. Minnesota Association of Plumbing and Mechanical Officials
22. Minnesota Association of Townships
23. Minnesota-licensed plumbers and plumbing contractors
24. Minnesota Mechanical Contractors Association
25. Minnesota Nursery & Landscape Association
26. Minnesota Onsite Wastewater Association (MOWA)
27. Minnesota Pipe Trades Association
28. Minnesota Plumbing, Heating and Cooling Contractors Association
29. Minnesota Rural Water Association
30. Minnesota State Fire Chiefs Association
31. Minnesota Utilities Contractors Association
32. Minnesota Water Quality Association (MWQA)
33. U. S. Green Building Council – Minnesota Chapter
34. United Association of Plumbers and Gasfitters Local Union #15
35. University of Minnesota Extension Program: Onsite Sewage Treatment Program
36. Water conditioning engineers licensed in Minnesota
37. Water Quality Association (WQA)

Our Additional Notice Plan does not include notifying the Commissioner of Agriculture because the rules do not affect farming operations per Minnesota Statutes, section 14.111.

Performance-based Rules

Minnesota Statutes, section 14.002, requires state agencies, whenever feasible, to develop rules that are not overly prescriptive and inflexible, and rules that emphasize achievement of the agency's regulatory objectives while allowing maximum flexibility to regulated parties and to the agency in meeting those objectives.

The Plumbing Code is performance-based in that it balances the method with the end result of the plumbing work within a framework of standards. The proposed rules are performance-based standards to the extent practicable while maintaining clear, predictable, enforceable rules.

Consult with MMB on Local Government Impact

As required by Minnesota Statutes, section 14.131, the agency consulted with Minnesota Management and Budget (MMB). The Board did this by sending MMB copies of the documents that were sent to the Governor's Office for review and approval. The documents included: the Governor's Office Proposed Rule and SONAR Form; the near-final proposed rules; and the near-final SONAR. MMB Executive Budget Officer Kwesi Pasley responded, in part, as follows in a memo dated October 15, 2021: "The technical changes and amendments to the Minnesota Plumbing Code are not anticipated to have a cost to local units of government."

The Board will submit a copy of the cover correspondence and the response received from MMB to OAH with the documents it submits for Administrative Law Judge review.

Impact on Local Government Ordinances and Rules

Minnesota Statutes, section 14.128, subdivision 1, requires an agency to make a determination of whether a proposed rule will require a local government to adopt or amend any ordinances or other regulation in order to comply with the rule. The Board determined that the proposed amendments will not have any effect on local ordinances or regulations. This decision was made during a special meeting held on September 13, 2021. Local governments that currently enforce the Plumbing Code will continue to enforce the Plumbing Code, including these amendments, in their jurisdiction.

Costs of Complying for Small Business or City

Minnesota Statutes, section 14.127, subdivisions 1 and 2, require an agency to "determine if the cost of complying with a proposed rule in the first year after the rule takes effect will exceed $25,000 for any one business that has less than 50 full-time employees, or any one statutory or home rule charter city that has less than ten full-time employees."

The Board has considered whether the cost of complying with the proposed rules in the first year after the rules take effect will exceed $25,000 for any small business or small city. A small business is defined as a business (either for profit or nonprofit) with less than 50 full-time employees and a small city is defined as a city with less than ten full-time employees. The Board determined that the cost of complying with the proposed rules in the first year after the rules take effect will not exceed $25,000 for any small business or small city. This decision was made during a special meeting held on September 13, 2021. When the recent Plumbing Code was adopted in R-04633, the Board asked the public to comment on whether any small city or small business will incur costs exceeding $25,000 in the Request for Comments and received no comments addressing this topic. These proposed changes are not substantive, like the changes in R-04633, and simply amend the code so that it is consistent with the intent of the Board and aligns with what the Board and the public understand the code to mean. Therefore, these proposed changes are not expected to result in any additional costs to small businesses or cities, especially considering that there were no comments addressing this topic in the more substantive rulemaking in R-04633.

Witnesses and SONAR Exhibits

Witnesses and Other Staff

1) The agency expects that the proposed amendments will be noncontroversial. In the event that a hearing is necessary, the agency anticipates having the listed authors testify as witnesses in support of the need for and reasonableness of the rules.
2) Ms. Brittany Wysokinski, Minnesota Department of Labor and Industry. Ms. Wysokinski is an attorney to the Board and will introduce the required jurisdictional documents into the record and provide answers to APA procedural questions.
3) Mr. Richard Jacobs, Chair, Minnesota Plumbing Board, will testify about the Board's interest in amending the Plumbing Code and any technical questions.
4) Mr. Brad Jensen, Plumbing Inspection Section Chief, Department of Labor and Industry, will testify about the technical information about the Plumbing Code and the background of the proposed amendments.
5) Other Department of Labor and Industry staff or Board members, if necessary, will testify about the technical aspects of the proposed amendments, the background of the proposed amendments, and the Board's interest in amending the Plumbing Code.

SONAR Exhibits

6) R-04713, final, approved draft dated September 22, 2021.
7) 2020 Minnesota Plumbing Code combined book.
8) All links within this document are available online.
9) Copies of Board and advisory committee meeting agendas and minutes are available online.[8]

Conclusion

In this SONAR, the agency has established the need for and the reasonableness of each of the proposed amendments to Minnesota Rules, chapter 4714. The agency has provided the necessary notice and, in this SONAR, documented its compliance with all applicable administrative rulemaking requirements of Minnesota statute and rules.

Based on the forgoing, the proposed amendments are both needed and reasonable.

Richard Jacobs, Chair
Minnesota Plumbing Board

October 27, 2021
Date

This SONAR was made available for public view, per OAH Rules, part 1400.2070, subpart 1, item E, as of _October 27__, 2021.

[8] *See* https://www.dli.mn.gov/about-department/boards-and-councils/plumbing-board