

# Minutes: SPECIAL Plumbing Board meeting

Date: March 16, 2020  
Time: 9:30 a.m.  
Minutes by: Lyndy Logan  
Location: Minnesota Room, Department of Labor and Industry  
443 Lafayette Road No., St. Paul, MN 55117-4344

## **Members**

Richard Becker – via teleconference  
Michael Dryke – via teleconference  
Kent Erickson – via teleconference  
John Flagg (Vice-Chair)  
Mike Herman (Secretary) – via teleconference  
Rick Jacobs (Chair)  
Justin Parizek  
Phillip Sterner – via teleconference  
Cathy Tran (DLI Commissioner’s Designee)  
David Weum (non-voting) – via teleconference

## **Members Absent**

David Wagner

## **DLI Staff & Visitors**

Suzanne Todnem, General Counsel (DLI)  
Lyndy Logan (DLI)  
Jim Peterson (DLI)  
Brad Jensen (DLI)  
Mike Johnson (J-Berd Mechanical)  
Stephanie Menning (MUCA)  
Matt Brenteson (Brenteson Companies)  
Mike Loehrer (Brenteson Companies)  
Jerome Vikse (Duininck, Inc.)

## **DLI Staff & Visitors**

John Santjer (Prinsco)  
Trevor Sorensen (Prinsco)  
Rile Durak (Forterra)  
Jennifer Schaff (County Materials)  
Aaron Ganson (ADS)  
Mike Arends (ADS)

### *Teleconference attendees below:*

- Ruth Thompson (My Plumbing Training)
- David Radziej (PHCC)
- Steven Nuebel (City of Plymouth)
- Mark Hines (Core & Main)
- Jim Grothaus (Hancock Concrete)
- Tom Rooney (ADS)
- Bryan Miko (ADS)
- Richard Hauffe (ICC)
- David Ybarra (MN Pipe Trades Assoc)
- Gary Thaden (MMCA)
- Adam Hanson (ABC)
- Jason Ahrenholz (Prinsco)
- Jamie Duininck (Prinsco)
- Matt Baragary (Prinsco)
- Jason Forgette (Prinsco)
- Kyle Sytsma (Major Mechanical)

## **1. Call to Order**

The meeting was called to order by Chair Jacobs at 9:32 a.m. Roll call was taken by the Vice-Chair and a quorum was declared with 9 of 10 voting members, and one non-voting member, present in person or via teleconference. Introductions and housekeeping announcements were made.

## 2. Approval of meeting agenda

A motion was made by Herman, seconded by Sterner, to approve the agenda as presented. The roll call vote was unanimous with 9 votes in favor; the motion carried.

## 3. Approval of previous meeting minutes

A motion by Herman, seconded by Erickson, to approve the January 21, 2020, minutes as presented. The roll call vote was unanimous with 9 votes in favor; the motion carried.

## 4. Regular Business

Approval of expense reports – Jacobs approved the expenses as presented.

## 5. Special Business

- A. Review of [Revisor's 02/07/20 draft](#) of possible proposed Minnesota Rules chapter 4714 and consideration of modifications to the Revisor's draft.

Todnem explained the reason for suggested grammatical edits shown in blue and red ink.

- The Board unanimously agreed with the proposed changes on page 2, lines 2.3 and 2.4 to read as follows:  
**Emergency Floor Drain**-Means floor drains that: do not serve as a receptor, ~~that~~ are located in restrooms, **are** under emergency eyewash/shower equipment, ~~and or~~ are in laundry rooms.

### Board discussion:

The Board discussed the definition to ensure the proposed rule language reflected their intention. The Board determined the changes as indicated above were appropriate. The proposed changes clarify the definition.

- The Board unanimously agreed to reject the proposed edits to section 408.3 Individual Shower and Tub/Shower Combination control valves regarding the addition of Standard ASSE 1070 and ASSE 1084, thereby deleting lines 9.18 through 10.16 from rule draft, and remove “Subp. 2” from line 10.17, since there are no longer two subparts. Todnem noted that as a result, section 408.3 will also be removed from the table of Referenced Standards for ASSE 1070 and ASSE 1084 will not be added to the table.

### Board Discussion:

The Board revisited proposed changes to section 408.3 relating to RFA PB0148. The Board had previously asked Tran to contact ASSE for clarification of new standards for further board discussion. Tran said she reached out to John Parizek (ASSE MN Chapter) and had not received clarification of the proposed amendment which added two new standards, ASSE 1070/ASME A112.1070/CSA B125.70 or CSA B125.3 on lines 10.14 and 10.15, and ASSE 1084 (water heater)

on line 10.16 as acceptable methods for use on shower control valves. The two new proposed standards do not provide thermal shock protection for showers, so the Board needed clarification. Tran further stated that the proposed new language in the RFA is not clear, self-contradicting, and causes confusion and would result in improper protection of showers and inconsistent statewide administration. Tran recommends not accepting the proposal of PB0148. The other board members agreed by consensus and that the 2018 UPC language would stand as is (update current standard editions) for section 408.3.

- The Board unanimously agreed with the written changes on Page 13, section 414.3 Drainage Connection, lines 13.15 and 13.17 to read as follows:  
**Drainage Connections. Domestic dishwashing machines shall discharge indirectly in accordance with section 807.3 into a waste receptor, a wye branch fitting on the tailpiece of a kitchen sink, or dishwasher connection of a food waste disposer. Commercial dishwashing machines shall discharge indirectly through an air break or direct connection. The indirect discharge for commercial dishwashing machines shall be in accordance with section 807.1, and the direct discharge shall be in accordance with section 704.3.**

Board discussion: Section 807.3, which is referenced, requires the same thing as what is deleted in the written changes. The written changes clarify the requirement by removing redundant language without making substantive changes.

- The Board discussed and came to consensus on edits to lines 28.2, 28.3 and 28.5. Later Board discussion nullified these edits.
- The Board agreed to remove all proposed amendments shown on Table 701.2; therefore, the 2018 UPC Table 701.2 would be preserved without amendments. Line 26.3 would read as follows:

UPC Table ~~701.1~~ 701.2 is not amended.

Board discussion: Background summary - the Board received RFAs that proposed allowing additional thermoplastic pipe materials for additional uses in building sewer applications. The Board then received an RFA (PB0142) that proposed requiring mandrel (deflection) testing on these thermoplastic pipes/uses. The Board initially accepted the proposal to add the additional materials and uses and subsequently to require mandrel testing. Upon receiving strong opposition to the mandrel testing requirement, the Board reopened discussion and consideration.

- At the last Board meeting, the Board asked representatives from the opposing groups (plastic pipe industry, concrete pipe industry, contractors) to work together to come up with language and

requirements for these materials and uses and mandrel testing that they both agreed upon for the Board's consideration. Consensus was not reached by the opposing groups and proposed language was not presented to the Board. The Board discussed the issue of mandrel (deflection) testing. Other plastic pipe installations that require the same or similar backfill methods such as PVC pipe do not require mandrel testing so why would the Board add it here? Mandrel testing is a quality assurance mechanism. Codes are minimum standards and there are different ways to approach quality assurance, so does the Board want to say this is the only way to test? Rather, the Board should rely on the UPC as much as possible.

- The Board proposed adding materials/products to the code rather than relying on the national code vetting and process. This included adding both concrete pipe and plastic pipe to Table 701.2. The Board adopted a model code so that it would not have to approve materials/products. – The Board came to consensus that they should rely on the UPC for approved materials/products. If the national level UPC approves this material/product, then the national process can make the determination if deflection testing is necessary.
- Thermoplastic pipes can still be submitted under alternate methods and materials in the code. Deflection testing is not required in the plumbing code but is required in other codes and agreements for infrastructure, cities, etc.
- Sterner said he is in favor of adding language allowing the additional uses in the code and having deflection testing be a requirement as not all plastic materials are the same.
- The Board came to consensus not to amend Table 701.2 and rely on the national level review and process to approve materials and testing requirements, including the plastic and concrete materials that were included in RFAs submitted and included as possible proposed amendments. New materials should be reviewed at the national level to make that determination. Todnem clarified that this consensus means taking out certain standards from the proposed rule that were added to allow additional uses of concrete and plastic pipe materials in Table 701.2 and the deflection testing requirement; the Board confirmed.
- Becker stated that bedding and compacting is required for all thermoplastic piping, and not just the proposed plastic materials so if proceeding with mandrel testing should probably apply to other plastic materials too. The Chair stated that the proposed materials are new and not yet vetted at the national level so it would be reasonable to add performance requirement to ensure proper installation.
- Tran stated that the mandrel test is a quality assurance test and by requiring the test, we are assuming the filling and compaction are not performed correctly for all installations.
- The Chair allowed the audience to address the board.

- Aaron Ganson, ADS, referred to the RFAs he previously submitted to the Board that are at issue here. The need for additional post-installation measures is recommended for all types of pipes. No pipe is infallible, and every pipe type has post-installation standards. He added that concrete pipe is not currently in the UPC.
  - Jason Krueger, Minnesota Concrete Pipe Association, and said the plastic and concrete industries have 180 degree, diametrically opposed positions on this and it would be unproductive to meet. Deflection testing is nothing new. Almost all municipalities that allow plastic pipe for storm or sanitary sewers require deflection testing. By making deflection testing mandatory, the Minnesota Plumbing Code would simply be joining the other government agencies that require it. There is a precedent for it.
  - Jennifer Schaff, County Materials, the original RFA submitted by ADS, referenced the United Facilities Guide specification which contained deflection testing language. It appeared that it was inadvertently omitted; therefore, it was proposed by County Materials. Larger pipe sizes for storm sewer materials are less stiff.
  - The Board opened the door for a debate on product approval. These different types of products can be approved as an alternate but should not be standards put into a Minnesota-specific code as they are not in the UPC.
  - This is a dispute between different, competing industries. The Board’s role is not to mediate these differences. The Board’s role is to adopt a code consistent with industry standards and amended for Minnesota-specific needs. The Board concluded it should not add any plastic standards or concrete standards that aren’t in the UPC code already and do not serve a Minnesota-specific purpose.
- The Board unanimously agreed to add the word “Thermal” to page 35, line 35.21, to read as follows: UPC Section 811 is amended to add subsection 811.9 as follows: **811.9 Waste and Vent.** Thermal expansion and contraction compensation shall be provided for every 30 feet of developed horizontal or vertical length of run for thermoplastic piping as shown in Table 313.3.1.

In addition, a footnote will be added to line 7.14 and 7.26 as follows: Multiple offsets shall be allowed to provide expansion for each 30-foot developed length of run.

The intent is to allow the use of 10-foot offsets, or a combination of a 10-foot and 20-foot to meet the 30 feet or longer run requirement. For example,

expansion can be provided at 10-foot intervals over the 30 feet run to meet the requirement.

- Page 53, line 53.16 through 54.3, page 54, language is no longer referenced; therefore, no language will be added.
- Page 46, line 46.17, section 1107.2.4 Deflection Testing proposed language will be removed.
- Page 54, line 54.4 and 54.20 – remove reference to 408.3.
- The Board reviewed and clarified that section 814.1, as amended, does not place subsection 814.1.1 in the proposed code; confirmed, subsection 814.1.1 is not part of the proposed code.

- B. Board vote of chapter 4714 possible proposed rules  
**Flagg made a motion, seconded by Herman, to grant authority to the Chair to move forward with rulemaking with the [Revisor's February 7, 2020, rule draft](#) as modified at the special Plumbing Board meeting on March 16, 2020; the Chair will sign the Resolution authorizing the Chair to proceed with rulemaking. The motion passed with 8 votes for and 1 against (Sterner); the motion passed.**
- C. Board discussion of cost analyses related to the possible proposed rules  
Todnem asked the Board to consider and make the following:
1. A determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.
    - a. The purpose of the proposed rules “is to promote the public health and safety through properly designed, acceptably installed, and adequately maintained plumbing systems.” The Board determined no other less costly or less intrusive methods would establish minimum plumbing standards and adequately maintain plumbing systems. In this case, the proposed rule adopts a model code.
  2. 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.
    - a. The language in the rule does not have any such requirements. The Board determined the proposed rule will not require a local government to adopt or amend any ordinance or other regulation in order to comply with the rule.
  3. Determine if the cost of complying with the proposed rule, as compared to the current 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.
    - a. Minn. Stat. § 14.127, subd. 3. Legislative approval required. “If the agency determines that the cost exceeds the threshold in subdivision 1, or if the administrative law judge disapproves the agency's determination that the cost does not exceed the threshold in subdivision 1, any business that has less than 50 full-time employees or any statutory or home rule charter city that has less than ten full-time employees may file a written statement with the agency claiming a temporary exemption from the rules. Upon filing of such a statement with the agency, the rules do not apply to that business or that city until the

rules are approved by a law enacted after the agency determination or administrative law judge disapproval.”

- b. The Board discussed whether anything in the amendments as a whole or in counteraction to cost savings resulting from the proposed amendments would exceed \$25,000 for any business or small city. No concerns were raised indicating compliance with the code would cost a small business or small city \$25,000 or more in the first year. The Board determined the cost to comply in the first year will not exceed \$25,000 for any small business or small city. The Board unanimously agreed that none of these items would apply.

## **6. Announcements**

The next regularly scheduled meeting will be held April 21, 2020, at 9:30 a.m. in the Minnesota Room.

## **7. Adjournment**

A motion was made by Sterner, seconded by Flagg, to adjourn the meeting at 11:35 a.m. The vote was unanimous with 9 votes in favor of the motion; the motion passed.

Respectfully submitted,

*Mike Herman*

Mike Herman, Board Secretary