

Plumbing Board
SPECIAL MEETING MINUTES
June 10, 2014 at 9:30 a.m.
Minnesota Room – Department of Labor and Industry
443 Lafayette Road North, St. Paul, MN 55155

Members

John Parizek (Chair)
Scott Eggen
Ron Thompson
Larry Justin
Jim Kittelson
John Flagg
Pete Moulton
Phillip Sterner
Jim Lungstrom

Members Absent

Grant Edwards
Chad Filek
Joe Beckel
Gale Mount
Mike McGowan

DLI Staff & Visitors

Wendy Legge (Chief Gen. Counsel, DLI)
Suzanne Todnem (DLI)
Cathy Tran (DLI)
Jim Peterson (DLI)
Lyndy Lutz (DLI)
A/C Jessica Looman (DLI)
John Rajkowski (DLI)
Gary Thaden (MMCA)
Gary Ford (Metro Testing)
Brian Noma (MDH)
Tim Power (MNLA)
David Radziej (PHCC)
Luke Westman (PHCC)
Nick Haig (MPCA)
Jon Schroeder (Schroeder Sales Co.)
Dwight Engen (LECET)
Scott Thompson (MN Plumbing Training)

I. Call to Order

The meeting was called to order by Chair Parizek at 9:40 a.m. Introductions and housekeeping announcements were made. Attendance was taken; a quorum was met.

II. Approval of Meeting agenda

A motion was made by Moulton, seconded by Justin, to approve the agenda with the following changes shown below. The vote was unanimous; the motion carried.

V. Special Business

- A) Update from legislative session. (*moved up from item C*)
- B) Review of Revisor's draft of proposed Minnesota Rules chapter 4714 and consideration of modifications to the Revisor's draft and review of SONAR.
- C) Publication of proposed rule in State Register.
- D) Reciprocity.
- E) MPCA – Building sewer installations.

III. Approval of Previous Meeting Minutes

A. Plumbing Board Minutes – May 20, 2014

A motion was made by Justin, seconded by Eggen, to approve the Minutes as presented. The vote was unanimous with two abstentions; the motion carried.

IV. Regular Business

Approval of Expense Reports –Parizek approved the expenses as presented.

V. Special Business

A) Update from legislative session.

- John Rajkowski provided an update on the conclusion of the 2014 legislative session. The most noteworthy – A ban on fire sprinkler requirements for homes 4,500 sf or larger did not pass and Minnesota will be the third state to require this.
- Rajkowski – DLI is in the process of identifying representatives from the plumbing industry, resort industry, and the Department of Health, to form a working group to discuss plumbing requirements at resorts; recommendations are due to the legislature by January 15, 2015. There are approximately 800 resorts in Minnesota and very few have a licensed plumber or electrician on their staff. A/C Jessica Looman added that DLI and the Department of Health's primary concern is public safety.
- A/C Looman – beginning on August 1, 2014, the minimum wage in Minnesota will be \$8/hour for employers with \$500,000 or more in revenue. Increases will occur thereafter on August 1, 2015 and August 1, 2016, and beginning in 2017 there will be an inflationary index based on economic indicators as determined by the Commissioner of Labor & Industry.
- A/C Looman – the Women's Economic Security Act was passed by the legislature. This was not an initiative of the department's but DLI is the enforcement agency for the State Parental Leave Act. DLI's first goal is to educate employers to be in compliance. Provisions enforced by DLI can be found at: <http://www.dli.mn.gov/LS/ParLeave.asp>
- A/C Looman – the Apprenticeship Training Act was substantially amended by the legislature, an initiative of the department's. One of DLI's goals this session was to meet all federal standards and requirements for Minnesota's registered apprentices in the construction industry, such as: providing further opportunities for more diverse participants, training, and modifications to how apprenticeship programs are overseen. The department will meet with apprentices to learn about their experiences and recommendations. DLI's goal is to expand the apprenticeship training model for additional occupations / other industries. The Apprenticeship Law goes into effect on January 1, 2015 and requires changes to DLI's apprenticeship agreements and standards. By June 1, 2015, DLI hopes to have the apprenticeship program integrated into the department's licensing database which will make registering of apprentices much easier.
- A/C Looman – CCLD met with the League of Minnesota Cities to clarify the Delegation Agreements process when the state delegates the inspection and plan review of state owned / state licensed facilities. The process allowing DLI to delegate our authority will be clarified in a new law that goes into effect on August 1, 2014.

- A/C Looman – the department’s goal is that all of the building codes will go into effect in January 2015. New codes not yet published will have a recommended adoption date of January 2015 as well.

CCLD rulemaking information: <http://www.dli.mn.gov/RulemakingCCL.asp>

Plumbing Board rulemaking information: <http://www.dli.mn.gov/Pb.asp>

B) Review of Revisor’s draft of proposed Minnesota Rules chapter 4714 and consideration of modifications to the Revisor’s draft and review of SONAR.

The Revisor’s Draft dated 06/04/14 and titled “*For discussion at 6-10-14 meeting*” was reviewed and the following revisions were noted:

Page 17; section 507.5 Relief Valve Discharge, revised to read as follows:

“Discharge from a relief valve into a water heater pan shall be prohibited. Discharge relief valve~~s~~ shall terminate within 18 inches of:

- (1) the floor, or
- (2) a safe place of disposal.”

Page 17, line 18 would be deleted due to the change in line 17.

Page 18, due to change from 601 to 601.1 – the handwritten addition that reads “UPC Table 601.2.2 is not amended” will not be added.

Page 22, section 608.5 Drains – language was amended from 22.26 through 23.4. Intent was to provide clarification. Language in this section and section 507.5 should be consistent.

Page 33, section 712.4 Negative Test. “Concrete manholes and sewer lines shall be tested by negative pressure in accordance with ASTM Standards C1214-92 and C1244-93 or the Hydrostatic Test Method in section 1109.2.2.” Are both of the Standards required or only one? Are both used for manholes and sewer lines or only one of them? Clarification is needed and Chair Parizek and Todnem will review and reword this section. Standards will be added to Chapter 14.

Page 45, line 45.21 referenced the 1999 edition. There is now a 2013 version and the department recommended updating the language to read ~~1999~~ 2013 edition and the Board agreed to change the language as shown above.

Email was received from Anita Anderson, Department of Health, regarding chapter 17, line 56.25. She recommended striking the word “that” as follows: “~~that~~ are operational and maintaining minimum water...” The Board agreed to strike “that” from line 56.25.

Changes were made to Lines: 55.21, 57.20 and 57.21, as noted below. Parizek said there are two different tests and the intent is that there would be two inspections – one test prior to the system being put into operation – a visual inspection would be done and then a pressurized inspection of the potable and then of the non-potable. After that point, on an annual basis – every 12 months there would be a visual inspection to verify that there is no cross connections. Every 5 years the systems would be drained down again to verify pressurized tests. The Board recommending the following changes:

- ✓ **Line 55.21 – section 1702.11.2.4 Annual Inspection. Strike the word annual from the title but leave “annual” in body.**
- ✓ **Line 57.20: Strike “every 12 months”**
- ✓ **Line 57.21: Revise language to read: Section 1702.11.2.4**

Page 47, line 47.25: “system has been visually inspected by the design engineer and the installation has” would be revised to read: “system has been visually inspected by the ~~design~~ engineer or their designee, and the installation has...” Language should be consistent with language on page 10, line 10.14 & 10.16. **Add a definition for Engineer. Engineer means “Professional Engineer as licensed by the state of Minnesota” and thereafter can be referred to as “engineer”.**

The meeting broke for a 15 minute recess and resumed at 11:15 a.m.

Table 721.1: Page 35, line 35.22 “~~Water service line~~” was revised to read “Building supply” and the Board agreed with the suggested revision.

Page 20, Single-Wall and Double-Wall Heat Exchangers: Lengthy discussion followed regarding restrictions, contaminated water, cross connections, common hazards, water pressure, single-wall heat exchanger accidents, and energy savings.

Justin made a motion, seconded by Eggen, to delete lines 20.19 and 20.20 from the proposed amendments (Revisor’s Draft dated 6/04/14 titled “For discussion at 6-10-14 meeting), as follows: “~~(4) A reduced-pressure principle backflow prevention assembly shall be installed on the building supply before the first branch.~~” The majority voted ruled with 5 for, 3 opposed; the motion carried.

The meeting broke for lunch and resumed at 1:43 p.m.

B) *Continuation of Review of Revisor’s draft of proposed Minnesota Rules chapter 4714 and consideration of modifications to the Revisor’s draft and review of SONAR.*

The Board reviewed “UPC_Adoption_SONAR_Regulatory_analysis_excerpts_DRAFT purposes only 6/9/2014” and made language recommendations for the completion of sections as shown on the attached document. Revisions were discussed and will be brought back to the Board.

Legge noted that at the July meeting there will be a Resolution passed by the Board to move forward with adoption of the Revisor's draft and to grant authorization for the Board Chair to attach his signature to the Resolution.

DETERMINATION ABOUT RULES REQUIRING LOCAL IMPLEMENTATION:

A motion was made by Eggen, seconded by Flagg, to accept language:

The Board has determined that the only required amendment to a local ordinance that the Board is aware of, would be a change in reference from chapter 4715 to chapter 4714. The majority voted ruled with one abstention; the motion carried.

COST OF COMPLYING FOR SMALL BUSINESS OR CITY: Agency Determination of Cost:

A motion made by Sterner, seconded by Eggen, to NOT exceed \$25,000 for any small business or small city. The majority voted ruled; the motion carried.

Legge noted that the focus at (the Board's) next meeting will be to finalize the Rule Draft. Any provisions going forward will need a 2/3 majority vote by all voting members in order to approve rule draft language. Each provision needs a 2/3 vote **in favor** to move forward. Parizek said clarification of voting procedures will be provided to members prior to the next meeting.

C) Publication of proposed rule in State Register.

Todnem said that the approximate cost to publish in the State Register is \$3,000. Normally, a copy of the proposed rule would be published in the State Register when the Notice of Intent is published; however, there is an option to omit publishing the rule and instead providing the Rule Draft on DLI's Plumbing Board website. The Notice would still need to be published. Todnem can draft and submit to the Administrative Law Judge (ALJ), a request for permission to not publish in the state register to eliminate costs. More specificity may be required if not published. The Administrative Procedures Act is outdated and requires publication in the State Register. The Board recommended Todnem draft this permission letter to the ALJ which will state in the Notice that a free copy of the proposed rule will be available on DLI's website.

D) Reciprocity.

Chair Parizek stated that North Dakota's Plumbing Board will be meeting on June 17, 2014, to determine if they want to continue reciprocity with Minnesota. Currently, Minnesota requires 16 hours every two years to renew the license; ND currently requires 3 hours for the same time period. North Dakota wants a "wash" between the two states so that they wouldn't have to do any additional continuing education (CE) and the only way we can make this change is through a rulemaking process which would be a minimum of 18

months. South Dakota requires 8 hours of CE every 2 years. SD accepts MN hours as their own hours but MN does not accept SD. SD and ND are reciprocal. Thaden respectfully requested that decisions not be made until the Committee assigned to reciprocity meets and provides their comments to the Board. Parizek noted that Reciprocity Agreements are supposed to be approved every two years. Reciprocity deals with applying for a license without having to take an exam – individuals do not have to be a resident of that state.

Legge added that the current agreements are signed by the Commissioner of Health but that the authority has since been transferred to the Department of Labor & Industry. DLI's Commissioner enters into the agreement but the Board approves it. The language in current agreements do not match exactly to Statute 326.4A and should be reviewed/revise before new agreements are drawn up. She suggested tabling until the next meeting.

A Motion was made by Moulton, seconded by Sterner, to table Reciprocity Agreements between North and South Dakota until after the Reciprocity Committee has met. The majority vote ruled; the motion carried.

E) MPCA – Building sewer installations.

Nick Haig, State Program Administrator for the Minnesota Pollution Control Agency (MPCA) provided the Board with a detailed document titled "Solicitation of Feedback from Potentially Affected Parties" – see Attachment A. An interagency work group was established to discuss issues relating to the Subsurface Sewage Treatment Systems (SSTS) program and the Plumbing program in Minnesota. The result of the March meeting was to put together a synopsis of all of the discussions that have taken place and collect feedback from potentially affected parties, as shown in Attachment B. The two issues that have been identified are: 1) Application complexity and confusion and 2) Licensure Limitations. A septic system licensee obtains their license from the MPCA but must register their bond through DLI – this results in problems and issues for individuals that have to obtain both. Both issues are detailed in Attachment A. Haig summarized and read portions of Attachment A and Parizek asked if the department had a stand. Lungstrom stated DLI is part of the work group and it is important for the trades and SSTS to agree on a solution. Training needs to be thorough in terms of materials. From the Health Department's perspective they are trying to work through this. In terms of sewer issues, there are problems with wells because they aren't being pressure tested. MN needs better inspections due to health issues. Better education and training would be a part of the solution.

Parizek provided feedback to Haig regarding his presentation (and Attachment A) as follows:

- 1) the Board supports streamlining the bonding process;
- 2) the "building sewer" remains defined as the building sewer subject to the requirements of the plumbing code;
- 3) SSTS building inspectors can inspect building sewers if they are properly trained; and,
- 4) the Board supports the MPCA and DLI working out issues regarding plan review.

VI. Open Forum
Nothing

VII. Announcements

Next Regularly Scheduled Meetings

- i. July 15, 2014 @ 9:30 a.m. – Minnesota Room, DLI (Annual Meeting - Election of Officers). The Executive Committee meeting will be held at 8:00 a.m.
- ii. October 21, 2014 @ 9:30 a.m. – Minnesota Room, DLI

XI. Adjournment

A motion was made by Sterner, seconded by Flagg, to adjourn the meeting at 3:37 p.m.

Respectfully submitted,



Chad Filek



Solicitation of Feedback from Potentially Affected Parties

Introduction

The Minnesota Pollution Control Agency (MPCA) and Minnesota Department of Labor and Industry (DLI) have discussed and recognize that the current administration of the Plumbing and Subsurface Sewage Treatment Systems (SSTS) programs in Minnesota introduces two interrelated issues that affect the ability of SSTS professionals to maintain their licensure and conduct work on building sewers. These two issues, discussed more below, include: application complexity and confusion, and licensure limitations. An interagency workgroup was created and began meeting in early 2014. The workgroup's goal is to identify mutually beneficial solutions to the jurisdictional overlap between SSTS and Plumbing programs that does not negatively affect other trades or professions. The group has discussed a variety of options to address the two issues. **You are receiving this letter because we would like your feedback on proposed approaches to help address these issues.** We ask that you provide your organization's feedback by **June 1st, 2014.**

Issues

1. *Application complexity and confusion* - Many SSTS professionals must currently obtain a license from the MPCA and register a "Combination" bond through the DLI to conduct work that is defined as plumbing and SSTS. A duplicative application process has resulted in confusion and complications that arise out of the bond not being in immediate possession by the MPCA, the license issuer, during the bond registration process at DLI.

2. *Licensure Limitations*

Building sewer design – Building sewer design by SSTS Professionals is currently prohibited by Plumbing Statute §326B.46 and Minnesota Rules Chapter 1300.0215. "Building sewer" is defined as the pipe between the building drain and septic tank. Currently the DLI doesn't have interest in preventing SSTS Professionals from designing building sewers for buildings exempt under 326.03 Subd. 2. In addition, SSTS Professionals have historically and currently designed building sewers that connect to SSTS for both exempt and nonexempt structures within the 10,000 gallon per day scope of the SSTS program.

Building sewer inspection - The inspection of building sewers by SSTS Professionals is currently prohibited by Plumbing Statute §326B.46 and Minnesota Rules Chapter 1300.0215. Most building sewers that are connected to SSTS in Minnesota are not being inspected because of this limitation.

Specific Feedback Requested

We are soliciting your organization's feedback about addressing each of these two issues.

1. *Application complexity and confusion*

Goal - create a simplified administration of the SSTS business license and DLI pipelayer registration application process. This includes application processing, review, approval, document retention, and information sharing.

Option - The workgroup is considering a recommendation to increase the bond requirements for SSTS licensure to mirror those of the plumbing program (\$25,000 biennial accumulative liability). With bond requirement changes in place, SSTS licensees could complete one application through the MPCA that documents and shares an SSTS licensee's pipelayer credentials and bonding/insurance coverage with DLI.

2. *Licensure Limitations*

Goal - Explore options with affected parties to overcome licensure limitations for septic professionals that conduct building sewer work that does not negatively affect other trades or professions.

Option - The workgroup is considering a recommendation to include the building sewer in its definition of a septic system as a "co-defined" component that is subject to the requirements of the plumbing code and program but also a part of an SSTS.

Please contact nick.haig@state.mn.us with a letter of support, a statement of negative impact, or a position of neutrality on the above goals and options associated with each issue. Staff are available to discuss this matter and/or attend board meetings if your organization would like to discuss this issue further. Please contact Nick Haig at 651-757-2536 if you have questions. Attached are supporting documents regarding the MPCA and DLI Interagency Workgroup and the issues identified.

MPCA – DLI Interagency Workgroup and other Supporting Documentation

Potentially Affected Parties

Minnesota Plumbing Board, Board of AELSLAGID, Minnesota Mechanical Contractors Association, Minnesota Pipe Trades Association, Minnesota Utility Contractors Association (MUCA), Minnesota Associated Builders and Contractors (ABC), Minnesota Laborers-Employers Cooperation & Education Trust (LECET), Minnesota Onsite Wastewater Association (MOWA), University of Minnesota Onsite Sewage Treatment Program (OSTP), Subsurface Sewage Treatment Systems (SSTS) Advisory Committee, and the Surety Companies and Insurance Agents that execute and process bonds. Additional expertise and affected party representation will be brought in, as needed.

Timeframe

DLI and MPCA would like to identify a mutually acceptable solution and collect feedback from the affected parties in 2014. Any necessary legislative or administrative rule changes would be pursued in early 2015. A communication plan providing guidance and education about any required changes in practice will take place in 2015. Implementation of the agreed upon solution would take place upon the current bond cycle expiration on 12/31/2015.

History and Discussions

These issues have been discussed between MPCA and DLI leadership since April, 2013. MPCA and DLI staff have spent time learning about each other's administrative processes and statutory obligations. MPCA staff conducted some stakeholder outreach in September, 2013, and has communicated with representatives of the Plumbing Board, MOWA, MUCA, MN ABC, LECET, and the Laborers Training Center. MPCA and DLI leadership have communicated with a representative of the Pipe Trades Association. There is general support for a solution to the issues faced by SSTS professionals. Broad concerns involve the disruption of current administrative practices and scope creep on the part of SSTS professionals into other regulated trades. The interagency workgroup was created and began meeting in early 2014 and have discussed a variety of options to address the two underlying issues. Summaries of discussions follow each of the options discussed.

1) SSTS License renewal and Pipelayer registration application simplification

a) Statutory exemption of SSTS professionals from pipelayer registration requirements

(1) MOWA originally proposed an exemption to the pipelayer requirements for SSTS professionals similar to the 2011 exemption successfully sought by the well drillers (§326B.46 Subd. 6). MOWA recognized the interrelated nature of building sewer specification, installation (pipelayer), and inspection and proposed the identification of building sewer design and inspection work in the exemption request. DLI voiced concern about this language that expanded SSTS licensee authorities to include the specification and inspection of building sewers. MPCA, DLI, and the Plumbing Board recognized concern about a flat exemption because of the difference in bonding requirements between SSTS and Plumbing program requirements. The Plumbing Board was generally in support of simplifying the application process so long as the bond requirements were aligned to meet both programs' requirements.

b) Application simplification and elimination of licensure liability through a one agency application process

(1) **MPCA administration of all pipelayer registrations**

DLI supports an administrative solution that would result in the transfer of all pipelayer registration authorities to the MPCA. MPCA has concerns and does not support administering statutory requirements of the plumbing program for businesses that are not licensed by the MPCA.

(2) **MPCA administration of pipelayer registrations for SSTS licensees**

MPCA prefers an administrative solution that would result in one license application through the MPCA that documents and shares an SSTS licensee's pipelayer credentials with DLI. Building sewers are defined as plumbing, but licensed and certified septic professionals could be able to demonstrate their qualifications to work on building sewers to the MPCA, the same state agency that issues their license. The MPCA is prepared to change its bonding requirements for SSTS professionals to mirror the requirements specified in §326B.46 Subd. 2.

2) Licensure limitations

- a) Statutory re-definition of the building sewer that connects buildings to SSTS
This proposal was immediately labeled as scope creep by multiple parties. DLI and MPCA acknowledged that removing the building sewer from being defined as plumbing would be problematic for the plumbing trades. This solution would create a regulatory vacuum for building sewers that go into SSTS, which have been defined in the plumbing code since the 1930's and are nationally recognized as plumbing. It was also recognized that building sewers are much broader than SSTS building sewers. This option was not seriously pursued.
- b) Statutory exemption of SSTS Professionals from pipelayer registration requirements - See Item 1)a 1 above.
- c) Statutory expansion of the authorities of pipelayers that work on SSTS
A series of changes to §326B.46 that broadens the authority of a pipelayer:
 - (1) *Building sewer design* - The specification of building sewers by SSTS Professionals could be accepted by DLI and local plumbing administrative authorities under their certification as a pipelayer.
 - (2) *Building sewer inspection* - The inspection of building sewers by SSTS Professionals could be allowable under their certification as a pipelayer. All inspections would be under the direction of the local plumbing administrative authority or DLI. This would allow inspections to take place when and where competent boots are on the ground, and lay a framework for a regulatory relationship between the plumbing and SSTS programs across Minnesota.
DLI and MPCA recognized that it would be difficult to broaden the authority of SSTS licensee/registered pipelayers in this manner without also broadening the authority of individuals that only hold pipelayer registrations. This solution would also require additional changes to §115.56 and Minnesota Rules Chapter 7080-83 to align the bonding requirements between the SSTS and Plumbing Programs.
- d) A "co-definition" of building sewers as plumbing subject to plumbing code and as a component of an SSTS
This is a concept that could address statutory concerns about SSTS designers and inspectors being involved in building sewer work that subjects SSTS professionals to the requirements of the Plumbing Program. Including the building sewer, as defined by the Minnesota Plumbing Code and subject to the requirements of Minnesota's Plumbing Program, in the §115.55 Subd. 1 (g) definition of a Subsurface Sewage Treatment System (SSTS),
 - (1) *Building sewer design* - SSTS Designers would be authorized to conduct the specification of building sewers that connect to SSTS under the existing exemption in MS 115.56 Subd. 2 (a). SSTS Designers that specify building sewers for non-exempt buildings (public, commercial, industrial, etc.) that connect to an SSTS would be required to submit their plans to DLI Plan Review. SSTS professionals' ability to conduct building sewer specifications would only apply to applications that serve SSTS and would not broaden the definition of a pipelayer.
 - (2) *Building sewer inspection* - SSTS Inspectors would have the option of conducting building sewer inspections for exempt buildings in cases where no building sewer inspection is scheduled to be performed. When a building sewer inspection is required, the appropriate administrative authority would have the flexibility to authorize a qualified SSTS Inspector to evaluate/inspect a building sewer if it saves them time and resources. SSTS professionals' ability to inspect building sewers would only apply to circumstances in which there is no other plumbing inspection scheduled or through arrangements with the plumbing inspector with authority over that building sewer.

AELSLAGID Board

§326.02 and §326.03 require board licensure to conduct defined work. It exempts master plumbers, among other specific licensed professions, and also exempts certain projects, like single and dual family homes, etc.

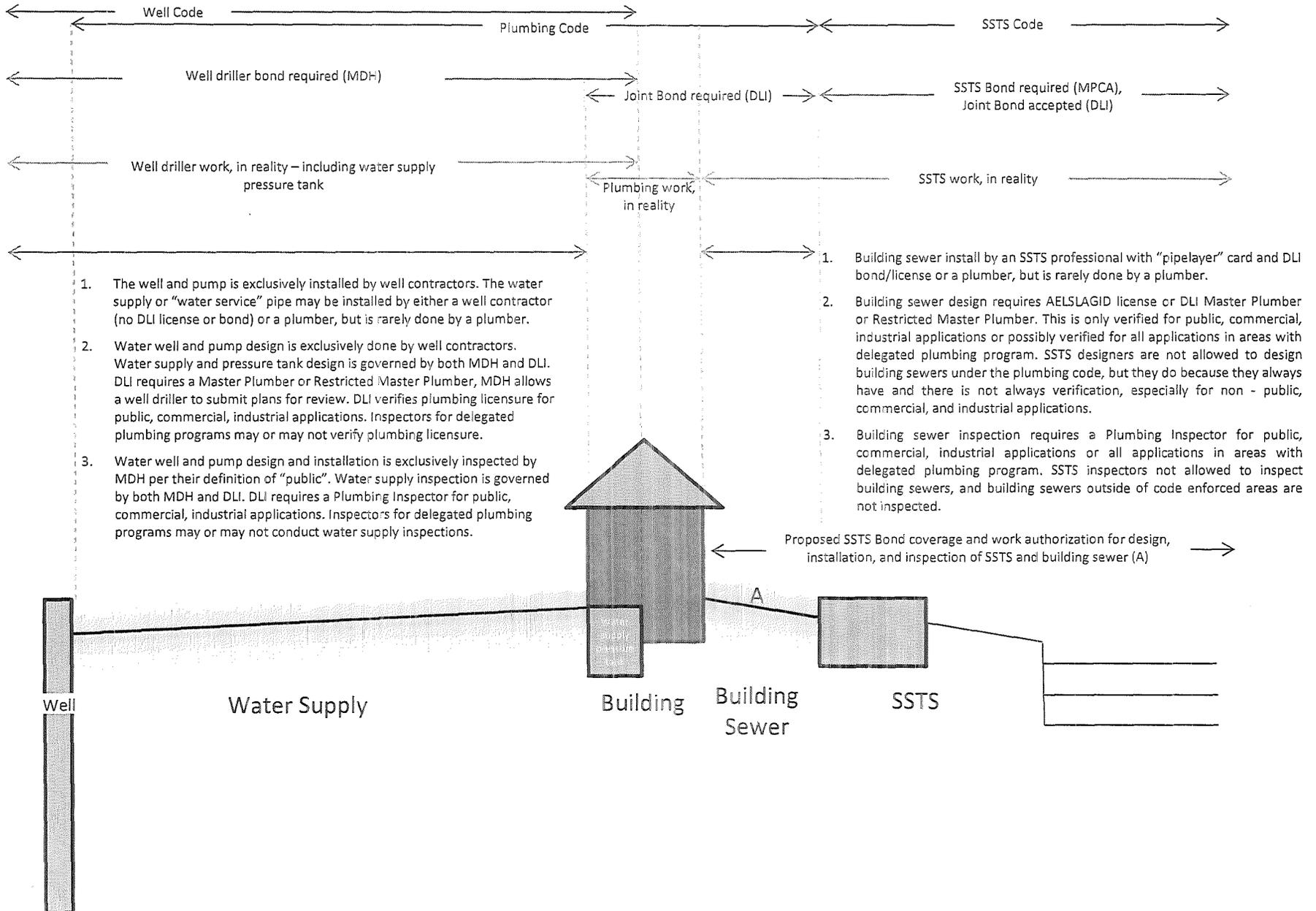
SSTS Program

§115.56 requires SSTS licensure to conduct SSTS work. It waives 326.03 licensure requirements for SSTS professionals that follow prescriptive guidelines for SSTS $\leq 10,000$ gpd, regardless of structure type. It does not exempt the requirements surrounding building sewer connections because building sewers are defined as plumbing – and begins at the septic tank.

Plumbing Program

§326B.46 requires plumbing licensure to conduct plumbing work. It exempts certified and registered pipelayers for outside installation work of building sewers and water supply lines. All other plumbing work must be completed under an appropriate license. Jurisdiction ends at “point of disposal” – considered to be the septic tank in SSTS applications.

Well Code, Plumbing Code, and SSTS Code Jurisdictional Boundaries





Minnesota Utility Contractors Association, 1000 Westgate Drive, Suite 252,
Saint Paul, MN 55114 Phone: (651) 735-3908 | Fax: (651) 290-2266
Web: www.muca.org

May 20, 2014

Mr. Nick Haig
Minnesota Pollution Control Agency
520 Lafayette Road
St. Paul, MN 55155

Dear Mr. Haig;

Thank you for your solicitation of feedback regarding the administration of the Plumbing and Subsurface Sewage Treatment Systems (SSTS) programs in Minnesota. MUCA is pleased to provide you with this letter of support regarding the issues below.

1. Application complexity and confusion
 - a. MUCA understands this issue among SSTS professionals and agrees a streamlining of the process through simplification would be beneficial for all parties.
2. Licensure Limitations
 - a. MUCA recognizes the need for a statutory expansion of the authorities of pipelayers that work on SSTS and a "co-definition" of building sewers as plumbing subject to plumbing code and as a component of an SSTS.

We appreciate the inclusive nature of this request and support both MPCA's and DLI's efforts in streamlining the process, while at the same time maintaining mutually beneficial solutions for the affected parties.

Thanks again for the opportunity and please do not hesitate to contact us if we can be of further assistance.

Warmest regards,

Stephanie Menning
Executive Director

Our Mission: To promote the underground utility industry by providing safety training, continuing education, scholarships and legislative relations.

UNIVERSITY OF MINNESOTA

*Onsite Sewage Treatment Program
Water Resources Center
University of Minnesota
Extension Service*

*Room 173 McNeal Hall
1985 Buford Avenue
St. Paul, MN 55108*

*800-322-8642
Fax: 612-624-6434
<http://septic.umn.edu>*

Nick Haig
Minnesota Pollution Control Agency
520 Lafayette Road North
St Paul, MN 55155

May 23, 2014

RE: Solicitation for Feedback on SSTS Building Sewer Issues

Dear Mr. Haig,

The University of Minnesota Onsite Sewage Treatment Program (OSTP) would first like to applaud the efforts underway by the MPCA and DLI to clarify and simplify issues related to the design, installation and inspection of building sewers for subsurface sewage treatment systems. Although the issue is complex we hope an outcome is achieved that is both protective of public health and the environment and is reasonable and straight forward for the septic professionals who work with building sewers.

A few points OSTP would like to highlight regarding the items under discussion are:

1. Our program receives significant feedback that the current requirements and administration are both unnecessary and problematic for SSTS professionals.
2. In general, the education program of the University of Minnesota's has been providing training to septic professionals about the DLI's Plumbing Code. Specifically, the certification training courses for:
 - a. Basic and Advanced Designers historically has covered the design of building sewers in compliance with the Plumbing Code for systems with a design flow up to 10,000 gallons per day,
 - b. Installers historically has included the installation of building sewers in compliance with the Plumbing Code, including the issuance of Pipelayer cards at the completion of the required training,
 - c. Inspectors has historically included the review, evaluation, and inspection practices and protocols for building sewers in compliance with the Plumbing Code.

OSTP's opinion is that these SSTS professionals with the appropriate certifications should be allowed to design, install and inspect SSTS including the building sewer with design flows up to 10,000 gpd, understanding that some public and commercial systems would require review and inspection by DLI as well. We believe including the building sewer in the

definition of SSTS could facilitate this objective. This change will also clear up the exemption provided in 326.03 for the design of septic system by designers to include the building sewer.

3. Our preference would be to eliminate the requirement for a Pipelayer card for septic professionals installing the building sewer on SSTS. It would be much simpler to require the installer to be SSTS certified to install this pipe as we know this individual has been trained on the proper installation of the pipe and is required to obtain continuing education every three years. We can verify all individuals who have received Pipelayer training and would be happy to provide these records.

If you questions about any of these points or if there will be a meeting to discuss the potential solutions we would be happy to be involved.

Sincerely,



Sara Heger



Dave Gustafson

Haig, Nick (MPCA)

From: Haig, Nick (MPCA)
Sent: Thursday, May 29, 2014 4:44 PM
To: 'Nicole Coty'
Subject: RE: Request for Feedback from Potentially Affected Parties

Nicole –

Could you please elaborate on this point:

There was some concern about the cumulative liability issue. However, I believe this is addressed in the aggregate liability clause, in which it is limited to the amount of the bond.

The way the current Plumbing Contractor/SSTS Surety Bond works is that it is a two year termed aggregate liability bond. By switching to a continuous bond, the intent is not to change the coverage, but to reduce the need to create a new bond form every term. This is where the idea that the penalty for the new continuous bond would be cumulative every two years – that is to say that for every two year period, there would be a posted promise to pay up to the amount of the bond for work conducted in those two years.

Any suggestions you may have that helps us iron out the language with the intent would be most appreciated.

Nick Haig

State Program Administrator
Minnesota Pollution Control Agency
651-757-2536
nick.haig@state.mn.us
[SSTS Search Tool](#)

Minnesota Pollution
Control Agency



From: Nicole Coty [mailto:NCoty@bearence.com]
Sent: Thursday, May 29, 2014 3:54 PM
To: Haig, Nick (MPCA)
Subject: RE: Request for Feedback from Potentially Affected Parties

I have contacted our members to discuss this issue. I received feedback from a couple people and put their responses together with my own thoughts.

It seems to us that moving to a continuous bond would be mutually beneficial to the contactors, sureties, and the State. It would save on time and paperwork, making the process more efficient. Once a bond is received by the State, it would be in force until the state receives a cancellation notice from a surety.

There was some concern about the cumulative liability issue. However, I believe this is addressed in the aggregate liability clause, in which it is limited to the amount of the bond.

Although I did not get any responses from surety companies as to the impact on the cost of the bond, I do not see it being an issue.

We greatly appreciate the opportunity to work with your department and your willingness to listen to our suggestions and concerns.

Nicole M. Coty, CISR, Client Manager-Surety
Bearence Management Group
2010 Centre Pointe Blvd
Mendota Heights, MN 55120
P 651.379.7892 | F 651.379.7803 | Toll Free 800.797.2637
ncoty@bearence.com

Risk Investments Communications Consulting Outsourcing

<http://www.bearence.com>

Please consider the environment before printing this email

From: Haig, Nick (MPCA) [<mailto:nick.haig@state.mn.us>]
Sent: Tuesday, April 22, 2014 10:22 AM
To: Nicole Coty; Giddings, Steve (MPCA); Lungstrom, Jim (DLI)
Cc: Thompson, Charles (MPCA); Seaver, Jane (MPCA); Coleman, Jean (MPCA); Durenberger, Charles (DLI); Tran, Cathy (DLI); Lebowski, Jeffrey F (DLI)
Subject: Request for Feedback from Potentially Affected Parties

Nicole-

The Minnesota Pollution Control Agency and Department of Labor and Industry have created an interagency workgroup to address jurisdictional overlap issues between the SSTS (Septic System) and Plumbing Programs. Attached you will find a solicitation of feedback from your organization, **The Minnesota Surety Association**, which has been identified as a "potentially affected party." Please share, review, and discuss the attached documentation with your organization and follow up with me before June 1st, 2014.

Feel free to contact me with any questions you may have or if I have reached you in error and you believe this correspondence should be routed through a different representative of your organization.

Specific changes to the MPCA SSTS Bond to mirror the requirements of the DLI Plumbing Bond could include:

1. \$25,000 coverage for SSTS and Plumbing code and contract compliance
2. Biennial, accumulative liability
3. Continuous coverage
4. Notification of:
 - a. Change in principal
 - b. Change in amount of coverage
 - c. Notice of claim
 - d. Notice of cancellation
5. Eliminate specialty areas (reference licensure authorizations, but not needing a change every time a license specialty area is added)

Thank you in advance for your participation. We look forward to hearing from you,

Nick Haig
State Program Administrator

Minnesota Pollution Control Agency
651-757-2536
nick.haig@state.mn.us
[SSTS Search Tool](#)

Minnesota Pollution
Control Agency



From: Haig, Nick (MPCA)
Sent: Tuesday, April 15, 2014 1:56 PM
To: Giddings, Steve (MPCA); Lungstrom, Jim (DLI)
Cc: Thompson, Charles (MPCA); Seaver, Jane (MPCA); Coleman, Jean (MPCA); Durenberger, Charles (DLI); Tran, Cathy (DLI); Lebowski, Jeffrey F (DLI)
Subject: Request for Feedback from Potentially Affected Parties

Good afternoon-

The Minnesota Pollution Control Agency and Department of Labor and Industry have created an interagency workgroup to address jurisdictional overlap issues between the SSTS (Septic System) and Plumbing Programs. Attached you will find a solicitation of feedback from your organization, which has been identified as a "potentially affected party." Please share, review, and discuss the attached documentation with your organization and follow up with me before June 1st, 2014.

A hard-copy request will be sent through the mail. Feel free to contact me with any questions you may have or if I have reached you in error and you believe this correspondence should be routed through a different representative of your organization.

Thank you in advance for your participation. We look forward to hearing from you,

Nick Haig

State Program Administrator
Minnesota Pollution Control Agency
651-757-2536
nick.haig@state.mn.us
[SSTS Search Tool](#)

Minnesota Pollution
Control Agency



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McGRANN SHEA CARNIVAL STRAUGHN & LAMB, CHARTERED

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AMY L. COURT

MICHAEL T. HATTING
CHRISTY E. LAWRIE

OF COUNSEL
ANDREW J. SHEA

May 30, 2014

BY E-MAIL AND U.S. MAIL

Nick Haig
Certification & Training
Resource Management & Assistance
Minnesota Pollution Control Agency
520 Lafayette Road N.
St. Paul, MN 55155-4194

Re: Solicitation of Feedback from Potentially Affected Parties -- Plumbing and
Subsurface Sewage Treatment Systems (SSTS)
Our File No.: 60,008-0001

Dear Mr. Haig:

I represent the Minnesota Laborers-Employers Cooperation and Education Trust ("LECET"). LECET is a trust created by management and labor representatives of the construction industry under a written Agreement and Declaration of Trust dated May 1, 1992. LECET is an industry group, jointly administered by management and labor. LECET promotes the training and employment of highly skilled construction laborers. Its sister trust fund operates a training facility in Lino Lakes, Minnesota that offers comprehensive instruction in many fields, including pipe-laying techniques and safety. The facility currently offers classes in pipe-laying laser certification, pipeline safety, and in the plumbing code. The facility includes state-of-the art equipment and is staffed by instructors with the practical experience and knowledge necessary to provide the best pipe-laying training in the State of Minnesota.

Your solicitation of comments regarding SSTS raises the larger question of how piping systems are regulated in this State. Systems inside the building are defined as "plumbing," and installation requires a plumber's license. Installing systems outside the building does **not** require a plumber's license. Instead, the State regulates such systems by overseeing the training provided to the non-plumbers who have historically performed this work. The most recent statement of this policy is included in the following provision of Minn. Stat. § 326B.46 Subd. 1(a): "A license is not required for

individuals performing building sewer or water service installation who have completed pipe laying training as prescribed by the commissioner."

This statement of policy emerged from a generation of practical experience and contention, including two years of litigation in the Minnesota District and Appellate Courts. LECET was a plaintiff in that litigation, which was resolved by a Consent Decree agreed to by the Attorney General as well as by the Commissioner and Chief Plumbing Inspector of the Department of Health. The Decree applied industry-wide, and non-union and well as union industry representatives negotiated and executed the Decree. The Associated General Contractors, in addition to LECET and others, was a party to the Decree. The Decree recognized that "Pipe-Laying Cardholders" who satisfied the training program outlined in the Decree could perform pipe-laying work outside of buildings without the necessity of a plumber's license. That Consent Decree is still binding on the State of Minnesota and was incorporated and effectuated by the legislature in its later codification of Minn. Stat. § 326B.46 Subd. 1(a).

The lesson of the past generation of experience is that highly-trained and experienced laborers and workers trained in programs approved by the State perform pipe-laying work outside of structures without the need of a plumber's license; that plumbers, in any event, have little experience or interest in performing this work outside of buildings; but that, periodically, parochial special interests have attempted to expand the plumber's license requirement as a revenue-generating opportunity for plumbers interested in renting out their license to nominally "supervise" the trained personnel who actually do the work. The policy choice made by the legislature, the executive branch, and the courts is that the Minnesota's best interests are served by a regulatory structure that permits pipe-laying work outside of structures to be completed by the highly-trained non-plumbers best equipped by their specific training, interest, and historical experience to actually perform this work.

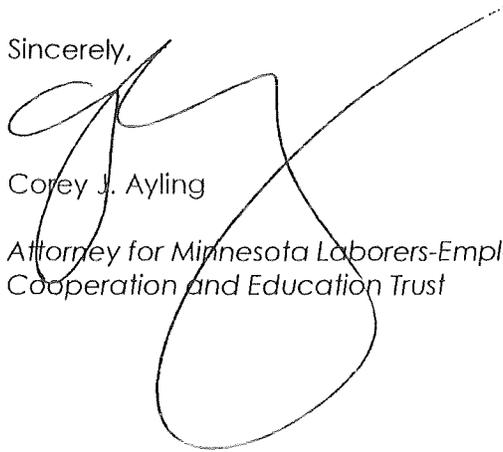
Turning specifically to your Solicitation of Feedback regarding SSTS work, LECET urges the State to continue to abide by the policy choice and bargain it has made with the industry: to permit skilled professionals without a plumbing license to perform pipe-laying work outside of buildings. The State should continue to oversee the training of such skilled professionals, but there is no need to require them to obtain a plumber's license.

Regarding the issue of "application complexity and confusion," LECET supports the goal of simplified administration of the DLI pipelayer registration application. If administration is shifted to the MPCA, LECET will require further details as to implementation before it can comment further. Regarding the matter of "licensure limitations", LECET urges that care be taken to clarify in any new codification the right of non-plumbers who complete required training to perform work outside of buildings. In addition, LECET does not embrace artificial distinctions between "design" and "installation." As a practical matter, design is part and parcel of the installation of systems in the ground. A plumber is not necessary for design, though contractors do work with licensed engineers to ensure for proper design and compliance with law.

Nick Haig
May 30, 2014
Page 3

LECET notes that the State is in the process of promulgating a new Uniform Plumbing Code and that its review and rulemaking have addressed the increasingly complex water systems being built outside of structures. LECET will continue to monitor such regulatory efforts to ensure against defining a plumber's license as an absolute pre-requisite for work done outside of structures. The traditional regulatory approach embodied in the Consent Decree and in Minn. Stat. § 326B.46 Subd 1(a) works and should be applied to the variety of water and sewer systems now being built outside of structures.

Sincerely,

A large, stylized handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

Corey J. Ayling

*Attorney for Minnesota Laborers-Employers
Cooperation and Education Trust*

MINNESOTA MECHANICAL CONTRACTORS ASSOCIATION

Gary Thaden,
Government Affairs Director

June 3, 2014

Nick Haig
Minnesota Pollution Control Agency
520 Lafayette Road North
Saint Paul, MN 55155
nick.haig@state.mn.us

Re: Interagency Workgroup Feedback Letter of April 15, 2014 regarding Subsurface Sewage Treatment Systems

Dear Mr. Haig:

The Minnesota Mechanical Contractors Association (MMCA) thanks you for the opportunity to the Interagency Workgroup Feedback Letter of April 15, 2014 regarding Subsurface Sewage Treatment Systems.

For those who are not familiar with MMCA, The Minnesota Mechanical Contractors Association, with 150 members, represent contractors who perform the installation and servicing of plumbing, heating, and cooling equipment. Whether it is water, natural gas, oil, air or any other medium – mechanical contractors do it. Our contractors range in size from a couple of employees to hundreds of employees, and in type from installing a water heater in your home to repiping Flint Hills Refinery. Minnesota MCA members hire over 6000 employees and performed over \$1/2 billion of construction business last year. Our contractors spend over \$5 million dollars every year on training apprentices and journeyman on all aspects of our industry.

Regarding specific ideas discussed on pages two and three of the document.

- Item 1a: MMCA agrees with concerns about a flat exemption. We are in support of simplifying the application process so that the bond requirements are aligned at the \$25,000 level.
- Item 1b: MMCA's concern with moving the pipelayer registration to MPCA is that the pipelayer registration is a "construction industry" activity. "Construction industry" matters have generally been centralized at the Department of Labor and Industry since the Governor's reorganization order of 2005. SSTS is a "water centric" activity and not "construction industry" activity. The pipelayer registration is about the construction activity (type of pipe, how the pipe is laid, etc.) and not about what the pipe carries. In addition, moving the pipelayer registration to MPCA would not remove an agency from

the discussion, it would increase the possibility of two state agencies disagreeing over exterior building water issues.

- Item 2a: MMCA is heartened that this “option was not seriously pursued.”
- Item 2b: See above item 1a.
- Item 2c: MMCA does not support the expansion of the scope of work of pipelayers or SSTS personnel. We also question the plumbing code competency of inspection by SSTS inspectors and how SSTS inspectors would inspect installations by licensed plumbers.
- Item 2d: So long as the plumbing, the various plumbing licenses under the Department of Labor and Industry, and the plumbing industry are not adversely affected by this “co-definition” of building sewer, MMCA is not opposed to this idea. Due to the complicated nature of this proposal, MMCA would like to continue discussion of this concept.
- The drawing attached to the Interagency Workgroup Feedback Letter of April 15, 2014 which is titled, “Well Code, Plumbing Code, and SSTS Code Jurisdictional Boundaries”. MMCA disagrees with characterization and language of this document. MMCA disagrees that plumbers do not do building sewer or water supply piping. In addition, use of the phrase “Plumbing work, in reality” may be some people’s reality; it is not everyone’s.

The Minnesota Mechanical Contractors Association appreciates MPCA’s efforts to work with the industries involved and wished to continue these discussions.

Thank you.

Sincerely,

Gary Thaden
Government Affairs Director
GThaden@MinnesotaMCA.Org



MINNESOTA PIPE TRADES ASSOCIATION

Affiliate of the United Association
Composed of Journeyman and Apprentices of the Plumbing and Pipe Fitting Industry
Of the United States and Canada
State Federation of Labor – A.F.L.-C.I.O.

David Ybarra II, President
411 Main Street – Room 309
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Duluth-Detroit Lakes
Plumbers and Pipefitters
Local #11

Minneapolis-St. Cloud
Plumbers
Local #15

Minneapolis-St. Cloud
Pipefitters
Local #539

Minneapolis-St. Paul
Sprinkler Fitters
Local #417

Minneapolis
Gas Workers
Local #340

Moorhead
Plumbers and Pipefitters
Local #300

Rochester
Plumbers and Pipefitters
Local #6

St. Paul – Mankato
Plumbers
Local #34

St. Paul – Mankato
Pipefitters
Local #455

Virginia
Plumbers and Pipefitters
Local #589

Road Sprinkler Fitters
Local #669
District 28

May 30, 2014

Mr. Nick Haig
Minnesota Pollution Control Agency
520 Lafayette Road N.
St. Paul, MN 55155

Mr. Haig,

Thank you for soliciting feedback on the SSTS issue currently under consideration at MPCA. On behalf of the affiliates of the Minnesota Pipe Trades Association (MPTA), I submit the following comments:

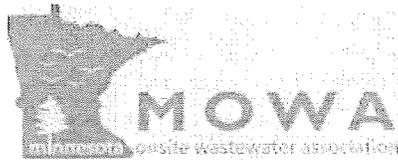
Issue 1 (Application complexity and confusion) - MPTA supports the proposed option of increasing the bond requirement to mirror those of the plumbing program, and requiring one application through MPCA that documents and shares the SSTS licensee's bonding/insurance coverage with DLI. MPTA is neutral on which agency oversees pipe layer registrations, as long as current practices for registration are maintained.

Issue 2 (Licensure Limitations) – MPTA does not support statutory re-definition of the building sewer that connects building sewer to SSTS, nor is there support for statutory exemption of SSTS professionals from pipe layer registration.

MPTA is neutral on statutory expansion of the authorities of pipe layers that work on SSTS, as well as a "co-definition" of building sewers as plumbing subject to plumbing code and as a component of an SSTS. There is concern that plumbers may be adversely impacted, thus additional dialogue is required.

Sincerely,

David Ybarra II, President
Minnesota Pipe Trades Assn



June 2, 2014

Nick Haig
State Program Administrator
Minnesota Pollution Control Agency
520 Lafayette Road North
Saint Paul, MN 55155

Re: MPCA – DLI Interagency Workgroup Feedback Request

Dear Nick,

MOWA is appreciative of the opportunity to provide feedback and applauds the MPCA and DLI for attempting to address the complex and convoluted jurisdictional overlap that exists in the administration of Minnesota's SSTS and Plumbing programs.

MOWA's position is:

1. Properly certified and/or licensed SSTS professionals are qualified to conduct installation, design, and inspection work on building sewers that are connected to SSTS.
2. The natural scope overlap that exists within services provided by each profession need to be separated by coexisting but separate jurisdictional responsibilities.
3. Redefining building sewers that are connected to SSTS will allow coexistence within the various jurisdictional responsibilities and simplify the delivery of code compliance and inspections.
4. While we acknowledge that untangling the various code and scope overlap problems may be more involved initially, we believe the long term impact would be beneficial to plumbers, SSTS professionals, and the regulators of both industries.

MOWA is more interested in working towards solutions than creating conflict and offers the following positions and comments for the issues identified in the request for feedback:

1. Application Complexity And Confusion.

MOWA supports an administrative solution that would allow SSTS licensees to complete their licensure application and renewal processing with the MPCA. If the building sewer remains defined as plumbing, MOWA recognizes that changes in SSTS bonding requirements may be required to mirror the plumbing program requirements.

2. Licensure Limitation.

A. Building Sewer Design

MOWA supports a co-definition of building sewers connected to SSTS only if positions a, b, and c (above) are off the table. Authorizing SSTS professionals to legally conduct building

sewer design for all SSTS applications, within the confines of the plumbing code, is a reasonable approach to addressing this issue.

MOWA would like clarification that DLI would accept building sewer designs for "non-exempt" buildings from appropriately licensed SSTS professionals under a co-definition scenario that waives additional licensure requirements under § 326.03 by virtue of the building sewer also being defined as a part of an SSTS.

B. Building Sewer Inspection

MOWA supports a co-definition of building sewers connected to SSTS only if positions a, b, and c (above) are off the table. Authorizing SSTS professionals to legally conduct building sewer inspections where they are currently required by local or state plumbing programs presents an opportunity to streamline the inspection process and save time and resources for contractors, clients, and regulators. Allowing local SSTS programs to choose how they address the evaluation or inspection of building sewers that do not currently trigger local or state plumbing inspections is a reasonable approach that will increase compliance with plumbing code specifications.

Sincerely,



Andy Winkler
MOWA Board President

Organization	First Name	Last Name	Feedback Rec'd On Agenda for	Comment 1	Comment 2	Comment 3	Comment 4
Minnesota Plumbing Board Board of AELSLAGID	John Doreen	Parizek Frost	6/10/2014				
Minnesota Mechanical Contractors Association	Gary	Thaden	6/3/2014	up Supports simplified application process and aligned bond requirements but stated concern about moving pipelayer registration to MPCA* Nick sent follow up	Not supportive of statutory redefinition of SSTS building sewer or expansion of scope of pipelayer and SSTS personnel work	Open to co-definition of building sewer	Takes issue with language and characterization of attached illustrations.
Minnesota Pipe Trades Association	David	Ybarra II	6/3/2014	Supportive of bond increase and MPCA management of SSTS pipelayer applications; maintain pipelayer requirements	Not supportive of statutory redefinition of SSTS building sewer nor exemption of SSTS professionals from pipelayer requirements	Neutral on statutory expansion of SSTS pipelayer authorities and co-definition of building sewer subject to plumbing code and as component of SSTS	
Minnesota Utility Contractors Association	Stephanie	Menning	5/21/2014	Supportive of streamlined process for SSTS professionals	Supportive of co-definition of building sewers subject to plumbing code and as a component of SSTS		
Minnesota Associated Builders and Contractors, Inc	Phil	Raines					
Minnesota Laborers-Employers Cooperation and Education Trust	Dwight	Engen	5/30/2014	Maintain pipelayer requirements	Open to MPCA management of SSTS pipelayer applications	Urges care be taken to clarify codification of work completed by non-plumbers outside of buildings	Does not embrace artificial distinctions between design and installation
Minnesota Onsite Wastewater Association	Pat	Martyn	6/4/2014	Supportive of elimination of pipelayer requirement for SSTS professionals	Supportive of redefinition of building sewers that are connected to SSTS and separation of plumbing and SSTS jurisdictions	Accepting of bond increase and MPCA management of SSTS pipelayer applications; maintain pipelayer requirements	Accepting of co-definition of building sewers with clarification that building sewer designs would be accepted by DLI under 326.03 licensure waiver.
University of Minnesota Onsite Sewage Treatment Program Subsurface Sewage Treatment Systems Advisory Committee	Dave Sara	Gustafson Heger	5/23/2014	Supportive of elimination of pipelayer requirement for SSTS professionals	Supportive of co-definition of building sewers subject to plumbing code and as a component of SSTS		
Subsurface Sewage Treatment Systems Advisory Committee	Gretchen	Sabel	On Agenda for 6/11/2014				
Minnesota Surety Association	Nicoie	Coty	5/29/2014	Supportive of moving to a continuous bond	Concerned about "cumulative liability", but open to dialogue* Nick sent follow up.	New bond costs not expected to be an issue as a result of these changes	