

Statement of Support for Adoption of Exempt Permanent Rules Amending Minnesota Rules, chapter 4714

Background and Rule by Rule Discussion

The Minnesota Plumbing Board created the Ad Hoc Rulemaking Committee (“Committee”) to review the 2018 Uniform Plumbing Code (“UPC”) and make a recommendation to the full Board as to whether the Board should incorporate by reference the 2018 UPC. Over the course of 19 months, the Committee met 16 times. Each committee meeting was open to and attended by the public and whom were invited to comment. 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, and the proposed rule that was adopted on March 22, 2021. The Board meetings were also open to and attended by the public and included the public’s participation. The Minnesota amendments adopted in the March 22, 2021, Notice of Adoption were thoroughly vetted by the Board and the public.

The proposed amendments here are changes that are consistent with the vetted Minnesota amendments and have no substantive effect on the Plumbing Code. The proposed changes delete UPC language that was passively retained due to renumbering and restructuring from the 2012 UPC to the 2018 UPC. It is clear what the Board intended and what the Board and the public understand the code to mean. However, the passively retained base code language may cause confusion as it addresses something explicitly excluded by Minnesota amendment (rendering the retained language meaningless but potentially confusing), is outside the scope of the Plumbing Code (such as determining when a permit is required), or prohibits something allowed in the Minnesota amendments to accommodate Minnesota’s unique winter weather (such as allowing air tests on plastic pipes). It is unnecessary to apply the rulemaking provisions of chapter 14 because the sense, meaning or effect of the rules are not changed. The March 22, 2021, Notice of Adoption has a December 17, 2021, effective date. It is impracticable and contrary to the public interest to follow the regular rulemaking provisions of chapter 14 for these clarifications because it is in the public’s interest for these clarifications to have the same effective date as the March 22, 2021 Notice of Adoption.

The Plumbing Board makes the following rule changes:

- A. **4714.1107.** Amend Minnesota Rules, part 4714.1107, subparts 1 and 2, as follows:
 - (1) delete “1107.2.3” and replace with “1107.2”;
 - (2) delete “subsection” and replace with “section”; and
 - (3) delete “is” and replace with “and its subsections are”

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 one subsection paragraph (1107.2.1) of the base code were passively retained that were not previously retained in the prior rulemaking 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 harsh 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 addresses. The only changes made to this section in R-04633 was updating the numbering (see lines 43.3 – 43.16 of the July 23, 2020, draft of R-04633, Attachment A). 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. However, to avoid any possible confusion, the Board proposes to adjust the numbering accordingly so the new Plumbing Code will remain the same as the current Code for this provision.

- B. **4714.0712.** Amend Minnesota Rules, part 4714.0712, subpart 2, to replace reference to “1107.2.3(B)” with “1107.2(B).”

This change is for consistency with the change in Paragraph A above and does not alter the sense, meaning, or effect of the rule.

- C. **4714.1601.** Amend Minnesota Rules, part 4714.1601, to add two new subparts and number them subparts 2 and 3 for consistency with existing Minnesota amendments and renumber current subpart 2 as number 4. New subparts 2 and 3 are amended to read as follows:

Subp. 2. **Sections 1601.2 and 1601.3.** UPC sections 1601.2 and 1601.3 are deleted in their entirety.

Subp. 3. **Section 1601.7.** UPC section 1601.7 is amended to read as follows:

1601.7 Minimum Water Quality Requirements. The minimum water quality for rainwater catchment systems shall comply with the applicable water quality requirements for the intended application as determined by the Authority Having Jurisdiction. Water quality for nonpotable rainwater catchment systems shall comply with Section 1602.9.6.

UPC 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 current Plumbing Code to chapter 16, this section was passively retained despite not being relevant to the Plumbing Code in Minnesota and being inconsistent with the Minnesota amendment. It is not relevant to the Plumbing Code because it addresses qualification requirements of design professionals who design rainwater catchment systems, which is outside the scope of the Plumbing Code.

UPC section 1601.3 is deleted because it addresses permit requirements. However, all construction code permitting requirements are under the authority of the Minnesota Department of Labor and Industry and are in Minnesota Rules, chapter 1300. Again, due to renumbering and the Board’s intention to follow renumbering by matching heading for heading, the current Minnesota

Plumbing Code 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 current Minnesota Plumbing Code has only two subsections 1701.1.1 and 1701.1.2. 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, 1601.3 and 1601.7.

UPC section 1601.7 is amended to not include two exceptions. The main body of section 1601.7 is not amended. The two exceptions apply to rainwater catchment systems that are explicitly excluded by Minnesota amendment in subsection 1601.1.1. Therefore, keeping the language in the Minnesota Plumbing Code has no effect but to potentially cause confusion for the codebook user. Due to renumbering and restructuring, the added exceptions that do not apply in Minnesota were passively and inadvertently retained.

- D. **4714.1602.** Amend 4714.1602 to add subpart 9 for consistency with existing Minnesota amendments. Subpart 9 is added to read as follows:

“Subpart 9. **Subsection 1602.9.4.** UPC subsection 1602.9.4 is deleted 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 into the Minnesota Plumbing Code. Keeping or deleting subsection 1602.9.4 in the Minnesota code does not alter the sense, meaning, or effect of the rule since chapter 15 is not incorporated by reference but deleting it removes potential confusion.

- E. **Table 1701.1.** Amend Table 1701.1 to accurately reflect that sections 423.1 and 611.3 include references to standards included in Table 1701.1 and to correct the reference to section 1107.2(B) to reflect the renumbering above.

The amendments to Table 1701.1 reflect the Minnesota amendments already made in 2015 and more recently. Renumbering the referenced section from 1107.2.3(B) to 1107.2(B) is consistent with paragraph A above. The amendments in subpart 2 are consistent with the changes made to section 423.1 in R-04633 and the Minnesota amendments in 4714.0611. These amendments do not alter the sense, meaning, or effect of the rule.

- F. **Effective date.** Add effective date language so the non-substantive changes here are effective on December 17, 2021, the same date as the recent rulemaking that amended chapter 4714, or as soon after as possible.

As described above, it is in the public’s interest for these changes to have the same effective date as R-04633 or an effective date as soon thereafter as possible for a cohesive Plumbing Code.

07/23/20

REVISOR

SS/EH

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43.1 Subp. 2. ~~Section 1109.2~~ 1107.2.3. UPC ~~section 1109.2~~ subsection 1107.2.3 is amended
 43.2 to read as follows:

43.3 ~~1109.2~~ 1107.2.3 **Exceptions.**

43.4 ~~1109.2.1~~ (A) Testing is not required for:

43.5 (1) outside leaders;

43.6 (2) perforated or open drain tile; or

43.7 (3) portions of storm drainage system and sewers that are located more than ten feet
 43.8 from buildings, more than ten feet from buried water lines, and more than 50 feet from
 43.9 water wells, and that do not pass through soil or water identified as being contaminated.

43.10 ~~1109.2.2~~ (B) Building storm sewers shall be tested in accordance with section 712 or
 43.11 the Hydrostatic Test Method from the City Engineers Association of Minnesota. The
 43.12 Hydrostatic Test Method, provisions E2 and E3, as specified in Standard Utilities
 43.13 Specifications for Watermain and Service Line Installation and Sanitary Sewer and
 43.14 Storm Sewer Installation, written and published by the City Engineers Association of
 43.15 Minnesota, ~~2013~~ 2018 edition, is incorporated by reference, is not subject to frequent
 43.16 change, and is available in the office of the commissioner of labor and industry.

43.17 **4714.1110 [Renumbered 4714.1106]**

43.18 ~~4714.1110~~ 4714.1106 **SIPHONIC ROOF DRAINAGE SYSTEM.**

43.19 UPC chapter 11 is amended by adding a new section and subsections as follows:

43.20 ~~1110.0~~ 1106.0 **Siphonic Roof Drainage System.**

43.21 ~~1110.1~~ 1106.1 **General Requirements.** Siphonic roof drainage systems shall be designed
 43.22 as an engineered siphonic roof drainage system when allowed by the administrative authority.
 43.23 The engineered siphonic roof drainage system shall meet the requirements of sections ~~1110.2~~
 43.24 1106.2 and ~~1110.3~~ 1106.3.