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CHAPTER 14.

 BOILER SAFETY ACT

**SECTION 41‑14‑10.** Citation and application of chapter.

 This chapter may be cited as the "Boiler Safety Act" and, except as otherwise provided in this chapter, applies to all boilers.

HISTORY: 2005 Act No. 59, Section 1, eff upon approval (became law without the Governor's signature on May 18, 2005).

**SECTION 41‑14‑20.** Definitions.

 For the purposes of this chapter:

 (1) "API‑ASME" means the American Petroleum Institute‑American Society of Mechanical Engineers.

 (2) "ASME" means the American Society of Mechanical Engineers.

 (3) "Board" means the Contractors' Licensing Board.

 (4) "Boiler" means a closed vessel in which water or other liquid is heated, steam or vapor is generated, or steam is superheated, or in which any combination of these functions is accomplished, under pressure or vacuum, for use externally to itself, by the direct application of energy from the combustion of fuels or from electrical, solar, or nuclear energy. The term "boiler" includes fired units for heating or vaporizing liquids other than water where these units are separate from processing systems and are complete within themselves. The term "boiler" is further defined to include any of the following terms:

 (a) "heating boiler" means a steam or vapor boiler operating at pressures not exceeding 15 psig or a hot water boiler operating at pressures not exceeding 160 psig or temperatures exceeding 250 degrees Fahrenheit; or

 (b) "high pressure, high temperature water boiler" means a water boiler operating at pressures exceeding 160 psig or temperatures exceeding 250 degrees Fahrenheit; or

 (c) "power boiler" means a boiler in which steam or other vapor is generated at a pressure of more than 15 psig.

 (5) "Department" means the Department of Labor, Licensing and Regulation.

 (6) "Director" means the Director of the Department of Labor, Licensing and Regulation.

 (7) "Owner" means the person or persons who own or operate any business operating a boiler required to be registered under this chapter.

HISTORY: 2005 Act No. 59, Section 1, eff upon approval (became law without the Governor's signature on May 18, 2005).

**SECTION 41‑14‑30.** Adoption of regulations for installation and inspection of new and existing boilers; conformity to nationwide engineering standards.

 (A)(1) The department shall promulgate regulations for the safe installation and inspection of boilers in this State.

 (2) All new installations shall conform to generally accepted nationwide engineering standards. Conformity with the most recent edition of the Boiler and Pressure Vessel Code or the ASME Code shall be accepted as conformity with generally accepted nationwide engineering standards.

 (3) The department shall promulgate regulations for installation and inspection of boilers which were in use in this State prior to the implementation of the statewide building code. The regulations must be based upon, and at all times follow, generally accepted nationwide engineering standards and practices and may adopt applicable sections of the Inspection Code of the National Board of Boiler and Pressure Vessel Inspectors.

 (B) The regulations and any subsequent regulations promulgated by the department must be adopted pursuant to the Administrative Procedures Act.

HISTORY: 2005 Act No. 59, Section 1, eff upon approval (became law without the Governor's signature on May 18, 2005).

**SECTION 41‑14‑40.** Construction and design standards for new boilers; special installation and operating permits.

 (A) Any new boiler installed and operated in this State, unless otherwise exempted, must be designed and constructed in accordance with the ASME Code or a nationally recognized code of construction. Any new boiler installed in this State must be marked in accordance with the code of construction and must be registered with the National Board of Boiler and Pressure Vessel Inspectors. Copies of registration documents must be provided to the jurisdiction when requested.

 (B) Only a boiler that conforms to the regulations of the department governing installation must be installed and operated in this State after twelve months from the date upon which the first regulations under this chapter pertaining to installation have become effective; however, the department may issue a special installation and operating permit for a boiler that is of special design or construction and that is not inconsistent with the spirit and safety objectives of the regulations. The department shall issue a special installation and operating permit after determining on the record and after an opportunity for inspection of the boiler or the plans for the boiler that the proponent of the special permit has demonstrated by a preponderance of the evidence that the special design or construction will provide an equivalent degree of safety to that of conformance with the regulations. The department shall accept comments from any interested party concerning the application for a special installation and operating permit. The permit so issued shall prescribe the conditions the owner or operator must maintain.

HISTORY: 2005 Act No. 59, Section 1, eff upon approval (became law without the Governor's signature on May 18, 2005).

**SECTION 41‑14‑50.** Computation of maximum allowable working pressure.

 (A) The maximum allowable working pressure of a boiler carrying the ASME Code symbol must be determined by the applicable sections of the code under which it was constructed and stamped. Subject to the concurrence of the department, the boiler may be re‑rated in accordance with the rules of a later edition of the ASME Code and in accordance with the rules of the National Board Inspection Code.

 (B) The maximum allowable working pressure of a boiler which does not carry the ASME or the API‑ASME Code symbol must be computed in accordance with the Inspection Code of the National Board of Boiler and Pressure Vessel Inspectors.

 (C) This chapter must not be construed to prevent the use, the sale, or the reinstallation of a boiler referred to in this section if the boiler has been made to conform to the regulations of the department governing existing installations and has not been found upon inspection to be in an unsafe condition.

HISTORY: 2005 Act No. 59, Section 1, eff upon approval (became law without the Governor's signature on May 18, 2005).

**SECTION 41‑14‑60.** Boilers excepted or exempted from application of chapter.

 (A) This chapter does not apply to:

 (1) boilers under federal control or under regulations of Title 49 of the Code of Federal Regulations, Parts 192 and 193;

 (2) hot water supply boilers equipped with ASME‑National Board approved safety relief valves which are directly fired with oil, gas, or electricity when none of the following limitations are exceeded: heat input of 200,000 BTU per hour; water temperature of 210 degrees Fahrenheit; nominal water‑containing capacity of 120 gallons;

 (3) boilers in the care, custody, and control of research facilities and used solely for research purposes which require one or more details of noncode construction or which involve destruction or reduced life expectancy of those vessels so long as a timely inspection report is filed pursuant to Section 41‑14‑120;

 (4) boilers operated and maintained for the production and generation of electricity so long as a timely inspection report is filed pursuant to Section 41‑14‑120;

 (5) boilers operated and maintained as part of a manufacturing process so long as a timely inspection report is filed pursuant to Section 41‑14‑120;

 (6) boilers that are subject to OSHA standards of compliance so long as a timely inspection report is filed pursuant to Section 41‑14‑120;

 (7) boilers operated and maintained by a public utility or the Public Service Authority including, but not limited to, boilers operated and maintained for the production of electricity so long as a timely inspection report is filed pursuant to Section 41‑14‑120.

 (B) The following boilers are exempt from the requirements of Sections 41‑14‑120 and 41‑14‑130:

 (1) boilers that are located on farms and used solely for agricultural or horticultural purposes;

 (2) heating boilers that are located in private residences or in apartment houses of less than six family units.

 (C) All pressure vessels are exempt from regulation under this chapter.

HISTORY: 2005 Act No. 59, Section 1, eff upon approval (became law without the Governor's signature on May 18, 2005).

**SECTION 41‑14‑70.** Appointment of chief boiler administrator; duties.

 (A) The director shall appoint a chief boiler administrator who has passed the same type of examination prescribed in Section 41‑14‑90.

 (B) The director must be charged, directed, and empowered to:

 (1) take action necessary for the enforcement of the laws and regulations of this State regulating the use of boilers;

 (2) keep a complete record of the name of each boiler owner or user and his or her location, the type, dimensions, maximum allowable working pressure, age, and the last record inspection of all boilers; and

 (3) publish and make available, upon request, copies of the department regulations.

HISTORY: 2005 Act No. 59, Section 1, eff upon approval (became law without the Governor's signature on May 18, 2005).

**SECTION 41‑14‑80.** Certification of special inspectors; examination.

 (A) The director shall promulgate regulations for the certification of special inspectors. Before receiving his certificate of competency, each inspector shall satisfactorily pass the examination provided for in Section 41‑14‑90 or, in lieu of the examination, shall hold a commission or a certificate of competency as an inspector of boilers from a state that has a standard of examination substantially equal to that of this State or possess a commission as an inspector of boilers issued by the National Board of Boiler and Pressure Vessel Inspectors.

 (B) The expenses or salary of special inspectors must not be paid by the State.

 (C) The special inspectors may inspect all boilers insured or operated by their respective companies.

HISTORY: 2005 Act No. 59, Section 1, eff upon approval (became law without the Governor's signature on May 18, 2005).

**SECTION 41‑14‑90.** Requirements for examination.

 The examination for chief boiler administrator or special inspectors must be in accordance with the requirements of the National Board of Boiler and Pressure Vessel Inspectors.

HISTORY: 2005 Act No. 59, Section 1, eff upon approval (became law without the Governor's signature on May 18, 2005).

**SECTION 41‑14‑100.** Discipline of certified inspectors; investigation of complaints and reports of violations; cease and desist orders and injunctions.

 The board shall discipline certified inspectors in the manner authorized by Chapter 1, Title 40. The Department of Labor, Licensing and Regulation on behalf of the board shall investigate complaints and reports of violations of this chapter as provided for in Chapter 1, Title 40. In addition to other remedies provided for in this chapter, the board in accordance with Chapter 1, Title 40 may issue a cease and desist order or may petition the Administrative Law Court for equitable relief to enjoin a violation of this chapter.

HISTORY: 2005 Act No. 59, Section 1, eff upon approval (became law without the Governor's signature on May 18, 2005).

**SECTION 41‑14‑110.** Lost or destroyed certificates of competency.

 If a certificate of competency is lost or destroyed, a duplicate certificate of competency must be issued without further examination.

HISTORY: 2005 Act No. 59, Section 1, eff upon approval (became law without the Governor's signature on May 18, 2005).

**SECTION 41‑14‑120.** Schedule and evidence of inspections; entry of premises where boiler being installed or repaired.

 (A) Owners and operators of all boilers must file with the department evidence of timely inspection as provided in this section. Evidence of timely inspection may be in the form of a certification of insurance, which contains evidence that the boiler was inspected and approved or it may be an inspection report from a certified special inspector.

 (B) The director or the chief boiler administrator shall give twenty‑four hours' notice to enter any premises in the State where a boiler is being installed or repaired for the purpose of ascertaining whether the boiler is being installed or repaired in accordance with the provisions of this chapter.

 (C)(1) After December 31, 2005, each boiler used, or proposed to be used in this State must be thoroughly inspected as to their installation and condition as follows:

 (a) Annually, a certificate inspection must be conducted on power boilers and high pressure, high temperature water boilers and this inspection must be an internal inspection; however, if it is not possible to perform an internal inspection, the inspection must be as complete an inspection as possible. The boilers must also be externally inspected while under pressure, if possible.

 (b) Biennially a certificate inspection must be conducted on low pressure steam or vapor heating boilers and an internal inspection must be conducted every four years where installation permits.

 (c) Biennially a certificate inspection must be conducted on hot water heating and hot water supply boilers and an internal inspection must be conducted at the discretion of the inspector.

 (2) A grace period of two months beyond the periods specified in items (a) and (b) of subsection (B)(1) may elapse between certificate inspections.

 (3) The department may provide for longer periods between certificate inspection in its regulations.

 (4) Pursuant to this chapter, the department has jurisdiction over the interpretation and application of the inspection requirements as provided for in regulations of the board. The person conducting the inspection during installation or repair shall certify as to the minimum requirements for safety as defined in the ASME Code. Inspection requirements of operating equipment must be in accordance with generally accepted practice and compatible with the actual service conditions, which must include all of the following:

 (a) previous experience, based on records of inspection, performance, and maintenance;

 (b) quality of inspection and operating personnel;

 (c) provisions for related safe operation controls;

 (d) interrelation with other operations.

 (5) The department may permit variations in the inspection requirements based upon documentation of the actual service conditions by the owner or user of the operating equipment.

 (C) The inspections required in this chapter must be made by a special inspector provided for in this chapter.

 (D) If the inspector determines that a hydrostatic test is necessary, it must be made by the owner or user of the boiler.

HISTORY: 2005 Act No. 59, Section 1, eff upon approval (became law without the Governor's signature on May 18, 2005).

**SECTION 41‑14‑130.** Correction of deficiencies and temporary cessation of operation orders.

 (A) If a report filed pursuant to this section shows that a boiler fails to comply with the regulations of the department, the department may issue a written order directing that the deficiencies be corrected and setting a date for correction.

 (B) The department may issue a written order for the temporary cessation or operation of a boiler because of faulty installation or incorrect repair if the boiler has been determined after inspection to be hazardous or unsafe. Operations must not resume until the conditions are corrected to the satisfaction of the director or his designee.

HISTORY: 2005 Act No. 59, Section 1, eff upon approval (became law without the Governor's signature on May 18, 2005).

**SECTION 41‑14‑140.** Assessment of civil penalties; factors considered; penalty for failure to comply with written order.

 (A) Any person or entity that fails to comply with the provisions of this chapter or the regulations promulgated pursuant to this chapter may be assessed a civil penalty of not more than five thousand dollars for each violation. When considering the assessment of penalties, consideration must be given to the good faith actions of and the history of prior violations by the person or entity as well as any other relevant circumstances.

 (B) Any person or entity that fails to timely comply after written notice by the department of a violation is subject to a penalty of up to one hundred dollars per day for such noncompliance.

HISTORY: 2005 Act No. 59, Section 1, eff upon approval (became law without the Governor's signature on May 18, 2005).

**SECTION 41‑14‑150.** Fees.

 A fee not to exceed fifty dollars per facility or per certificate filed with the department in the format prescribed by regulation may be assessed, collected, and adjusted by the Department of Labor, Licensing and Regulation in accordance with Chapter 1, Title 40.

HISTORY: 2005 Act No. 59, Section 1, eff upon approval (became law without the Governor's signature on May 18, 2005).