SPONSOR: Rep. Osienski & Rep. Dorsey Walker & Sen. Walsh
Rep. Lambert

HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE SUBSTITUTE NO. 1
FOR
HOUSE BILL NO. 255
AS AMENDED BY
HOUSE AMENDMENT NO. 2 AS AMENDED BY HOUSE
AMENDMENT NO. 1 TO HOUSE AMENDMENT NO. 2
AND
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO THE BOILER SAFETY PROGRAM.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-fifths of all members elected to each house thereof concurring therein):

Section 1. Amend Chapter 74B, Title 7 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

Chapter 74B. BOILER SAFETY PROGRAM

§ 7402B. Definitions.

(a) "Boiler" ~~shall mean~~ means a closed vessel in which water is heated, steam is generated, steam is superheated, or any combination thereof, under pressure or vacuum for use externally to itself by the direct application of heat from the combustion of fuels, or from electricity or nuclear energy. The term "boiler" shall include fired units for heating or vaporizing liquids other than water, where these units are separate from processing systems, and are complete within themselves.

(1) "Heating boiler" ~~shall mean~~ means a steam boiler operating at pressures not exceeding 15 psi, or a hot water boiler operating at pressures not exceeding 160 psi and/or temperatures not exceeding 250 degrees Fahrenheit which is supplied to an external heating system.

(2) "High temperature water boiler" ~~shall mean~~ means a water boiler operating at a pressure exceeding 160 psi and/or temperatures in excess of 250 degrees Fahrenheit.

(3) "Hot water supply boiler" ~~shall mean~~ means a vessel used to heat water for purposes other than space heating, where the water is used external to itself, at pressures not exceeding 160 psi, and/or temperatures not exceeding 250 degrees Fahrenheit at or near the boiler outlet. American Society of Mechanical Engineers (ASME) Stamping would be "ASME Section IV, H."

HD : AMM : SCD : 0131520017
LC : HVW : CBM : 5081520171
Released: 06/25/2024 04:52 PM

(4) “Jacketed cooking kettle” ~~shall mean~~ means a gas or electrically fired jacketed cooking kettle built and stamped “ASME Section VIII, Division 1.” ASME stamping would be “U.”

(5) “Pool heater” ~~shall mean~~ means an appliance designed for heating nonpotable water stored at atmospheric pressure such as water in swimming pools, spas, hot tubs, and similar applications.

(6) “Power boiler” ~~shall mean~~ means a vessel in which steam or other vapor is generated at a pressure of more than 15 PSIG.

(7) “Thermal fluid heater” ~~shall mean~~ means a boiler used to heat an organic fluid for heating and or processing that does not vaporize in the process. Object is considered a boiler in the State of Delaware and is required to be built to Section I of the ASME Construction Codes and registered with the National Board. Overpressure protection will be in accordance with ASME Section I Part PVG.

(8) “Water heater” ~~shall mean~~ means a closed vessel in which water is heated by gas, oil, electric, or some other fuel supply, and the water is used externally to itself for potable water supply, or used for potable water and space heating, operating at pressures not exceeding 160 psi and water temperatures not in excess of 210 degrees Fahrenheit. ASME Stamping would be “ASME Section IV, HLW.”

(b) “Council” ~~shall mean~~ means the Governor’s Council on Boiler Safety.

(c) “Department” ~~shall mean~~ means the Department of Natural Resources and Environmental Control.

(d) “National Board” ~~shall mean~~ means the National Board of Boiler and Pressure Vessel Inspectors.

(e) “NBIC” shall mean the National Board Inspection Code. The manual for boiler and pressure vessel inspectors, published by the National Board of Boiler and Pressure Vessel Inspectors. The NBIC is recognized for Repairs and Alterations, and Antique (Historical) boilers only (Part 3 only).

(f) “Place of public assembly” ~~shall mean~~ means any establishment, building, location or any portion thereof within this State intended and used for occupation by persons while employed therein for compensation of any kind, any commercial structure and/or location to which the public has access.

(g) “Pressure vessel” ~~shall mean~~ means containers for the containment of pressure, either internal or external. The pressure may be obtained from an external source or by the application of heat from a direct or indirect source, or any combination thereof.

(h) “PSI” or “psi” ~~shall mean~~ means pounds per square inch.

(i) “PSIG” or “psig” ~~shall mean~~ means pounds per square inch gauge.

(j) “Secretary” ~~shall mean~~ means the Secretary of the Department of Natural Resources and Environmental Control.

(k) "Shop review" ~~shall mean~~ means a general survey and examination of a boiler or pressure vessel manufacturing or repair firm's facilities, methods and records. The examination is performed by a designee of the ASME, and/or the National Board.

(*l*) "Owner" means any person owning any boiler, pressure vessel or nuclear installation within this State other than those exempt under § 7401B(c) of this title and by regulation.

(m) "User means any person operating any boiler, pressure vessel, or nuclear installation within this state other than those exempt by § 7401B(c) of this title and by regulation.

Section 2. Amend Chapter 74B, Title 7 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 7403B. Program duties and responsibilities.

(a) Notwithstanding the provisions of § 7401B(c) of this title, the Secretary or the Secretary's designee shall have immediate access to the premises for investigation purposes ~~in the event of an accident~~ related to the construction, operation, maintenance or repair of a boiler, pressure vessel or nuclear installation.

(d) ~~The Boiler Safety Program, with the approval of the General Assembly, shall establish appropriate fees for all activities and services provided by the Program, including, but not limited to, commissions, inspections and examinations.~~

(d) The Boiler Safety Program, with the approval of the General Assembly, shall establish appropriate fees for all activities and services provided by the Program, including, but not limited to, commissions, inspections and examinations.

The fees established in this subsection shall be credited to a dedicated Boiler Safety Administration Fund. Any monies remaining in the Boiler Safety Administration Fund at the end of the fiscal year will remain in the Boiler Safety Administration Fund. The Boiler Safety Administration Fund shall be maintained in a separate interest-bearing account and shall be administered by the Department.

(e) The Boiler Safety Program shall act as the American Society of Mechanical Engineers (ASME) and National Board designees when performing ASME shop reviews and the National Board of Boiler and Pressure Vessel Inspectors (NBBPVI) shop reviews of those manufacturers and repair companies of boilers and pressure vessels in this State.

(f) The Boiler Safety Program shall have the authority to require that all boilers and pressure vessels in this State be inspected by persons commissioned as boiler and pressure vessel inspectors in this ~~State, and to issue a certificate~~ State. The Boiler Safety Program shall have the authority to issue certificates of inspection for all boilers and pressure vessels that ~~meet state installation guidelines, except those exempt~~ satisfy the requirements of this chapter and any regulations promulgated under this chapter, except those boilers and pressure vessels exempt from this requirement under § 7401B(c)

of this title and by regulation. The Boiler Safety Program shall be responsible for inspecting uninsured boilers and pressure vessels as well as boilers and pressure vessels that the ~~insurer~~ Owner has failed to ~~inspect.~~ have inspected. The Secretary or the Secretary's designee shall have immediate access to the site of all installations for inspection purposes and in the event of an accident. Inspection requirements shall be contained in rules and regulations.

(1) All owners, users and/or contractors, who are responsible for the installation of boilers or pressure vessels in this State, shall obtain a certificate of inspection from the Boiler Safety Program prior to the operation of the boiler or pressure vessel. Notwithstanding this provision, any newly installed boiler or pressure vessel may be operated for testing necessary for issuance of a certificate of inspection.

(2) ~~Failure to obtain the required certificate of inspection shall subject the owner, user and/or contractor to a civil penalty of not less than $1,000 for the first offense and $2,000 for a second or subsequent offense. The Justice of the Peace Courts shall have jurisdiction over all violations of this subsection.~~ Owners or operators of boilers and pressure vessels shall register the boiler or pressure vessel with the Department.

(j) ~~The Secretary or the Secretary's designee shall have the authority to grant a variance, on a case by case basis, to those rules and regulations that pertain to the installation of new boilers to replace existing boilers.~~ Variances and temporary emergency variances may be granted by the Secretary from any regulation adopted pursuant to this chapter in accordance with § 6011 and 6012 of this title.

Section 3. Amend Chapter 74B, Title 7 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 7404B. Council on Boiler Safety.

(c) The Council on Boiler Safety shall be composed of ~~5~~ 6 members who shall be appointed for terms of 3 years by the Governor. The Council shall be composed of ~~5~~ 6 members; and, preferably 1 shall be a representative of a company licensed to insure boilers and pressure vessels in Delaware, another, a manufacturer who shall have been actively engaged in the manufacture of boilers, another, a user of boilers, another, a mechanical ~~engineer~~ engineer, another, ~~and the fifth,~~ a licensed stationary ~~engineer.~~ Engineer, and the sixth, a representative from a major labor organization that represents workers performing boiler construction, installation, maintenance and repair.

Section 4. Amend Chapter 74B, Title 7 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 7405B. Enforcement.

(a) When the Secretary determines that any person is in violation of any requirement, rule, or regulation under this chapter, the Secretary shall give notice to the violator of said violator's failure to comply with such requirement. If such

violation extends beyond the thirtieth day after the Secretary's notification, the Department may issue an order requiring compliance within a specified time period or assess a civil penalty. Any civil penalty assessed under this subsection shall not be less than $ 1,000 and not more than $ 10,000 for each day of violation.

(b) If a violator fails to take action to correct the violation within the time specified in the order, the violator shall be liable for a civil penalty of not more than $ 10,000 for each day of continued noncompliance.

(c) Orders issued under this section shall state with reasonable specificity the nature of the violation, specify a time for compliance, and assess a penalty as determined by the Secretary based on the seriousness of the violation and any good faith efforts to comply with the applicable requirements.

(d) Orders shall become final unless, no later than 20 days after the order is served, any person whose interest is substantially affected by the order appeals to the Environmental Appeals Board (EAB) in accordance with § 6008 of this title.

(e) Any expenses or civil penalties collected by the Department under this action shall be credited to the fund established under § 7403B of this title.

Section 5. Amend Chapter 74B, Title 7 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 7406B. Fees.

(a) The Department may charge fees as set forth in this section. A fee enumerated in this section supersedes any previously enacted equivalent fee, whether codified or not. A previously enacted fee not included in this section remains in effect to the extent they are levied by the Department and permitted by law.

(b) Boiler Safety.

(1) Certificate of Inspection- Boiler and Pressure Vessel Certificate:

Boiler 1-year Certification- $30.00

Boiler 2-year Certification- $60.00

Boiler 4-year Certification- $120.00

Pressure Vessel 1-year Certification- $30.00

Pressure Vessel 2-year Certification- $60.00

Pressure Vessel 4-year Certification- $120.00

(2) Power Boilers and High Pressure/High Temperature Hot Water Boilers:

Internal Inspection under 5 HP- $60.00

5 HP up to 99 HP- $100.00

99 HP up to 200 HP- $140.00

Over 200 HP, on an hourly basis with a minimum of- $200.00

External Inspection- $60.00

Heating Boilers and Hot Water Supply Boilers without a Manhole- $75.00

Heating Boiler and Hot Water Supply Boilers with a Manhole- $50.00

Water Heater- $25.00

(3) Pressure Vessels:

Fifty (50) Square Feet or Less- $50.00

Each Additional 100 Square Feet or Fraction thereof in excess of 50 Square Feet- $20.00

(4) Shop Reviews:

ASME and National Board “R” Review- $1500.00

National Board “R” only review- $800.00

(5) Inspectors Commission:

National Board Examination, Delaware Resident- $75.00

National Board Examination, Non-Delaware Resident- $150.00

Examination for a Delaware Inspector Commission- $100.00

Biennial (2 year) Commission Credential Card Renewal- $25.00

Replacement of Lost or Destroyed Commission- $20.00

(6) Permit for State Special

Boiler or Pressure Vessel- $500.00 Minimum

Nuclear Installation- $2000.00 Minimum.