

AUG 10 1995

**STATE OF MINNESOTA
DEPARTMENT OF LABOR AND INDUSTRY**

In the Matter of the Proposed Amendment
of Minnesota Rules Chapter 5225
Governing Boilers

STATEMENT OF NEED
AND REASONABLENESS

I. OVERVIEW AND STATUTORY AUTHORITY

The Division of Boiler Inspection (Division) of Code Administration and Inspection Services of the Department of Labor and Industry has statutory authority to regulate boats carrying passenger for hire, boilers, and pressure vessels under Minnesota Statutes, sections 183.375 to 183.62 and 175.171 generally and specifically under Minnesota Statutes, sections 183.001, 183.42, 183.44, 183.465, 183.466, and 183.54. The Division promotes public safety through the regulation of boilers, pressure vessels, and boats carrying passengers for hire, and through licensing persons qualified to operate those types of objects.

The proposed amendments to Minnesota Rules, chapter 5225 have been drafted with the goal of clarifying requirements for when different boilers need to be checked and attended.

II. STATEMENT OF NEED AND REASONABLENESS

Part 5225.1140 BOILER OPERATION STANDARDS.

This part was amended to specify which boilers require daily checks and which boilers may be checked less frequently. This rule previously required that all boilers be checked daily by licensed operators. The previous rule was not cost efficient in terms of increased safety. This change is necessary to provide guidance to boiler operators and reasonable because it reduces the economic burden on all businesses that have boilers without reducing the safety of the boilers.

Part 5225.1140 ATTENDANCE AT HIGH PRESSURE PLANT.

Two categories of high pressure boiler plants exist in this part of the rules and the attendance requirement for each category is set out in the first two subparts. The new language in this rule distinguishes between boiler plants operating with an aggregate horsepower of 200 or less and 201 or greater. The proposed parts distinguish between boiler plants because boiler plants with a horsepower of 200 or less do not require continuous observation of the boiler. It is the high pressure boilers that creates a risk to persons and property when left unattended. Consequently, it is important that operating engineers be in attendance at the site continuously.

Subpart 1. Attendance. Under this subpart a boiler plant with a horsepower of 200 or less may be left unattended provided that the routine safety checks are performed by properly licensed personnel, daily.

It is the opinion of the Division that high pressure boilers of up to 200 horsepower may be left in operation without an operating engineer for a 24 hour period. This is because once they have been checked for problems in equipment or operation, this minimizes the possibility of failure with objects in this horsepower range in the 24 hour period of time. The absence

cannot exceed such a period.

Subpart 2. Attendance requirement. All high pressure boiler plants of over 200 horsepower require constant attendance except as provided by Part 5225.1180, subpart 1 or 2. The higher horsepower of these boilers involves more technical and sophisticated hardware and software and that they need constant attendance. More limited absence in a boiler plant of more than 200 horsepower is necessary because these boiler plants are large and complex to operate.

Part 5225.1180 ABSENCE FROM PLANT.

Subpart 1. Exemption. Exemption has been changed to state that a high pressure boiler plant of over 200 horsepower is exempt from high pressure attendance requirements and only requires steam boiler attendance requirements under certain listed conditions. One of the conditions deleted was the provision that the building in which the boiler is located is not occupied except by custodial, maintenance or security personnel. This is no longer necessary because a boiler that already meets the listed conditions is not a danger to those present in the building to the extent that other high pressure boilers could be, due in part to improved technological developments.

Subpart 3. Limitations. Limitations has been amended to reflect a correction to rule subpart citation, due to changes made.

Part 5225.2700 REPAIRS BY INSPECTORS PROHIBITED.

Boiler inspectors are not allowed to perform repairs that require the expertise of other qualified craft personnel. Exceptions to this rule have been deleted for safety reasons.

Part 5225.3100 INSURED COVERAGE REPORT.

This part is amended to state that every person, firm, or corporation operating the insured boiler or pressure vessel shall procure and display an exemption certificate within 90 days from the date of coverage. The previous rule had allowed 60 days. This was changed to allow the insurance company sufficient time to inspect the boiler, and time for the division to process the documentation prior to the statutory time allowed for a division boiler inspector to inspect the boiler and charge a fee.

The second paragraph is also amended to provide that if the exemption certificate is not displayed within 100 days from the date of coverage a division boiler inspector shall inspect and charge a fee. The previous rule had allowed 60 days. This overlap in time is corrected to avoid a duplication of effort.

III. IMPACT ON SMALL BUSINESSES

These amendments affect small businesses, as defined in Minnesota Statutes, section 14.115, subd. 1, in a positive manner because the rules now require less frequent boiler checks in some instances. This will result in an overall cost savings for the businesses, without a decrease in safety to employees or to the public.

IV. COST TO LOCAL PUBLIC BODIES

The Commissioner has considered the fiscal impact of these rules on local public bodies pursuant to Minnesota Statutes, section 14.11, subdivision 1 and has found none. No additional financial burdens are placed on local public bodies, as the adoption of these rules will not require any additional expenditure of public money by local public bodies.

V. IMPACT ON AGRICULTURE LAND, AND EFFECT ON SPANISH SPEAKING PEOPLE

The rule does not affect Spanish speaking people under Minnesota Statutes, section 3.9223, subdivision 4 or agricultural land under Minnesota Statutes, section 14.11, subdivision 2.

VI. OTHER CONSIDERATIONS

This proposed rule will affect owners of boilers and high pressure vessels, boiler operating engineers, employees and the public at large. The owners will bear the costs of the proposed rule change. The costs should be less than under the previous rule in some instances due to the necessity of less frequent boiler checks. Owners, engineers, employees and the public will benefit from this change which will result in no decrease in safety at less cost.

The probable costs to the agency will be negligible. If anything, the costs of enforcement will go down. There are no known costs to other agencies.

After much discussion and input from the affected groups, the agency has determined that this is the least costly and least intrusive method for achieving the purpose of the proposed rule.

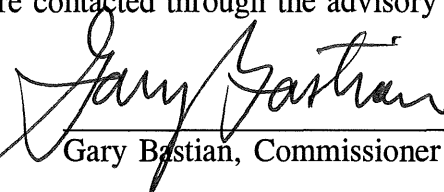
Alternative methods for achieving the purpose of the rule were discussed. One method involving checks three days per week as opposed to five days per week or once per week was rejected, as not well tailored. The rule as written was too broad. The proposed rule is tailored to meet the needs of the various groups affected by it.

Compliance with the proposed rule should be less costly than compliance with the current rule, due to the decreased need for staffing.

There are no differences between these rules and the National Standards. These rules are in compliance with all National Standards.

Efforts to provide additional notification to those who may be affected by the proposed rule were made in person with members of the Code Enforcement Advisory Council, hard copies of the proposed rule were given to some council members as well as telephone discussions with some council members. Business owners and managers were contacted through the advisory council and by telephone. Service groups were contacted through the advisory council.

Date: 8-10-95
PC/ckc



Gary Bastian, Commissioner