

**Draft
Minutes
State of Oregon**

BOARD OF BOILER RULES

**Regular Meeting Minutes
June 7, 2005**

- MEMBERS PRESENT:** John Endicott, Vice-Chairman
Dennis Coplin
Robert Cowling *(arrived at 9:40 a.m.)*
William Fernelius
Thomas Perritt
Monty Redfearn
Fred Widman
Russell Williams
- MEMBERS ABSENT:** Dale McLouth, Chairman
Mike Bradley
John Pyle
- STAFF PRESENT:** Andrea Simmons, Manager of Policy and Technical Services
Mike Graham, Interim Chief Boiler Inspector & Board Secretary
Twyla Knowles, Assistant Manager of Policy and
Technical Services
Terry Swisher, Boiler Program Manager, Chief Plumbing
Inspector
Jim Denno, Statewide Services Manager
Laurie Skillman, Manager of Enforcement and Licensing
Roseanne Nelson, Senior Enforcement Officer
Brent Griffiths, Enforcement Officer
Heath Lawson, Enforcement Officer
Debi Barnes-Woods, Division Boards Coordinator
- GUESTS PRESENT:** Dave Krell, Cascade Boiler Service, Inc.
F. Ray Andrus, Saint Paul Travelers Ins.
Curt Lundine, Curt Lundine Consulting
Jay Bushard, Southern Oregon Inspections
Tony Frances, PHC
Jerry Lantz, Lanz Boiler
Ed Pitzrick, Chubb Insurance
Greg English, Proctor Sales
Paul Cyr, McKinstry Co.
Rodger Vignery, A&V Code Consulting, Inc.
Thomas Lindberg, A&V Code Consulting, Inc.
Bob Cole, Cole Technology
Jonathan Graves, ITU

I. BOARD BUSINESS

I.A. Call to Order

Vice-Chairman John Endicott called the Oregon Board of Boiler Rules to order at 9:30 a.m. The meeting was held at the Building Codes Division, Conference Room "A," 1535 Edgewater NW, Salem, Oregon.

I.B. Roll Call

Chairman Dale McLouth, Mike Bradley, and John Pyle were absent, excused.

I.C. Approval of Agenda and Order of Business

The agenda was amended to hear enforcement cases before Public Comment.

Vice-Chairman Endicott **RULED** the agenda approved as amended.

I.D. Approval of the Regular Board Meeting Minutes of March 1, 2005 and the Special Teleconference meeting minutes of April 7, 2005.

Vice-Chairman Endicott **RULED** the regular meeting minutes of March 1, 2005 and the Special Teleconference meeting minutes of April 7, 2005 approved as mailed.

I.E. Date of the Next Regularly Scheduled Meeting.

September 13, 2005.

(Heard out of order, Agenda amended)

III.C. Enforcement cases.

- 1. Repeat violator, Pacific Northern Industrial, Inc.** Previous penalties were added to the current violations. The division recommended approval of the consent order with penalties assessed.

MOTION by Fred Widman to adopt division recommendation.

MOTION CARRIED UNANIMOUSLY.

- 2. Repeat violator, Air Liquide America L.P.** The company was found in violation of working with an expired business license. Air Liquide America L.P., is in the middle of creating a specific subsidiary for boiler work in Oregon. The division informed Air Liquide America L.P., that the subsidiary needs to be licensed, and all individuals performing boiler work for the company needs to be licensed. All penalties have been paid in full. The division recommended approval of the consent order.

MOTION by Dennis Coplin to adopt division recommendation.

MOTION CARRIED UNANIMOUSLY.

- 3. Repeat violator, Comfort Mechanical Inc.** The division recommended approval of a consent order with penalties assessed.

MOTION by Tom Perritt to adopt division recommendation.

MOTION CARRIED UNANIMOUSLY.

III.D. Summary of enforcement actions previously taken by the division for cases D.1 through 6., outlined on the enforcement board report. (No board action required)

No discussion.

(Item heard out of order)

II. PUBLIC COMMENT

Ray Andrus, Saint Paul Travelers Ins., was concerned with the public notice of hearing for OAR 918-008-0075 to 0115 scheduled June 21, 2005. He said that the division's effort for consistency does not work in the boiler program. Mr. Andrus said that the change would repeal 918-225-0440, which needs to be included in the boiler law.

Mr. Andrus said that a requirement for drawings or calculations by an Oregon licensed registered engineer familiar with the design of boilers and pressure vessels is not included. There are also no requirements for testing, such as radiograph NDE. If the division approves a design less than ASME, which is the American Society of Mechanical Engineers law, the division would be held responsible if an accident was to occur.

Mr. Andrus continued to speak on the proposed statewide code interpretation rules. He said that if a manufacturer requested an interpretation on an ASME code, it must be submitted in writing to the appropriate code committee. The same process applies to the National Board Inspection Code. Mr. Andrus suggested that the division exempt boilers from statewide code interpretations. He included that this is strictly related to the inspections of boiler and pressure vessels. If a boiler inspector does not follow NB369, which are the rules for commissioned inspectors, and the inspector is called before the National Board's peer review board and is found negligent, the inspector's commission may be revoked and would be unable to work as a boiler inspector worldwide.

Dave Krell, Cascade Boiler Service, Inc., voiced his concerns with insurance driven inspections. He felt that state inspectors should inspect all boilers to ensure life safety in Oregon. Mr. Krell brought examples of safety issues taken from boilers found in schools that passed inspection by the insurance companies.

F. Ray Andrus, Saint Paul Travelers Ins., spoke on behalf of his employer, Saint Paul Travelers Ins. The company hires only qualified inspectors. His employer has this policy; If an inspector over looks a malfunctioning control, it is a strike. "Three strikes your out." If an insured refuses to make corrections, they are off the account.

Jay Bushard, Southern Oregon Inspections. Mr. Bushard expressed his continued concerns about not having a state inspector assigned to the Southern Oregon region.

Monty Redfearn advised Mr. Bushard to contact his state legislature due to the safety issue of not having an inspector in that area. Mr. Bushard said that he has had to travel over 400 miles for an inspection.

Vice-Chairman Endicott asked the division to research the amount of inspections requested in that area for a given period of time.

Tom Lindberg, A&V Code Consulting Inc., discussed issues of concern gathered from continuing education classes taught all over the State of Oregon by A & V Code Consulting Inc. He said that the majority of concerns are with the responsibility of owners/users. In all other disciplines, owner/users must carry a license. The only requirements in the boiler program for owners/users are to maintain Section 9 Welding Qualifications. The owner/user may hire anyone who meets the state approved audited in-company qualifications.

Vice-Chairman Endicott said that he will review the issue with Chairman McLouth and suggest that a task force be formed to discuss the responsibilities of owners/users.

Russ Williams suggested that formulating a letter to advise owners/users of their responsibilities may be more inline with what the division is implementing; consistency and accountability.

Another issue of concern gathered from continuing education classes is CSD-1. The division sent a mailing February 28, 2005 related to CSD-1. Mr. Lindberg said that he has heard that there are many inconsistencies between inspectors. All contractors should contact the boiler inspectors. Mike Graham, Interim Chief Boiler Inspector, said that he would work with the inspectors.

Another issue of concern is that individuals from the boiler program as well as individuals from continuing education classes, feel that the boiler program has brought in a lot of revenue, although the program was said to have no funds. Since BCD's budget document is shared with the continuing education classes, individuals are questioning "How will the boiler program be funded if there is no money?"

Andrea Simmons, Manager of Policy and Technical Services, said that the boiler program does have funding issues. The fees collected for the boiler program are located in statute, which have been at the maximum amount allowed and can only be changed through legislation.

III. REPORTS

(Item B heard before Item A)

B. Program update.

Twyla Knowles, Assistant Manager of Policy and Technical Services, distributed several handouts; "The Life of a Code in Oregon," Statewide Code Interpretation draft rules along with the policy and procedures for statewide code interpretations, site specific interpretations, alternative methods rulings, and code appeals, all listed under *Exhibit "A."*

Ms. Knowles explained that the starting point with consistency, customer service, and compliance is with codes. She referred to the document "The Life of a Code in Oregon" and explained the process of code adoption. This document was developed from meetings with board chairmen and vice-chairmen. From those meetings consistent rules across all state boards were developed. Those rules were drafted, reviewed and approved at the board chairmen and vice-chairmen meetings, and they were circulated through an external advisory committee with several interested parties able to review and make comments.

The division asked the board to support the draft rules for rulemaking hearing. In order for the consistent statewide code interpretation process to occur, policies and procedures were developed for statewide code interpretations, site-specific interpretations, and alternate method rulings.

Vice-Chairman Endicott spoke in support of the proposed rules

Members discussed the new rule; 918-008-0095(4) where it is written that the division makes the final decision on the alternate method rulings. Ms. Knowles explained that this paragraph is consistent with what is written in ORS 455.060.

Andrea Simmons, Manager of Policy and Technical Services, said that this new process is not intended to overrule NBIC or the ASME code. If the board requests, the division will make available verbatim minutes of this specific discussion from this meeting as part of the public record for the hearing June 21, 2005 for the hearing officer to take into consideration.

MOTION by Fred Widman to send the draft rules for Statewide Code Interpretation to public hearing with this verbatim discussion as testimony to be entered into the public record for hearing officer's consideration.

MOTION CARRIED UNANIMOUSLY.

A. Legislative report.

Andrea Simmons, Manager of Policy and Technical Services, explained that legislative session is coming to a close, although the division is tracking several construction industry bills. *Exhibit "B."*

SB 421. The bill creates regions throughout the state to assist in the administration of the state building code.

HB 2181. The intent of this bill is to take all the administrative processes for licenses issued at the division out of statute and place them in rule in order to implement consistent processes across all programs. This bill, as well as HB 2180, has been referred to House Budget Committee.

HB 2843. This bill is intended to waive licensing fees for veterans.

Certification Rule Change. A specific section in the new rules will apply to the boiler program. The rule is being adopted July 1, 2005 affecting the structural, mechanical, residential and plan review. Inspectors across all boards will be required to cite code sections when issuing a correction notice beginning January 1, 2006. *Exhibit "C."*

Issues of concern discussed at the March 1, 2005 board meeting.

- 1.) **Code adoption.** The Code Review Committee met and the item is on this agenda for a recommendation.
- 2.) **Overdue inspections.** Overdue inspection document, *Exhibit "D,"* Clay Rhodes, Assistant Chief Boiler Inspector, was given the assignment of completing a thorough review in order to make a recommendation. His recommendation included a 6-month plan. Mr. Rhodes will be working with each state inspector until that inspector's inspections are down to an attainable amount of 100 or less inspections per inspector. Manager Simmons said that the division is discussing the issue of how to prioritize overdues. Ray Andrus, St. Paul Travelers Ins., suggested that the overdue document be broken down to show the amount of overdues for each insurance company.
- 3.) **Category "M" Process Piping.** Mr. Rhodes, was given the assignment of completing a thorough review and to make a recommendation. This issue is still in the review process.
- 4.) **Audit of program review.** Manager Simmons explained that the division has hired an outside source to perform an audit on program operations. A report on the outcome will be provided to the division by mid-summer. Managers from each program area were also assigned the duty of conducting a ride-along with inspectors to review day-to-day activities.
- 5.) **Test validation question.** Terry Swisher, Boiler Program Manager, suggested that with all the code changes, the Test Validation Committee should meet to review all questions in the test pool for accuracy. Current committee members are; Ray Andrus, Dennis Coplin, Michael Callahan, Gary Ellis, Randy Lederbrand, and Steve Nelson. Mr. Swisher also covered information on the Study Guides for rules. Class 2 through Class 5 Study Guides are all accurate information. The Class 5 has a specific book that not only covers material for obtaining that license, but covers material for Class 2, 3, and 4.

6.) Continuing education. Manager Simmons and the Continuing Education Committee reviewed all existing applications for continuing education, whether they were approved or not approved. The committee sent notice May 27 to existing continuing education providers and individuals in the industry. The letter said that on or after July 1, an application for course approval and instructor approval must be completed and sent to the division for the Continuing Education Committee to review. Once approved, the applications would be active until June 30, 2006. The committee will share the approved applications with the board.

Board members expressed an interest in the on-line continuing education course approved through June 30, 2005. Members were interested in taking the on-line test for accuracy. The provider will be contacted for members to take the test.

IV. COMMUNICATIONS

New enforcement officers

- Brent Griffiths, former investigator for BCD, has accepted the position as enforcement officer.
- Heath Lawson, enforcement officer. Mr. Lawson's most current position was with the Court of Appeals.

New Program Manager for Statewide Services

- Jim Denno, hired as the Program manager for Statewide Services.

Informational letter received from Eric Goldberg regarding boiler operation and maintenance requirements.

There was no discussion on this issue.

V. APPEALS - None

VI. UNFINISHED BUSINESS - None

Board review and approval of hearings officer's report and draft rules on code adoption for the Boiler and Pressure Vessel Specialty Code.

MOTION by Russ Williams to approve the code change and recommend rule adoption by the division.

MOTION CARRIED UNANIMOUSLY.

VII. NEW BUSINESS - None

IX. ADJOURNMENT

Vice-Chairman John adjourned the meeting at 12:35

Respectfully submitted,

Debi Barnes-Woods
Division Boards Coordinator/Recorder

Exhibits:

- A. "The Life of a Code in Oregon," Statewide Code Interpretation draft rules, site specific interpretation, alternative method rulings, code appeals and the policy and procedures, ***Agenda Item III.B.***
- B. Legislative summary, ***Agenda Item III.A.***
- C. Document explaining certification rule changes, ***Agenda Item III.A.***
- D. Overdue inspection document, ***Agenda Item III.A.***

**TO OBTAIN COPIES OF EXHIBITS, A PUBLIC RECORD REQUEST MUST BE COMPLETED
BY CLICKING ON THE LINK PROVIDED.**

<http://www.cbs.state.or.us/external/bcd/pdf/2568.pdf>