

**Final minutes
State of Oregon**

BOARD OF BOILER RULES

**Regular meeting minutes
March 7, 2006**

- Members present:** Dale McLouth, Chairman
John Endicott, Vice-Chairman
Mike Bradley
Dennis Coplin
Vince Leedy
Thomas Perritt
- Members absent:** Robert Cowling
John Pyle
Monty Redfearn
Fred Widman
- Staff present:** Mark Long, Administrator of Building Codes Division
Andrea Simmons, Manager of Policy and Technical Services
Mike Graham, Chief Boiler Inspector & Board Secretary
Jim Denno, Statewide Services Manager
Roseanne Nelson, Senior Enforcement Officer
Brent Griffiths, Enforcement Officer
Heath Lawson, Enforcement Officer
Casey Hoyer, Policy Analyst
Philip Johnson, Enforcement Officer
Chris Wilson, SIS/RI Administrative Manager
Crystal Bochsler, Managers Assistant
Liz Browder, SIS-Regional Manager Inspections
Reese Lord, Communications and Training Manager
Debi Barnes-Woods, Division Boards Coordinator
Julie Willard, Division Boards Coordinator
- Guest present:** Curt Lundine, One Beacon America Insurance
Chuck Hill, IDATECH, LLC
Jim Larson, One Beacon America Insurance
Greg English, Proctor Site, Inc.
Ed Pitzrick, Chubb
Rodger Vignery, PPIO
Tom Lindberg, A&V Code Consulting, Inc.
Steve Collins, CH Murphy
Gary Penkava, HSB

I. Board Business

A. Call to order.

Chairman Dale McLouth called the Board of Boiler Rules board meeting to order at 9:43 a.m. The meeting was held at the Building Codes Division, Conference Room "A," 1535 Edgewater NW, Salem, Oregon.

B. Roll call.

Robert Cowling, John Pyle, Monty Redfearn, and Fred Widman, were absent excused.

C. Approval of agenda and order of business.

Chairman McLouth **RULED** the agenda approved.

D. Approval of the regular board meeting minutes of December 6, 2005.

Chairman McLouth **RULED** the regular meeting minutes of December 6, 2005 approved.

E. Date of the Next Regularly Scheduled Meeting.

June 6, 2006.

II. Public Comment

Curt Lundine distributed "ASME Accreditation as an Authorized Inspector, Code Requirements," *Exhibit "A."* Mr. Lundine was denied approval for a special inspector certification because his employer, One Beacon America does not have an active policy of insurance in Oregon.

Jim Larson, Curt Lundine's supervisor at One Beacon America, stated that One CIS is registered as an authorized inspection agency with One Beacon America, and that One CIS is accredited by ASME as an inspection agency. Mr. Larson stated that it is common practice for insurance companies to sub out their insurance to another company.

Manager of Policy and Technical Services, Andrea Simmons, informed the board that according to statute, the insurance company that a special inspector works for must write policies in Oregon. This company writes policies and turns them over to a second company. The division has reviewed the file and asked for further documentation to make a determination concerning which companies fall under the corporate umbrella.

Manager Simmons noted that when an application is denied, the applicant has 60 days from the date of the denial letter to ask for a hearing. A denial letter was sent to Mr. Lundine in December 2005 therefore, the 60-day window for requesting a hearing has expired. Manager Simmons recommended that the board direct staff to reissue a denial letter so that Mr. Lundine can have another opportunity to request a hearing.

Chuck Hill, mechanical engineer for Idatech, LLC, addressed the board. Idatech, LLC manufactures fuel cell systems. Some of its vessels are exempt because of size, but they want the ASME stamp so they can make vessels that are stamped if it is required by the jurisdiction where they are being sent, or if a customer requests the stamp. They have contracted with One Beacon CIS to be its authorized inspection service. Mr. Hill stated that elimination of competition by the state has the appearance of protectionism, and it has made it easier to contract with the state than with private industry.

The division will research whether or not, according to Oregon law, a person must be certified as a special inspector to inspect vessels that are not required to have a stamp. Mr. Hill agreed that the cost of using the state is not prohibitive until the requirements can be changed legislatively.

The information the division has now does not show that One Beacon America and One CIS fall under the same corporate umbrella. Dale McClouth, Chairman, directed the division to reissue the letter of denial for Mr. Lundine's special inspector application, giving him the opportunity to request a hearing.

III. Reports

(Agenda Item III.B. and C., heard before III.A.)

B. Enforcement cases.

1. Repeat violator, Mascott Equipment Company Inc., assessment of civil penalty for failing to obtain a permit prior to commencing work. **Exhibit "B."**

MOTION by Dale McLouth to adopt the division's recommendation for the assessment of the proposed civil penalty for Mascott Equipment Company Inc.

MOTION CARRIED UNANIMOUSLY.

2. Repeat violator, Card Plumbing and Heating Co., assessment of civil penalty for failing to meet minimum safety standards, and for failing to obtain a boiler business license and a permit. **Exhibit "C."** The board proposed that in number three of Exhibit C, the wording should be changed from "at the start of work" to "before the start of work" he must contact the state. A request was made that Card Plumbing develop a process, or a form, that will ensure a plan of action to complete all requirements. Enforcement will work with the respondent to put a form together.

MOTION by Dale McLouth to adopt the division's recommendation for the assessment of the proposed civil penalty for Card Plumbing and Heating Co.

MOTION CARRIED UNANIMOUSLY.

C. Summary of enforcement actions previously taken by the division for cases 1 through 7, outlined on the enforcement board report. (No board action required.)

Roseanne Nelson addressed the board concerning a continuing education issue that was raised at the last board meeting about an individual teaching continuing education classes that were not approved. The confusion revolves around a class being offered as a correspondence course that did not appear to have been approved. After investigation it was revealed that the Chief who was in charge at the time, approved the class, but did not inform the education committee.

Since this was a lack of communication on the part of a former BCD boiler chief, all the students who took the class have been given continuing education credit.

A. Building Codes Division Administrator's report.

2005 BCD accomplishments. *Exhibit "D."* Administrator of Building Codes Division, Mark Long, spoke about BCD accomplishments. The accomplishments include electronic permitting, video streaming of board meetings and hearings, applying and renewing licenses online, minor labels, and improving how inspections are provided for customers. Additional standards of conduct for building officials and inspectors have been developed. BCD has implemented an on-line notification system called GovDelivery. On our website go to "[Online Services](#)" and select "E-mail notifications." This system allows a person to choose the programs they are interested in, register on-line, and receive automatic e-mail notification of updates to those programs. BCD conducted 60,000 inspections, and 474 complaint investigations in 2005. Approximately \$600,000.00 in fines was collected over a two-year period.

Construction Claims Task Force (CCTF). *Exhibit "E."* Administrator Long, spoke about House Bill 2078, which created a construction claims task force. He noted that nothing before this has had this much potential impact on the construction community. Preliminary data shows that in Oregon the problem looks like about \$80 million. Phase I of the work plan focuses on preventing the defect. Phase II will examine contractor liability insurance issues. The task force is focusing on contractor requirement changes, continuing education, specialty competency standards, mandatory warranties, recovery funds, changing the bond amounts, and how to hold people accountable. The task force web site is <http://egov.oregon.gov/DCBS/CCTF/>

Discussion on some recommendations received from the public on CCTF.

Administrator Long, explained that the main problem is moisture inside a structure. It is estimated that there will be a maximum moisture content of 19% allowed in a building before closure. There may be some additional design concepts such as, flashing, doors, windows, and additional contractor education requirements, along with some level of additional inspection. Most of this would be for traditional wood frame residential construction. Commercial issues may be different. In May the task force will conclude Phase I, construction defects and receive public comment regarding concepts under consideration for voting to approve or disapprove concepts for drafting.

BCD's budget. Administrator Long distributed Building Codes Division 03-05 Estimate, and Building Codes Division 05-07 Estimate, *Exhibit "F,"* and *"G."* The budget picture has actually improved. The revenue comes from three sources; permits, surcharges, and license fees.

Licensing and surcharge revenue are the predictable sources of revenue. Permits are the ones that are volatile, they are directly reflective of the construction industry.

D. Program update.

Manager Simmons spoke to the board. HB 2181 gives the division the ability to make all 89 license types consistent. Concepts have been developed and are in the rulemaking process. The next rule advisory committee is March 29, 2006, this should be the last rule advisory committee meeting, then those ideas will be shared with the board. Some things to expect are, moving licenses to a three-year cycle, and the board determines what continuing education is required. The next step will be to discuss enforcement.

Jim Denno distributed Boiler Safety Program, Recommended Inspections, *Exhibit "H."* Mr. Denno asked the board to appoint a committee to review the changes outlined in Exhibit H, make recommendations, and write rules. The board suggested that in order to streamline the process, all minor repairs requiring a permit and inspection, such as installing controls and instrumentation, be inspected and signed off by the inspector at the same time. If there is an installer with a bad track record, there could be more stringent monitoring of that particular individual or company.

MOTION by Dennis Coplin to support staff recommendations (as amended) for changing inspection periods in the program and to bringing the recommended changes to a rule advisory committee appointed by the board as soon as practicable.

MOTION CARRIED UNANIMOUSLY.

Roger Vignery, Tom Lindberg, Dennis Coplin, and Ed Pitzrick volunteered to sit on the committee to review the boiler safety program. There will need to be at least five members on the committee. Manager Simmons will contact the absent board members to see if they are available to participate on the committee.

Tom Perritt will be gone from the middle of April to the first of June.

Mike Graham has accepted the position of chief boiler inspector.

Vessel Responsibility Versus Overdues by Entity. *Exhibit "I"* was distributed. Mr. Denno emphasized overdue boiler inspections. The current number of overdue inspections is 1,893. At the time of the last board meeting the total was 2,023.

Mr. Denno informed the board that in the past when an insurance site switched insurance companies or were dropped by an insurance company those vessels would immediately become the responsibility of the state. Often, by the time a state inspector arrived to inspect the vessel, the owner had obtained new insurance and did not need the service of the state.

The system has been reprogrammed so that these agencies of record (AOR) changes go into a holding tank. They stay there while BCD notifies the owner of the change, and requests information about new insurance. If insurance information is not delivered to BCD within 90 days, the vessel becomes the responsibility of the state and BCD conducts the inspections.

IV. Communications

Update on code adoption process rulemaking.

Manager Simmons discussed the code adoption process and timeline. The division is responsible for adopting 11 different specialty codes. Oregon has seven different advisory boards. The goals of the rules are meant to develop a consistent process for code adoption with consistent criteria for code amendments in Oregon. The process provides for a flexible start date for code change submittals. The division is looking at adopting a new model code every three years and amending the code once in between.

Manager Simmons updated the board on the issue of Jonathan Graves (ITU) application to be a continuing education provider. She stated that to meet the legal requirements for a denial letter the division must obtain additional information concerning the defects of the class. Mr. McLouth will deliver the needed information to Manager Simmons.

All board members have received an invitation to the Annual Oregon Boiler and Pressure Vessel Association meeting scheduled in March.

V. Appeals - None

VI. Unfinished Business -None

VII. New Business-None

IX. Adjournment

Chairman Dale McLouth adjourned the meeting at 12:20 p.m.

Respectfully submitted,

Julie Willard
Division Boards Coordinator/Recorder

Exhibits:

- A. "ASME Accreditation as an Authorized Inspector, Code Requirements,." agenda item II.
- B. Plan of action submitted by Mascott Equipment Company Inc., agenda item III.B.1.
- C. Hand written document on procedures for permits submitted by Card Plumbing and Heating Co., agenda item III.B.2.
- D. List of BCD accomplishments, agenda item III.A.
- E. Information concerning Construction Claims Task Force (CCTF), agenda item III.A.
- F. BCD's budget document for 03-05 estimate, agenda item III.A.
- G. BCD's budget document for 05-07 estimate, agenda item III.A.
- H. Document covering the recommended inspections for the boiler safety program, agenda item III.A.
- I. Document on vessel responsibility versus overdues by entity for the boiler/pressure vessel program, 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>