



October 21, 2008

**Boiler program alternate method use and
data reporting changes**

Opportunity for public input:

Those who would like to provide public testimony may attend a public hearing on October 21, 2008 at 11:00 a.m. The hearing will be located at the Building Codes Division, Conference Room A. Written comments may also be submitted to the contact below. The last day to submit written comments is 5:00 p.m. October 24, 2008.

Live broadcast via the internet:

To view the public hearing live, click on "[View live meetings](#)"

Purpose of the rule:

These proposed rules will allow the division to issue alternate method rulings for boilers and pressure vessels allowing Oregon businesses to take advantage of new technologies in areas like renewable energy and sustainability. These proposed rules would also recognize boilers or pressure vessels not built to American Society of Mechanical Engineers (ASME) or Canadian Standards Association (CSA) standards intended for installation in Oregon to have manufacturer's construction data on file with the division prior to installation.

If adopted, these rules would become effective January 1, 2009.

Citation:

Amend: OAR 918-008 and 918-225

History:

In 2005, the division, with the approval of its various advisory boards, adopted rules developing a standard process for adopting statewide code interpretations, site-specific interpretations, and alternate method rulings. At that time, the Board of Boiler Rules opted out of participating in this program.

Advances in technology and contractors working on renewable energy projects for schools, industries, or other customers needing access to a broad range of technology and products prompted the Board of Boiler Rules to consider participation in the alternate method process.

The Board of Boiler Rules, at its September 9, 2008 meeting, considered and approved the proposed rules for public hearing and subsequent adoption.

Contact:

If you have questions or need further information, please contact Hearing Officer Celina Patterson at 503-373-0855, or Celina.R.Patterson@state.or.us .



Secretary of State
NOTICE OF PROPOSED RULEMAKING HEARING*

A Statement of Need and Fiscal Impact accompanies this form.

Department of Consumer and Business Services, Building Codes Division	918
Agency and Division	Administrative Rules Chapter Number

Shauna M. Parker	PO Box 14470, Salem, OR 97309	(503) 373-7438
Rules Coordinator	Address	Telephone

RULE CAPTION

Allows boiler program to use alternate method process and revises boiler data report rule.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

October 21, 2008	11:00 a.m.	1535 Edgewater Street NW, Salem, OR 97304	Celina Patterson
Hearing Date	Time	Location	Hearings Officer

Auxiliary aids for persons with disabilities are available upon advance request.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.

ADOPT:

AMEND: OAR 918-008 & 918-225

REPEAL:

RENUMBER:

AMEND & RENUMBER:

Stat. Auth.: ORS 455.060, 455.100, 455.110, 455.144, 455.148, 455.150, 455.740, & 480.545

Other Auth.:

Stats. Implemented: ORS 455.060, 455.100, 455.110, 455.148, 455.150, 455.740, & 480.545

RULE SUMMARY

These proposed rules will allow the division to issue alternate method rulings for the boiler and pressure vessel program, allowing contractors to use new technologies. These proposed rules also require that any boiler or pressure vessel not built to ASME or Canadian Standards Association standards have manufacturer's construction data, and written in English, on file with the division prior to installation.

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

Friday, October 24, 2008 at 5:00 p.m.

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Mark Long		
Signature	Printed name	Date

*Hearing Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. ARC 920-2005

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Department of Consumer and Business Services, Building Codes Division

918

Agency and Division

Administrative Rules Chapter Number

Allows boiler and pressure vessel program to use alternate method process, possibly expanding acceptable products.

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of: Amending 918-008 & 918-225

Statutory Authority: ORS 455.060, 455.100, 455.110, 455.144, 455.148, 455.150, 455.740, & 480.545

Other Authority:

Stats. Implemented: ORS 455.060, 455.100, 455.110, 455.148, 455.150, 455.740, & 480.545

Need for the Rule(s): In 2005, the division, with the approval of its advisory boards, adopted rules developing a standard process for adopting statewide code interpretations, site-specific interpretations, and alternate method rulings. At that time, the Board of Boiler Rules opted out of participating in this program. Advances in technology prompted the Board of Boiler Rules to request boiler and pressure vessel program participation in the alternate method process. Contractors working on renewable energy projects for schools, industries, or other customers need to have access to a broad range of technology and products. These rules are necessary before the boiler and pressure vessel program can issue alternate method rulings, interpretations, etc. The data report rule was changed so that boilers and pressure vessels installed under an alternate method ruling will also have construction specifications on file before installation.

Documents Relied Upon, and where they are available: Board of Boiler Rules minutes from September 9, 2008; and draft rules are available from the division's rules coordinator located at 1535 Edgewater Street NW, Salem, Oregon 97304, and are available on the division's Web site at: www.bcd.oregon.gov.

Fiscal and Economic Impact:

Contractors and consumers should see a positive economic impact from the proposed rules, because they could allow access to a broader array of products and competitive pricing for Oregon businesses constructing boilers and pressure vessels. These proposed rules will not have a significant fiscal or economic impact on state agencies other than the Building Codes Division, units of local government, members of the public or small businesses. The Building Codes Division may see a slight increase in costs based on the requirement of filing Manufacturers Data Reports with the division for non-ASME or CSA boiler or pressure vessels.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

Based on information available to the division, the division does not estimate that the proposed rules will have any significant foreseeable impact on state agencies other than the Building Codes Division, units of local government, or the public. The Building Codes Division may see a slight increase in costs based on the requirement of filing Manufacturers Data Reports with the division for non-ASME or CSA boiler or pressure vessels.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:

The division licenses approximately 350 boiler businesses, however the division is unable to determine how many of these licensed boiler businesses are small businesses, since boiler construction facilities are unlikely to meet the definition of small business. The proposed rule, however, should not impose any additional costs on any small business. The proposed rule may provide a cost savings to small businesses because there will be more boiler and pressure vessel options for installation in the state of Oregon.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

The proposed rules do not significantly increase record keeping and administrative activities. There may be a slight increase in reporting activity costs due to the requirement of filing a Manufacturer's Data Report for non-ASME or CSA boiler or pressure vessels with the division.

c. Equipment, supplies, labor and increased administration required for compliance:

The proposed rules do not impose any additional equipment, supplies, labor, or increased administration required for compliance on small businesses.

How were small businesses involved in the development of this rule? Small businesses are represented on the Board of Boiler Rules who reviewed the proposed rules at its September 9, 2008 meeting.

Administrative Rule Advisory Committee consulted?: No

If not, why?: The Board of Boiler Rules reviewed these rules. The board represents a wide segment of the boiler and pressure vessel industry.

Mark Long

Signature

Printed name

Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310. ARC 925-2007

Boiler Alternate Method & Data Report Rules
Draft- 9-11-08

918-008-0075

Scope and Purpose

(1) OAR 918-008-0075 to 918-008-0115 applies to the state building code adopted by the division as defined in ORS 455.010. The purpose of these rules is to create a standard process for statewide code interpretations, site-specific interpretations, and alternate method rulings for all specialty code programs, ~~areas except the boiler program.~~

(2) Statewide code interpretations and site-specific interpretations clarify existing provisions of the state building code and are not intended to create new provisions.

(3) Alternate method rulings on products not covered in the current state building code apply only to new products, materials, or methods, and do not create new sections of code.

Stat. Auth.: ORS 455.060, 455.100, 455.110 & 455.144

Stats. Implemented: ORS 455.060, 455.100 & 455.110

Hist.: BCD 16-2005(Temp), f. & cert. ef. 7-7-05 thru 12-31-05; BCD 30-2005, f. 12-30-05, cert. ef. 1-1-06

918-008-0080

Definitions

(1) "Alternate Method Ruling" is a request to rule on the acceptability of new materials, designs, or innovative methods of construction not covered by the state building code.

(2) "Petitioner" means:

(a) Any person residing, currently doing business, wishing to do business, or owning property in the State of Oregon; or

(b) A building official authorized to administer and enforce the state building code under **ORS** 455.148 or 455.150.

(3) "Site-Specific Interpretation" means a division-issued interpretation of a specialty code provision for use by a municipality that applies only to a single project. Site-specific code interpretations assist a local jurisdiction by providing an explanation of the meaning or intent of specific code provisions or sections as they apply to work permitted by the local jurisdiction. Nothing in this section replaces local processes for site-specific interpretations.

(4) "Statewide Code Interpretation" means a division-issued binding interpretation of a specialty code provision that applies in all jurisdictions. Statewide code interpretations provide an explanation of the meaning or intent of specific code provisions or sections.

Stat. Auth.: ORS 455.060, 455.100, 455.110 & 455.144

Stats. Implemented: ORS 455.060, 455.100 & 455.110

Hist.: BCD 16-2005(Temp), f. & cert. ef. 7-7-05 thru 12-31-05; BCD 30-2005, f. 12-30-05, cert. ef. 1-1-06

918-008-0085

Statewide Code Interpretation Process

(1) A petitioner may request a statewide code interpretation by providing the following information in writing or on division approved forms:

(a) A brief description of the facts and circumstances giving rise to the need for a statewide code interpretation; and

(b) The specialty code section at issue.

(2) Notwithstanding subsections **(1)**(a) and (b) of this rule, the division may elect to accept a substantially complete request for a statewide code interpretation if circumstances merit.

(3) After receipt and approval of a petitioner's request for interpretation, the division will process the request, reach a conclusion, and distribute the decision.

(4) ~~Every~~**Each** quarter, the division will communicate **to the appropriate advisory board** its actions ~~occurring in the previous quarter~~ concerning statewide code interpretations ~~to the appropriate advisory board~~.

Stat. Auth.: ORS 455.060, 455.100, 455.110 & 455.144

Stats. Implemented: ORS 455.060, 455.100 & 455.110

Hist.: BCD 16-2005(Temp), f. & cert. ef. 7-7-05 thru 12-31-05; BCD 30-2005, f. 12-30-05, cert. ef. 1-1-06

918-008-0090

Site-Specific Interpretation Process

(1) A building official may request a site-specific interpretation by providing the following information in writing or on division approved forms:

(a) A brief description of the facts and circumstances giving rise to the need for a site-specific interpretation;

(b) The specialty code section at issue; **and**

(c) The physical address of the building site.

(2) Notwithstanding subsection **(1)**(a) through (c) of this rule, the division may elect to accept a substantially complete request for a site-specific interpretation if circumstances merit.

(3) After receipt and approval of a building official's request for interpretation, the division will process the request, reach a conclusion, and distribute the decision.

Stat. Auth.: ORS 455.100, 455.110 & 455.144

Stats. Implemented: ORS 455.100 & 455.110

Hist.: BCD 16-2005(Temp), f. & cert. ef. 7-7-05 thru 12-31-05; BCD 30-2005, f. 12-30-05, cert. ef. 1-1-06

918-008-0095

Alternate Method Ruling Process

(1) A petitioner may request an alternate method ruling by providing the following information in writing or on division approved forms:

(a) Information on the material, design, or method the person wishes to utilize;

(b) The specialty code section at issue; **and**

(c) A brief description of the scientific and technical facts and circumstances giving rise to the need for an alternate method ruling.

(2) Notwithstanding subsections **(1)**(a) through (c) of this rule, the division may elect to accept a substantially complete request for **an** alternate method ruling if circumstances merit.

(3) After receipt of a petitioner's complete request for interpretation, the appropriate advisory board makes a recommendation on the scientific and technical ~~merits~~ **facts** of the proposed alternate method ruling, consistent with ORS 455.060.

(4) After considering the recommendation of the appropriate advisory board, the division makes the final decision on the alternate method ruling and distributes the decision consistent with ORS 455.060.

Stat. Auth.: 455.060 & 455.144

Stats. Implemented: 455.060

Hist.: BCD 16-2005(Temp), f. & cert. ef. 7-7-05 thru 12-31-05; BCD 30-2005, f. 12-30-05, cert. ef. 1-1-06

918-008-0110

Enforcement

All jurisdictions administering and enforcing the state building code must enforce statewide code interpretations and allow the use of alternate method rulings consistent with the original scope of the ruling. Failure to enforce statewide code interpretations or allow statewide alternate method rulings may subject building officials, plans examiners, and inspectors to revocation or suspension of certifications.

Stat. Auth.: ORS 455.144, 455.148, 455.150 & 455.740

Stats. Implemented: ORS 455.148, 455.150 & 455.740

Hist.: BCD 16-2005(Temp), f. & cert. ef. 7-7-05 thru 12-31-05; BCD 30-2005, f. 12-30-05, cert. ef. 1-1-06

918-008-0115

Reconsideration of Division Determination

In accordance with OAR 137-003-0090, 137-004-0080, and ORS 183.484(2):

(1) A petitioner whose request for a site-specific interpretation or a statewide code interpretation was denied may request reconsideration of the agency decision.

(2) Any person, including a member of an advisory board as defined under **ORS** 455.010, adversely affected or aggrieved by an interpretation may request the division reconsider its determination.

(3) Interpretations or rulings remain in effect despite a reconsideration request unless a petitioner specifically requests and is granted a stay of enforcement of the interpretation.

Stat. Auth.: ORS 455.100, 455.110 & 455.144

Stats. Implemented: ORS 455.100, 455.110

Hist.: BCD 16-2005(Temp), f. & cert. ef. 7-7-05 thru 12-31-05; BCD 30-2005, f. 12-30-05, cert. ef. 1-1-06

918-225-0450

Manufacturer's Data Reports

(1) ~~Except as provided in section (3) of this rule, a~~ **For new boilers or pressure vessels built to ASME or Canadian Standards Association standards, a** Manufacturer's Data Report shall be filed with the National Board of Boiler and Pressure Vessel Inspectors before installing any new boiler or pressure vessel subject to installation inspection in Oregon. A copy of the filing is provided to the chief inspector by the National Board of Boiler and Pressure Vessel Inspectors when the boiler is to be installed in Oregon.

(2) For new boilers or pressure vessels not built to ASME or Canadian Standards Association standards, that are approved for installation in Oregon through administrative rule or an alternate method ruling, manufacturer's construction specifications that are comparable to a Manufacturer's Data Report and that are written in English, shall be filed with the division before installation.

~~(2)~~**(3)** A Manufacturer's Data Report shall be filed with the chief inspector before installing any new unfired miniature pressure vessel or used boiler or pressure vessel subject to installation inspection in Oregon.

~~(3)~~**(4)** This rule does not apply to cast iron boilers.

Stat. Auth.: ORS 480.545

Stats. Implemented: ORS 480.545

Hist.: DC 19, f. 6-21-73, ef. 7-1-73; DC 2-1982, f. & ef. 2-3-82; DC 21-1984, f. & ef. 5-15-84; DC 32-1984, f. & ef. 10-19-84; Renumbered from 814-025-0008; BCA 36-1993, f. 12-30-93, cert. ef. 1-1-94; Renumbered from 918-225-0020; BCD 18-1997, f. 12-3-97, cert. ef. 1-1-98