

STATE OF MINNESOTA DEPARTMENT OF LABOR AND INDUSTRY

In the Matter of the Proposed Amendment STATEMENT OF NEED
to Minnesota Rules Chapter 5225 Governing AND REASONABLENESS
Boilers and Boats for Hire

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 passengers 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 and updating the rules, including the creation of definitions for terms used in chapter 5225, expansion of an engineer's presence in an operating boiler plant, clarification of the boiler license examination process, simplifying the experience requirements for all classes of boiler licenses, specifying items requiring inspection, clarification of reporting of repairs and alterations, and the creation of penalties for non-compliance and late payment.

II. CONSIDERATIONS

M. S. § 14.11 concerning cost to local public bodies is not applicable to these rules because it is estimated that the total cost to public bodies to implement the rule for either of the two years following its adoption is less than \$100,000. Neither the fee schedule nor the number of objects inspected has changed under these rule amendments. The rules are primarily of clarification and implementing the National Standards referred to in the statute.

These amendments to existing rules will not independently affect small businesses as defined by Minnesota Statutes, Section 14.115 Subd. 1 because, in essence, they only give more clear detail to Minnesota Statutes on boilers.

The amendments will not affect small businesses independently because the amendments in these rules have already been required by statute or its adopted codes. Boilers are required to be operated in a safe and efficient manner and the Codes referenced by the statute as governing are being implemented. Fees are not being changed. The objects that require inspection are not being changed.

The standards to which businesses are being held is being set down with more detail. This aids rather than hinders small businesses in that they will no longer need to guess about what the requirement of maintaining boilers in a safe condition consists of.

further continuing to comply with these standards increases safety and the longevity of the objects and is in the interest of businesses in the long run.

Even if there were impact beyond that already required such impact was considered in their promulgation. The burden of regulation in areas that do not result in increased safety is lessened in a number of instances. An employer is now allowed to document operating engineer experience for licensing purposes, the waiting period for operating engineer license retest has been simplified and shortened, and shift engineer presence at the boiler has been modified to be less burdensome, for example. The rule reader will see a number of other instances throughout the rules where the burden of complex or unnecessary requirements has been simplified or relaxed.

While there are two provisions in the rule amendments that give detail to the Department's assessment of a penalty under Minnesota Statutes, Section 183.001, Minnesota Statutes, Section 16A.1285's requirements for Departmental earnings are not applicable to them for several reasons:

1. such provisions have not previously come under the requirements of the predecessor to Minnesota Statutes, Section 16A.1285, and
2. the amount of the penalty is otherwise provided for by law at Minnesota Statutes, Section 183.001, and
3. this detailing of the assessment in the rules will produce insignificant revenues and any assessment is non-recurring as exempted by Minnesota Statutes, Section 16A.1285.

5225.0010 SCOPE.

This part was amended to incorporate the new numbering of these proposed rules including the new part 5225.0050, "Definitions". The detailing of what all is covered in the rules is simply added to spell out in more detail for the reader what follows. Unnecessary language is deleted. The substance of this part is not affected by the amendments.

5225.0050 DEFINITIONS.

This part is necessary and reasonable to explain the precise meaning of these terms as used in this chapter. The meanings are generally from the ASME Codes referenced in Chapter 183 of Minnesota Statutes. The meaning of each term is self-evident from the given definition.

5225.0090 INCORPORATION BY REFERENCE.

The amendment to subpart 1 adds the statutory reference which incorporates codes and standards for boilers and pressure vessels as well as authorizing additional rules to be adopted by the Department. This puts all needed references in one place and helps to ensure that the statutory standards are followed.

Subpart 2 is amended to add the specific sections of the Code that are incorporated so that there can be no confusion as to which volumes are referenced. This simply adds further detail to the existing rule without changing the substance.

An amendment to subparts 2, 3 and 4 deletes the portions which incorporate the July, 1986 publication of the national codes. It is necessary and reasonable to delete the

reference to a specific year of the incorporated national codes because Minnesota Statutes, sections 183.46 and 183.465 require the standards applied to boilers and pressure vessels to be the latest publication of the incorporated national codes. To comply with Minnesota Statutes the proposed amendments state that the most recent publication will apply. It has not been possible to amend the rules to keep current with code changes otherwise.

Finally, the library location of the various code and standards is updated to reflect where they are currently located.

5225.0100 APPLICATION FOR OPERATING ENGINEER LICENSE

The term "boiler" is being deleted in this section in order to utilize the newly-defined term "operating engineer." This is needed and reasonable because the newly-defined term already incorporates the modifier "boiler" such that with the change the meaning of the rule language is not changed.

The word "operating" is also inserted to modify experience, again in order to use the newly-defined term "operating experience" to indicate more precisely what type of experience is needed to qualify for licensure. This precision should assist in resolving disputes which have arisen in the past concerning what types of boiler experience provide the expertise needed to safely work with these object.

5225.0300 EXPIRATION AND RENEWALS.

The amendments are made to utilize now-defined terms and for the purpose of clarity. Subpart 1 utilizes the defined term "operating engineer" without changing the substance of the provision. Renewal licenses are not given consecutive numbers as they are renewed at various times so the rule is modified to reflect the actual practice. The clarifications in subparts 2 and 3 make no change in substance but clarify the renewal process for an expired license within one year of expiration and what happens after that one year. An error in the language of subpart 3 is corrected so the language accomplishes what the intent of the language was all along, to describe the process for reapplication after one year after expiration of a license.

5225.0400 BASIC LICENSE REQUIREMENT AND DUTY.

This proposed part deletes the word "steam" from the present part. It is reasonable to delete the word "steam" because boilers today are operated as either steam or hot water. Deletion of the word "steam" clarifies that the jurisdiction of the Department of Labor and Industry extends to all types of boilers and not just those operated by steam. The statute for example, at M. S. § 183.44 clearly indicates that all boilers are subject to this regulation.

The second paragraph of this part is, in large part, simply moved from the current Part 5225.1000. This provision, which requires reporting of a violation of the law regarding the operation of boilers and pressure vessels by appropriately licensed personnel, fits more appropriately under this part than under a rule part concerning boiler horsepower rating. The change is needed and reasonable in order to see that all provisions concerning the license requirement are available at one appropriate part of the

rules.

Language is added to the paragraph in order to clarify that it is not only boiler inspectors who have an obligation to report the operation of objects by inadequately-licensed operators, but that owners of the objects and the chief engineer also have an obligation to see to it that appropriately licensed operators are used. M. S. §§ 183.52 and 183.61, for example, create this obligation on the part of owners and others. The existing language, while appropriately stating the obligation, could be read to imply that only inspectors have the obligation to see that unlawful operation of boilers does not occur.

5225.0410 HIGH PRESSURE BOILER, CHIEF OPERATING ENGINEER.

This proposed part incorporates the statutory concept at Minnesota Statutes Section 183.51 that boiler plants of more than 300 horsepower must be overseen by an engineer with more than a first class license; it must have an engineer with a license of chief class. In addition, for situations where there is more than one chief class license holder at one employer it is necessary to require a supervisory chief engineer to be in charge of large boiler plants to ensure overall safe operation of the boiler and to establish a definitive decision maker regarding the operation of the boiler. "Chief engineer" is a term proposed to be defined in the definitions section.

The requirement that the chief engineer be at the boiler plant at least four hours per day five days per week is needed to ensure comprehensive supervision of boiler's operation and maintenance. This is because problems have arisen in situations where the chief engineer was not present; for example, when a decision needed to be made as to whether the continued operation of a boiler would constitute a health and safety hazard and the operating engineers who were present disagreed. An immediate decision needed to be made by the operating engineer in charge and his or her presence was essential to such a determination. Also, in some plants there are a number of operating engineers with chief class licenses and it is for this reason that the proposed rule requires the designation of a chief engineer to perform this decision-making function.

5225.0500 EXAMINATIONS.

Subpart 1. The proposed amendment to this subpart provides the opportunity for illiterate applicants for a second class or special class operating engineer license to take an oral exam. It is necessary and reasonable to provide oral exams to accommodate illiterate applicants because, without this opportunity, the applicant would not be able to take the test. There is no risk to safety in making the amendment because the boilers that those possessing a special or second class license may operate are not as complicated as those for higher grades and are maintainable without the necessity of reading skills.

Subpart 2. Minimum grade. The addition of "new" to this part only clarifies what is set out in subpart 3, that an applicant's failure to pass an exam for a new class of license does not affect any current license they have.

The minimum grade on the examinations is proposed to be changed to 70 percent

in order to conform with the passing grade of almost all state and federal examinations. Examples include the National Board, the military, Minnesota driver's license, electrician and plumbers, and high pressure piping examinations. The deletion of "nor may any other grade of license be granted" is needed because an applicant who fails can then test for a lower grade of license than that previously tested for and, if that test is passed, they may be granted the license of that lower grade. "at least" is added by way of clarification that an applicant who receives a score above 70 percent will not be excluded from other licenses. While that has been the practice, the new rule language could otherwise have been read to make those scoring above 70 ineligible.

Subpart 3. Effect of failure. The proposed amendment drops the different waiting periods for retaking a test and changes them all to "ten days". The varying waiting periods were confusing and there was not justification for the complexity of the different lengths of waits for the different classes. To simplify the rules and to make the waiting periods less restrictive, the waiting period to retake an exam is proposed to be 10 days regardless of the class being tested for. This will have no impact on the quality of applicants and licensees because the applicant must still prove their competence by passing the examination before a license will be issued.

The amendment to the last sentence is of clarification only.

5225.0550 EXPERIENCE REQUIREMENTS AND DOCUMENTATION FOR LICENSURE AS AN OPERATING ENGINEER.

The amendments proposed to this part simplify the experience and documentation requirements of application for an operating engineer's license by stating the requirements which apply to any class of operating engineer license. Under the present subparts the experience and documentation requirements are commingled and repeated in each subpart for each type of license applied for. The amendment is reasonable in that it clarifies the requirements by separating experience requirements from the documentation requirements for that experience and simplifies the documentation requirements by stating it only once. This is explained in the proposed second sentence of subpart 1. Changes are made throughout this part to utilize newly-defined terms.

Subpart 1. **Compliance requirements.** The last two sentences of this subpart add the requirement that operating experience, to be acceptable for licensing purposes, must have occurred in the last ten years. Technological advances in the area of boilers and pressure vessels have occurred rapidly with new controls and modern equipment to an extent that experience gained 20 and 40 years ago has little applicability in ensuring the safety of operations today. As a result, it is important that for new applicants the rules specify that the operating experience required to prove eligibility for licensure must have occurred recently and, consequently, on relatively modern equipment. Because this is a relatively significant change from the previous rule, exception is allowed by the chief boiler inspector, but only upon the objective showing that such earlier experience is pertinent to current operations. This will give the applicant with earlier experience the

opportunity for review to see if such applicant can show familiarity with the new methods of operation on these plants.

Subpart 2. **Special class experience requirements.** This proposed amended subpart is changed for grammatical ease of reading. The meaning of this subpart remains the same.

Subparts 3,4,5, and 6. **Experience requirements of different classes.** Under the existing subparts an applicant for a particular type of boiler engineer license must demonstrate specific work experience on a type of boiler to apply for that type of license. These amendments first separate the experience requirements from the documentation requirements, moving the documentation requirements to subpart 9 for the sake of clarity in not confusing what is actually a substantive experience requirement with a less substantive requirement of what documentation is acceptable to "prove" the experience. A general statement of acceptable experience documentation is then set out at subpart 9.

The statutory provisions setting out the experience requirements are then cross referenced in the proposed amendments. It is necessary to do so to acknowledge legitimate work experience not listed in the existing subparts. It is reasonable to cross reference the type of valid experience necessary to attain a license to be consistent with the statutory requirements under Minnesota Statutes, section 183.51. Although the proposed amendments appear to broaden the acceptable work experience, safe operation and maintenance of boilers will not be jeopardized because the proposed amendments are simply in compliance with relevant Minnesota Statutes which have been the governing law. Other changes in these subparts are made to utilize defined terms and to add clarity.

Subpart 8. **Hobby operating engineer license experience and documentation.** This subpart contains both the experience and documentation requirements for the hobby operating engineer's license. Except for the last sentence the modifications in Item A and B are made solely to utilize newly defined terms and for clarification. The last sentence allows the same alternative form of verification of experience by the chief boiler inspector that is allowed for other operating engineers in subpart 9. The need is explained there.

Subpart 9. **Supporting documentation.** This amendment modifies the current language and adds to it, incorporating both the documentation requirements that had previously been commingled with the experience requirements of subparts 3 through 6 and new provisions which merely set out the current practice of the Division in requiring a notarized affidavit or other specific documents to verify the experience required. A category giving the chief boiler inspector discretion in instances in which one of the other forms of documentation cannot be provided is added, but only with the standards set out: that the information therein is verifiable and sufficient to determine the appropriate class and grade. The need for this category in addition to Items A through C of documentation has been demonstrated in instances in which applicants who have worked in a jurisdiction

other than Minnesota have not been able to produce an affidavit for their experience because the direct supervisor or other persons are no longer with the company. In these instances for affidavit verification the chief may need to call the company to verify the applicant's experience, and the proposed rule makes that allowance.

Subpart 10. **Year defined.** This proposed amendment adds an explanation of what constitutes a year as applied to operating engineers operating low pressure heating boilers. It is necessary to distinguish what constitutes a year between high pressure and low pressure heating boilers because of the difference in the amount of time each of these boilers is in operation throughout the year. High pressure boilers are generally in operation all year long, so it is not difficult for those operating engineers to obtain 2000 hours of experience operating the boiler. However, low pressure heating boilers are generally only operated during the heating season; thus it is difficult for operating engineers on these types of boilers to obtain 2000 hours of work experience when a heating season may amount to only 1120 hours. Thus, it is reasonable, for operating engineers operating low pressure heating boilers, to define a year's experience as one heating season of operating, and the rest of the year maintaining, boilers.

5225.0600 PROHIBITION AGAINST FALSE STATEMENTS IN APPLICATION

The last sentence of this part is proposed to be deleted because the provision is not reasonable as it reads currently. The part is dealing with false statements such that the license would not have been granted if the accurate information was provided. As such, there was no basis for stating that the applicant could reapply for licensure. If the accurate information would lead to a denial of the license, then it was not reasonable to imply that reapplication could lead to a different result.

Procedures to contest a determination of the commissioner on licensing continue to be set out at Part 5225.0880 such that due process is protected.

5225.0700 LOSS OR DESTRUCTION OF LICENSE.

The modifications to this part are made in order to distinguish the treatment of two different forms of license issued, the display size and the wallet size. Replacement of the display size license will require reapplication by the license holder while replacement of the wallet size document will require the written statement of loss of the license holder. This distinction is made because the wallet size is computer generated, readily replaced and has an expiration date. The display size has no expiration date on it and is not used to verify current licensure after the first year. Rapid replacement is not, therefore, an imperative for this form.

Another modification to this part gives the citation to the specific fee that must be paid for this reissuance.

5225.0880 DISCIPLINARY PROCEDURES.

Only minor changes are proposed to this part to utilize newly-defined terms.

5225.0900 DISPLAY OF LICENSE

It is reasonable and needed to delete the words "placed in a glassed frame and be" in the current rule because it doesn't really make any difference whether the license is in glass or plastic or whatever so long as it is displayed. It will be in the displayer's interest to see that the license is preserved in some manner as well.

Other modifications are proposed to utilize newly-defined terms.

5225.1000 BOILER HORSEPOWER RATING.

The last sentence of the first paragraph is moved from this part to the more appropriate placement in part 5225.0400 dealing with the basic license requirement.

The proposed new second paragraph is a clarification of the way that the formula in the stricken second paragraph was used. It explains how the horsepower rating of a boiler plant is determined. Further explanation is needed because some new boilers do not allow for the old method of calculation. Pursuant to Minnesota Statutes, section 183.51, subdivision 15, ten square feet of heating surface is considered equivalent to one boiler horsepower for conventional boilers. The method given in this new paragraph, for the calculation on the new boilers when heating surface cannot be discerned, is reasonable because it is equivalent to the conventional method of determining the horsepower of a boiler for licensing purposes.

Finally, the provision equating kilowatts to boiler horsepower (currently the second paragraph) is not actually deleted but, rather, an explanation of where and how that equation has applicability is added and the formula is given in the new last paragraph of this part. The part gives needed detail to the use of these formulas.

5225.1100 ABSENCE FROM PLANT (repealed) and 5225.1110 BOILER OPERATION STANDARDS; ALL PLANTS. (All new)

Existing part 5225.1100 prohibits a shift engineer in a high pressure boiler plant of 150 boiler horsepower or more from leaving the plant for more than 200 feet for 15 minutes at a time.

These amendments are made to clarify the requirements that all boilers not exempt by statute are to be operated in a prudent manner attended by an operating engineer. The necessity of having these boiler plants under almost continuous observation is to monitor the boiler operations to ensure safe boiler operation. While this has always been required and is currently in the National Code adopted by Minnesota Statutes, the rules have not spelled out the requirement clearly, but included only the exception to the rule, "Absence from plant." It is reasonable to spell out this requirement to ensure safe operation of boilers under the jurisdiction of the Division.

Proposed part 5225.1110 also requires that a boiler room log book be completed daily by the responsible operating engineer. It is necessary and reasonable to require that a log book be kept to document what adjustments are made to the boiler and to be used as documenting evidence to upgrade an operating engineer license. The log will require the date, any adjustment performed on the boiler, and who performed the adjustment. These details are needed and reasonable as they are currently National

Board requirements.

5225.1140 ATTENDANCE AT HIGH PRESSURE PLANT.

Two categories of high pressure boiler plants are created by 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 30 or less, low pressure boilers; and two types of high pressure boiler plants operating with an aggregate horsepower of 31 or greater. The proposed parts distinguish between boiler plants because boiler plants with a horsepower of 30 or less can be operated by a special class operating engineer and do not require continuous observation of the boiler. Boiler plants with a horsepower of 31 or more must be operated by a license holder with at least a second class license and the boilers are much more complex. It is the high pressure boilers that create a risk to persons and property when left unattended. Consequently, it is important that operating engineers be in attendance at the site.

Subpart 1. Attendance. Under this proposed subpart a boiler plant with a horsepower of 31 to 200 may be left in operation unattended for up to two consecutive hours when the premises is occupied by employees or the public. 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 up to two hours. This is because, once they have been checked for problems in equipment or operation, there is virtually nothing that can go wrong with objects in this horsepower range in such a two hour period of time. The absence cannot exceed such a period, however, when employees or the public are present in order to ensure their safety.

Subp. 2. Attendance requirement. All high pressure boiler plants over 200 horsepower require constant attendance except as provided by Part 5225.1180, subpart 2. The language in this subpart is modified and moved from the current Part 5225.1100. The higher horsepower of these boilers involves more technical and sophisticated hardware and software such 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.

Subp. 3 Hobby boiler. This proposed subpart provides for the presence of a hobby operating engineer at a hobby boiler or traction engine in order to ensure the safety of the public. The requirement and its exceptions are reasonable because the public gathers in close proximity of the hobby boilers, thereby increasing their exposure to an accident.

5225.1180, ABSENCE FROM PLANT.

Subpart 1. Exemption. Presently there are boilers which operate with a dual purpose of operating during the day for production and heating, and operate at night for heating purposes only. This proposed rule will allow boilers to be used for this dual purpose in a safe manner. Items A, B, C, D, and E are necessary to ensure safe operation and documentation of the dual use of a boiler. This proposed subpart is reasonable because it allows the boiler owner to get maximum use out of a boiler without

having to own two boilers; one to operate for heating purposes only, and another to operate for production purposes only. Presently, there are no rules to regulate the dual use of these types of boilers.

Under this proposed subpart a high pressure boiler of 31 to 200 horsepower, when operated at low pressure, is exempt from the high pressure attendance requirements but subject to the low pressure attendance requirements. Items A through E. ensure that the plant really is operating in a low pressure mode before the exemption can be applied, thus ensuring safety.

Subpart 2. Absence; shift engineer; over 200 horsepower. The shift engineer absence from the plant is proposed in this subpart to be relaxed from that in the current Part 5225.1100 in order to allow some flexibility to the shift engineer and to the engineer's employer. Safety of the boiler operation should not be jeopardized by this modification because boiler plants over 200 horsepower are equipped with automatic safety control devices which shut down the boilers in an emergency. This proposed subpart allows the absence of the shift engineer up to 500 feet from the boiler room for up to 30 minutes if the high pressure boilers in a plant of over 200 horsepower are equipped with dual pressure controls and dual low water fuel cutouts. The qualifications to the allowance will ensure that the public will not be put at risk.

Subpart 3. Limitations. The absences described are not allowed, according to this proposed subpart, to approach nearly continuous absence from the plant. This is only a relaxation of the rule, and not an exemption from it because the law previously provided that the engineer in charge of any plant of 150 or more horsepower should not leave it for more than 15 minutes or be more than 200 feet away.

If the object has been found in an unsafe condition these absences are not allowed because to do so would endanger both persons and the plant. It is the ascertained safety of the objects before the absence that provided the basis for the rules allowing absence.

5225.1200 INSURANCE COMPANY INSPECTORS.

The clarifying language "performing inspections in Minnesota" is added to this part to show that the provision is not applicable to inspectors working for insurers who do not perform inspections in Minnesota. The current language is overbroad in that it appears to apply to inspectors of any insurance companies regardless of whether there are any Minnesota operations.

The second addition to the part is the requirement that insurance company inspectors are to possess both the Commission and the Minnesota certificate of competency. This is under the authority granted by Minnesota Statutes Section 183.38 subd. 2. The certificate requirement and the addition of the serial number registration are needed in order to detail in one place what is necessary to comply with both the National Board requirements and the state statutory requirements. The new sentence is proposed in order to answer the question of when an authorized inspector must register their serial number with the chief boiler inspector's office. The answer, reasonably, is that it must be registered before performing inspector duties in Minnesota.

Subpart 2 is proposed to be repealed to comply with the new requirements of the National Board which has modified the terminology for inspectors. To the extent that requirements in the existing subpart 2 continue, they are incorporated in to subpart 1 of this part.

5225.1225 AUTHORIZED INSPECTOR.

This new part is proposed in order to conform to the newly-defined terms "commissioned inspector" and "authorized inspector". The substantive requirements are not changed in the process.

The provision allowing those with a B endorsement to maintain their status grandfathers in the inspectors who currently qualify but would not continue to do so under the rule modified as proposed. This is needed and reasonable in order to conform to the National Board requirements and with the state statutory requirements.

Subpart 2. **Examinations.** This new part is a modification of the current subpart 2 of Rule 5225.1200. It explains that it is the A endorsement qualification that qualifies authorized inspectors to do inspection of new construction. The details of the examination process are needed to inform those wishing to apply of how to do so.

5225.1300 OPERATORS OF RAILROAD LOCOMOTIVES.

The modification in the first paragraph of this part is made to conform to defined terms. The modification in the second paragraph is needed to amend the rule language to make it consistent with the statutory language at Minnesota Statutes Section 183.56 Item (1).

5225.1350 PROPERTY DAMAGE OR PERSONAL INJURY REPORT.

The first proposed amendments to this part are only for purposes of clarification. In addition the current language needs to be modified in that "property damage involving repairs..." is confusing. What are required to be reported by the National Board are both any time there is property damage and any repairs of a boiler that are needed that are not routine repairs. The adoption of this standard is reasonable because M. S. § 183.466 incorporates the National Board standards for dealing with repairs. The subsequent proposed amendment to this part is merely to change the word "Accident" to "Incident" to be consistent with the language used in the National Board of Boiler and Pressure Vessel Incident Report form. The meaning of this part has not been changed by this amendment.

5225.1400 VIOLATIONS.

These modification are for the sake of clarity only. They do not change the substance of the rule. Newly defined terms are also incorporated.

INSPECTIONS

5225.2050 MAXIMUM ALLOWABLE WORKING PRESSURE.

It is necessary and reasonable to state in the rules the references for the maximum allowable working pressure on boiler and pressure vessels. The reference to these codes has been in the statute but it is repeated here to make the rules more comprehensive and detailed. The applicable National Code Sections under Minnesota Statutes Section 183.46 are given in this proposed part so that all constituents can refer to the governing sections. The new 5225.2050 is to reflect the importance of safe working pressure in the overall area and does not change the fact that inspectors must include the check on this as part of their regular inspection routine.

5225.2100 STAMPS ON BOILER AND PRESSURE VESSELS.

The proposed amendments to this part identify what state statute must be conformed to and clarify the requirement of construction in compliance with the applicable codes. The new language in the second sentence clarifies that the stamping of the object is an indication that an object has been constructed in compliance with that entity's standards. The words "or international code symbol accepted by the National Board" are added in light of the GATT treaty. This Department recognizes that there may be boilers and pressure vessels that are constructed to other engineering and safety standards that equal or exceed the ASME standard. The National Board, of which the Department of Labor and Industry is a member, will be the organization that verifies which international codes or standard meets engineering and safety criteria to ensure continued safe operation in all jurisdictions in America.

The change from "National Board symbol (NB)" to "National Board symbol registration number" merely reflects what the National Board actually stamps on objects which have been constructed to its standards. Modifications are made too, to conform to newly-defined terms and to give further detail.

The last paragraph proposes to modify the concept of pre use inspection that is being moved from the second paragraph of Minn. Rules Part 5225.2200. The requirement that testing of appurtances be completed prior to shipping is modified to require the same but more effective inspection and hydrostatic testing of the boiler and appurtenances in place after shipping but before use. The statutory and code authorities are the same but the chance of damage occurring in shipping not being detected is eliminated.

The requirement of inspection by a commissioned inspector with a Minnesota Certificate of Competency is reasonable because it is consistent with other in service inspector requirements. The issuance of a certificate of inspection if the items are in conformance with adopted standards is needed to verify the object's passing of initial inspection. It is reasonable because the owner will then have the needed authority to operate the boiler until the first in service inspection.

The newly defined term "authorized inspector" is used because of the new requirement imposed by the American Society of Mechanical Engineer Boiler and Pressure Vessel Code Sections I, IV, and VIII. The more detailed subpart references are

given for the cross references.

5225.2200 ITEMS REQUIRING INSERVICE INSPECTION.

Subpart 1. Inspection. This subpart retains the first paragraph of the existing rule 5225.2200. The amendment changing "authorized" to "commissioned" inspector with a Minnesota Certificate of Competency requirements for inservice inspection is to utilize the new defined term which coincides with the National Board Inspection Code.

The language deleted in this part has been modified and moved to the new part 5225.2050 and to the last paragraph of the new rule 5220.2100.

Under the existing part any appurtenances to a boiler which are shipped connected must be hydrostatically tested before the boiler, steam generator or pressure vessel can be operated. "Shipped connected" means that a boiler or pressure vessel has its appurtenances connected to the boiler or pressure vessel when it is delivered to the installation site. The proposed deletion and new language in 5220.2100 broadens the scope of this part by requiring any installation of a new or used boiler to be hydrostatically tested by a commissioned inspector with a Minnesota certificate. The scope of this part is broadened by the amendment because it requires that shipped connected and non-connected appurtenances must be hydrostatically tested before the boiler can be put into operation. Pressure vessels are not included as they do not need a hydrostatic test because these objects do not have heat and chemical components needing testing. It is necessary and reasonable to amend this part to ensure that all installations of boilers are done properly and that the installation is not considered complete by the Division until the hydrostatic test is successfully completed and a certificate of inspection issued by the Division.

Subs. 2 and 3. Certificate of inspection and of Certificate of exemption. The statute at Minnesota Statutes sections 183.38 and 183.54 requires that certificates of inspection be issued where the object is safe and suitable for use and that the fees become payable at that time. The certificate will issue when the object passes inspection and delivery of it will be completed when the fee is paid. The provision concerning a certificate of exemption is cross referenced here as it may be issued instead of a certificate of inspection where the requirements of these provisions are met.

Subp. 4. Display of certificate. It is reasonable to require that a certificate of inspection or exemption be posted on or near the boiler or pressure vessel to establish that the object is operating in compliance with state statutes. It is also reasonable to detail the posting requirement at M. S. § 183.54, subd. 1.

5225.2300 EXCEPTIONS TO THIS CHAPTER.

The exceptions listed in the existing part appear to vary from those provided in the statute. To clarify exactly what boilers and pressure vessels are exempt from these boiler regulations a cross reference to the statute is made. The amendment deleting the old language is needed because of the apparent conflict between the statute and rules. It is reasonable to cite the statute, because of the length and detail of the exemptions set out there and the statutory provision that those objects are exempt from the boiler jurisdiction of the Department.

5225.2400 RELOCATION OF USED BOILERS OR VESSELS.

These amendments first replace the term "title" from the existing part with "ownership of" and does not change the meaning of the part. It is necessary and reasonable to delete the term "title" because there is no actual boiler title transferred when a boiler is sold. There is only a "bill of sale" to document the transfer of ownership of a boiler. "or before relocation of" is a reasonable rewording of "its future use in another location" simply to make the provision more readable and understandable.

The newly defined term "commissioned inspector" is reasonably used as it complies with the National Board and encompasses the qualifications needed for the task regardless of who employs the inspector.

Language similar to that deleted in this part concerning safe working pressure has been inserted in the new Part 5225.2050 in order to reflect the overall importance of this factor in safety and to demonstrate that the factor is important with respect to all regulated objects. Statutory authority exists at M. S. § 183.45, subd. 1 for allowing no greater pressure in any boilers than the amount prescribed in the certificate as well as requiring suitable gages that will correctly record the pressure.

The first proposed new sentence defines who the owner responsible for inspection is in the event of changed ownership. It is reasonably the new owner that is responsible for inspection as the person who will be using and will be responsible for the object.

The last sentence is added to define the phrase "noncode boilers and pressure vessels" that is a term used in the existing rule. The term needs to be defined because there has been confusion caused by the term. The new language reasonably explains that some boilers and pressure vessels currently in operation came in to use before the current standards and rules were effective and, as such, were not built to American Society of Mechanical Engineers Boiler and Pressure Vessel Codes specifications but were "grandfathered" in. These are what are referred to in the current rule language as "noncode boilers and pressure vessels."

5225.2600 REPAIRS AND ALTERATIONS; REPORTING.

Subpart 1. Prior notice of repair or alteration.

This proposed amendment first deletes reference to the "division of boiler inspection" and replaces it with the "Chief Boiler Inspector". The phrase replacement is necessary because the Chief Boiler Inspector delegates the responsibility of required inspection for the repair or alteration to a commissioned inspector to verify to the Chief conformance of the repair or alteration by the repair firm to the adopted codes. Furthermore, organizational change in Department procedures requires this to reflect what is occurring.

The change in subpart 1 from repair "not of a routine nature and all alterations" to "welded or riveted" repair is made to comport with the statute at Minnesota Statutes section 183.60 subd. 2. It is necessary and reasonable to delete the current language

because it is ambiguous and causes confusion for repair shops. Deleting this language has the effect of broadening the application of this subpart to mean that any repair to pressure-retaining boundaries and all alterations must be reported to an insurance company or the Division. This proposed amendment will secure greater safety to boilers and pressure vessels because these repairs or any alteration to an affected object will be inspected by a competent inspector before the object is put back in service. "welded or riveted" is added based on the statutory provisions referencing repairs subject to review. While there are very few riveted repairs, the rule language should still be consistent with the statutory requirements.

Finally, it is clarified that the inspector will review and accept or reject the computations for safe working pressure of the repaired or altered object since that pressure might be different after the repair or alteration. The current language makes reference to computation of the pressure which is, in practice, done by the owner and checked by the inspector. The result is the same, except that the rule now clarifies that the inspector either accepts or rejects the calculation, ensuring safety.

Subpart 2. **Standard of repairs.** This proposed amendment deletes in the existing subpart the reference to the American Society of Mechanical Engineers Boiler and Pressure Vessel Code symbol stamp. It is necessary and reasonable to delete this reference because this subpart refers to repairs of existing objects and the American Society of Mechanical Engineers Code is applicable only to new installations after July of 1992. Because ASME has determined that its stamp is applicable only to new construction, repairs under this subpart must meet and be stamped to National Board requirements. The deletion is a correction to update this subpart.

The addition requiring a current Repair Certificate of Authorization is needed because this document is required by the National Board Inspection Code with regard to alterations. A current Certificate indicates that the repair firm has been determined by the National Board as competent and qualified to do requested repairs.

This proposed amended subpart also deletes the language of "not of a routine nature" and adds "or riveted" to "welded" for the same reasons as stated in subpart 1 of this part.

The amendments in the second paragraph of this subpart are for simplification. "latest edition of the" is deleted because the Incorporation by Reference section already incorporates the most recent edition. More detail is given as to which codes and standards are applicable to alterations.

Subp. 3. Inspection and reporting. The insertion of "welded or riveted" to this subpart incorporates the statutory requirement at M.S. 183.60 subd. 2 as detailed under subpart 1 of this part. Procedures for repairs not welded or riveted are set out later in this subpart. "by the repair firm" is moved in the sentence to provide clarity and "as required by the National Board" is deleted as the statute already requires that repairs meet that

standard. The addition of "The inspection of the repair or alteration and the" clarifies that the certification follows a successful inspection. The change to "authorized inspector" incorporates a newly-defined term and provides for an inspector with the appropriate credentials for reviewing repairs which might completely alter the nature of the object.

The modifications to what constitutes an authorized inspection agency are needed in order to clarify what an "authorized inspection agency" is. Without definition the item "jurisdictional authorized inspection agency" was confusing and led to misunderstandings. The National Board Inspection Code defines "authorized inspection agencies" and that concept is incorporated here. The modifications are proposed to ensure that any entity that performs the inspection is qualified to do so. Other than the Division, the only authorized entities are another qualified governmental entity and an insurer that meets the requirements of Minnesota Statutes, Section 183.57. The rules clarify that in certain instances this is allowed as provided in the National Board Inspection Code and in Minnesota Statutes.

The new paragraph that details the documentation required when an R-1 is not needed under the National Board Inspection Code is reasonable, first because it is only a minor modification to the current language in the first sentence of this subpart. Secondly, the language is reasonable because the agency needs to ascertain that the welds other than the riveted and welded ones are being performed by qualified repair firms so that they are being reported and performed in a safe manner to protect persons and property as well as the integrity of the boilers. Records must be retained by the repair firm in order to provide the basis for Division audit and check on who performed the repairs if a problem develops.

Amendments to the last two paragraphs are for purposes of clarification and consistency with the statute described in the first paragraph of this subpart, and to utilize terms newly-defined in these rules. The addition of "certify it" merely reiterates that requirement as set out in subpart 1 and 2.

5225.2610 OWNER REPAIR PROGRAM.

The existing part allows owners of very large boilers to repair their boiler system if approved to do so. The first two amendments to this part are clarifications that do not change the substance of the provision. The first clause is moved from the end of the paragraph to the beginning. The proposed amendment regarding relief valves allows approved owners to also repair the safety relief valves along with boiler repairs if the repairs are done in conformance with American Society of Mechanical Engineers Code and the National Board Inspection Code. Presently, repair work on safety relief valves must be shipped out and repaired by a third party. It is unnecessary to do this since the owner has proved to the Department their competency in performing safety relief valve repairs as approved by the National Board Inspection Code where the boiler is located. This is needed because the National Board Inspection Code does allow for jurisdiction-approved repair programs at Chapter 3 and N.B 65 authorizes the repair of safety relief valves under similar circumstances. The Minnesota statutory authority is cited in the materials as well.

Under the proposed amendment the repair work should not be a safety risk

because the work will be performed by competent persons and is ensured to be done correctly because it must be performed in compliance with the relevant national codes. The last clause of the first sentence clarifies that the current rule reference to "excluding" referred to not allowing repairs of matters under another jurisdiction. The new language in the second sentence clarifies that M.S. section 326.461 defines that jurisdiction.

The amendment in the second paragraph incorporates a newly-defined term "commissioned inspector" in order to remain consistent with the modified NBIC requirements for inspection of repairs. The Minnesota Certificate of competency also needs to be held by an inspector of these repairs because this shows that the inspector is cognizant of the state statute and rules for the repairs.

5225.2700. REPAIRS BY INSPECTORS PROHIBITED; EXCEPTION.

This change merely incorporates a newly-defined term.

5225.3000. PROFESSIONAL CONDUCT OF INSPECTORS.

The amendments proposed merely utilize newly-defined terms.

5225.3100. INSURED COVERAGE REPORT.

The first amendment is simply for clarification and indicates that the notice comes in to the Division and not to the inspector personally. The second change in this paragraph adds a cross reference for the reader's convenience.

The second paragraph amendment clarifies that, in the event of failure to obtain an exemption certificate, it is an inspector from the State that will perform the needed inspection. This has been the understanding of all system users but it is now spelled out.

5225.3150 INSURANCE COMPANY INSPECTIONS.

While the Division has had a rule concerning the issuance of an exemption certificate where the boiler is insured, no rule has detailed the statutory provision at M. S. § 183.57 for expiration of that exemption certificate one year from its date of issue if annual inspection does not occur. This proposed rule gives that detail.

Subpart 1. **Annual inspection report.** This subpart details that when a boiler is inspected by an insurance company, the insurance company must mail an inspection report to the Division within 15 days of when the inspection is performed as authorized under Minnesota Statutes, section 183.57. This proposed subpart also mandates that if an insurance company does not file an inspection report with the Division within 45 days of when the inspection is due, a Division inspector will perform the inspection at the insurance company's expense. The Division has statutory authority to make this rule under Minnesota Statutes, section 183.45 and section 183.57 which both require inspections to be performed in a timely manner. It is necessary to require insurance companies to return an inspection report promptly after the inspection is performed to ensure that the inspection was performed, to ensure that the boiler is operating safely, and to provide the basis for the Division to issue an exemption certificate which, under the statute must be current and continuously posted near the boiler by the owner or

operator. It is reasonable for a Division inspector to perform the inspection after 45 days (30 days of delinquency) to ensure that the boiler will be inspected and is not operating in an unsafe manner. It is reasonable for the Division to charge the insurance company at the shop inspection rate for the cost incurred by the Division of the inspection because, but for the insurance company's delinquency, the Division would not have had to perform the insured boiler's inspection.

Subpart 2. **Certificate of Exemption.** This proposed subpart provides that the Division will issue a certificate of exemption from State inspection for each inspection report it receives, and that the certificate will expire when the subsequent boiler inspection is due. The Division has statutory authority to issue a certificate of exemption under Minnesota Statutes, section 183.57, subdivisions 2 and 4. The proposed rule explains that an exemption certificate in no way implies that these objects are exempt from the safety and other standards in the law. Under Minnesota Statutes, section 183.57, subdivision 2, the fees for each inspection are tied in to the fees that have been set in rulemaking. Those are listed at Minn. Rules, Part 5225.8600 and this rule ties this inspection in to those fees. Under Minnesota Statutes, section 183.57, subdivision 2 a boiler is exempt from a Division inspection only if the insurance company has performed an inspection and the certificate is not expired. Under this proposed part, the Division will perform an inspection if the certificate of exemption has expired and an insurance company is 30 or more days delinquent in mailing the inspection report to the Division. Accordingly, the Division may perform an inspection of insured boilers when a timely inspection report is not mailed to the chief boiler inspector by the insurance company and the fees applicable to that inspection are applied.

5225.3200 APPEALS.

These amendments merely shorten a long sentence and cross reference the relevant rules. The deleted reference to M. S. § 14.70 is needed as that provision was repealed. No substantive changes are made.

5225.3400 STANDARDS FOR BOILERS. (repealed)

5225.3500 TABLE NO. 1. (repealed)

While part 5225.3400 was captioned "Standards for Boilers", it and part 5225.3500 actually contain standards for blowoff tanks. These standards are now set out in language, proposed at 5225.4000, under the National Board Inspection Code 27 which is the most specific guidance offered in Codes for blowoff tanks. Consequently, the language in these rules is no longer needed or reasonable and is, therefore, proposed to be repealed.

BOILER SAFETY

5225.4000 BLOWOFF TANKS.

The existing language of this part is proposed to be deleted for the same reason set out for Parts 5225.3400 and .3500. The new language in this part provides that the

standard for blowoff tanks is found in National Board Inspection Code 27, which provides detailed specifications for their design and construction. It is reasonable to simply cross reference this document which is incorporated in the Reference section because attempting to detail all of the specifications would risk leaving out important details. In other words, to ensure that it is understood that all of the specifications of Code 27 must be met, the cross reference to that Code gives the most clear direction.

5225.4100 SAFETY VALVES.

The Sections of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code applicable to safety valves are proposed to be added here in order to give more direction to those reading the rules. The requirement that the safety valve must be set no higher than the maximum allowable working pressure for that boiler comes from the statutory provision at M.S. Section 183.45 subdivision 1 and others setting out such guidance. It is incorporated here at "Safety Valves" to see that it is brought to the attention of those reading the rules.

The first amendment in the second paragraph is for clarification of the endpoint of the piping. Providing that no valve is to be placed between the "safety valve and the point of discharge" indicates more specifically the safety concern being addressed, that the safety valve is not jeopardized by changing the set pressure release point. The sentence added at the end clarifies the previous sentence. The reason no reduction in pipe size is allowed is so that discharge can be completed without back pressure.

5225.4200 WATER GAGE.

The amendment in the first paragraph of this Part is merely a clarification, to explain to those not in the field what type of drain is being required for the water gage glass.

The specifications for the installation of the water gage is set out in more accurate detail in the American Society of Mechanical Engineers Boiler and Pressure Vessel Codes. This proposed amendment replaces the one detailed requirement for the gage's installation (the first sentence of the second paragraph) with the more comprehensive requirements of the Codes as provided by Minnesota Statutes at 183.465.

5225.4300 WATER COLUMN SHUTOFFS.

The proposed change of language from stopcocks in this part and in part 5225.4400 is because that terminology is not used anymore. Because persons now use the term valve instead, it is needed and reasonable to adapt the rules accordingly. The deletion of the sentence referring to apparatus is needed because the requirement is not needed in the current rules and is, perhaps, misleading. It is not needed because the American Society of Mechanical Engineers Code sets out in more detail and more specifically when that limitation is applicable and when it is not. It is perhaps misleading in that there are more limitations for what can be placed in that pipe and because to set out only one of them implies that that restriction is the only one. The Codes and standards adopted by the statutes and elsewhere in these rules are more comprehensive and, thus, the sentence is not needed.

5225.4400 STEAM GAGE.

The language proposed to be added to this section only cross references the appropriate American Society of Mechanical Engineers Boiler and Pressure Vessel Code Sections which provide the specifications for the steam gage. These references are added in order to ensure that the reader understands that the requirements for steam gages are set out comprehensively in this National Code referenced at M. S. § 183.465 and indicated. This is needed and reasonable in order to not imply that the current provisions of this rule comprehensively set all of the standards for steam gages.

5225.4500 VALVES AND FITTINGS

The proposed addition to the first sentence of this part provides the reader with information as to where to find the American National Standards Institute guidelines for the applicable valves and fittings. The resource section of the Code for determining if the procedure and operator are qualified, Section IX, is proposed to be added to the second sentence as a cross reference for the reader. The specific Sections of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code are added to give further detail to the second, third and fourth paragraphs. The addition of "valves and fittings must have" and change to "at least" in the third paragraph explain what is meant by a sentence in the current rule that was unclear. Finally, the modification in the last paragraph rewords a virtually incomprehensible current rule. What is allowed by the rule is not affected by the change.

5225.4700 COMMON MAIN CONNECTION.

This proposed amended part specifies that stop valves on high pressure steam boilers must meet certain requirements. It is necessary and reasonable to clarify that this part applies to stop valves only on high pressure steam boilers. Non-return valves are optional for low pressure boilers; they are not required under the adopted codes. It is on high pressure boilers that the topic of this part is a concern. The rest of the modifications to the sentence are to simplify the meaning for the reader.

The new sentence providing that the free blow drain must assure complete removal of all condensate and steam between the two stop valves is added in order to ensure the safety of the inspector making an inspection of the object. The provision will also help to ensure the safety of anyone else entering the manhole for maintenance, repairs or other reasons. Steam or condensate between the two stop valves could otherwise cause injury or property damage.

5225.4800 BLOWOFF PIPING, VALVES AND FITTINGS

5225.4900 BLOWOFF PIPING

These proposed amendments also give more specific detail to the reader as to where in the Code the appropriate governing standards for these appurtenances are set out. The caption is amended to reflect the content of the parts.

In addition a proposed rule gives the answer to where the quick opening valve

should be located. This provision is needed because there has been confusion as to the positioning of these valves in the field. Because this location is a recommended practice in Section VII of American Society of Mechanical Engineers Boiler and Pressure Vessel Code, and because the information is not otherwise readily available, the placement in the proposed sentence is also reasonable.

5225.5000. Feed Piping and Check Valve.

5225.5100. Feedwater Supply.

Very minor changes are made to these parts to accurately title them and to separate a sentence for clarity.

5225.5200 ELECTRIC BOILERS.

Current rule language in this part uses the term "generator" which can be confusing when used to refer to an electric steam boiler. The term is proposed to be modified to "boiler" to clarify what is being referred to and to bring the provision in to conformity with current usage.

NAVIGATION OF POWER BOATS ON INLAND WATERS

5225.6050. Incorporation by Reference.

A modification is made in this part only to utilize a newly-defined term.

5225.6140 INSPECTION OF BOATS.

The proposed amendment to subpart 2 is a reference to the requirement that boats under 21 feet must meet the safety equipment requirements of the Minnesota Department of Natural Resources. While the Department of Labor and Industry does not regulate these smaller boats for hire, it is an assist to the reader of these rules to see where to look for the provisions that do govern them. While the Division will not inspect boats under 21 feet in length, the boat owner is still under the obligation to equip a boat for hire with the proper safety equipment. This proposed amendment is reasonable to alert owners of small boats for hire to their obligation to ensure that those boats are equipped with safety devices.

Other modifications made to this part are proposed to utilize the more efficient newly-defined terms.

5225.6150 LICENSE REQUIREMENTS.

The modification proposed at subpart 2.C. from 75 to 70% is consistent with the modification proposed at subpart 2 of 5225.0500 and is proposed for the same reasons.

The proposed amendment to subpart 4 deletes the reference to "unlimited" and "limited" United States Coast Guard pilot's licenses. An unlimited Coast Guard license means that the license holder is qualified to pilot almost any size boat on almost any navigable waters. A limited Coast Guard license means that the license holder is qualified to pilot a boat of a specific size in a specific geographic area. Holders of a

limited Coast Guard license must under go a written exam and submit an affidavit of piloting experience which are both more stringent than the Division's requirements to obtain a pilot license. Because it is more difficult to obtain even a limited Coast Guard license than a Division pilot license, it is reasonable to modify the rule to exempt holders of even a limited Coast Guard license from the Division's exam and affidavit requirements. Safety or other appropriate Division concerns are not affected because of the more stringent Coast Guard requirements.

Other modifications made to this part are proposed to utilize the more efficient newly-defined terms.

5225.6160. License Expiration and Renewal.

Subpart 1. This change is proposed only to utilize a newly-defined term.

Subpart 3. This change is proposed for the same reasons as and is consistent with the modifications proposed at Minn. Rules Part 5225.0300, subpart 3 for the boiler license renewal.

5225.6700. Reports of Damage.

5225.6940. Design Changes.

The modifications to these parts are proposed only to utilize terms that are newly-defined in this rule.

5225.8600 FEES.

Subpart 2. These amendments are made to tie the recent boat fee provisions in to this provision which sets the fees. It reflects the practice and the law but the current language needs to be clarified.

Subpart 7. This provision is a clarification in that the only vessels inspected subject to this provision are boats.

Subp. 8. Hobby boilers . The proposed addition of the word "subsequent" is needed for clarification. The part as it now reads is confusing in that it gives two different fees for inspection without explaining the difference.

Subp. 9. Date due. There has been much confusion among constituents as to when the fees for inspection of boilers and pressure vessels are payable. It is necessary to cross reference the statutory provision which sets out the due date for the fees in order to clear up that confusion for rule readers. Certificates will be available at the time of successful completion of an inspection and, if the inspection fee is paid timely then, the certificate will be delivered at that time. In some instances the person present at the boiler inspection is not authorized or able to issue payment for the inspection at that time. Then the certificate will be mailed out after payment. Or, if timely payment is not made the next subpart will apply.

Subpart 10. Failure to pay fee. This proposed subpart provides that the Division will deliver a certificate of inspection only after an inspection is successfully completed and the proper fee is paid. In addition it establishes consequences for non-remittance of fees for an inspection. The Division has statutory authority to promulgate this subpart under Minnesota Statutes, sections 183.54, subdivision 3 and 183.001. Section 183.54

states that boiler inspection fees are due within 30 days of when the inspection is performed, and if the fee is not paid by that time the chief inspector or deputy inspector may seal the boiler or pressure vessel until the fee is paid. Section 183.001 provides the commissioner with the authority to assess penalties for violations of any provision of Chapter 183. It is necessary and reasonable to enforce the authority given by this statute to ensure that fees are paid in a timely manner. Prompt payment of fees is important because the Division is under fiscal constraints and is operating under a budget cut. It is not reasonable for the Division to provide the certification of a passing inspection if the fee for that service has not been paid. Further delinquency on the fee payment, 60 days or more from the date of inspection, will reasonably result in more serious consequences, a penalty or the sealing of the object.

5225.8700 PENALTY.

This proposed part reiterates the statutory requirement that boilers, boats for hire, and pressure vessels be inspected in a timely manner or be subject to a penalty for non-compliance. According to Minnesota Statutes, section 183.42 boilers and boats are to be inspected by the Division annually and pressure vessels are to be inspected bi-annually. It is necessary and reasonable to enforce a strict penalty against owners of objects for failure to obtain inspection in order to encourage timely inspections to ensure safe operation of boilers. The Division has statutory authority to establish this rule under Minnesota Statutes, section 183.001 which states that the Department of Labor and Industry may impose a penalty of up to \$1000 for a violation of any provision of chapter 183.

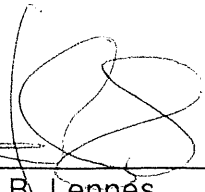
The \$500 amount for the penalty is reasonable because, first it is imperative that boilers be inspected due to their potential for destruction, yet some owners disregard the statutory requirements. The amount, however, is set at \$500 (one half of the amount allowed per statute) per period of violation in order to provide a continuing incentive for owners to comply with these health and safety requirements.

5225.9000 TRACTION ENGINE ATTENDANCE REQUIREMENTS

The proposed repeal of this part is because it references an unnecessary term. The term "traction engine" is virtually never used anymore and readers will understand that the term "hobby boiler" and the rules with respect to them encompass objects that might have been referred to as traction engines as well.

Dated:

9 27 1984



John B. Lennes
Commissioner,
Department of Labor & Industry



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April 27, 1994

Maryanne Hruby
Legislative Commission to Review
Administrative Rules
55 State Office Building
100 Constitution Avenue
St. Paul, Minnesota 55155

Re: Proposed Amendments to Rules Relating to Boilers and Power Boats

Dear Ms. Hruby:

Enclosed is a copy of the Statement of Need and Reasonableness in the above-captioned matter that will now be available for public review. The Notice of Intent to Adopt will be published in the State Register on Monday, May 2, 1994.

Feel free to contact us if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Mary Miller".

Mary Miller
Attorney

MM/kh

Enclosure