

**Final minutes  
State of Oregon**

**AGENDA  
ITEM  
I.D.**

**Board of Boiler Rules**

**Regular meeting minutes  
December 4, 2007**

- Members present:** John Endicott, Chairman  
Mike Bradley, Vice-chairman  
Anthony Barsotti  
Dennis Coplin  
Bruce Fellows  
Jon Hooker  
Vincent Leedy  
Thomas Perritt  
Edward Pitzrick *New member*
- Members absent:** Robert Cowling
- Staff present:** Mark Long, administrator  
Andrea Simmons, policy and technical services manager  
  
Mike Graham, chief boiler inspector and board secretary  
David Galati, regional services manager  
Jim Denno, statewide inspection services manager  
Robert Salinas, enforcement and licensing assistant manager  
Philip Johnson, enforcement officer  
Aeron Teverbaugh, policy analyst  
Kaylan Simmons, boards coordinator  
Shauna Parker, rules coordinator
- Guests present:** Jay Bushard, Cole Industry  
Steve Farnes, Cole Industry  
Kirk Carl, McKinstry Company  
Sheldon Yamamoto, McKinstry Company  
Bob Moris, FM Global  
Tim Barker, FM Global  
Gary Penkava, HSBCT  
Jerry Lanz, Lanz Boiler  
Ray Andrus, Travelers Insurance  
Mark Stenberg, Local 290  
Dale Mchouth, self  
Michael McClenahan, HSBI & I Co.

**I. Board business**

**A. Call to order**

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

**B. Roll call**

Robert Cowling was absent, excused.

**C. Approval of Agenda and order of business**

Chairman Endicott **RULED** the agenda approved.

**D. Approval of the regular board meeting minutes of September 11, 2007**

Chairman Endicott **RULED** the regular meeting minutes of [September 11, 2007](#) approved.

**E. Date of the next regularly scheduled meeting**

March 4, 2008

**F. Welcome new board member Edward Pitzick**

Chairman Endicott welcomed new member Edward Pitzrick to the Board of Boiler Rules. Chairman Endicott informed the board that Mr. Pitzrick represents the insurance industry.

**G. Board vote on chairman of the board**

**Motion by chair Endicott** to nominate Dennis Coplin to be the new Chairman of the board, effective at the next meeting of the board.

**Motion carried unanimously.**

**II. Public comment**

**Ray Andrus, special inspector for Traveler's Insurance**, [discussed](#) inspections of regulated piping and boiler appurtenances by special inspectors. Mr. Andrus stated that because Oregon is the only state that requires inspector involvement, there are very few inspectors that have the training and should those become requirements of inspectors, it would present numerous problems.

Mr. Andrus discussed the "O" Certificate Program, which is referenced in [OAR 918-225-0740](#). He discussed the state-issued permit program's review process and the charging procedures, since the responsibility for inspections has been transferred to the insurance industry from the state. Mr. Andrus stated his concern about the insurance industry being unable to recoup its costs when performing related piping inspections.

A second issue, Mr. Andrus said, is that Building Codes Division has started requiring permits in order to replace the appurtenances on boilers. Mr. Andrus reviewed sections of Oregon Revised Statutes and Oregon Administrative Rules that have no mention of appurtenances and state the responsibility of inspectors with relation to this issue: [ORS 480.630\(5\)](#), [OAR 918-225-0605](#), [OAR 918-225-0560\(a\)](#), and [OAR 918-225-0560\(1\)](#).

In closing, Mr. Andrus said he feels the state of Oregon needs to put the responsibility on the contractor and not on inspectors. The insurance industry, Mr. Andrus stated, would like the division to reconsider its move and to *not* require insurance companies to perform these duties without being reimbursed for cost.

**Tim Barker, FM Global, supervisor for all Oregon inspectors, and member of the Washington State Board of Boiler Rules**, mirrored Mr. Andrus' concerns relating to requirements and compensation of inspectors, with one specific concern surrounding [OAR 918-225-0560](#) and inspection upon installation. Mr. Barker explained they would like to support the division in its inspection efforts.

However, he requested the division provide more information to the industry regarding the piping inspection expectations.

Chairman Endicott suggested a taskforce be formed to review the issue thoroughly, returning to the legislative intent of the bill. The following individuals volunteered to participate in the taskforce: board members Ed Pitzrick, Anthony Barsotti, Bruce Fellows and Dennis Coplin along with public members Ray Andrus and Tim Barker.

Mark Long, Building Codes Division administrator, discussed the background on [SB 193](#), specifically section 7, page 9. The intent of the bill was to clarify the respective responsibilities of the state and the insurance companies. SB 193 states that insurance companies who cover a site for new work should conduct the inspection on that site. Because the definition of boiler includes piping, the inspection would therefore include piping as well. Administrator Long is unaware of any state policy that prohibits the insurance industry from charging for these inspections.

Chairman Endicott explained that there was a reason why this policy was rolled into a senate bill, and there still seems to be some confusion that needs to be cleared up.

Anthony Barsotti stated that it appeared there were significant changes as SB 193 moved through the legislative process and he assumed that was a result of negotiations with stakeholders.

Administrator Long explained that they spent quite a bit of time going over SB 193 with industry to try to resolve any conflicts.

Mr. Barsotti stated that he was just trying to understand the process, the participants, and the legislative intent.

Administrator Long explained that it was important to the legislature to work with the insurance industry, and to be fair to Ray Andrus and the other people who testified, there was not a lot of discussion about piping at that time. Administrator Long said he did not recall who was involved or the specific details.

**Tim Barker, FM Global**, responded to the board's discussion regarding the negotiations through the legislative process. Mr. Barker stated he was not involved during the negotiations, but he believed the intent of insurance representative involvement related to the actual definition of installation, rather than pressure piping which is what the industry has concerns with.

Chairman Endicott suggested that Mr. Barker speak with the representatives who were involved throughout the negotiations; and through the work of the aforementioned taskforce and the division the issues can be resolved.

**Jay Bushard, Cole Industrial**, discussed an email he sent to the board regarding a company in Oregon who has filed for an owner-user permit to weld on a boiler pressure vessel. Mr. Bushard stated he could not find any reference in statute or rule giving Oregon the authority to issue a certificate to weld on a boiler or pressure vessel.

Mr. Bushard further requested clarification on the minimum safety requirements for this welding. He wondered where the industry and the state stand on this issue.

Chairman Endicott asked Mike Graham to research Mr. Bushard's request and have an answer for him at the next board meeting.

### **III. Reports**

#### **A. Building Codes Division administrator's report**

Mark Long, Building Codes Division administrator, began by introducing new employees to the division including: Aeron Teverbaugh, policy analyst; Jon Hills, enforcement program manager; David Galati, regional program manager; Shauna Parker, rules coordinator; and Kaylan Simmons, boards coordinator.

Administrator Long continued by delivering an update to the board and reviewing the contents of the [BCD Update](#) packet:

**E-Permitting** - The division is in the process of finalizing contracts for the system software and will shortly be entering into the development phase of the project. The division is looking for jurisdictions to help develop the product. When fully operable eBuildingPermits will make information easily accessible electronically. The system will allow for the electronic submission of plans, purchasing of permits, and scheduling inspections.

Administrator Long provided a [reminder](#) about the surcharge on all permit fees, which goes into effect on January 1, 2008, the result of HB 2405 (2007).

The packet also included a year-long [schedule](#) for all meetings of the various boards for 2008.

[Summary of Rulemaking Activities](#) - After the legislative session, the division focuses on implementing legislation. Accordingly, the division prioritized 2007 legislation that require rulemaking focusing on those policies that have an emergency clause and need to become effective immediately, and those whose effective date is January 1, 2008. At the same time, the division has been working on code adoption.

**Background on SB 192**, which was an agency bill designed to expand the tools available to the agency in its enforcement efforts. The division continues its efforts to bridge the licensing actions gap between the Construction Contractors Board and Building Code Division. As a result SB 192 allows for reciprocating enforcement action between the two organizations. With the passage of SB 192, the division received the authority to review construction issues that merit taking action against a licensee. This bill further grants the division the authority to review the actions of other states against a licensee, and to take action in Oregon as appropriate. Additionally, the division was granted the ability to review the history of owners and operators.

[HB 3360, Tankless Water Heater](#) - Administrator Long discussed the difference between provisions in SB 193, an agency bill, and provisions in HB 3360, an industry bill. HB 3360 exempts tankless water heaters from the boiler law and deals with the licensing aspects. SB 193 deals with inspection provisions.

The reason for the house bill was the industry's need for clarification on the definition of a domestic, or residential, tankless water heater and the intent of the law.

[2007 Legislative Summary](#) was provided to the board. The summary included both specific bills that impact the division and those that affect industry as a whole. It was designed to be a quick reference to all the legislative activities and changes.

**Sustainability** and green building development have been a topic of discussion recently, specifically concerning statewide code and how that relates to local decision-making, ordinances and the code adoption. The division is participating in these discussions, as they anticipate upcoming proposals and potential statutory changes in either 2008 or 2009.

**B. Summary of enforcement actions previously resolved by the division for cases 1 and 6, outlined on the enforcement board report (No board action required)**

Robert Salinas, enforcement and licensing assistant manager, reviewed the enforcement summary report. He discussed the enforcement program's focus on gaining more field presence. The division is achieving this focus in three ways: multi-agency sweeps, mini-agency sweeps, and license checks. Mr. Salinas also summarized the field activities of the division in their effort to maintain the integrity of licensing requirements. Mr. Salinas also provided a summary of the cases resolved by the division.

Phil Johnson, enforcement officer, stated that the cases had been reviewed and approved by the committee and the board, thus the board does not need to take any action.

Chairman Endicott stated that it bothers him that individuals go out and work on boilers without a license or permit.

Dennis Coplin asked how the division is handling the enforcement of the visible license requirements.

Mr. Salinas asked for advice from the board relating to this enforcement issue.

Chairman Endicott indicated that the division should involve all three boards, plumbing, electrical and boiler.

Mr. Salinas introduced Tania Close, the newest enforcement officer to join the division and stated that the enforcement section is open to any suggestions that would heighten field presence.

Anthony Barsotti asked about collaborating with local jurisdictions regarding enforcement.

Administrator Long explained that there is not complete agreement among jurisdictions as to the level of enforcement responsibility at the local level. The level of involvement often varies from jurisdiction to jurisdiction.

The enforcement section has a training manual and provides demonstration training on the ticket-book, which is easy to use.

Mr. Barsotti asked whether there is a strategic plan and what the criteria is for the enforcement section. Mr. Barsotti also asked for clarification on how the division knows when permits are purchased, who is applying for them and whether it is a regulatory activity of the boiler board. Mr. Barsotti asked if there is a way to utilize existing resources in these efforts to cross-reference activities.

Administrator Long stated that ePermitting will take care of some of those concerns. There are 800,000 permits issued each year in Oregon. Enforcement will be a piece of the eBuildingPermits project, but it is not the primary focus of the project. Although ePermitting has many benefits, it is not a mandated project for local jurisdictions. The division is working with individuals and local jurisdictions to provide training. The division is trying to develop the best program in the country that is user friendly and covers the local jurisdictions' needs.

Chairman Endicott stated that enforcement is an issue that continually needs to be looked at and recommended the board consider creating an enforcement group.

### **C. Program update**

Jim Denno, manager, State Inspection Services, reviewed a board recommendation that Oregon should adopt the Canadian language regarding pressure vessels and informed the board of the division's work on rule language. Manager Denno stated the committee reviewing the boiler license test questions has completed its work. Manager Denno also provided an update on the Pressure Vessel Inspection Frequency Advisory Committee's work. Manager Denno stated the committee will reconvene to address remaining concerns and review inspection cycles on specific pressure vessels.

Mr. Barsotti asked what the policies of the board are and where the policies and past minutes can be found.

Andrea Simmons, policy and technical services manager, explained the resources available to board members regarding the policies specific to the board. She explained these policies can be found at: <http://www.bcd.oregon.gov/boards.html#boards>. Manager Simmons pointed out [ORS 480](#) is the statute that created the board and gave it authority. Another resource is the administrative rules, specifically [OAR 918-225](#) which is specific to boilers.

In some instances the policies used in the creation of rules are based on decisions made by boards or during compliance cases. The Attorney General also has a training class for boards.

The division is also developing training specific to Building Codes boards, which is coming up some time next year.

Mr. Barsotti explained the question was asked at the previous board meeting about where the policy positions are located. He believed the answer was a compendium of policy statements (adopted by the board) does not exist.

Manager Simmons explained that the concern at the previous meeting was about the expiration of operating permits as they relate to the rulemaking process. As a result of that discussion, the division has placed an item on today's agenda to address this concern.

Chairman Endicott agreed the question regarding board policies was good and is worth pursuing down the road.

#### **IV. Communications**

Chair Endicott distributed a [handout](#) describing a boiler accident.

#### **V. Appeals – None**

#### **VI. Unfinished business**

##### **Board review and approval of Senate Bill 193 implementation rules**

Mike Bradley, Vice-chairman, addressed a concern that was raised at the September 11, 2007 board meeting surrounding the deletion of boiler and pressure vessel operating permit time periods in rule. He stated that Manager Simmons submitted a revised draft of [OAR 918-225-0600](#) to the board and there are still some corrections needed. The corrections include anhydrous ammonia and the inspection frequencies of specific items. Vice-chair Bradley asked for the division requests to be approved by board with changes.

Andrea Simmons, policy and technical services manager, requested that the Chairman take a short break in order for the division to work on the language. Manager Simmons explained that the rulemaking has already gone to hearing and the division is looking for approval since these provisions become effective January 1, 2008.

#### ***The board takes a short break***

Manager Simmons proposed the following changes to [Table 1.A](#) for adoption: Strike the second reference to CO2 tanks under 2-year operating permits; approve the language for farm use under the 3-year operating permits ammonia pressure vessels; and strike “not located in places of public assembly” under the 5-year operating permits CO2 tanks.

**Motion by Anthony Barsotti** to approve SB 193 with corrections.

**Motion carried unanimously**

#### **VII. New business**

##### **Board review and approval of license consistency rules to implement House Bill 2219**

Manager Simmons reviewed the proposed rules for HB 2219. [HB 2219](#) was implemented in the division's continued attempt to create licensing consistency.

The bill does not change license requirements, it does change the approval process. Specific to the boiler program, HB 2219 addresses fee terminology and provides the ability to transition licenses to a 3-year program.

Chairman Endicott asked how the continuing education provisions work with the new 3-year program.

Manager Simmons explained the continuing education provisions are another issue that will need to be discussed before July of 2008. Currently, statute requires 8 hours of code change classes per year. With the change to a 3-year program these continuing education requirements will need to be reviewed.

Chairman Endicott discussed a previous conversation held between board members surrounding continuing education requirements and the types of options available.

Dennis Coplin asked how these changes will affect the budget.

Manager Simmons explained that switching to the 3-year program will not impact the budget.

Mr. Barsotti asked whether HB 2219 removed language mandating 8 hours of continuing education, allowing flexibility.

Manager Simmons clarified the continuing education provision mirrored the language from the other boards that already had the flexibility to determine continuing education hours for specific licenses.

Mr. Barsotti asked how the board ties license application fees into providing for continuing education with the added flexibility for assigning continuing education requirements.

Manager Simmons explained that the application fee does not pay for the continuing education program. The rules before the board today were developed internally by the division and there is not a significant shift in policy to change from the 1-year program to the 3-year program. These rules need to be implemented by January 1, 2008 however, the rules relating to continuing education have more time and flexibility, and will need to go through a public process.

Administrator Long explained that this board will establish a process for assigning continuing education requirements. The implementation of HB 2219 allows them the flexibility to determine the number of continuing education hours each license level will be required to take. HB 2219 shifts the responsibility to the board to make continuing education decisions.

Mr. Barsotti stated that he was concerned that HB 2219 had eliminated the continuing education requirements.

Administrator Long clarified that HB 2219 did not eliminate continuing education requirements altogether, it just removed the specificity of the 8-hour requirement. Mr. Barsotti explained that he feels flexibility is a good idea.

Vice-chairman Bradley stated that the division already has a continuing education committee, which could meet one more time to discuss possible changes and make recommendations to the board.

Mr. Barsotti suggested the board may need an agenda point at the next meeting.

Manager Simmons explained the rules, as they are written, specifically require 8 hours of continuing education. These rules will remain the same unless the board does something before July 1, 2008. Manager Simmons explained that developing rules is a 6-month process and recommended the board look forward to the 3-year cycle not the 1-year cycle.

Mr. Barsotti explained he would like to see a roadmap: Where we are going and how we are going to get there.

Chairman Endicott explained that now the board has that opportunity and encouraged them to work with staff to accomplish those goals.

Manager Simmons explained that the continuing education process needs to be a public process and the taskforce is not a public process.

**Motion by Tom Perritt** to approve the proposed rules implementing the consistency standards.

**Motion carried unanimously**

#### **VIII. Announcements - None**

#### **IX. Adjournment**

Chair Endicott adjourned the meeting at 11:27 a.m.

Respectfully submitted,

Shauna Parker  
Rules Coordinator