

STATE OF NORTH DAKOTA
BEFORE THE INSURANCE COMMISSIONER

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| In the Matter of the Promulgation of Proposed Rules Regarding Boilers. |))))))) | SMALL ENTITY ECONOMIC IMPACT STATEMENT AND SMALL ENTITY REGULATORY ANALYSIS FILE NO. RU-13-411 |
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Small Entity Analysis for N.D. Admin. Code Article 45-12 – Boilers

N.D.C.C. § 28-32-08.1 requires that an agency prepare a regulatory analysis and an economic impact statement of the impact of the rule changes on a small entity. "Small entity" is defined by state law to include small businesses, small organizations, and small political subdivisions. *Id.* "Small business" is defined to mean a business entity, including its affiliates, which is independently owned and operated and employs fewer than 25 full-time employees; or has gross annual sales of less than \$2,500,000. *Id.* "Small organization" means any not-for-profit enterprise that is independently owned and operated and is not dominant in its field. *Id.* "Small political subdivision" means a political subdivision with a population of less than 5,000. *Id.*

A. Small Entity Economic Impact Statement

1. Small entities subject to the proposed rule

The small entities that may possibly be subject to these proposed rules are individuals who operate boilers and the individuals who inspect boilers that meet the statutory definition of "small entity".

2. Administrative and other costs required for compliance with the proposed rule

The administrative and other costs required for compliance with the proposed rules are expected to be minimal. The rules adopt the latest American Society of Mechanical Engineers (ASME) Code and National Board Inspection Code, correct incorrect wording in the current rule, add "Repairs and Alterations" to shop inspections and shop reviews, allow backflow preventers approved by the State Plumbing Board instead of the State Plumbing Code, change to 4 from 4.5 for the factor of safety for nonstandard boilers, and update the ASME Code and National Board Inspection Code to the 2013 edition for unfired pressure vessels.

3. Probable cost and benefit to private persons and consumers who are affected by the proposed rules

It is probable that there will be no cost to private persons and consumers who are affected by the proposed rules. The probable benefits to private persons and consumers include furthering consumer protection by improved boiler inspections resources and updated codes.

4. Probable effect of the proposed rule on state revenues

The rules are not reasonably expected to have an effect on state revenues.

5. Any less intrusive or less costly alternative methods of achieving the purpose of the proposed rule

The Commissioner considered whether there are any less intrusive or less costly alternative methods of achieving the purpose of the proposed rules. As previously noted, it is probable that the proposed rules will contain no cost to private persons and consumers who are affected by the proposed rules and that administrative and other costs for compliance with the proposed rule will be minimal to nil. The proposed rules are essentially an updating of various codes that are already used in the industry and which serve to modernize a current practice already familiar to the regulated community. In view of these circumstances, no less intrusive or less costly alternative methods were identified.

B. Small Entity Regulatory Analysis

1. Establishment of less stringent compliance or reporting requirements for small entities

Less stringent reporting requirements for small entities were considered and found not appropriate. Reporting requirements in the proposed rules are either carried over from the current version of the rule or are a codification of current practices familiar to the regulated community. Less stringent compliance requirements were also considered but they were not appropriate under these circumstances.

2. Establishment of less stringent schedules or deadlines for compliance or reporting requirements for small entities

The Commissioner considered less stringent schedules or deadlines where possible. Any and all schedules or deadlines set in the proposed rules have been set to be minimally stringent for all licensees regardless of size.

3. Consolidation or simplification of compliance or reporting requirements for small entities

To the extent possible, compliance or reporting requirements for small entities were simplified or made less onerous or made as streamlined as possible.

4. Establishment of performance standards for small entities to replace design or operational standards required in the proposed rule

Small entities were not given different operational standards to comply with than large entities. No design standards are presented in the proposed rules.

5. Exemption of small entities from all or any part of the requirements contained in the proposed rule

Small entities were not given different standards to comply with than large entities.

DATED this 18th day of July, 2013.



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