

STATE OF MAINE
BOARD OF BOILERS & PRESSURE VESSELS
LAWS AND RULES



DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION
OFFICE OF LICENSING AND REGISTRATION

BOARD OF BOILERS & PRESSURE VESSELS

35 STATE HOUSE STATION
AUGUSTA, MAINE 04333
TELEPHONE: 207/624-8606
www.maine.gov/professionallicensing

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BOARD OF BOILERS & PRESSURE VESSELS

LAWS

MRS Title 32, Chapter 131: BOARD OF BOILERS AND PRESSURE VESSELS

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32 §15101. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF).]

1. Approved. "Approved" means approved by the board.

[1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF) .]

2. Authorized inspector. "Authorized inspector" means a person holding a license to inspect boilers and pressure vessels within this State issued under section 15108-A or a person, employed by a company licensed to insure boilers and pressure vessels in this State, holding a certificate to inspect boilers and pressure vessels within this State issued under section 15120.

[1999, c. 386, Pt. W, §3 (AMD) .]

3. Board. "Board" means the Board of Boilers and Pressure Vessels.

[1999, c. 386, Pt. W, §3 (AMD) .]

4. Chief inspector. "Chief inspector" means the Chief Inspector of Boilers and Pressure Vessels approved under section 15106.

[1999, c. 386, Pt. W, §3 (AMD) .]

5. Code. "Code" means the boiler and pressure vessel code of the American Society of Mechanical Engineers and amendments and interpretations made and approved by the council of the society.

[1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF) .]

6. Commissioner. "Commissioner" means the Commissioner of Professional and

Financial Regulation.

[1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF) .]

7. Department. "Department" means the Department of Professional and Financial Regulation.

[1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF) .]

8. Deputy inspector. "Deputy inspector" means a person, employed by the State and supervised by the chief inspector, authorized to inspect boilers within this State.

[1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF) .]

9. Miniature boiler. "Miniature boiler" means a boiler as defined by the code.

[1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF) .]

10. Schoolhouse. "Schoolhouse" includes, but is not limited to, any structure used by schools or colleges, public or private, for the purpose of housing classrooms, gymnasiums, auditoriums or dormitories.

[1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF) .]

SECTION HISTORY

1995, c. 560, §H14 (NEW). 1995, c. 560, §H17 (AFF). 1999, c. 386, §W3 (AMD).

32 §15102. Exemptions

1. Boilers. This chapter does not apply to:

A. Boilers that are under federal control; [1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF).]

B. Boilers used solely for propelling motor road vehicles; [1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF).]

C. Boilers of steam fire engines brought into the State for temporary use in times of emergency to check conflagrations; [1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF).]

D. Boilers used for agricultural purposes only; [1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF).]

E. Steam heating boilers, hot water heating boilers and hot water supply boilers, except boilers located in schoolhouses or boilers owned by municipalities, constructed and installed in accordance with the rules adopted by the board; or [1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF).]

F. Miniature boilers exempt by section 15118. [1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF).]

[1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF) .]

2. Pressure vessels. This chapter does not apply to:

- A. Pressure vessels that are under federal control; [1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF).]
- B. Pressure vessels used for the transportation and storage of compressed or liquefied gases constructed in compliance with specifications of the United States Department of Transportation; [1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF).]
- C. Pressure vessels located on vehicles operating under the rules of other state authorities and used for carrying passengers or freight; [1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF).]
- D. Pressure vessels installed on the right-of-way of railroads and used directly in the operation of trains; [1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF).]
- E. Pressure vessels used solely for agricultural purposes on farms; [1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF).]
- F. Pressure vessels located in private residences and apartment houses with fewer than 6 apartments; [1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF).]
- G. Pressure vessels having an internal or external operating pressure not exceeding 15 pounds per square inch; [1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF).]
- H. Vessels for containing water under pressure, including those containing air, the compression of which serves only as a cushion, when neither of the following limitations is exceeded:
 - (1) A design pressure of 300 pressure pounds per square inch; or
 - (2) A design temperature of 210 degrees Fahrenheit; [1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF).]
- I. Pressure vessels containing water heated by steam or any other direct or indirect means when none of the following limitations are exceeded:
 - (1) A heat input of 200,000 British thermal units per hour;
 - (2) A water temperature of 200 degrees Fahrenheit; or
 - (3) A normal water-containing capacity of 120 gallons; [1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF).]
- J. Pressure vessels that do not exceed:
 - (1) Five cubic feet in volume and 250 pounds per square inch gauge pressure;
 - (2) One and 1/2 cubic feet in volume and 600 pounds per square inch gauge pressure; or
 - (3) An inside diameter of 6 inches with no limitation on pressure; or [2003, c. 204, Pt. G, §1 (AMD).]
- K. Pressure vessels that are used as an integral part of a circuit breaker or

transformer. [1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF).]

[2003, c. 204, Pt. G, §1 (AMD) .]

SECTION HISTORY

1995, c. 560, §H14 (NEW). 1995, c. 560, §H17 (AFF). 1999, c. 386, §W4 (AMD).
2003, c. 204, §G1 (AMD).

32 §15103. Board of Boilers and Pressure Vessels

1. Membership. The Board of Boilers and Pressure Vessels, as established by Title 5, section 12004-A, subsection 7, consists of 7 members appointed by the Governor. Of these 7 appointed members, 2 must be from labor organizations within this State and be boilermakers or have boiler licenses, one must be an owner and user of steam boilers within this State, one must be a boiler manufacturer within this State, one must be an operating steam engineer in this State, one must be from a boiler inspection and insurance company licensed to do business within the State and one must be public member as defined in Title 5, section 12004-A. Appointments are for 3-year terms. Appointments of members must comply with Title 10, section 8009. A member may be removed by the Governor for cause.

[2007, c. 402, Pt. MM, §1 (AMD) .]

2. Compensation.

[2007, c. 402, Pt. MM, §1 (RP) .]

3. Meetings; chair; quorum. The board shall meet at least once a year to conduct its business and to elect a chair. Additional meetings must be held as necessary to conduct the business of the board and may be convened at the call of the chair or a majority of the board members. Four members of the board constitute a quorum .

[2007, c. 402, Pt. MM, §1 (AMD) .]

4. Records.

[2007, c. 402, Pt. MM, §1 (RP) .]

SECTION HISTORY

1995, c. 560, §H14 (NEW). 1995, c. 560, §H17 (AFF). 1999, c. 386, §W5 (AMD).
2007, c. 402, Pt. MM, §1 (AMD).

32 §15104. Rules (REPEALED)

SECTION HISTORY

1995, c. 560, §H14 (NEW). 1995, c. 560, §H17 (AFF). 1999, c. 386, §W6 (RP).

32 §15104-A. Powers and duties

The board shall administer, coordinate and enforce the provisions of this chapter and has the following powers and duties in addition to those otherwise set forth in this chapter. [1999, c. 386, Pt. W, §7 (NEW).]

1. Rules. The board shall, in accordance with Title 5, chapter 375, adopt rules to implement the purposes of this chapter, including rules for the safe and proper construction, installation, repair, use and operation of boilers and pressure vessels in this State. The rules must conform as nearly as practicable to the code. Rules adopted by the board under this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2007, c. 402, Pt. MM, §2 (AMD) .]

2. Hearings.

[2007, c. 402, Pt. MM, §2 (RP) .]

3. Contracts.

[2007, c. 402, Pt. MM, §2 (RP) .]

SECTION HISTORY

1999, c. 386, §W7 (NEW). 2001, c. 573, §A1 (AMD). 2007, c. 402, Pt. MM, §2 (AMD).

32 §15104-B. Appeals; variances

A person aggrieved by an order or act of the chief inspector or a deputy inspector under this chapter may, within 15 days after notice of the order or act, appeal from the order or act to the board, which shall hold a hearing pursuant to Title 5, chapter 375, subchapter IV. After the hearing, the board shall issue an appropriate order either approving or disapproving the order or act. [2001, c. 573, Pt. A, §2 (NEW).]

A person who is or will be aggrieved by the application of any law, code or rule relating to the installation or alteration of boilers and pressure vessels may file a petition for a variance, whether compliance with that provision is required at the time of filing or at the time that provision becomes effective. The filing fee for a petition for a variance must be set by the Director of the Office of Licensing and Registration under section 15109, subsection 9. The chief inspector may grant a variance if, owing to conditions especially affecting the particular boiler or pressure vessel involved, the enforcement of any law, code or rule relating to boilers or pressure vessels would do manifest injustice or cause substantial hardship, financial or otherwise, to the petitioner or would be unreasonable under the circumstances, provided that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of that law, code or rule. In granting a variance under this section, the chief inspector may impose limitations both of time and of use, and a continuation of the use permitted may be conditioned upon compliance with rules made and amended from time to time. A copy of the decision must be sent to all interested parties. [2001, c. 573, Pt. A, §2 (NEW).]

SECTION HISTORY
2001, c. 573, §A2 (NEW).

32 §15104-C. Fees

The Director of the Office of Licensing and Registration within the department may establish by rule fees for purposes authorized under this chapter in amounts that are reasonable and necessary for their respective purposes, except that the fee for any accreditation review, facility review or inspection of any one boiler or pressure vessel may not exceed \$500, the fee for any shop inspection may not exceed \$3,000, the fee for an inspection certificate for any one boiler or pressure vessel may not exceed \$100, the fee for a late inspection or a late certificate may not exceed \$250 and the fee for any other purpose may not exceed \$150 triennially. Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. [2007, c. 402, Pt. MM, §3 (NEW).]

SECTION HISTORY
2007, c. 402, Pt. MM, §3 (NEW).

32 §15105. Installation of new boilers and pressure vessels

A new boiler or pressure vessel that does not conform to the rules adopted by the board governing new installations may not be installed in this State. [1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF).]

Unless otherwise exempt, all new boilers and pressure vessels to be installed must be inspected during construction by an inspector authorized to inspect boilers in this State, or, if constructed outside the State, by an inspector holding a license from this State or an inspector who holds a certificate of inspection issued by the National Board of Boiler and Pressure Vessel Inspectors, or its successor or other organization approved by the board. [2007, c. 402, Pt. MM, §4 (AMD).]

SECTION HISTORY
1995, c. 560, §H14 (NEW). 1995, c. 560, §H17 (AFF). 1999, c. 386, §W8 (AMD).
2007, c. 402, Pt. MM, §4 (AMD).

32 §15106. Chief and deputy inspectors

The commissioner shall appoint and may remove for cause when so appointed, a person to be chief inspector at any time the office may become vacant. [1999, c. 386, Pt. W, §9 (AMD).]

The commissioner may likewise hire deputy inspectors as necessary to carry out this chapter. [1999, c. 386, Pt. W, §9 (AMD).]

SECTION HISTORY
1995, c. 560, §H14 (NEW). 1995, c. 560, §H17 (AFF). 1999, c. 386, §W9 (AMD).

32 §15107. Deputy and authorized inspectors to be examined (REPEALED)

SECTION HISTORY

1995, c. 560, §H14 (NEW). 1995, c. 560, §H17 (AFF). 1999, c. 386, §W10 (RP).

32 §15108. Chief and deputy inspectors to furnish bond (REPEALED)

SECTION HISTORY

1995, c. 560, §H14 (NEW). 1995, c. 560, §H17 (AFF). 1999, c. 386, §W10 (RP).

32 §15108-A. Boiler and pressure vessel inspectors

The board shall issue a license as a boiler inspector upon payment of an application fee and license fee under section 15109, subsection 9 set by the director to any person who files an application and meets the qualifications as specified by rule. The board shall issue a license as a boiler inspector upon payment of an application fee and license fee to any person who files an application and holds a certificate as an inspector of steam boilers from a state that has a standard of licensing equal to that of this State or a certification from the National Board of Boiler and Pressure Vessel Inspectors, or its successor organization. [2001, c. 323, §35 (AMD).]

SECTION HISTORY

1999, c. 386, §W11 (NEW). 2001, c. 323, §35 (AMD).

32 §15108-B. Investigations of complaints; revocation of license, registration or certificate (REPEALED)

SECTION HISTORY

1999, c. 386, §W11 (NEW). 1999, c. 547, §B78 (AMD). 1999, c. 547, §B80 (AFF). 2001, c. 573, §A3 (AMD). 2007, c. 402, Pt. MM, §5 (RP).

32 §15108-C. Denial or refusal to renew license; disciplinary action

In addition to the grounds enumerated in Title 10, section 8003, subsection 5-A, paragraph A, the board may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for: [2007, c. 402, Pt. MM, §6 (NEW).]

1. Operating under the influence. Operating or being in charge of a plant while under the influence of intoxicating beverages or narcotic drugs;

[2007, c. 402, Pt. MM, §6 (NEW) .]

2. Physical or mental incapacity. Suffering from physical or mental incapacity that would jeopardize physical property or lives in the exercise of the license; or

[2007, c. 402, Pt. MM, §6 (NEW) .]

3. Operating without authority. Operating or having charge of a plant over which the licensee or applicant lacked authority.

[2007, c. 402, Pt. MM, §6 (NEW) .]

SECTION HISTORY

2007, c. 402, Pt. MM, §6 (NEW).

32 §15109. Stationary steam engineers and boiler operators

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Capacity" means the potential output of a steam boiler designated in pounds per hour of steam flow or its equivalent based on heating surface in the applicable chapter of the code. [1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF).]

B. "Committee" means the examination committee as set forth in this section. [1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF).]

C. "Have charge of" means the general supervisory control over the operation and maintenance of a plant and other stationary steam engineers or other personnel engaged in the operation of the plant. [1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF).]

D. "Operate" means to control by observation and manipulation of mechanical or automatic and remote controls equipment in connection with a plant, but does not include persons who "have charge of" the plant. [1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF).]

E. "Plant" means heating plant, power plant or process plant. [1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF).]

F. "#/HR" means pounds of steam per hour output or equivalent. [1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF).]

G. "Psi" means pounds per square inch. [1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF).]

H. "Supervise" means to have supervisory control over the operation and maintenance of a plant, other stationary steam engineers or other personnel engaged in the operation or maintenance of a plant, but does not mean "have charge of" as defined in paragraph C. [1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF).]

[1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF) .]

2. Licenses.

[2003, c. 597, §1 (RP) .]

2-A. Licenses. In order to safeguard life, health and property, the board shall provide for the mandatory licensing of stationary steam engineers and boiler operators. This subsection does not apply to:

A. Persons operating boilers exempt under section 15102; [2003, c. 597, §2 (NEW).]

B. Persons employed by entities under the jurisdiction of the Public Utilities Commission or the United States Nuclear Regulatory Commission, or its successor or other organization approved by the board; or [2007, c. 402, Pt. MM, §7 (AMD).]

C. Persons operating steam heating boilers, hot water heating boilers and hot water supply boilers located in schoolhouses or owned by municipalities. [2003, c. 597, §2 (NEW).]

[2007, c. 402, Pt. MM, §7 (AMD) .]

3. Issuance of license. The board shall issue a license to an applicant in the grade requested, upon payment of the application fee and license fee as set under section 15104-C, if the applicant has satisfactorily met the examination and other requirements of this section.

A. A license is valid for 3 years from the date of issuance. A license must designate the name of the holder, the license number, the grade of license, the issuing date and the expiration date. Any license issued under this chapter is automatically renewable upon payment of the renewal fee as set under section 15104-C. The expiration dates for licenses issued under this chapter may be established at such other times as the commissioner may designate.

A license may be renewed up to 90 days after the date of its expiration upon payment of a late fee in addition to the renewal fee as set under section 15104-C. Any person who submits an application for renewal more than 90 days after the license expiration date shall pay an additional late fee as set under section 15104-C and is subject to all requirements governing new applicants under this chapter, except that the board may in its discretion, giving due consideration to the protection of the public, waive examination or other requirements. Notwithstanding any other provision of this chapter, the board shall waive examination if a renewal application is made within 90 days after separation from the United States Armed Forces, under conditions other than dishonorable, by a person who has failed to renew that person's license because that person was on active duty in the Armed Forces; except that the waiver of examination may not be granted if the person served more than 4 years in the Armed Forces, except if that person is required by some mandatory provision to serve a longer period and that person submits satisfactory evidence of this mandatory provision to the board. [2007, c. 402, Pt. MM, §8 (AMD).]

B. The license certificate must be displayed in plain view in the plant where the licensee is employed. [1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF).]

C. The board shall determine the eligibility for licensure of any applicant who holds a current stationary steam engineering license issued by the proper authority of any state, territory or possession of the United States, the District of Columbia or Canada that has requirements equal to those of this State and recognizes the license issued by this State without further examination. The board shall certify as eligible for a license any applicant who holds a current Canadian marine or United States Coast Guard marine engineer's license and who has worked as a boiler engineer or operator 3 of the last 5 years prior to application. The applicant bears

the burden of proving those matters necessary for a license based on reciprocity. [1999, c. 386, Pt. W, §12 (AMD).]

[2007, c. 402, Pt. MM, §8 (AMD) .]

4. Denial or revocation of license.

[1999, c. 386, Pt. W, §13 (RP) .]

5. Examination committee.

[2007, c. 402, Pt. MM, §9 (RP) .]

5-A. Examination committee; duties.

[2007, c. 402, Pt. MM, §10 (RP) .]

6. Examinations.

[1999, c. 386, Pt. W, §16 (RP) .]

6-A. Examinations. Applicants for licensure shall present to the board a written application for examination accompanied by an application fee and examination fee as set under section 15104-C. Examinations must be in whole or in part in writing and of a thorough and practical character commensurate with the responsibilities of the prospective license holder.

The board shall establish by rule cutoff dates for applications for examination.

The passing grade on any examination may not be less than 70%. A candidate failing one examination may apply for reexamination, which may be granted upon payment of the fee established under section 15104-C.

[2007, c. 402, Pt. MM, §11 (AMD) .]

7. Scope of licenses. The scope of a boiler operator's license and 4 classes of engineering licenses is as set out in this subsection.

A. [2003, c. 597, §4 (RP).]

B. The holder of a boiler operator's license may operate, supervise or have charge of a heating plant having a capacity of not more than 20,000 #/HR or operate or supervise a plant up to the capacity of the license of the engineer in charge of the plant in which the licensee is employed. The applicant for a boiler operator's license must have 6 months' operating experience prior to examination under a boiler operator's training permit. The board shall issue a permit for the purpose of gaining that experience upon receipt of an application fee and permit fee as set under section 15104-C. Such a permit must be limited to a specified plant and must be limited to one year. The board may extend the permit for a period not to exceed one year under unusual circumstances. The board may allow the owner of a small plant to sit for the boiler operator's examination without first obtaining a boiler operator's

training permit. [2007, c. 402, Pt. MM, §12 (AMD).]

C. The holder of a 4th-class engineer's license may have charge of a plant of not more than 50,000 #/HR or operate or supervise a plant up to the capacity of the license of the engineer in charge of the plant in which the licensee is employed. An applicant for a 4th-class engineer's license must be a high school graduate or have equivalent education and at least one year of operating or supervising experience under a duly licensed engineer having charge of a plant. An applicant for a 4th-class engineer's license must have at least one year operating or supervising experience as a boiler operator. [2003, c. 597, §6 (AMD).]

D. The holder of a 3rd-class engineer's license may have charge of a plant of not more than 100,000 #/HR or operate or supervise a plant up to the capacity of the license of the engineer in charge of the plant in which the licensee is employed. An applicant for a 3rd-class engineer's license must have at least one year operating or supervising experience as a 4th-class engineer. [1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF).]

E. The holder of a 2nd-class engineer's license may have charge of a plant of not more than 200,000 #/HR or operate or supervise a plant up to the capacity of the license of the engineer in charge of the plant in which the licensee is employed. An applicant for a 2nd-class engineer's license must have at least 2 years operating or supervising experience as a 3rd-class engineer. [1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF).]

F. The holder of a first-class engineer's license may operate, supervise or have charge of a plant of unlimited steam capacity. An applicant for a first-class engineer's license must have at least 2 years operating or supervisory experience as a 2nd-class engineer. [1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF).]

G. One year of schooling in the field of boiler operation in a school approved by the board is equivalent to 6 months of operating experience. The board may conduct an accreditation review of the technical school. The technical school shall pay a fee for the accreditation review. [2001, c. 323, §38 (AMD).]

H. In the event of a lack of qualified personnel in the plant in which the applicant is employed, the board may waive the operating experience requirements of the applicant for examination for the next higher grade of license. Any such license issued must be limited to that plant. [1999, c. 386, Pt. W, §18 (AMD).]

I. Notwithstanding the provisions of this subsection, the board may permit an applicant to take the examination for a license if, in the board's opinion, the experience or educational qualifications, or both, of the applicant are equivalent to the operating experience required by this subsection. [1999, c. 386, Pt. W, §18 (AMD).]

[2007, c. 402, Pt. MM, §12 (AMD) .]

8. Rules. The board may adopt all necessary rules and establish necessary procedures for examination and licensing to carry out this section, pursuant to the

Maine Administrative Procedure Act. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2007, c. 402, Pt. MM, §13 (AMD) .]

9. Fees.

[2007, c. 402, Pt. MM, §14 (RP) .]

10. Committee expenses.

[2007, c. 402, Pt. MM, §15 (RP) .]

SECTION HISTORY

1995, c. 560, §H14 (NEW). 1995, c. 560, §H17 (AFF). 1997, c. 691, §2 (AMD). 1999, c. 386, §§W12-20 (AMD). 1999, c. 127, §D5 (AFF). 2001, c. 323, §§36-39 (AMD). 2001, c. 573, §A4 (AMD). 2003, c. 597, §§1-6 (AMD). 2007, c. 402, Pt. MM, §§7-15 (AMD). MRSA T.32, §15109/2/A (AMD).

32 §15110. Welding on boilers; certificates for welders

A welder may not make welded repairs to any boiler or pressure vessel covered by this chapter, without first receiving authorization from the chief inspector or the authorized inspector employed by the insurance company responsible for the inspection of the boiler or pressure vessel. The authorization may be in the form of a general agreement between the chief inspector or the appropriate authorized inspector and the owner or the owner's representative. [1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF).]

The board may adopt rules, pursuant to the Maine Administrative Procedure Act, relating to qualifications of welders performing welding for compensation and may conduct examinations and issue certificates. A fee may be charged for those examinations and certificates. [2001, c. 323, §40 (AMD).]

The board may conduct a welding test facility review. The welding test facility shall pay the required fee for the review. [2001, c. 323, §41 (AMD).]

SECTION HISTORY

1995, c. 560, §H14 (NEW). 1995, c. 560, §H17 (AFF). 1999, c. 386, §W21 (AMD). 2001, c. 323, §§40,41 (AMD).

32 §15111. Operation of condemned vessels

A boiler or pressure vessel that has been condemned for further use in this or any other state by a licensed boiler inspector employed by an insurance company or by an inspector authorized to inspect boilers by a state or the Federal Government may not be installed or operated in this State. [1999, c. 386, Pt. W, §22 (AMD).]

SECTION HISTORY

1995, c. 560, §H14 (NEW). 1995, c. 560, §H17 (AFF). 1999, c. 386, §W22 (AMD).

32 §15112. Condemned vessels stamped

A boiler or pressure vessel condemned in this State must be stamped "XXX Me.," and the board must immediately be notified of the condemnation. [1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF).]

The stamp "XXX Me." placed on condemned boilers must be made across the registration mark or number of the boiler, or if the boiler has no registration mark or number, a stamp must be placed in the location of this mark as determined by the rules of the code. [1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF).]

The stamping must be done with individual letters, driven into the plate so far as to thoroughly cancel any previous registration and must be made with letters at least 3/8 of an inch high. [1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF).]

The laws and regulations of the code must be used in all mathematical computations necessary to determine the safety of a boiler. [1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF).]

SECTION HISTORY

1995, c. 560, §H14 (NEW). 1995, c. 560, §H17 (AFF).

32 §15113. Registration; stamping

A boiler, except one exempt under section 15102, may not be operated in this State unless the boiler is registered in the office of the board upon blanks to be furnished by the board upon request. The completed blanks must contain information regarding maker's name, type of construction, date of construction, age, location and when last inspected and other information as may be required. [1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF).]

A pressure vessel, except those exempt under section 15102, may not be installed and operated in this State after June 30, 1974, unless it is constructed, inspected and stamped in conformity with Section VIII of the code and is registered with and approved by the board. [1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF).]

The board may conduct shop inspections. The shop shall pay the required fee for the inspection. [2001, c. 323, §42 (AMD).]

A pressure vessel that does not bear the code stamping may be registered with and approved by the board, if the person desiring to install the vessel makes application to the board and files a copy of the manufacturer's data report or a copy of the construction details together with material specifications for review and approval prior to installation. [1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF).]

After a boiler or pressure vessel has been registered with the board, the board shall furnish and the owner or user shall stamp or have stamped a number as given, on the shell of the boiler in the space commonly used for such purposes, with letters and figures not less than 3/8 of an inch high. [1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF).]

If a boiler or pressure vessel subject to this section is moved from one location to another, notice must be given the board of the removal and of the new location in which

the boiler or pressure vessel is to be set up. [1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF).]

SECTION HISTORY

1995, c. 560, §H14 (NEW). 1995, c. 560, §H17 (AFF). 1999, c. 386, §W23 (AMD). 2001, c. 323, §42 (AMD).

32 §15114. Certificate required

It is unlawful for any person, firm, partnership or corporation to operate under pressure in this State a boiler or pressure vessel to which this chapter applies without a valid inspection certificate as provided in this chapter. The operation of a boiler or pressure vessel without an inspection certificate constitutes a Class E crime on the part of the owner or user of the boiler or pressure vessel and is punishable by a fine of not more than \$100 or by imprisonment for not more than 30 days, or by both. [1999, c. 386, Pt. W, §24 (AMD).]

SECTION HISTORY

1995, c. 560, §H14 (NEW). 1995, c. 560, §H17 (AFF). 1999, c. 386, §W24 (AMD).

32 §15115. Temporary certificate

If an emergency affecting public safety and welfare exists, the board may authorize the chief inspector to issue a temporary inspection certificate for a period not exceeding 6 months after an inspection certificate has expired. A temporary inspection certificate may be issued without an internal inspection being made. If the boiler or pressure vessel is insured, the temporary inspection certificate may not be issued until recommended in writing by the authorized inspector of the company insuring the boiler or pressure vessel and by the chief inspector or one of the deputies; or, if the boiler or pressure vessel is not insured, the temporary inspection certificate must be recommended in writing by at least 2 authorized state inspectors. The provisions as to posting of the inspection certificate apply to the temporary inspection certificate. [1999, c. 386, Pt. W, §25 (AMD).]

SECTION HISTORY

1995, c. 560, §H14 (NEW). 1995, c. 560, §H17 (AFF). 1999, c. 386, §W25 (AMD).

32 §15116. Insurance

When a boiler or pressure vessel is insured and inspected by a duly accredited insurance company licensed to do business in this State, a copy of the record of each certificate inspection of the boiler or pressure vessel must be filed with the board. [1999, c. 687, Pt. E, §15 (AMD).]

When an insurance company cancels insurance upon any boiler or pressure vessel requiring inspection under section 15117 that is not exempt under section 15102 or the policy expires and is not renewed, notice must immediately be given to the board. An insurance company shall notify the board immediately upon insuring a boiler or pressure vessel pursuant to this section. [1999, c. 386, Pt. W, §26 (AMD).]

SECTION HISTORY

1995, c. 560, §H14 (NEW). 1995, c. 560, §H17 (AFF). 1999, c. 386, §W26 (AMD). 1999, c. 687, §E15 (AMD).

32 §15117. Inspection required; certificates issued

Each boiler or pressure vessel used or proposed for use within this State, except boilers or pressure vessels exempt under section 15102, must be thoroughly inspected by the chief inspector, a deputy inspector or an authorized inspector, as to its design, construction, installation, condition and operation. The board shall adopt rules pursuant to the Maine Administrative Procedure Act specifying the method and frequency of inspection. When any boiler or pressure vessel inspected as specified by the board is found to be suitable and to conform to the rules of the board, the chief inspector shall issue to the owner or user of that boiler or pressure vessel, upon payment of a fee to the board, an inspection certificate for each boiler or pressure vessel. The fee under section 15109, subsection 9 must be set by the director. Inspection certificates must specify the maximum pressure that the boiler or pressure vessel inspected is allowed to carry. The inspection certificate may be valid for not more than 14 months from the date of inspection in the case of boilers and 38 months from the date of inspection in the case of pressure vessels and must be posted under glass in the engine or boiler room containing the boiler or pressure vessel or an engine operated by it or, in the case of a portable boiler, in the office of the plant where it is temporarily located. The board may adopt rules setting forth criteria by which a temporary extension of an inspection certificate beyond 14 months in the case of boilers and beyond 38 months in the case of pressure vessels may be authorized. Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A. [2001, c. 573, Pt. A, §5 (AMD).]

In accordance with the provisions of the Maine Administrative Procedure Act, the chief inspector or any deputy inspector may at any time suspend an inspection certificate when, in the inspector's opinion, the boiler or pressure vessel for which it was issued may not continue to be operated without menace to the public safety. A licensed inspector has corresponding powers with respect to inspection certificates for boilers and pressure vessels insured by the company employing the inspector. [1999, c. 386, Pt. W, §27 (AMD).]

SECTION HISTORY

1995, c. 560, §H14 (NEW). 1995, c. 560, §H17 (AFF). 1999, c. 386, §W27 (AMD). 1999, c. 687, §E16 (AMD). 2001, c. 323, §43 (AMD). 2001, c. 573, §A5 (AMD).

32 §15118. Inspection charge

The owner or user of each boiler or pressure vessel required by this chapter to be inspected by the chief inspector or a deputy inspector shall pay to the inspector upon inspection a fee or fees as set under section 15104-C. Not more than one inspection fee may be collected for the inspection of any one boiler or pressure vessel made in any one year, unless additional inspections are required by the owners or users of the boiler or pressure vessel or unless the boiler or pressure vessel has been inspected and an inspection certificate has been refused, withheld or withdrawn or unless an additional inspection is required because of the change of location of a stationary boiler or

pressure vessel. The nature and size of miniature boilers or pressure vessels to be inspected may be determined by the board. [2007, c. 402, Pt. MM, §16 (AMD).]

The fees for additional inspections required by the code must be paid by the boiler owner or contractor and those fees must include the wages and expenses of the inspector. [1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF).]

SECTION HISTORY

1995, c. 560, §H14 (NEW). 1995, c. 560, §H17 (AFF). 1999, c. 386, §W28 (AMD). 2001, c. 323, §44 (AMD). 2007, c. 402, Pt. MM, §16 (AMD).

32 §15119. Powers of chief inspector

The chief inspector may: [1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF).]

1. Free access to premises. Have free access for the chief inspector or a deputy or deputy inspectors during reasonable hours to any premises in the State where a boiler or pressure vessel is built or where a boiler or pressure vessel or power plant apparatus is being installed or operated, for the purpose of ascertaining whether the boiler or pressure vessel is built, installed and operated in accordance with this chapter;

[1999, c. 386, Pt. W, §29 (AMD) .]

2. Inspection certificates. Issue, suspend and revoke inspection certificates allowing boilers or pressure vessels to be operated, as provided in sections 15115 and 15117, and as provided in the Maine Administrative Procedure Act;

[2001, c. 573, Pt. A, §6 (AMD) .]

3. Enforce laws and rules. Enforce the laws of the State governing the use of boilers and pressure vessels and enforce the rules of the board; and

[2001, c. 573, Pt. A, §6 (AMD) .]

4. Examinations and certificates of competency.

[1999, c. 386, Pt. W, §29 (RP) .]

5. Order uninspected or unrepaired boilers and pressure vessels out of service. In addition to the chief inspector's powers under section 15117, order that a boiler or pressure vessel be taken out of service if an inspection report is not submitted to the board as required by section 15121, subsection 1, if the inspection certificate fee is not submitted as required by section 15121, subsection 2 or if the owner fails to make repairs as required by the board.

[2001, c. 573, Pt. A, §7 (NEW) .]

SECTION HISTORY

1995, c. 560, §H14 (NEW). 1995, c. 560, §H17 (AFF). 1999, c. 386, §W29 (AMD).

2001, c. 573, §§A6,7 (AMD).

32 §15120. Authorized inspectors; duties

The board shall, upon the request of any company authorized to insure against loss from explosion of boilers or pressure vessels in this State, issue to the boiler inspectors of the company certificates of authority as authorized inspectors. Each inspector before receiving a certificate of authority must hold a certificate as an inspector of steam boilers for a state that has a standard of examination equal to that of this State or a certificate from the National Board of Boiler and Pressure Vessel Inspectors, or its successor or other organization approved by the board. Authorized inspectors are not entitled to receive a salary from, nor may any of their expenses be paid by, the State. The continuance of an authorized inspector's certificate is conditioned upon the authorized inspector continuing in the employ of a boiler inspection and insurance company duly authorized and upon maintenance of the standards imposed by this chapter. Authorized inspectors shall inspect all boilers and pressure vessels insured by their respective companies, and the owners or users of those insured boilers are exempt from the payment of the fees provided for in section 15118. Authorized inspectors may, with the permission of the chief inspector, also inspect boilers or pressure vessels for which an application for insurance against loss from explosion of boilers or pressure vessels has been made or when a new boiler or pressure vessel is installed at an insured location and the prospective insured owner or user is exempt from the payment of fees provided for in section 15118. Each company employing authorized inspectors shall, within 30 days following each certificate inspection made by the inspectors, file a report of the inspection with the chief inspector. [2007, c. 402, Pt. MM, §17 (AMD).]

SECTION HISTORY

1995, c. 560, §H14 (NEW). 1995, c. 560, §H17 (AFF). 1999, c. 386, §W30 (AMD). 1999, c. 687, §E17 (AMD). 2001, c. 573, §A8 (AMD). 2007, c. 402, Pt. MM, §17 (AMD).

32 §15121. Duties of owners of boilers and pressure vessels

1. Responsibility for inspection. It is the responsibility of the owner to arrange for an inspection of a boiler or pressure vessel and to prepare the boiler or pressure vessel for inspection. The late inspection fee set by the Director of the Office of Licensing and Registration within the department under section 15104-C may be assessed against the owner if an inspection report is not submitted within 60 days of the expiration of the most recent inspection certificate.

[2007, c. 402, Pt. MM, §18 (AMD) .]

2. Obtain inspection certificate. The owner of a boiler or pressure vessel shall submit the inspection certificate fee as set under section 15104-C within 60 days of notification from the board that the inspection report required under section 15120 has been received by the board. Failure to submit the required fee within the 60 days provided may result in the assessment of a late certificate fee as set under section

15104-C.

[2007, c. 402, Pt. MM, §19 (AMD) .]

3. Failure to qualify for inspection certificate. The owner of a boiler or pressure vessel that does not qualify for an inspection certificate shall take the boiler or pressure vessel out of operation until the required repairs have been made and a new inspection certificate has been issued.

[2001, c. 573, Pt. A, §9 (NEW) .]

4. Notify board when required repairs made. The owner of a boiler or pressure vessel shall notify the board when required repairs have been made and provide the board with satisfactory evidence of completion.

[2001, c. 573, Pt. A, §9 (NEW) .]

5. Notify board when boiler or pressure vessel removed. The owner of a boiler or pressure vessel shall notify the board within 30 days of the removal of the boiler or pressure vessel.

[2001, c. 573, Pt. A, §9 (NEW) .]

6. Change of ownership. The owner of a boiler or pressure vessel shall notify the board of a transfer of ownership within 30 days of such a transfer.

[2001, c. 573, Pt. A, §9 (NEW) .]

7. Failure to comply. In addition to the remedies available under this chapter, an owner of a boiler or pressure vessel who fails to comply with the provisions of this chapter or rules adopted by the board is subject to the provisions of Title 10, section 8003, subsection 5 whether or not the boiler or pressure vessel has a current inspection certificate, except that, notwithstanding Title 10, section 8003, subsection 5, paragraph A-1, subparagraph 3, a civil penalty of up to \$3,000 may be imposed for each violation.

[2001, c. 573, Pt. A, §9 (NEW) .]

SECTION HISTORY

2001, c. 573, §A9 (NEW). 2007, c. 402, Pt. MM, §§18, 19 (AMD).

MRS Title 10, Chapter 901: DEPARTMENT OF BUSINESS REGULATION

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10 §8001. Department; organization

There is created and established the Department of Professional and Financial Regulation, in this chapter referred to as the "department," to regulate financial institutions, insurance companies, grantors of consumer credit and to license and regulate professions and occupations. The mission of the department is to encourage sound, ethical business practices through high-quality, impartial and efficient regulation of insurers, financial institutions, creditors, investment providers and numerous professions and occupations for the purpose of protecting consumers. The department is composed of the following: [1999, c. 687, Pt. C, §1 (AMD).]

1. Bureau of Financial Institutions. Bureau of Financial Institutions;

[2001, c. 44, §9 (AMD); 2001, c. 44, §14 (AFF) .]

2. Bureau of Consumer Credit Protection. Bureau of Consumer Credit Protection;

[1995, c. 309, §26 (AMD); 1995, c. 397, §4 (AMD); 1995, c. 309, §29 (AFF); 2007, c. 273, Pt. B, §7 (AFF); 2007, c. 273, Pt. B, §5 (REV) .]

3. Bureau of Insurance. Bureau of Insurance;

[1995, c. 397, §4 (AMD) .]

3-A. Office of Securities. Office of Securities; and

[2001, c. 182, §5 (NEW) .]

4. Maine Athletic Commission.

[1995, c. 397, §5 (RP) .]

5. Maine State Pilotage Commission.

[1995, c. 397, §5 (RP) .]

6. Real Estate Commission.

[1995, c. 397, §5 (RP) .]

7. Arborist Examining Board.

[1995, c. 397, §5 (RP) .]

8. Board of Licensing of Auctioneers.

[1995, c. 397, §5 (RP) .]

9. Board of Barbering and Cosmetology.

[1995, c. 397, §5 (RP) .]

10. Board of Commercial Driver Education.

[1995, c. 397, §5 (RP) .]

10. Board of Driver Education.

[1995, c. 505, §22 (AFF); 1995, c. 505, §4 (RP) .]

11. Board of Licensing of Dietetic Practice.

[1995, c. 397, §5 (RP) .]

12. Electricians' Examining Board.

[1995, c. 397, §5 (RP) .]

13. State Board of Licensure for Professional Foresters.

[1995, c. 397, §5 (RP) .]

14. State Board of Funeral Service.

[1995, c. 397, §5 (RP) .]

15. State Board of Certification for Geologists and Soil Scientists.

[1995, c. 397, §5 (RP) .]

16. Board of Hearing Aid Dealers and Fitters.

[1995, c. 397, §5 (RP) .]

17. Manufactured Housing Board.

[1995, c. 397, §5 (RP) .]

18. Nursing Home Administrators Licensing Board.

[1995, c. 397, §5 (RP) .]

19. Board of Occupational Therapy Practice.

[1995, c. 397, §5 (RP) .]

20. Oil and Solid Fuel Board.

[1995, c. 397, §5 (RP) .]

21. Board of Examiners in Physical Therapy.

[1995, c. 397, §5 (RP) .]

22. Plumbers' Examining Board.

[1995, c. 397, §5 (RP) .]

22-A. Board of Licensure of Podiatric Medicine.

[1995, c. 397, §6 (RP) .]

23. State Board of Examiners of Psychologists.

[1995, c. 397, §7 (RP) .]

24. Radiologic Technology Board of Examiners.

[1995, c. 397, §7 (RP) .]

25. Board of Respiratory Care Practitioners.

[1995, c. 397, §7 (RP) .]

26. State Board of Social Worker Licensure.

[1995, c. 397, §7 (RP) .]

27. Board of Examiners on Speech Pathology and Audiology.

[1995, c. 397, §7 (RP) .]

28. State Board of Substance Abuse Counselors.

[1995, c. 397, §7 (RP) .]

29. State Board of Veterinary Medicine.

[1995, c. 397, §7 (RP) .]

30. Acupuncture Licensing Board.

[1995, c. 397, §7 (RP) .]

31. Board of Commissioners of the Profession of Pharmacy.

[1995, c. 397, §7 (RP) .]

32. Board of Licensure for Professional Land Surveyors.

[1995, c. 397, §7 (RP) .]

32-A. Maine State Board for Licensure of Architects, Landscape Architects and Interior Designers.

[1995, c. 397, §8 (RP) .]

33. Board of Chiropractic Licensure.

[1995, c. 397, §9 (RP) .]

34. Board of Licensure of Railroad Personnel.

[1993, c. 428, §2 (RP) .]

35. Board of Counseling Professionals Licensure.

[1995, c. 625, Pt. A, §17 (RP) .]

36. Board of Real Estate Appraisers.

[1995, c. 625, Pt. A, §17 (RP) .]

37. Real Estate Commission.

[1995, c. 502, Pt. H, §7 (RP) .]

P. [2007, c. 369, Pt. C, §5 (AFF); 2007, c. 369, Pt. B, §2 (RP).]

Q. Board of Licensure for Professional Land Surveyors; [1995, c. 397, §11 (NEW).]

R. Manufactured Housing Board; [1995, c. 397, §11 (NEW).]

S. Nursing Home Administrators Licensing Board; [1995, c. 397, §11 (NEW).]

T. Board of Occupational Therapy Practice; [1995, c. 397, §11 (NEW).]

U. Oil and Solid Fuel Board; [1995, c. 397, §11 (NEW).]

V. Maine Board of Pharmacy; [1995, c. 397, §11 (NEW); 1997, c. 245, §19 (AMD).]

W. Board of Examiners in Physical Therapy; [1995, c. 397, §11 (NEW).]

Y. Plumbers' Examining Board; [1995, c. 397, §11 (NEW).]

Z. Board of Licensure of Podiatric Medicine; [1995, c. 397, §11 (NEW).]

AA. State Board of Examiners of Psychologists; [1995, c. 397, §11 (NEW).]

- BB. Radiologic Technology Board of Examiners; [1995, c. 397, §11 (NEW).]
- CC. Board of Real Estate Appraisers; [1995, c. 397, §11 (NEW).]
- DD. Board of Respiratory Care Practitioners; [1995, c. 397, §11 (NEW).]
- EE. State Board of Social Worker Licensure; [1995, c. 397, §11 (NEW).]
- FF. [2007, c. 369, Pt. C, §5 (AFF); 2007, c. 369, Pt. B, §3 (RP).]

38. Office of Licensing and Registration. The Office of Licensing and Registration also administers the following regulatory functions: licensure of athletic trainers; licensure of massage therapists; licensure of interpreters for the deaf and hard-of-hearing; licensure of persons pursuant to the Charitable Solicitations Act; and licensure of transient sellers, including door-to-door home repair transient sellers.

Office of Licensing and Registration. The Office of Licensing and Registration is composed of the following:

- A. Board of Accountancy; [1995, c. 397, §11 (NEW).]
- D. Maine State Board for Licensure of Architects, Landscape Architects and Interior Designers; [1995, c. 397, §11 (NEW).]
- E. Maine Athletic Commission; [1995, c. 397, §11 (NEW).]
- F. Board of Licensing of Auctioneers; [1995, c. 397, §11 (NEW).]
- G. Board of Barbering and Cosmetology; [1995, c. 397, §11 (NEW).]
- H. Board of Chiropractic Licensure; [1995, c. 397, §11 (NEW).]
- H-1. Board of Complementary Health Care Providers; [1995, c. 671, §7 (NEW).]
- I. Board of Driver Education; [1995, c. 397, §11 (NEW); 1995, c. 402, Pt. A, §47 (AMD).]
- J. Board of Counseling Professionals Licensure; [1995, c. 397, §11 (NEW).]
- K. Board of Licensing of Dietetic Practice; [1995, c. 397, §11 (NEW).]
- L. Electricians' Examining Board; [1995, c. 397, §11 (NEW).]
- M. Board of Licensure of Foresters; [1995, c. 397, §11 (NEW); 2001, c. 261, §5 (AMD).]
- N. State Board of Funeral Service; [1995, c. 397, §11 (NEW).]
- O. State Board of Certification for Geologists and Soil Scientists; [1995, c. 397, §11 (NEW).]
- GG. State Board of Alcohol and Drug Counselors; [1995, c. 502, Pt. H, §8 (AMD).]
- HH. State Board of Veterinary Medicine; [1995, c. 502, Pt. H, §8 (AMD).]
- II. Propane and Natural Gas Board; [1995, c. 560, Pt. H, §3 (AMD); 1995, c. 560, Pt. H, §17 (AFF).]
- JJ. Real Estate Commission; [1995, c. 560, Pt. H, §3 (AMD); 1995, c. 560, Pt. H, §17 (AFF).]
- KK. Board of Boiler Rules; [2007, c. 369, Pt. B, §4 (AMD); 2007, c. 369, Pt. C, §5 (AFF).]
- LL. Board of Elevator and Tramway Safety; and [2007, c. 369, Pt. B, §5 (AMD); 2007, c. 369, Pt. C, §5 (AFF).]

MM. Board of Speech-language Pathology, Audiology and Hearing Aid Dealing and Fitting. [2007, c. 369, Pt. B, §6 (NEW); 2007, c. 369, Pt. C, §5 (AFF).]

[2007, c. 369, Pt. B, §§2-6 (AMD); 2007, c. 402, Pt. C, §1 (AMD); 2007, c. 369, Pt. C, §5 (AFF) .]

SECTION HISTORY

1971, c. 488, §§1,3 (NEW). 1973, c. 537, §15 (RP). 1973, c. 585, §4 (RPR). 1973, c. 788, §43 (RPR). 1975, c. 134, §4 (AMD). 1975, c. 547, §4 (AMD). 1975, c. 579, §1 (AMD). 1975, c. 770, §58 (AMD). 1975, c. 771, §122 (AMD). 1975, c. 767, §9 (RPR). 1977, c. 160, §2 (AMD). 1977, c. 466, §1 (AMD). 1977, c. 673, §1 (AMD). 1977, c. 78, §36 (RPR). 1979, c. 606, §2 (AMD). 1981, c. 501, §37 (AMD). 1981, c. 703, §A2 (AMD). 1983, c. 553, §11 (AMD). 1983, c. 746, §1 (AMD). 1983, c. 758, §1 (AMD). 1985, c. 819, §§A15,16 (AMD). 1985, c. 233, §2 (RPR). 1985, c. 288, §2 (RPR). 1985, c. 389, §6 (RPR). 1985, c. 737, §A21 (RPR). 1985, c. 748, §15 (RPR). 1987, c. 395, §A34 (RPR). 1987, c. 488, §2 (RPR). 1989, c. 450, §4 (RPR). 1989, c. 465, §2 (RPR). 1989, c. 502, §A31 (RPR). 1989, c. 806, §2 (RPR). 1989, c. 878, §D6 (RPR). 1991, c. 396, §1 (AMD). 1991, c. 397, §3 (AMD). 1991, c. 548, §B1 (RPR). 1993, c. 389, §3 (AMD). 1993, c. 428, §2 (AMD). 1993, c. 600, §§A6,7 (AMD). 1995, c. 309, §26 (AMD). 1995, c. 389, §§2,3 (AMD). 1995, c. 397, §§3-11 (AMD). 1995, c. 402, §§A3,47 (AMD). 1995, c. 502, §§H6-8 (AMD). 1995, c. 505, §4 (AMD). 1995, c. 560, §§H3,4 (AMD). 1995, c. 625, §A17 (AMD). 1995, c. 671, §§6,7 (AMD). 1995, c. 309, §29 (AFF). 1995, c. 505, §22 (AFF). 1995, c. 560, §H17 (AFF). 1997, c. 727, §C1 (AMD). 1997, c. 749, §2 (AMD). 1999, c. 386, §B1 (AMD). 1999, c. 399, §2 (AMD). 1999, c. 687, §C1 (AMD). 1999, c. 399, §20 (AFF). 2001, c. 44, §9 (AMD). 2001, c. 182, §5 (AMD). 2001, c. 261, §5 (AMD). 2001, c. 44, §14 (AFF). 2007, c. 369, Pt. B, §§2-6 (AMD). 2007, c. 402, Pt. C, §1 (AMD). 2007, c. 273, Pt. B, §7 (AFF). 2007, c. 369, Pt. C, §5 (AFF). 2007, c. 273, Pt. B, §5 (REV).

10 §8001-A. Department; affiliation

The following boards and commissions are affiliated with the Department of Professional and Financial Regulation: [1989, c. 450, §5 (NEW).]

1. State Board of Registration of Architects and Landscape Architects.

[1991, c. 396, §2 (RP) .]

2. State Board of Cosmetology.

[1991, c. 397, §4 (RP) .]

3. Board of Dental Examiners. Dental Examiners, Board of;

[1989, c. 450, §5 (NEW) .]

4. Board of Licensure in Medicine. Medicine, Board of Licensure in;

[1993, c. 600, Pt. A, §8 (AMD) .]

5. State Board of Nursing. Nursing, State Board of;

[1989, c. 450, §5 (NEW) .]

6. Board of Optometric Examiners. Optometric Examiners, Board of;

[1989, c. 450, §5 (NEW) .]

7. Board of Osteopathic Licensure. Osteopathic Licensure, Board of;

[1993, c. 600, Pt. A, §9 (AMD) .]

8. Board of Examiners of Podiatrists.

[1993, c. 600, Pt. A, §10 (RP) .]

9. Board of Registration for Professional Engineers. Professional Engineers, Board of Registration for.

[1989, c. 450, §5 (NEW) .]

SECTION HISTORY

1989, c. 450, §5 (NEW). 1991, c. 396, §2 (AMD). 1991, c. 397, §4 (AMD). 1993, c. 600, §§A8,10 (AMD).

10 §8002. Duties and authority of commissioner

The Commissioner of Professional and Financial Regulation, referred to in this chapter as the "commissioner," is the chief administrative officer of the department and is responsible for supervising the administration of the department. The commissioner is appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over banking and insurance matters, and to confirmation by the Legislature. The commissioner serves at the pleasure of the Governor. Unless otherwise provided in law, the commissioner may not exercise or interfere with the exercise of discretionary regulatory authority granted by statute to the bureaus, offices, boards or commissions within and affiliated with the department. As chief administrative officer of the department, the commissioner has the following duties and authority to: [1999, c. 687, Pt. C, §2 (AMD).]

1. Budget. Prepare the budget for the department;

[1975, c. 767, §9 (RPR) .]

2. Personnel. Except as otherwise specified, appoint and remove, subject to the Civil Service Law, all personnel considered necessary to fulfill the duties and functions of the department; appoint an assistant to the commissioner to serve at the commissioner's pleasure; and transfer personnel within the department to ensure efficient utilization of department personnel;

[1995, c. 502, Pt. H, §9 (AMD) .]

3. Purchases. Coordinate the purchase and use of all equipment and supplies within the department;

[1995, c. 502, Pt. H, §9 (AMD) .]

4. Review. Review the organization, functions and operation of bureaus, offices, boards and commissions within and affiliated with the department to ensure that overlapping functions and operations are eliminated and that each complies fully with its statutory and public service responsibilities;

[1995, c. 502, Pt. H, §9 (AMD) .]

5. Liaison. Act as a liaison among the bureaus, offices, boards and commissions within and affiliated with the department and act as liaison between them and the Governor;

[1995, c. 502, Pt. H, §9 (AMD) .]

6. Recommendations. Recommend to the Governor and Legislature those changes in the laws relating to the organization, functions, services or procedures of the bureaus, offices, boards and commissions of the department as the commissioner determines desirable;

[1995, c. 502, Pt. H, §9 (NEW) .]

7. Delegate authority. Authorize the heads of bureaus, offices, boards and commissions within the department to carry out the commissioner's duties and authority;

[1997, c. 727, Pt. A, §4 (AMD) .]

8. Adequate resources. Ensure that each bureau, office, board and commission has adequate resources to carry out regulatory functions and that the department's expenditures are equitably apportioned;

[1999, c. 184, §12 (AMD) .]

9. Licensing. Coordinate all administrative processes related to licensing functions of bureaus, offices, boards and commissions within the department, including but not limited to the frequency and form of applications and licenses;

[2007, c. 466, Pt. C, §3 (AMD) .]

10. Confidentiality of shared information. Keep confidential any information provided by or to the commissioner that has been designated confidential by the agency, bureau, board or commission within or affiliated with the department that furnished the information and that is the property of the agency, bureau, board or commission that furnished the information. Any information provided pursuant to this subsection may not be disclosed by the recipient of the information unless disclosure has been authorized by the agency, bureau, board or commission that furnished the information; and

[2007, c. 466, Pt. C, §4 (AMD) .]

11. Report on fees. By December 1st of each even-numbered year, conduct a review of the fees assessed by the department and provide a written report to the State Budget Officer and the

joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs, insurance and financial services matters and business, research and economic development matters identifying any fee changes the commissioner recommends for the next biennium.

[2007, c. 466, Pt. C, §5 (NEW) .]

SECTION HISTORY

1973, c. 585, §4 (RPR). 1975, c. 134, §5 (AMD). 1975, c. 579, §2 (AMD). 1975, c. 770, §59 (AMD). 1975, c. 767, §9 (RPR). 1977, c. 78, §37 (AMD). 1977, c. 564, §49 (AMD). 1983, c. 489, §7 (AMD). 1983, c. 553, §12 (AMD). 1985, c. 748, §§16,17 (AMD). 1993, c. 659, §B1 (AMD). 1995, c. 502, §H9 (AMD). 1997, c. 727, §§A3-5 (AMD). 1999, c. 184, §§12-14 (AMD). 1999, c. 687, §§C2-4 (AMD). 2007, c. 466, Pt. C, §§3-5 (AMD).

10 §8003. Departmental organization; duties

1. Division of Administrative Services. There is created a Division of Administrative Services, which is a division within the department under the commissioner's office, to provide assistance to the commissioner and to the agencies within and affiliated with the department in civil service matters, budgeting and financial matters, purchasing, and clerical and support services, and to perform other duties the commissioner designates. The commissioner may employ a Director of Administrative Services and clerical and technical assistants necessary to discharge the duties of the division and shall outline their duties and fix their compensation, subject to the Civil Service Law.

A. Within the Division of Administrative Services, there is a computer services section. It is the responsibility of the computer services section to provide technical assistance to the Office of Licensing and Registration to process and issue original and renewal licenses for the department and for bureaus, offices, boards and commissions within the department as the commissioner directs. The licenses may be processed and issued only upon authorization of the appropriate bureau, office, board or commission or upon the authorization of the commissioner in the case of licenses granted directly by the department. The computer services section shall maintain a central register containing the name and address of each person or firm licensed by profession, occupation or industry and such other information as the commissioner may direct for administration, information or planning purposes. The commissioner, with the advice of the respective bureaus, offices, boards and commissions, may determine the type and form of licenses issued by all agencies within the department. The computer services section shall perform such other administrative services for the agencies within the department as the commissioner directs. [1995, c. 502, Pt. H, §10 (AMD).]

[1995, c. 502, Pt. H, §10 (AMD) .]

2. Office of Licensing and Registration.

[1999, c. 687, Pt. C, §5 (RP) .]

2-A. Office of Licensing and Registration. There is created an Office of Licensing and Registration, referred to in this subsection as the "office," composed of the boards, commissions and regulatory functions set forth in section 8001, subsection 38. The commissioner may appoint

a Director of the Office of Licensing and Registration and those clerical and technical assistants who are necessary to discharge the duties of the office and shall outline their duties and fix their compensation, subject to the Civil Service Law. Notwithstanding any other provision of law granting authority to a board or commission, the Director of the Office of Licensing and Registration has the following superseding powers, duties and functions:

A. To administer the office and maximize and direct the use of personnel and financial resources to regulate professionals in the best interest of the public; [1999, c. 687, Pt. C, §6 (NEW).]

B. To prepare and administer, with the advice of the boards and commissions, budgets necessary to carry out the regulatory purposes of the boards and commissions. The Director of the Office of Licensing and Registration shall maintain one office budget that includes a separate account for each board or commission. The Director of the Office of Licensing and Registration has the authority to disapprove expenditures by boards and commissions that are not necessary to protect the public health and welfare or that would seriously jeopardize a board's or commission's fiscal well-being; [1999, c. 687, Pt. C, §6 (NEW).]

C. To provide all staffing necessary and appropriate to administer the office and carry out the statutory missions of the boards, commissions and regulatory functions. All clerks, technical support staff and supervisors must be assigned to the office and allocated by the director to perform functions on behalf of the various boards, commissions and regulatory functions according to need; [1999, c. 687, Pt. C, §6 (NEW).]

D. To establish by rule and after reasonable notice to the affected board all fees necessary and appropriate for all boards, commissions and regulatory functions within the office, subject to any fee cap established by statute and applicable to that board, commission or regulatory function. The Director of the Office of Licensing and Registration shall set the criteria for all fees. The criteria must include, but are not limited to, the costs, statutory requirements, enforcement requirements and fees and expenses of each board, commission or regulatory function. Rules adopted pursuant to this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A; [2001, c. 323, §9 (AMD).]

E. To establish by rule, such processes and procedures necessary to administer the various boards, commissions and regulatory functions of the office, including, but not limited to, a uniform complaint procedure, a uniform procedure regarding protested checks, a uniform policy regarding the treatment of late renewals and a uniform procedure for substantiating continuing education requirements. Rules adopted pursuant to this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A; [1999, c. 687, Pt. C, §6 (NEW).]

F. To keep records of public meetings, proceedings and actions and to make those records available to the public at cost upon request, unless otherwise prohibited by state or federal law; [1999, c. 687, Pt. C, §6 (NEW).]

G. To enter into contracts to ensure the provision of goods and services necessary to perform regulatory functions and to fulfill statutory responsibilities. This authority includes the ability to employ and engage experts, professionals or other personnel of other state or federal regulatory agencies as necessary to assist the office in carrying out its regulatory functions and to contract office staff to other state and federal regulatory agencies to assist those agencies in carrying out their regulatory functions; [1999, c. 687, Pt. C, §6 (NEW).]

H. To perform licensing functions for other state agencies on a fee-for-service basis; [1999, c. 687, Pt. C, §6 (NEW).]

I. To enter into cooperative agreements with other state, federal or foreign regulatory agencies to facilitate the regulatory functions of the office, including, but not limited to, information sharing, coordination of examinations or inspections and joint examinations or inspections. Any information furnished pursuant to this paragraph by or to the office that has been designated confidential by the agency furnishing the information remains confidential and the property of the agency furnishing the information and may not be disclosed by the recipient of the information unless disclosure has been authorized by the agency that furnished the information; [1999, c. 687, Pt. C, §6 (NEW).]

J. To direct staff to review and approve applications for licensure or renewal in accordance with criteria established in statute or in rules adopted by a board or commission. Licensing decisions made by staff may be appealed to the full board or commission; [1999, c. 687, Pt. C, §6 (NEW).]

K. To prepare and submit to the commissioner an annual report of the office's operations, activities and goals; and [1999, c. 687, Pt. C, §6 (NEW).]

L. To study jurisdictional overlap between the department's boards and commissions and other state agencies for purposes of streamlining and consolidating related legal authorities and administrative processes. [1999, c. 687, Pt. C, §6 (NEW).]

[2001, c. 323, §9 (AMD) .]

3. License defined. For purposes of this section, the term "license" means a license, certification, registration, permit, approval or other similar document evidencing admission to or granting authority to engage in a profession, occupation, business or industry but does not mean a registration, permit, approval or similar document evidencing the granting of authority to engage in the business of banking pursuant to Title 9-B.

[1991, c. 509, §1 (AMD) .]

4. Licensing periods; renewal dates. The commissioner may establish expiration or renewal dates and establish whether licenses are issued annually or biennially for all licenses authorized to be issued by bureaus, offices, boards and commissions within the department, notwithstanding any other provisions of law. If an expiration or renewal date established by the commissioner has the effect of shortening the term of a license currently in effect, the bureau, office, board or commission, or the department in the case of a license that it issues directly, shall credit the fee paid, on a prorated basis, for the unexpired term of the current license toward the renewal fee of the renewal license. If a license is not renewed on the new expiration or renewal date established by the commissioner, the license remains in effect through its original term, unless suspended or revoked sooner under laws or regulations of the respective bureau, office, board or commission. Should a licensee seek to renew the license at the end of the original term, the law or regulations established by the respective bureau, office, board or commission for late renewals or reregistrations apply. For the purpose of implementing and administering biennial licensing, the commissioner may permit bureaus, offices, boards and commissions within the department to issue licenses and establish renewal fees for less than a 2-year term. This section may not change the term or fee for one-time licenses, except as specifically stated.

[1999, c. 386, Pt. B, §3 (AMD) .]

4-A. Disclosure and recording of social security numbers. An individual who applies for a license shall provide that individual's social security number on the application, which must be recorded.

[1997, c. 537, §3 (NEW); 1997, c. 537, §62 (AFF) .]

5. Authority of bureaus, offices, boards or commissions. In addition to authority otherwise conferred, unless expressly precluded by language of denial in its own governing law, each bureau, office, licensing board and commission within or affiliated with the department may take one or more of the following actions, except that this subsection does not apply to the Bureau of Financial Institutions or the Office of Licensing and Registration, including the licensing boards and commissions and regulatory functions within the Office of Licensing and Registration.

A. [1989, c. 450, §6 (RP).]

A-1. For each violation of applicable laws, rules or conditions of licensure or registration, the bureau, office, board or commission may take one or more of the following actions:

(1) Issue warnings, censures or reprimands to a licensee or registrant. Each warning, censure and reprimand issued must be based upon violations of different applicable laws, rules or conditions of licensure or must be based upon separate instances of actionable conduct or activity;

(2) Suspend a license or registration for up to 90 days for each violation of applicable laws, rules and conditions of licensure or registration or for instance of actionable conduct or activity. Suspensions may be set to run concurrently or consecutively. Execution of all or any portion of a term of suspension may be stayed pending successful completion of conditions of probation, although the suspension remains part of the licensee's or registrant's record;

(2-A) Revoke a license or registration;

(3) Impose civil penalties of up to \$1,500 for each violation of applicable laws, rules and conditions of licensure or registration or for instances of actionable conduct or activity; and

(4) Impose conditions of probation upon an applicant, licensee or registrant. Probation may run for such time period as the bureau, office, board or commission determines appropriate. Probation may include conditions such as: additional continuing education; medical, psychiatric or mental health consultations or evaluations; mandatory professional or occupational supervision of the applicant, licensee or registrant; and other conditions as the bureau, office, board or commission determines appropriate. Costs incurred in the performance of terms of probation are borne by the applicant, licensee or registrant. Failure to comply with the conditions of probation is a ground for disciplinary action against a licensee or registrant. [2001, c. 167, §1 (AMD).]

B. The bureau, office, board or commission may execute a consent agreement that resolves a complaint or investigation without further proceedings. Consent agreements may be entered into only with the consent of: the applicant, licensee or registrant; the bureau, office, board

or commission; and the Department of the Attorney General. Any remedy, penalty or fine that is otherwise available by law, even if only in the jurisdiction of the Superior Court, may be achieved by consent agreement, including long-term suspension and permanent revocation of a professional or occupational license or registration. A consent agreement is not subject to review or appeal, and may be modified only by a writing executed by all parties to the original consent agreement. A consent agreement is enforceable by an action in Superior Court. [2001, c. 167, §1 (AMD).]

C. The bureau, office, board or commission may:

(1) Require all applicants for license or registration renewal to have responded under oath to all inquiries set forth on renewal forms;

(2) Except as provided in Title 37-B, section 390-A, require applicants for license or registration renewal to present proof of satisfactory completion of continuing professional or occupational education in accordance with each bureau's, office's, board's or commission's rules. Failure to comply with the continuing education rules may, in the bureau's, office's, board's or commission's discretion, result in a decision to deny license or registration renewal or may result in a decision to enter into a consent agreement and probation setting forth terms and conditions to correct the licensee's or registrant's failure to complete continuing education. Terms and conditions of a consent agreement may include requiring completion of increased hours of continuing education, civil penalties, suspension and other terms as the bureau, office, board, commission, the licensee or registrant and the Department of the Attorney General determine appropriate. Notwithstanding any contrary provision set forth in a bureau's, office's, board's or commission's governing law, continuing education requirements may coincide with the license or registration renewal period;

(3) Refuse to renew a license or registration or deny a license when the bureau, office, board or commission finds a licensee or registrant to be in noncompliance with a bureau, office, board or commission order or consent agreement;

(4) Allow licensees or registrants to hold inactive status licenses or registrations in accordance with each bureau's, office's, board's or commission's rules. The fee for an inactive license or registration may not exceed the statutory fee cap established for the bureau's, office's, board's or commission's license or registration renewal set forth in its governing law; or

(5) Delegate to staff the authority to review and approve applications for licensure pursuant to procedures and criteria established by rule. Rules developed pursuant to this subparagraph are routine technical rules as described in Title 5, chapter 375, subchapter 2-A. [2005, c. 111, §1 (AMD).]

D. The bureau, office, board or commission may require surrender of licenses and registrations. In order for a licensee's or registrant's surrender of a license or registration to be effective, a surrender must first be accepted by vote of the bureau, office, board or commission. Bureaus, offices, boards and commissions may refuse to accept surrender of licenses and registrations if the licensee or registrant is under investigation or is the subject of a pending complaint or proceeding, unless a consent agreement is first entered into pursuant to this chapter. [1995, c. 502, Pt. H, §10 (AMD).]

E. The bureau, office, board or commission may issue letters of guidance or concern to a

licensee or registrant. Letters of guidance or concern may be used to educate, reinforce knowledge regarding legal or professional obligations and express concern over action or inaction by the licensee or registrant that does not rise to the level of misconduct sufficient to merit disciplinary action. The issuance of a letter of guidance or concern is not a formal proceeding and does not constitute an adverse disciplinary action of any form. Notwithstanding any other provision of law, letters of guidance or concern are not confidential. The bureau, office, board or commission may place letters of guidance or concern, together with any underlying complaint, report and investigation materials, in a licensee's or registrant's file for a specified amount of time, not to exceed 10 years. Any letters, complaints and materials placed on file may be accessed and considered by the bureau, office, board or commission in any subsequent action commenced against the licensee or registrant within the specified time frame. Complaints, reports and investigation materials placed on file are only confidential to the extent that confidentiality is required pursuant to Title 24, chapter 21, the Maine Health Security Act. [1999, c. 386, Pt. B, §5 (AMD).]

F. A bureau, office, board or commission may establish, by rule, procedures for licensees in another state to be licensed in this State by written agreement with another state, by entering into written licensing compacts with other states or by any other method of license recognition considered appropriate that ensures the health, safety and welfare of the public. Rules adopted pursuant to this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. [2007, c. 402, Pt. C, §2 (AMD).]

G. Notwithstanding any other provision of law, any bureau, office, board or commission within or affiliated with the department may issue a temporary license for a period of 6 months and waive all licensing requirements, except for fees, to any applicant upon a showing of current, valid licensure in that profession in another state. [2005, c. 474, §1 (NEW).]

The jurisdiction to suspend and revoke occupational and professional licenses conferred by this subsection is concurrent with that of the District Court. Civil penalties must be paid to the Treasurer of State.

Any nonconsensual disciplinary action taken under authority of this subsection may be imposed only after a hearing conforming to the requirements of Title 5, chapter 375, subchapter 4, and, except for revocation actions, is subject to judicial review exclusively in the Superior Court in accordance with Title 5, chapter 375, subchapter 7.

Any nonconsensual revocation of an occupational or professional license taken under authority of this subsection is subject to, upon appeal within the time frames provided in Title 5, section 11002, subsection 3, de novo judicial review exclusively in District Court. Rules adopted to govern judicial appeals from agency action apply to cases brought under this section.

[2007, c. 402, Pt. C, §2 (AMD) .]

5-A. Authority of Office of Licensing and Registration. In addition to authority otherwise conferred, unless expressly precluded by language of denial in its own governing law, the Office of Licensing and Registration, referred to in this subsection as "the office," including the licensing boards and commissions and regulatory functions within the office, have the following authority.

A. The office, board or commission may deny or refuse to renew a license, may suspend or revoke a license and may impose other discipline as authorized in this subsection for any of the following reasons:

- (1) The practice of fraud, deceit or misrepresentation in obtaining a license from a bureau, office, board or commission, or in connection with services rendered while engaged in the occupation or profession for which the person is licensed;
- (2) Any gross negligence, incompetence, misconduct or violation of an applicable code of ethics or standard of practice while engaged in the occupation or profession for which the person is licensed;
- (3) Subject to the limitations of Title 5, chapter 341, conviction of a Class A, B or C crime or of a crime that bears directly on the licensed profession or occupation;
- (4) Any violation of the governing law of an office, board or commission;
- (5) Any violation of the rules of an office, board or commission;
- (6) Engaging in any activity requiring a license under the governing law of an office, board or commission that is beyond the scope of acts authorized by the license held;
- (7) Continuing to act in a capacity requiring a license under the governing law of an office, board or commission after expiration, suspension or revocation of that license;
- (8) Aiding or abetting unlicensed practice by a person who is not licensed as required by the governing law of an office, board or commission;
- (9) Noncompliance with an order or consent agreement of an office, board or commission;
- (10) Failure to produce any requested documents in the licensee's possession or under the licensee's control concerning a pending complaint or proceeding or any matter under investigation; or
- (11) Any violation of a requirement imposed pursuant to paragraph D, subparagraph (1) or (2). [2007, c. 402, Pt. C, §3 (NEW).]

B. The office, board or commission may impose the following forms of discipline upon a licensee or applicant for licensure:

- (1) Denial or refusal to renew a license, or issuance of a license in conjunction with the imposition of other discipline;
- (2) Issuance of warning, censure or reprimand. Each warning, censure or reprimand issued must be based upon violation of a single applicable law, rules or condition of licensure or must be based upon a single instance of actionable conduct or activity;
- (3) Suspension of a license for up to 90 days for each violation of applicable laws, rules or conditions of licensure or for each instance of actionable conduct or activity. Suspensions may be set to run concurrently or consecutively. Execution of all or any portion of a term of suspension may be stayed pending successful completion of conditions of probation, although the suspension remains part of the licensee's record;
- (4) Revocation of a license;
- (5) Imposition of civil penalties of up to \$1,500, or such greater amount as may be

authorized by statute, for each violation of applicable laws, rules or conditions of licensure or for each instance of actionable conduct or activity;

(6) Imposition of conditions of probation upon an applicant or licensee. Probation may run for such time period as the office, board or commission determines appropriate. Probation may include conditions such as: additional continuing education; medical, psychiatric or mental health consultations or evaluations; mandatory professional or occupational supervision of the applicant or licensee; practice restrictions; and other conditions as the office, board or commission determines appropriate. Costs incurred in the performance of terms of probation are borne by the applicant or licensee. Failure to comply with the conditions of probation is a ground for disciplinary action against a licensee. [2007, c. 402, Pt. C, §3 (NEW).]

C. The office, board or commission may execute a consent agreement that resolves a complaint or investigation without further proceedings. Consent agreements may be entered into only with the consent of the applicant or licensee; the office, board or commission; and the Department of the Attorney General. Any remedy, penalty or fine that is otherwise available by law, even if only in the jurisdiction of the Superior Court, may be achieved by consent agreement, including long-term suspension and permanent revocation of a professional or occupational license. A consent agreement is not subject to review or appeal and may be modified only by a writing executed by all parties to the original consent agreement. A consent agreement is enforceable by an action in Superior Court. [2007, c. 402, Pt. C, §3 (NEW).]

D. The office, board or commission may:

(1) Require all applicants for license renewal to respond to all inquiries set forth on renewal forms;

(2) Require all licensees and applicants for licensure to report in writing any of the following to the office, board or commission no later than 10 days after the change or event, as the case may be:

(a) Change of name or address;

(b) Criminal conviction;

(c) Revocation, suspension or other disciplinary action taken in this or any other jurisdiction against any occupational or professional license held by the applicant or licensee; or

(d) Any material change in the conditions or qualifications set forth in the original application for licensure submitted to the office, board or commission.

(3) Except as provided in Title 37-B, section 390-A, adopt rules requiring continuing professional or occupational education and require applicants for license renewal to present proof of satisfactory completion of continuing professional or occupational education in accordance with such rules. Failure to comply with the continuing education rules is punishable by nonrenewal of the license and other discipline authorized by this subsection. Notwithstanding any contrary provision set forth in the governing law of an office, board or commission, continuing education requirements may coincide with the license renewal period. Rules adopted pursuant to this subparagraph are routine technical rules as described in Title 5, chapter 375, subchapter

2-A;

(4) Issue continuing education deferments in cases of undue hardship;

(5) Grant inactive status licenses to licensees in accordance with rules that may be adopted by each office, board or commission. The fee for an inactive status license may not exceed the statutory fee cap for license renewal set forth in the governing law of the office, board or commission. Licensees in inactive status are required to pay license renewal fees for renewal of an inactive status license and may be required to pay a reinstatement fee as set by the Director of the Office of Licensing and Registration if the license is reactivated on a date other than the ordinary renewal date of the license. Any rules of an office, board or commission regulating inactive status licensure must describe the obligations of an inactive status licensee with respect to any ongoing continuing education requirement in effect for licensees of the office, board or commission and must set forth any requirements for reinstatement to active status, which requirements may include continuing education. Rules adopted pursuant to this subparagraph are routine technical rules as described in Title 5, chapter 375, subchapter 2-A; and

(6) Delegate to staff the authority to review and approve applications for licensure pursuant to procedures and criteria established by rule. Rules adopted pursuant to this subparagraph are routine technical rules as described in Title 5, chapter 375, subchapter 2-A. [2007, c. 402, Pt. C, §3 (NEW).]

E. The office, board or commission may require surrender of licenses. In order for a licensee's surrender of a license to be effective, a surrender must first be accepted by vote of the office, board or commission. The office, board or commission may refuse to accept surrender of a license if the licensee is under investigation or is the subject of a pending complaint or proceeding, unless a consent agreement is first entered into pursuant to this subsection. The consent agreement may include terms and conditions for reinstatement. [2007, c. 402, Pt. C, §3 (NEW).]

F. The office, board or commission may issue a letter of guidance or concern to a licensee. A letter of guidance or concern may be used to educate, reinforce knowledge regarding legal or professional obligations or express concern over action or inaction by the licensee that does not rise to the level of misconduct sufficient to merit disciplinary action. The issuance of a letter of guidance or concern is not a formal proceeding and does not constitute an adverse disciplinary action of any form. Notwithstanding any other provision of law, letters of guidance or concern are not confidential. The office, board or commission may place letters of guidance or concern, together with any underlying complaint, report and investigation materials, in a licensee's file for a specified period of time, not to exceed 10 years. Any letters, complaints and materials placed on file may be accessed and considered by the office, board or commission in any subsequent action commenced against the licensee within the specified time frame. Complaints, reports and investigation materials placed on file are confidential only to the extent that confidentiality is required pursuant to Title 24, chapter 21. [2007, c. 402, Pt. C, §3 (NEW).]

G. The office, board or commission may establish, by rule, procedures for licensees in another state to be licensed in this State by written agreement with another state, by entering into written licensing compacts with other states or by any other method of license recognition considered appropriate that ensures the health, safety and welfare of the public.

Rules adopted pursuant to this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. [2007, c. 402, Pt. C, §3 (NEW).]

The jurisdiction to suspend and revoke occupational and professional licenses conferred by this subsection is concurrent with that of the District Court. Civil penalties must be paid to the Treasurer of State.

Any nonconsensual disciplinary action taken under authority of this subsection other than denial or nonrenewal of a license may be imposed only after a hearing conforming to the requirements of Title 5, chapter 375, subchapter 4, and, except for revocation actions, is subject to judicial review exclusively in the Superior Court in accordance with Title 5, chapter 375, subchapter 7.

The office, board or commission shall hold a hearing conforming to the requirements of Title 5, chapter 375, subchapter 4 at the written request of any person who is denied an initial or renewal license without a hearing for any reason other than failure to pay a fee, provided that the request for hearing is received by the office, board or commission within 30 days of the applicant's receipt of written notice of the denial of the application, the reasons for the denial and the applicant's right to request a hearing.

The office, board or commission may subpoena witnesses, records and documents in any adjudicatory hearing it conducts.

Any nonconsensual revocation of a professional or occupational license taken under authority of this subsection is subject to, upon appeal within the time frames provided in Title 5, section 11002, subsection 3, de novo judicial review exclusively in District Court. Rules adopted to govern judicial appeals from agency action apply to cases brought under this subsection.

[2007, c. 402, Pt. C, §3 (NEW) .]

6. Funding. The commissioner may assess each internal bureau, office, board or commission served by the commissioner's office, the Division of Administrative Services or the Office of Licensing and Registration its reasonable share of an amount sufficient to cover the cost of operating those service agencies. The commissioner may assess any board affiliated with the department for the services the board receives from the department. The commissioner may assess other state agencies for licensing functions performed on behalf of those agencies by the Office of Licensing and Registration.

[1999, c. 687, Pt. C, §8 (AMD) .]

7. Evidentiary effect of certificate. Notwithstanding any provision of law or rule of evidence, the certificate of the commissioner under the seal of the State must be received by any court in this State as prima facie evidence of the issuance, suspension or revocation of any license issued by the department.

[1991, c. 509, §3 (NEW) .]

8. Display of license. In addition to authority otherwise conferred, bureaus, offices, boards or commissions within or affiliated with the department may specify by rule the conditions under which a licensee's number, name and address are to be displayed to the public.

[1995, c. 502, Pt. H, §10 (AMD) .]

9. Construction.

[1999, c. 687, Pt. C, §9 (RP) .]

10. National disciplinary record system. Within the limits of available revenues, all bureaus, offices, boards or commissions internal or affiliated with the department shall join or subscribe to a national disciplinary record system used to track interstate movement of regulated professionals who have been the subject of discipline by state boards, commissions or agencies and report disciplinary actions taken within this State to that system.

[1995, c. 502, Pt. H, §10 (AMD) .]

SECTION HISTORY

1975, c. 556, §1 (NEW). 1975, c. 705, §3 (AMD). 1975, c. 767, §9 (RPR). 1977, c. 113, (AMD). 1977, c. 273, §§1,2 (AMD). 1983, c. 553, §13 (RPR). 1985, c. 748, §18 (AMD). 1985, c. 785, §B55 (AMD). 1987, c. 595, §2 (AMD). 1987, c. 609, §§1,2 (AMD). 1989, c. 450, §6 (AMD). 1991, c. 509, §§1-3 (AMD). 1993, c. 600, §A11 (AMD). 1993, c. 659, §§B2,3 (AMD). 1995, c. 397, §12 (AMD). 1995, c. 502, §H10 (AMD). 1997, c. 210, §§1-3 (AMD). 1997, c. 537, §3 (AMD). 1997, c. 680, §A1 (AMD). 1997, c. 537, §62 (AFF). 1999, c. 184, §§15-17 (AMD). 1999, c. 386, §§B2-5 (AMD). 1999, c. 547, §B78 (AMD). 1999, c. 687, §§C5-9 (AMD). 1999, c. 547, §B80 (AFF). 2001, c. 44, §10 (AMD). 2001, c. 167, §1 (AMD). 2001, c. 323, §9 (AMD). 2001, c. 44, §14 (AFF). 2003, c. 204, §B1 (AMD). 2005, c. 111, §1 (AMD). 2005, c. 474, §1 (AMD). 2007, c. 402, Pt. C, §§2, 3 (AMD).

10 §8003-A. Complaint investigation

1. Affiliated boards. In aid of their investigative authority, the licensing boards and commissions affiliated with the department pursuant to section 8001-A may issue subpoenas in the name of the relevant licensing board or commission, in accordance with the terms of Title 5, section 9060, except that the authority applies to any stage of an investigation and is not limited to an adjudicatory proceeding.

[2007, c. 402, Pt. C, §4 (NEW) .]

2. Office of Licensing and Registration. The Office of Licensing and Registration, including the licensing boards and commissions and regulatory functions within the office, may receive, initiate and investigate complaints alleging any ground for disciplinary action set forth in section 8003, subsection 5-A. To assist with complaint or other investigations, or as otherwise considered necessary for the fulfillment of their responsibilities, the office, boards and commissions may hold hearings and may issue subpoenas for witnesses, records and documents in the name of the office, board or commission, as the case may be, in accordance with the terms of Title 5, section 9060, except that the subpoena authority applies to any stage or type of an investigation and is not limited to an adjudicatory hearing held pursuant to section 8003, subsection 5-A.

Investigative personnel of the Office of Licensing and Registration, during the normal conduct of their work for boards, commissions and regulatory functions within the office, may conduct investigations, issue citations, serve summonses and order corrections of violations in accordance with specific statutory authority. When specific authority does not exist to appeal an

order to correct, that process must be established by rule by the respective board.

[2007, c. 402, Pt. C, §4 (NEW) .]

3. Dispositions available to the public. Upon disposition of each complaint and investigation, the office and all boards and commissions shall make such disposition available to the public.

[2007, c. 402, Pt. C, §4 (NEW) .]

SECTION HISTORY

1985, c. 748, §19 (NEW). 1991, c. 509, §4 (AMD). 1995, c. 502, §H11 (AMD). 2007, c. 402, Pt. C, §4 (RPR).

10 §8003-B. Confidentiality of investigative records

1. During investigation. Unless otherwise provided by Title 24, chapter 21, all complaints and investigative records of the licensing boards and commissions within or affiliated with the Department of Professional and Financial Regulation are confidential during the pendency of an investigation. Those records become public records upon the conclusion of an investigation unless confidentiality is required by some other provision of law. For purposes of this section, an investigation is concluded when:

- A. A notice of an adjudicatory hearing under Title 5, chapter 375, subchapter IV has been issued; [1989, c. 173, (NEW).]
- B. [1999, c. 687, Pt. C, §10 (RP).]
- C. A consent agreement has been executed; or [1989, c. 173, (NEW).]
- D. A letter of dismissal has been issued or the investigation has otherwise been closed. [1989, c. 173, (NEW).]

[1999, c. 687, Pt. C, §10 (AMD) .]

2. Exceptions. Notwithstanding subsection 1, during the pendency of an investigation, a complaint or investigative record may be disclosed:

- A. To department employees designated by the commissioner; [1989, c. 173, (NEW).]
- B. To designated complaint officers of the appropriate board or commission; [1989, c. 173, (NEW).]
- C. By a department employee or complaint officer designated by the commissioner when, and to the extent, deemed necessary to facilitate the investigation; [1989, c. 173, (NEW).]
- D. To other state or federal agencies when the files contain evidence of possible violations of laws enforced by those agencies; [1989, c. 173, (NEW).]
- E. When, and to the extent, deemed necessary by the commissioner to avoid imminent and serious harm. The authority of the commissioner to make such a disclosure shall not be delegated; [1989, c. 173, (NEW).]
- F. Pursuant to rules which shall be promulgated by the department, when it is determined

that confidentiality is no longer warranted due to general public knowledge of the circumstances surrounding the complaint or investigation and when the investigation would not be prejudiced by the disclosure; and [1989, c. 173, (NEW).]

G. To the person investigated on request. The commissioner may refuse to disclose part or all of any investigative information, including the fact of an investigation, when the commissioner determines that disclosure would prejudice the investigation. The authority of the commissioner to make such a determination shall not be delegated. [1989, c. 173, (NEW).]

[1989, c. 173, (NEW) .]

2-A. Certain client records confidential. Notwithstanding subsections 1 and 2, a treatment record provided to a licensing board or commission within or affiliated with the department during investigation of a person licensed by the department in a medical, mental health, substance abuse, psychological or health field that contains information personally identifying a licensee's client or patient is confidential during the pendency of the investigation and remains confidential upon the conclusion of the investigation. A treatment record may be disclosed only if:

A. The client or patient executes a written release that states that:

(1) Unless the release provides for more limited disclosure, execution of the release may result in the record becoming a public record; or

(2) If the client or patient wishes, execution of the release allows disclosure to only the person or persons clearly identified in the release. The release must require the person or persons identified in the release not to make a disclosure to another person; [1993, c. 552, §1 (NEW).]

B. The disclosure is necessary under Title 22, chapter 857 concerning personnel and licensure actions; [1993, c. 552, §1 (NEW).]

C. The disclosure is necessary under Title 22, section 3474 concerning reports of suspected adult abuse or exploitation; [1993, c. 552, §1 (NEW).]

D. The disclosure is necessary under Title 22, section 4011-A concerning reports of suspected child abuse or neglect; or [2001, c. 345, §1 (AMD).]

E. The disclosure is necessary under Title 22, section 7703 concerning reports of suspected child or adult abuse or neglect. [1993, c. 552, §1 (NEW).]

A release executed by a client or patient does not operate to disclose a record otherwise made confidential by law.

This subsection does not prevent disclosure of records pursuant to an order of a court of competent jurisdiction upon good cause shown.

[2001, c. 345, §1 (AMD) .]

3. Attorney General records. The provision or disclosure of investigative records of the Department of the Attorney General to a departmental employee designated by the commissioner or to a complaint officer of a board or commission does not constitute a waiver of the confidentiality of those records for any other purposes. Further disclosure of those investigative

records is subject to Title 16, section 614 and the discretion of the Attorney General.

[1993, c. 719, §4 (AMD); 1993, c. 719, §12 (AFF) .]

4. Violation. A person who knowingly or intentionally makes a disclosure in violation of this section or who knowingly violates a condition of a release pursuant to subsection 2-A commits a civil violation for which a forfeiture not to exceed \$1,000 may be adjudged.

[1993, c. 552, §2 (AMD) .]

SECTION HISTORY

1989, c. 173, (NEW). 1993, c. 552, §§1,2 (AMD). 1993, c. 719, §4 (AMD). 1993, c. 719, §12 (AFF). 1999, c. 386, §B6 (AMD). 1999, c. 687, §§C10,11 (AMD). 2001, c. 345, §1 (AMD).

10 §8003-C. Unlicensed practice

1. Complaints of unlicensed practice. A board or commission listed in section 8001, subsection 38 or section 8001-A may receive or initiate complaints of unlicensed practice.

[1999, c. 687, Pt. C, §12 (NEW) .]

2. Investigation of unlicensed practice. Complaints or allegations of unlicensed practice may be investigated by the Office of Licensing and Registration, the Attorney General's office or a board's or commission's complaint officer or inspector. If sufficient evidence of unlicensed practice is uncovered, the evidence must be compiled and presented to the Department of the Attorney General or the local district attorney's office for prosecution.

[1999, c. 687, Pt. C, §12 (NEW) .]

3. Unlicensed practice; criminal penalties. Notwithstanding any other provision of law:

A. A person who practices or represents to the public that the person is authorized to practice a profession or trade and intentionally, knowingly or recklessly fails to obtain a license as required by this Title or intentionally, knowingly or recklessly practices or represents to the public that the person is authorized to practice after the license required by this Title has expired or been suspended or revoked commits a Class E crime; and [2003, c. 452, Pt. E, §10 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

B. A person who practices or represents to the public that the person is authorized to practice a profession or trade and intentionally, knowingly or recklessly fails to obtain a license as required by this Title or intentionally, knowingly or recklessly practices or represents to the public that the person is authorized to practice after the license required by this Title has expired or been suspended or revoked when the person has a prior conviction under this subsection commits a Class D crime. Title 17-A, section 9-A governs the use of prior convictions when determining a sentence, except that, for purposes of this paragraph, the date of the prior conviction must precede the commission of the offense being enhanced by no more than 3 years. [2003, c. 452, Pt. E, §10 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

[2003, c. 452, Pt. X, §2 (AFF); 2003, c. 452, Pt. E, §10 (RPR) .]

4. Unlicensed practice; civil penalties. Any person who practices or represents to the public that the person is authorized to practice a profession or trade without first obtaining a license as required by this Title or after the license has expired or has been suspended or revoked commits a civil violation punishable by a fine of not less than \$100 but not more than \$2,000 for each violation. An action under this subsection may be brought in District Court or, in combination with an action under subsection 5, in Superior Court.

[1999, c. 687, Pt. C, §12 (NEW) .]

5. Unlicensed practice; injunctions. The Attorney General may bring an action in Superior Court to enjoin any person from violating subsection 4, whether or not proceedings have been or may be instituted in District Court or whether criminal proceedings have been or may be instituted, and to restore to any person who has suffered any ascertainable loss by reason of that violation any money or personal or real property that may have been acquired by means of that violation and to compel the return of compensation received for engaging in that unlawful conduct.

A person who violates the terms of an injunction issued under this subsection shall pay to the State a fine of not more than \$10,000 for each violation. In any action under this subsection, when a permanent injunction has been issued, the court may order the person against whom the permanent injunction is issued to pay to the General Fund the costs of the investigation of that person by the Attorney General and the costs of suit, including attorney's fees. In any action by the Attorney General brought against a person for violating the terms of an injunction issued under this subsection, the court may make the necessary orders or judgments to restore to any person who has suffered any ascertainable loss of money or personal or real property or to compel the return of compensation received by reason of such conduct found to be in violation of an injunction.

[2007, c. 402, Pt. C, §5 (AMD) .]

6. Unlicensed practice; private cause of action; repeal.

[2005, c. 378, §1 (NEW); 2005, c. 378, §29 (AFF); T. 10, §8003-C, sub-§6 (RP) .]

SECTION HISTORY

1999, c. 687, §C12 (NEW). 2003, c. 452, §E10 (AMD). 2003, c. 452, §X2 (AFF). 2005, c. 378, §1 (AMD). 2005, c. 378, §29 (AFF). 2007, c. 402, Pt. C, §5 (AMD).

10 §8003-D. Investigations; enforcement duties; assessments

When there is a finding of a violation, a board or commission listed in section 8001, subsection 38 or section 8001-A may assess the licensed person or entity for all or part of the actual expenses incurred by the board, commission or its agents for investigations and enforcement duties performed. [1999, c. 687, Pt. C, §12 (NEW).]

"Actual expenses" include, but are not limited to, travel expenses and the proportionate part of the salaries and other expenses of investigators or inspectors, hourly costs of hearing officers, costs associated with record retrieval and the costs of transcribing or reproducing the administrative record. [1999, c. 687, Pt. C, §12 (NEW).]

The board or commission, as soon as feasible after finding a violation, shall give the licensee notice of the assessment. The licensee shall pay the assessment in the time specified by the board or commission, which may not be less than 30 days. [1999, c. 687, Pt. C, §12 (NEW).]

SECTION HISTORY

1999, c. 687, §C12 (NEW).

10 §8003-E. Citations and fines

Any board or commission listed in section 8001, subsection 38 or section 8001-A may adopt by rule a list of violations for which citations may be issued by professional technical support staff. A violation may carry a fine not to exceed \$200. Citations issued by employees of the Office of Licensing and Registration or an affiliated board must expressly inform the licensee that the licensee may pay the fine or request a hearing before the board or commission regarding the violation. [1999, c. 687, Pt. C, §12 (NEW).]

SECTION HISTORY

1999, c. 687, §C12 (NEW).

10 §8003-F. Disposition of fees

All money received by the Office of Licensing and Registration on behalf of a board or commission listed in section 8001, subsection 38 or by the Office of Licensing and Registration to perform the regulatory functions listed in section 8001, subsection 38 must be paid to the Treasurer of State and credited to the account for that board, commission or regulatory function within the budget of the Office of Licensing and Registration. [1999, c. 687, Pt. C, §12 (NEW).]

Money received by the Office of Licensing and Registration on behalf of a board or commission listed in section 8001, subsection 38 or by the Office of Licensing and Registration to perform the regulatory functions listed in section 8001, subsection 38 must be used for the expenses of administering its statutory responsibilities, including, but not limited to, the costs of conducting investigations, taking testimony, procuring the attendance of witnesses, all legal proceedings initiated for enforcement and administering the office. [1999, c. 687, Pt. C, §12 (NEW).]

Any balance of these fees may not lapse but must be carried forward as a continuing account to be expended for the same purposes in the following fiscal years. [1999, c. 687, Pt. C, §12 (NEW).]

SECTION HISTORY

1999, c. 687, §C12 (NEW).

10 §8004. Annual reports

Notwithstanding any other provision of law, all annual reports or statements required of bureaus and offices within the department must be submitted to the commissioner not later than August 1st of each year and must summarize the operations and financial position of the bureau or office for the preceding fiscal year ending June 30th. After reviewing such reports and statements, the commissioner shall compile them into a report for submission to the Governor, together with such analysis as the Governor may direct. [1999, c. 687, Pt. C, §13 (AMD).]

SECTION HISTORY

1975, c. 767, §9 (NEW). 1999, c. 687, §C13 (AMD).

10 §8004-A. Legislative reports

The Director of the Office of Licensing and Registration shall report annually to the joint standing committee of the Legislature having jurisdiction over professional licensing and registration on the status of licensing fees and fee caps. [2001, c. 323, §10 (NEW).]

SECTION HISTORY

2001, c. 323, §10 (NEW).

10 §8005. Compliance with support orders; license qualifications and conditions

In addition to other qualifications for licensure or registration and conditions for continuing eligibility to hold a license as prescribed by the various acts of bureaus, boards or commissions that compose or are affiliated with the department, applicants for licensure or registration, licensees renewing their licenses and existing licensees must also comply with the requirements of Title 19-A, section 2201. [1995, c. 694, Pt. D, §7 (AMD); 1995, c. 694, Pt. E, §2 (AFF).]

SECTION HISTORY

1993, c. 410, §V1 (NEW). 1995, c. 694, §D7 (AMD). 1995, c. 694, §E2 (AFF).

10 §8005-A. Licensees not in compliance with court-ordered fine, fee or restitution; license qualifications and conditions

In addition to other qualifications for licensure or registration and conditions for continuing eligibility to hold a license as required by bureaus, boards and commissions within or affiliated with the department, applicants for licensure or registration, licensees renewing their licenses and existing licensees may not hold any such license when there has been a court-ordered suspension of that license as provided by Title 14, sections 3141 and 3142. [2003, c. 193, §1 (NEW).]

SECTION HISTORY

2003, c. 193, §1 (NEW).

10 §8006. Licensees not in compliance with court order of support and other court orders; enforcement of parental support obligations and suspensions

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Board" means any bureau, board or commission listed in section 8001 or 8001-A, other licensors that are affiliated with or are a part of the department and the Board of Overseers of the Bar. [1993, c. 410, Pt. V, §1 (NEW).]

B. "Compliance with a support order" means that the support obligor has obtained or maintained health insurance coverage if required by a support order and is:

(1) No more than 60 days in arrears in making any of the following payments:

(a) Payments in full for current support;

(b) Periodic payments on a support arrearage pursuant to a written agreement with

the Department of Health and Human Services; and

(c) Periodic payments as set forth in a support order; and

(2) No more than 30 days in arrears in making payments as described in subparagraph (1) if the obligor has been in arrears for more than 30 days in making payments as described in subparagraph (1) at least 2 times within the past 24 months. [2003, c. 396, §1 (RPR); 2003, c. 689, Pt. B, §6 (REV).]

C. "Support order" means a judgment, decree or order, whether temporary, final or subject to modification, issued by a court or an administrative agency of competent jurisdiction for the support and maintenance of a child, including a child who has attained the age of majority under the law of the issuing state, or a child and the parent with whom the child is living, that provides for monetary support, health care, arrearages or reimbursement and may include related costs and fees, interest and penalties, income withholding, attorney's fees and other relief. [2003, c. 396, §1 (RPR).]

D. "Court-ordered suspension" means a suspension by a court of the right of a licensee to hold a professional license based on the contempt procedures pursuant to Title 14, sections 3141 and 3142. [2003, c. 193, §2 (NEW).]

[2003, c. 193, §2 (AMD); 2003, c. 396, §1 (AMD); 2003, c. 689, Pt. B, §6 (REV) .]

2. Noncompliance with a support order. An applicant for the issuance or renewal of a license or an existing licensee regulated by a board who is not in compliance with a support order is subject to the requirements of Title 19-A, section 2201.

[2003, c. 396, §2 (AMD) .]

3. Court-ordered suspension. An applicant for the issuance or renewal of a license or an existing licensee regulated by a board who has not paid a court-ordered fine, court-appointed attorney's fees or court-ordered restitution is subject to court suspension of all licenses as provided in Title 14, sections 3141 and 3142.

[2003, c. 193, §2 (NEW) .]

SECTION HISTORY

1993, c. 410, §V1 (NEW). 1995, c. 694, §D8 (AMD). 1995, c. 694, §E2 (AFF). 2003, c. 193, §2 (AMD). 2003, c. 396, §§1,2 (AMD). 2003, c. 689, §B6 (REV).

10 §8007. Board member candidate information

The Commissioner of Professional and Financial Regulation or the chief staff administrator for an occupational and professional regulatory board shall work with the Executive Department to prepare general information regarding the purpose of an occupational and professional regulatory board and the role, responsibility and perspective of a member of an occupational and professional regulatory board, including a public member. The material must also include information specific to the board for which the individual is a prospective member, including but not limited to the time commitment, remuneration and any other pertinent details. [1993, c. 600, Pt. A, §12 (NEW).]

This information must be provided to all new candidates for membership on an occupational

and professional regulatory board and to members seeking reappointment in order to fully inform the candidate or member about the nature of the position. Prior to gubernatorial appointment or reappointment, the candidate or member shall sign a statement indicating that the candidate or member has read the material and is prepared to properly discharge the duties of a member of an occupational and professional regulatory board. Failure to sign this statement disqualifies the candidate or member for appointment or reappointment on a board. [1993, c. 600, Pt. A, §12 (NEW).]

SECTION HISTORY

1993, c. 600, §A12 (NEW).

10 §8008. Purpose of occupational and professional regulatory boards

The sole purpose of an occupational and professional regulatory board is to protect the public health and welfare. A board carries out this purpose by ensuring that the public is served by competent and honest practitioners and by establishing minimum standards of proficiency in the regulated professions by examining, licensing, regulating and disciplining practitioners of those regulated professions. Other goals or objectives may not supersede this purpose. [1993, c. 600, Pt. A, §12 (NEW).]

SECTION HISTORY

1993, c. 600, §A12 (NEW).

10 §8009. Standardized terms

Notwithstanding any other provision of law, upon expiration of a professional or occupational licensing board member's term, that member serves until a successor is appointed. The successor's term commences at the expiration of the preceding term, regardless of the date of appointment. A vacancy occurring prior to the expiration of a specified term must be filled by appointment of a similarly qualified individual as a replacement. The replacement member serves for the remainder of the unexpired term, regardless of the date of appointment. [2007, c. 402, Pt. C, §6 (NEW).]

SECTION HISTORY

2007, c. 402, Pt. C, §6 (NEW).

BOARD OF BOILERS & PRESSURE VESSELS

RULES

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

174 BOARD OF BOILERS AND PRESSURE VESSELS

Chapter 1 – Definitions

Summary: This Chapter defines (1) terms that are used in the rules adopted by the Board and (2) terms used in Title 32, Chapter 131, but not defined by statute. Terms used in the Board’s rules also are defined by statute and by the national codes adopted in Chapter 11.

1. Incorporation by Reference; Conflicts

The Board incorporates in its rules the definitions that appear in 32 M.R.S.A. Chapter 131 and the national codes adopted in Chapter 11 of these Rules.

If a conflict exists as to definitions contained in any of the above sources, the definitions in Title 32, Chapter 131 prevail over both the definitions in the Board’s rules and the definitions in the national codes, and the definitions in the Board’s rules prevail over the definitions in the national codes.

2. Definitions

As used in the Board’s rules, unless the context otherwise indicates, the following terms have the following meanings:

- A. ANSI. “ANSI” means the American National Standards Institute.
- B. ASME. “ASME” means the American Society of Mechanical Engineers International.
- C. Boiler. “Boiler” includes power boilers and low pressure boilers and means a closed vessel in which water is heated, steam is generated, steam is superheated, or any combination thereof, under pressure or vacuum for use external to itself by the direct application of heat. “Boiler” also includes fired units for heating or vaporizing liquids other than water where these units are separate from processing systems and complete within themselves. As used in the Board’s rules, the “boiler” includes only those units that are not exempt under 32 M.R.S.A. § 15102(1). When referring to power boilers, “boilers” includes boiler external piping.
- D. Boiler Operation. The Board recognizes 2 methods by which boilers are operated, manual and automatic.
 - (1) “Manual operation” means that a full-time boiler operator or stationary steam engineer is required to observe boiler pressures,

temperatures, and levels and to make adjustments as the output demand fluctuates. A partially automated boiler must be classified as being manually operated.

(2) “Automatic operation” means that a boiler is fully equipped with automatic control systems and does not require a boiler operator or stationary steam engineer to make adjustments as the output demand fluctuates.

- E. Boiler Operator. “Boiler operator” means a licensed person who controls a low pressure boiler by observation and manipulation of mechanical, automatic, or remote control.
- F. Chief Inspector. “Chief Inspector” means the Chief Inspector of Boilers and Pressure Vessels or the Chief Inspector’s designee.
- G. Electric Boiler. “Electric boiler” means a power boiler or low pressure boiler in which the source of heat is electricity.
- H. Engineer-in-Charge. “Engineer-in-charge” means the licensed person designated by an owner to be responsible for ensuring that a boiler plant is maintained and operated in a safe condition by the company or organization to which the boiler or boilers are registered by the State of Maine.
- I. Low Pressure Boiler. “Low pressure boiler” means a boiler in which either: (1) steam or other vapor is generated at a pressure of no more than 15 PSIG or (2) fluid is heated to no more than 250 degrees Fahrenheit or the operating pressure is no more than 160 PSIG. “Low pressure boiler” is referred to as a “heating boiler” or a “process boiler.”

NOTE: Low pressure boiler types are identified in Section E-100 of Appendix E of Section IV of the ASME Boiler and Pressure Vessel Code.

- J. Inspector. “Inspector” means the Chief Inspector of Boilers and Pressure Vessels, a Deputy Inspector, or an Authorized Inspector, all as defined in 32 M.R.S.A. §15101.
- K. MAWP. “MAWP” means maximum allowable working pressure.
- L. National Board. “National Board” means the National Board of Boiler and Pressure Vessel Inspectors.
- M. NBIC. “NBIC” means the National Board Inspection Code.
- N. NPS. “NPS” means nominal pipe size.

- O. Organic Fluid Boiler. "Organic fluid boiler" means a pressure vessel in which organic fluid is vaporized or heated.
- P. Owner. "Owner" means a firm, person, partnership, association, corporation, or state or political subdivision that owns a boiler or pressure vessel.
- Q. Place Out of Service. "Place out of service" means to render safe and completely inoperable, other than to make repairs, for an indefinite period.
- R. Plant. "Plant" means the buildings, equipment, and fixtures of an institution or an industrial or manufacturing establishment at any one site.
- (1) Heating Plant. A "heating plant" consists of the boiler or boilers and the auxiliary equipment and would not necessarily include piping and radiation equipment used for space heating.
- (2) Power Plant. A "power plant" consists of the boiler or boilers, the auxiliary equipment and prime mover machinery used to produce electric power to be used outside the boiler and engine spaces.
- (3). Process Plant. A "process plant" consists of the boiler and the auxiliary equipment, which may or may not have prime moving machinery and will not necessarily include machinery and equipment used for manufacturing of a product. Process plant includes both low pressure and power boilers.
- S. Power Boiler. "Power boiler," also commonly known as a "high pressure boiler," means a boiler in which steam or other vapor is generated at a pressure of more than 15 PSI for use external to itself, and includes electric boilers, miniature boilers, organic fluid boilers, and high-temperature water boilers.
- Note: The term "power boiler" includes boiler external piping up to and including the required stop valve(s).
- T. Pressure Vessel. "Pressure vessel" means a container for the containment of pressure, either internal or external. This pressure may be obtained from an external source, or by the application of heat from a direct or indirect source, chemical reaction, or any combination thereof. As used in the Board's rules, "pressure vessel" includes only those units that are not exempt under 32 M.R.S.A. § 15102(2).
- U. PSI. "PSI" means pounds per square inch.

- V. PSIG. “PSIG” means pounds per square inch gauge.
- W. Relocation. “Relocation,” when applied to a boiler or pressure vessel, means movement of the boiler or pressure vessel to any extent from its current site. A “relocated” boiler or pressure vessel is a boiler, other than a portable boiler, or a pressure vessel that is moved.
- X. Reportable Accident. “Reportable Accident” means an unexpected and sudden event that renders a boiler or pressure vessel inoperative and adversely affects its pressure retaining capability.
- Y. Stamp. “Stamp” means a code symbol issued by the American Society of Mechanical Engineers or the National Board of Boiler and Pressure Vessel Inspectors. “Stamped” and “stamping” mean the application of such a code symbol.
- Z. Stationary Steam Engineer. “Stationary steam engineer” means a person licensed by the Board to operate a high pressure boiler or to be responsible for the operation and maintenance of equipment in a plant, in accordance with Maine law, and includes high pressure boiler operators.
- AA. Suspend Operation. “Suspend Operation” means the discontinuance of operation of a boiler or pressure vessel for any purpose, other than to make repairs, for a limited period of time.
- AB. TAPPI. “TAPPI” means Technical Association Pulp and Paper Industry.

AUTHORITY: 32 MRSA § 15101, § 15104-A, and § 15109
EFFECTIVE DATE: January 15, 2005

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

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Chapter 2 – Variances

Summary: This Chapter prescribes the procedure for the filing of a petition for a variance under 32 M.R.S.A. § 15104-B.

A petition for a variance must be submitted to the Chief Inspector on a petition form provided by the Department and must be accompanied by the filing fee prescribed by the Office of Licensing and Registration Rules, Chapter 10, “Establishment of License Fees,” Section 4, Subsection 9. The owner must comply with any request by the Chief Inspector for additional information.

AUTHORITY: 32 M.R.S.A. § 15104-A and § 15104-B
EFFECTIVE DATE: January 15, 2005

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

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Chapter 3 – Board Meetings

Summary: This Chapter establishes procedures for meetings of the Board in addition to the procedures established by 32 M.R.S.A. § 15103(3).

1. Agenda for Meetings

- A. The Department shall prepare an agenda for all meetings of the Board. The agenda must include business requiring consideration or action by the Board. The agenda must also include business items requested by Board members, provided that the Department receives the request at least 10 business days before the meeting. The Department shall send the agenda to the members of the Board at least 7 business days before the meeting.
- B. The Board may consider business not included on the agenda if a majority of the Board members present votes affirmatively to consider the item.

2. Election of Chair and Vice-Chair

The Board shall elect a chair and vice-chair at the first meeting of the calendar year. If the chair leaves office for any reason, the vice-chair shall act as chair until the Board elects a new chair.

AUTHORITY: 32 M.R.S.A. § 15103, § 15104-A
EFFECTIVE DATE: January 15, 2005

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

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Chapter 4 – Advisory Rulings

Summary: This Chapter establishes requirements and guidelines for the Board’s discretionary issuance of advisory rulings.

1. Authority and Scope

The Board may issue an advisory ruling in accordance with 5 M.R.S.A. § 9001 concerning the applicability of a statute or rule to existing facts. The Board shall review each request for an advisory ruling to determine whether the requested ruling is appropriate. The Board may, at its discretion, decline to issue an advisory ruling if the question is hypothetical, if there is insufficient information upon which to base a ruling, or for any other reason the Board deems proper.

2. Submission

A request for an advisory ruling must be submitted to the Board in writing and must set forth in detail all facts pertinent to the question. The Board may require submission of additional information it deems necessary to provide a complete factual background.

3. Ruling

The Board shall issue advisory rulings in writing. The advisory ruling must include a statement of the facts or assumptions, or both, upon which the ruling is based. The statement must be sufficiently detailed to apprise the reader of the factual basis of the opinion without reference to other documents. The assent of four members of the Board is required for the issuance of an advisory ruling. The ruling must be signed by the Board’s Chair, identified specifically as an advisory ruling, and numbered serially.

4. Publication

The Department shall mail the advisory ruling to the requesting party and the Board Administrator shall retain a copy. An advisory ruling is a public document and is available for public inspection during the normal working hours of the Board. In addition, the Board may otherwise publish or circulate an advisory opinion as it deems appropriate.

AUTHORITY: 5 M.R.S.A. § 9001 and 32 M.R.S.A. § 15104-A
EFFECTIVE DATE: January 15, 2005

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Chapter 11 – National Codes Applicable to Boilers and Pressure Vessels

Summary: This Chapter specifies the national safety codes and standards that apply to boilers and pressure vessels regulated in the State of Maine. Additional requirements are contained in Title 32, Chapter 131, and in other chapters of these rules.

1. Adoption of Codes

The Board adopts, and incorporates in this Chapter, the standards of the following national codes to govern construction, installation, inspection, operation, and alteration and repair of boilers and pressure vessels:

- A. ASME Boiler and Pressure Vessel Code (2004 Edition), with the exception of Sections III and XI;
- B. ASME Pressure Piping Code B31.1 (2004 Edition);
- C. National Board Inspection Code, ANSI/NB-23 (2001 Edition, 2001, 2002, 2003 addendum);
- D. ASME Controls and Safety Devices for Automatically Fired Boilers (CSD-1) (2002 Edition), with the exception of Part CF; and
- E. TAPPI, Technical Information Paper 0402-16, 2001 revision, Guidelines for inspection and nondestructive examination of paper machine dryers.

NOTE: Part CF, “Combustion Side Controls,” is an adopted standard of the Oil and Solid Fuel Board and the Propane and Natural Gas Board.

2. Exceptions

- A. Notwithstanding the provisions of Section 1, Paragraphs A and B, boilers and pressure vessels existing as of the effective date of this Chapter must:
 - (1) At a minimum, be maintained in accordance with the code of construction in effect at the time of installation; or
 - (2) Comply with the applicable current standard in Section 1 of this Chapter.

- B. The Board adopts the National Board Inspection Code, ANSI/NB23 with the exception of RC-2031(a)(1-4), "Routine Repairs." For information regarding repairs refer to Chapter 15 of these rules.

3. Conflicts

When a rule in another Chapter refers to a national code, the reference is to the edition of the code, addendum, and/or appendix adopted in this Chapter. In the event of a conflict between a standard in a national code and the provision of a Maine statute or the Board's rules, the provision of the Maine statute or the Board's rules governs.

NOTE:

Copies of the ASME Codes may be purchased from:

The American Society of Mechanical Engineers
ASME SERVICE CENTER
22 Law Drive, Box 2900
Fairfield, NJ 07007-2900
Tel. 1-800-843-2763
www.asme.org

Copies of the National Board Inspection Code may be purchased from:

The National Board of Boiler and Pressure Vessel Inspectors
1055 Crupper Avenue
Columbus, Ohio 43229
Tel. 614-888-8320
www.nationalboard.org

Copies of TAPPI may be purchased from:

TAPPI
P.O. Box 105113
Atlanta, GA 30348-5113
Tel. 1-800-332-8686
www.tappi.org

AUTHORITY: 32 M.R.S.A. § 15104-A
EFFECTIVE DATE: January 15, 2005

Chapter 12 – Power Boilers

SUMMARY: This Chapter establishes requirements for the design, construction, installation, operation, and inspection of power boilers.

1. New Installations

- A. Approval of Installation. Before a power boiler is installed, the owner must submit to the Chief Inspector detailed plans and specifications of the installation for approval at least 30 days prior to installation on a form provided by the Board. The owner must comply with any request by the Chief Inspector for additional information. A power boiler may not be installed unless the Chief Inspector has issued a written approval for the installation. Emergency situations will be handled on a case by case basis by contacting the Chief Inspector.
- B. Initial Inspections
- (1) Inspection. The Chief Inspector shall conduct the initial inspection of a new or relocated power boiler in accordance with the applicable code(s) specified in Chapter 11 of these rules. The initial inspection must consist of an internal and external inspection, if construction permits. Additionally, a hydrostatic test must be completed of the entire boiler and boiler external piping after field installation. The Chief Inspector shall record and submit the results of the inspection to the Board.
 - (2) Interim Inspection Certificate. If after initial inspection the Chief Inspector determines that a power boiler complies with all provisions of Title 32, Chapter 131, the Board's rules, and the applicable national code(s), the Chief Inspector may issue an interim inspection certificate for the operation of the power boiler up to 60 days pending issuance of the initial inspection certificate.
 - (3) Expenses. The owner or the owner's designee must pay the initial inspection fee and any related expenses for the initial inspection of a power boiler. If the fee has not been paid by the date the interim certificate expires, the Chief Inspector shall direct the owner to suspend operation of the power boiler.
- C. Approval of Operation. Before a newly installed power boiler is operated, the owner must comply with the provisions of Paragraphs A and B, and

the Chief Inspector must approve the operation on a form provided by the Board.

- D. Relocation. Before a relocated power boiler is installed, the owner must petition the Chief Inspector for a variance to approve the installation. A relocated boiler must meet the requirements for new installations, where practicable.

2. Existing Power Boilers

- A. Rules Applicable to Construction and Installation. The design, construction, construction-related inspection, installation, and stamping of all existing power boilers must comply with the rules of the Board in effect at the time of installation.
- B. Rules Applicable after Installation. The maintenance, operation, and post-installation inspection of all existing power boilers must comply with the rules of the Board in effect at the time of the maintenance, operation, or post-installation inspection.

3. Registration Numbers

- A. Display; Not Transferable. The assigned State of Maine registration number must appear on each power boiler at all times. The registration number assigned to a power boiler may not be transferred to another boiler.
- B. High Pressure Numbers. Before any power boiler may be operated in this State, the assigned State of Maine registration number preceded by the letters "ME" must be stamped on the power boiler with the numbers and letters not less than 3/8 of an inch in height. The stamp must appear in the vicinity of the manufacturer's code stamping.

4. Periodic Inspections of Power Boilers

- A. Frequency and Method. Before the initial inspection certificate expires, and annually thereafter, all power boilers in the State must be inspected as follows: an Inspector must conduct 1 annual certificate inspection, which must be an internal inspection, and 1 annual external inspection conducted approximately 6 months from the date of the certificate inspection while the boiler is in operation. Miniature boilers must receive a certificate inspection once every year and an internal inspection once every 2 years. The external inspection must be documented by the Authorized Inspector on the inspection certificate.

- B. Report. An Inspector must submit a report of each certificate inspection required under Paragraph A to the Board on a form approved by the Board.

5. **MAWP of Existing Power Boilers Not Constructed to Code**

The MAWP on the shell of a power boiler or drum shall be determined by the strength of the weakest course computed from the thickness of the plate, the tensile strength of the plate, the efficiency of the longitudinal joint, the inside diameter of the course, and the factor of safety allowed by Paragraph A. The formula for determining MAWP is as follows:

$$\frac{TStE}{RFS} = \text{MAWP, PSIG}$$

Where:

- TS = Ultimate tensile strength of shell plates, PSI
R = Inside radius of the weakest course of the shell or drum, inches.
t = Minimum thickness of shell plates in weakest course, inches.
E = Efficiency of longitudinal joint, as calculated in the ASME Boiler and Pressure Vessel Code specified in Chapter 11 of the Board's rules.
FS = Factor of Safety allowed by Paragraph A.

- A. Factor of Safety. The factor of safety must be at least 5.
- B. Tensile Strength. When the tensile strength of steel or wrought-iron shell plates is not known, it must be assumed to be 55,000 PSI for steel and 45,000 PSI for wrought iron.
- C. Strength of Rivets. Calculations concerning riveted joints must be those established by the ASME Boiler and Pressure Vessel Code specified in Chapter 11 of these rules, or as approved by the Board.

6. **Lap Seam Boilers**

No boiler of longitudinal lap seam construction may be installed or operated as a power boiler within the State.

7. **Non-Code H.R.T. Boilers**

A non-code horizontal return tubular boiler may not be installed or operated as a power boiler unless it was in use in this State before January 9, 1936.

8. Pitch Horizontal Firetube Boilers

Horizontal firetube boilers must be pitched toward the blow-off outlet not less than 1 inch for each 10 feet of tube length when set.

9. Manual Dampers

Fully closable manual dampers are prohibited on automatically fired power boilers. The owner must ensure that any such existing dampers are removed.

10. Engineers-in-Charge

The owner must assign an engineer-in-charge for any power boiler operated in the State of Maine. The engineer-in-charge must comply with the provisions of Chapter 32, Section 7 of these rules.

AUTHORITY: 32 MRSA § 15104-A(1)

EFFECTIVE DATE: January 15, 2005

Chapter 13 – Low Pressure Boilers

SUMMARY: This Chapter establishes specific requirements for the identification, construction, installation, inspection, and operation of low pressure boilers. Consistent with 32 M.R.S.A. § 15102(1), the Board's rules regulate only those heating boilers located in schoolhouses or owned by municipalities and includes remote central heating plants. This Chapter also establishes specific requirements for low pressure "process" boilers and water heaters with a heat input greater than 200,000 Btu/hour.

1. Exceptions to this Chapter.

- A. Hot water heating boilers and hot water supply boilers are exempt from the certificate inspection process provided the following conditions are met:
 - (1) The boilers are constructed and installed in accordance with the Board rules and pass an initial installation inspection;
 - (2) The heat input to any one object is less than 200,000 Btu/hour; and
 - (3) The aggregate heat input of the plant is less than 300,000 Btu/hour.
- B. Water heaters are exempt from the provisions of this Chapter provided the following conditions are met.
 - (1) The water heater is built and installed to a nationally recognized code;
 - (2) The heat input is less than 200,000 Btu/hour;
 - (3) A properly sized ASME/NB rated pressure relief device is installed and functional;
 - (4) The object has proper controls to ensure water temperature does not exceed 210 degrees Fahrenheit;
 - (5) The water capacity is less than 120 gallons; and
 - (6) The aggregate heat input of the plant is less than 300,000 Btu/hour.

2. New Installations

A. Registration and Certification

Before any low pressure boiler is operated in the State of Maine, the owner of the low pressure boiler must register the low pressure boiler with the Board and must obtain a current, valid inspection certificate for the low pressure boiler.

B. Installation Inspections

(1) Notification. The owner of a low pressure boiler must notify the State and the owner's insurance company when applicable before placing a new low pressure boiler in service.

(2) Inspection. An Inspector must conduct the initial inspection of a low pressure boiler in accordance with the applicable code specified in Chapter 11 of these rules. The initial inspection must consist of an internal and external inspection, if construction permits. The Inspector must report the results of the inspection to the Board on forms provided by the Board.

C. Relocation. Before a relocated low pressure boiler is installed, the owner must petition the Chief Inspector for a variance to approve the installation. The Chief Inspector must perform the initial inspection of a relocated boiler.

3. Existing Low Pressure Boilers

A. Rules Applicable to Construction and Installation. The design, construction, construction-related inspection, installation, and stamping of all existing low pressure boilers must comply with the rules of the Board in effect at the time of installation.

B. Rules Applicable after Installation. The maintenance, operation and post-installation inspection of all existing low pressure boilers must comply with the rules of the Board in effect at the time of the maintenance, operation, or post-installation inspection.

4. Registration Numbers

A. Display; Not Transferable. The assigned State of Maine registration number must appear on each low pressure boiler at all times. The registration number assigned to a low pressure boiler may not be transferred to another boiler.

- B. Low Pressure Boiler Numbers. The Inspector must place the assigned State of Maine registration number, preceded by the letter “H,” on a self-locking metal tag issued by the Board and must affix the tag to a suitable fitting on the low pressure boiler.

5. Periodic Inspections of Low Pressure Boilers

- A. Inspection Methods and Frequency. Before the initial inspection certificate expires, and annually thereafter, all low pressure boilers in the State must be inspected as follows:
- (1) An Inspector must perform 1 annual certificate inspection, which must be an external inspection conducted while the boiler is in operation; and
 - (2) When construction permits, an Inspector must perform an internal inspection every third year.
- B. Report. An Inspector must submit to the Board a report of each inspection performed pursuant to Paragraph A on a form approved by the Board.

6. MAWP of Existing Low Pressure Boilers Not Constructed to Code

The MAWP on the shell of a low pressure boiler or drum shall be determined by the strength of the weakest course computed from the thickness of the plate, the tensile strength of the plate, the efficiency of the longitudinal joint, the inside diameter of the course, and the factor of safety allowed by paragraph A. The formula for determining MAWP is as follows:

$$\frac{TStE}{RFS} = \text{MAWP, PSIG}$$

Where:

- TS = Ultimate tensile strength of shell plates, PSI
R = Inside radius of the weakest course of the shell or drum, inches.
t = Minimum thickness of shell plates in weakest course, inches.
E = Efficiency of longitudinal joint, as calculated in the ASME Boiler and Pressure Vessel Code specified in Chapter 11 of the Board’s rules.
FS = Factor of Safety allowed by Paragraph A.

- A. Factor of Safety. The factor of safety must be at least 5.

- B. Tensile Strength. When the tensile strength of steel or wrought-iron shell plates is not known, it must be assumed to be 55,000 PSI for steel and 45,000 PSI for wrought iron.
- C. Strength of Rivets. Calculations concerning riveted joints must be those established by the ASME Boiler and Pressure Vessel Code specified in Chapter 11 of these rules, or as approved by the Board.

7. Pitch Horizontal Firetube Boilers

Horizontal firetube boilers must be pitched toward the blow-off outlet not less than 1 inch for each 10 feet of tube length when set.

8. Manual Dampers

Fully closable manual dampers are prohibited on automatically fired low pressure boilers. The owner must ensure that any such existing dampers are removed.

AUTHORITY: 32 MRSA § 15104-A(1)
EFFECTIVE DATE: January 15, 2005

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

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Chapter 14 – Pressure Vessels

Summary: This Chapter establishes requirements for the design, construction, installation, inspection, and operation of pressure vessels.

1. New Installations

A. Registration and Certification

Before any pressure vessel is operated in the State of Maine, the owner of the pressure vessel must register the pressure vessel with the Board and must obtain a current, valid inspection certificate for the pressure vessel.

B. Installation Inspections

(1) Notification. The owner of a pressure vessel must notify the State and the owner's insurance company when applicable before placing a new vessel in service.

(2) Inspection. An Inspector must conduct the initial inspection of a pressure vessel in accordance with the applicable code specified in Chapter 11 of these rules. The initial inspection must consist of an internal and external inspection, if construction permits. The Inspector must report the results of the inspection to the Board on forms provided by the Board.

C. Relocation. Before a relocated pressure vessel is installed, the owner must petition the Chief Inspector for a variance to approve the installation. The Chief Inspector must perform the initial inspection of a relocated pressure vessel.

2. Existing Pressure Vessels

A. If an existing pressure vessel has not yet been registered, an Inspector must perform an initial inspection to determine the vessel's external condition and the adequacy of the safety relieving devices. The Inspector must submit a report of inspection to the Chief Inspector on a form provided by the Board.

B. Any pressure vessel installed and operated after July 1, 1998, must be constructed to ASME code and must be stamped and registered with the National Board. The owner of any such pressure vessel not constructed to

ASME Code or stamped or registered with the National Board may seek to register the pressure vessel with the Board only by petitioning the Board for a variance.

- C. Any pressure vessel installed between June 30, 1974, and July 1, 1998, must be constructed to ASME Code. The owner of any such pressure vessel not constructed to ASME Code may seek to register the pressure vessel with the Board only by petitioning the Board for a variance.
- D. Any pressure vessel installed before June 30, 1974, must be adequately designed for its intended use. An owner seeking to register such a pressure vessel must provide the Chief Inspector with a copy of the manufacturer's data report relating to the vessel, a copy of the construction details with material specifications, and any other information or materials requested by the Chief Inspector.

3. Periodic Inspections of Pressure Vessels

- A. Inspection Methods and Frequency. Before the initial inspection certificate expires, and every 3 years thereafter, all pressure vessels in the State must be inspected as follows:
 - (1) An Inspector must perform a certificate inspection of the pressure vessel; and
 - (2) The triennial certificate inspection must be internal whenever construction permits. In the event that an internal inspection is not feasible due to construction features, the Inspector must use an alternative method of determining material thickness of the shell and/or head.
- B. Report. The Inspector must submit to the Board a report of each inspection performed pursuant to Paragraph A on a form approved by the Board.

Exception: Those companies that are participating in the TAPPI Paper Machine Dryer Can Inspection Program may request permission to be issued an inspection certificate from the Board upon verification by the Authorized Inspector that the company is adhering to the TAPPI standards.

4. Registration Numbers

- A. Display; Not Transferable. The assigned State of Maine registration number must appear on each pressure vessel at all times. The registration number assigned to a pressure vessel may not be transferred to another pressure vessel.

- B. Registration Number. The Inspector must place the assigned State of Maine registration number, preceded by the letters "PV," on a self-locking metal tag issued by the Board and must affix the tag in the vicinity of the manufacturer's name plate._
- C. Group of Pressure Vessels. For purposes of assignment of a registration number, the Board may consider a group of pressure vessels, such as the rolls of a paper machine or a dryer operating as a single machine or unit, to be one pressure vessel. In that event, the group of pressure vessels must be assigned a single master registration number and the individual pressure vessels must be assigned separate registration numbers related to the master registration number. The owner must pay a certificate fee for only a single pressure vessel.

5. MAWP of Existing Pressure Vessels Not Constructed to Code

The MAWP on the shell of a pressure vessel or drum shall be determined by the strength of the weakest course computed from the thickness of the plate, the tensile strength of the plate, the efficiency of the longitudinal joint, the inside diameter of the course, and the factor of safety allowed by paragraph A. The formula for determining MAWP is as follows:

$$\frac{TStE}{RFS} = \text{MAWP, PSIG}$$

Where:

- TS = Ultimate tensile strength of shell plates, PSI
- R = Inside radius of the weakest course of the shell or drum, inches.
- T = Minimum thickness of shell plates in weakest course, inches.
- E = Efficiency of longitudinal joint, as calculated in the ASME Boiler and Pressure Vessel Code specified in Chapter 11 of the Board's rules.
- FS = Factor of Safety allowed by paragraph A.

- A. Factor of Safety. The factor of safety must be at least 5.
- B. Tensile Strength. When the tensile strength of steel or wrought-iron shell plates is not known, it must be assumed to be 55,000 PSI for steel and 45,000 PSI for wrought iron.
- C. Strength of Rivets. Calculations concerning riveted joints must be those established by the ASME Boiler and Pressure Vessel Code specified in Chapter 11 of these rules, or as approved by the Board.

6. Ten or More Pressure Vessels

Whenever 10 or more pressure vessels are installed at a plant, the owner must comply with Chapter 21(10)(B) of these rules.

7. Modified Pressure Vessels

When any major pressure retaining item is changed on an existing pressure vessel, the change must be considered an alteration as set forth in Chapter 15.

AUTHORITY: 32 MRSA § 15104-A(1) and § 15109(8)
EFFECTIVE DATE: January 15, 2005

Chapter 15 – Repairs and Alterations

Summary: This Chapter establishes requirements for performing welded repairs, mechanical replacement of pressure parts, and alterations on boilers or pressure vessels.

1. General Requirement

The owner shall obtain permission from the Authorized Inspector responsible for the jurisdictional inspection of the object prior to making any repair or replacement that affects the pressure retaining capability of a boiler or pressure vessel.

Only Authorized Inspectors licensed by the State of Maine may sign and document the repair forms.

In the event that the Authorized Inspector is unavailable, authorization may be obtained by contacting the Chief Inspector.

2. Welded Repairs and Alterations

- A. All welded repairs and alterations to a boiler or pressure vessel must be performed as follows:
 - (1) By an appropriate R Certificate Holder; and
 - (2) In accordance with the applicable standards specified in Chapter 11, Section 1(C) of these rules. In those cases where it is not possible to complete repairs in accordance with the applicable standards specified in Chapter 11, Section 1(C) of these rules, the Chief Inspector shall be consulted.
- B. All alteration plans must be submitted to the Chief Inspector on a form provided by the Board at least 30 days prior to the alteration. Emergency situations will be handled on a case by case basis. In case of an emergency situation, contact the Chief Inspector.
- C. The R Certificate Holder performing a repair or alteration must submit to the Board legible copies of the forms documenting the repair or alteration.
- D. The Chief Inspector shall approve a specific list of repairs for each R Certificate Holder that will be handled as a routine repair as required by

the NBIC. This list will replace the four categories of routine repairs listed in RC-2031 of the NBIC. This list of repairs shall be submitted by the Authorized Inspection Agency and shall be documented in the quality control manual of each R Certificate Holder.

Note: Each welded repair shall be treated according to the unique circumstances surrounding the operational environment to which the object is exposed. Authorized Inspectors have the discretion to handle repairs as they deem necessary.

This means that all repairs need to be handled appropriately. However, the nature of some repairs are relatively straight forward and this provision is supposed to clarify which types of repairs may be treated in a routine manner. The list of routine repairs may be different for individual R Certificate Holders and will be based on the nature of work normally performed by the shop.

3. Low Pressure Boiler Repair or Replacement by Mechanical Attachment

The mechanical attachment of piping and components on low pressure boilers must be completed by appropriately licensed individuals.

4. Power Boiler Repair or Replacement by Mechanical Attachment

A. The mechanical attachment of piping and components within the code boundary on power boilers associated with the major boiler systems must be completed by R Certificate Holders. Major boiler systems consist of the main steam system or equivalent, the feedwater system, the blow-down system, and any repairs or replacements associated with tubes.

(1) The owner shall submit documentation on each repair/replacement on the Mechanical Repair Form approved by the Board.

(2) The documentation shall include material traceability and verification of the construction standard.

(3) A hydrostatic test to verify mechanical integrity shall be conducted upon completion of the repair/replacement.

(a) The minimum permissible metal temperature during the hydrostatic test shall be as required by the code of construction but in no case less than 60 degrees Fahrenheit.

(b) The test pressure shall be at least 80 percent of maximum allowable working pressure of the object.

- (4) The jurisdictional Inspector must document all mechanical repairs on a form provided by the Board.
- B. The mechanical attachment of piping and components within the code boundary on power boilers not associated with the major boiler systems may be performed by individuals under the supervision of the engineer-in-charge.
- (1) The owner shall submit documentation on each repair/replacement on the Mechanical Repair Form provided by the Board.
 - (2) The documentation shall include material traceability and verification of the construction standard.
 - (3) A hydrostatic test to verify mechanical integrity shall be conducted upon completion of the repair/replacement.
 - (a) The minimum permissible metal temperature during the hydrostatic test shall be as required by the code of construction but in no case less than 60 degrees Fahrenheit.
 - (b) The test pressure shall be at least 80 percent of maximum allowable working pressure of the object.
 - (4) The jurisdictional Inspector must document all mechanical repairs on a form provided by the Board.

Note:

Notes are provided for informational or explanatory purposes. They are intended to provide guidance and/or to clarify the rules. They are not part of the rules.

Repairs in this chapter refer to restoration or replacement of pressure retaining items and do not include other maintenance activities associated with the operation of the boiler.

The NBIC defines repair as the work necessary to restore pressure retaining items to a safe and satisfactory operating condition. Additionally, it defines pressure retaining items as any boiler, pressure vessel, piping, or material used for the containment of pressure, either internal or external. The pressure may be obtained from an external source or by the application of heat from a direct source, or any combination thereof.

1. Repairs, as used in this chapter, are limited to the code boundary for the object or system. For example, on high pressure boilers repairs to boiler external piping would be included. The boiler external piping includes all the piping and appurtenances out to and including the required valves. The specific boundary

may vary based on the number of boiler(s) connected in a battery. However, in general it includes:

- A. The feedwater piping and valves out to the second valve;
- B. The blowoff piping out to and including the second valve;
- C. The main steam piping out to and including the first valve on a single boiler installation;
- D. The main steam piping out to and including the second valve on a multiple boiler installations; and
- E. Piping for gauges, controls, low water fuel cutoff etc. out to the first valve.

The boundaries are detailed and specified in Section 1 and B31.1.

- 2. On low pressure boiler the code boundary ends at the boiler proper which is at:
 - A. The first circumferential joint for welding end connections;
 - B. The face of the first flange in bolted flanged connections; or
 - C. The first threaded joint in that type of connection.
- 3. On pressure vessels the code boundary ends at the pressure vessel proper which is at:
 - A. The first circumferential joint for welding end connections;
 - B. The face of the first flange in bolted flanged connections; or
 - C. The first threaded joint in that type of connection.
- 4. The following is a list of examples of typical repairs. It is not meant to be all inclusive but is provided for the purpose of illustration.
 - A. Replacement or repair of piping and fittings associated with boiler external piping. This includes piping for appurtenances;
 - B. Welded repairs to the pressure vessel, boiler or piping;
 - C. Tube replacement;
 - D. Tube repairs;

- E. Replacement of handhole or manway covers;
- F. Replacement of valves;
- G. Rolling of tubes; and
- H. Attachment welds to pressure part.

AUTHORITY: 32 MRSA § 15104, § 15109(8), and § 15110
EFFECTIVE DATE: January 15, 2005

Chapter 21 – Duties and Responsibilities of All Owners of Boilers and Pressure Vessels

Summary: This Chapter establishes general duties of all owners of boilers and pressure vessels. Duties and responsibilities of owners of boilers and pressure vessels are also set forth in Title 32, Chapter 131, and elsewhere in this Chapter.

1. Application for Inspection Certificates

- A. Initial Inspection. The owner of a boiler or pressure vessel must ensure that an initial inspection is conducted on a newly installed or relocated boiler or pressure vessel in accordance with the applicable provisions of Chapters 12-14 of these rules.
- B. Annual Inspection of Boilers. The owner of a boiler must ensure that the boiler is inspected annually and that the inspection is completed before the expiration of the current inspection certificate.
- C. Triennial Inspection of Pressure Vessels. The owner of a pressure vessel must ensure that the pressure vessel is inspected every 3 years and that the inspection is completed before the expiration of the current inspection certificate.
- D. Submission. The owner must ensure that the boiler or pressure vessel is inspected in sufficient time to permit compliance with this Section. The Board may assess a late inspection certificate fee against the owner if the inspection report is not submitted to the Board within 60 days after the date the current inspection certificate expires. The Board also may assess a late certificate fee if the owner fails to submit the certificate fee within 60 days of notification from the Board that the certificate fee is due.
- E. Rejection of Reports. The Chief Inspector may reject any inspection report that is incomplete or illegible or that otherwise fails to comply with the requirements of 32 M.R.S.A., Chapter 131, or the Board's rules. If the Chief Inspector rejects the report, he must return it and a statement of the reasons for rejection to the owner and/or the Inspector.

2. Expiration of Inspection Certificates

A. Date of Expiration

- (1) Boilers. Annual inspection certificates for boilers expire on the last day of the month when the unit was last inspected and expire annually thereafter on the last day of that month unless the owner petitions the Chief Inspector to change the month of inspection on a form provided by the Board.
- (2) Pressure Vessels. Triennial inspection certificates for pressure vessels expire on the last day of the month when the unit was last inspected and expire every three years thereafter on the last day of the month unless the owner petitions the Chief Inspector to change the month of inspection on a form provided by the Board.

B. Suspension of Operation. If an inspection report has not been submitted to the Board within 60 days of the expiration of the most recent inspection certificate, or if the owner has not paid the inspection certificate fee within 60 days after receiving notification that the inspection report has been received by the Board, or if repairs to a boiler or pressure vessel are not made within the time prescribed by the Board or the Chief Inspector, the owner must suspend operation of the boiler or pressure vessel until the Board issues a new inspection certificate.

3. Orders of Correction

When the Chief Inspector issues an order of correction to an owner stating that a boiler or pressure vessel requires repair, the owner must submit satisfactory written evidence that the repairs have been completed by the time specified. The Chief Inspector must not issue a new inspection certificate for a boiler or pressure vessel that requires repair.

4. Change of Status

- A. Owner. An owner must report to the Board any change in the owner's address or telephone number within 30 days of the change.
- B. Boiler or Pressure Vessel. An owner must report to the Board any change of status with respect to a boiler or pressure vessel within 30 days of the change. As used in this Section, "change of status" means transfer of ownership, relocation, physical removal, or placement out of service.

5. Accidents

A. Reporting of Accidents

- (1) Initial Report. No later than 24 hours after a reportable accident occurs, the owner of the boiler or pressure vessel must notify the Chief Inspector and, if applicable, the insurance company. The report must include: (i) the owner's name; (2) the location of the accident; (iii) a brief statement of facts surrounding the accident; (iv) and the name and telephone number(s) of the person(s) to be contacted regarding the accident.
- (2) Additional Information. After making the initial report required by Subparagraph (1), the owner of a boiler or pressure vessel involved in a Reportable Accident must provide to the Chief Inspector any additional information requested by the Chief Inspector regarding the accident or the boiler or pressure vessel.

B. Maintenance of Accident Site. When a Reportable Accident occurs, no parts or appurtenances may be removed or their position changed unless necessary for the protection of life, limb, or property until the Chief Inspector has conducted his/her investigation.

C. Suspension of Operation. When a reportable accident occurs, the owner must immediately suspend operation of the boiler or pressure vessel, and the boiler or pressure vessel must remain out of operation until the Chief Inspector has approved resumption of operation.

D. Examination and Determination.

- (1) Examination. When a Reportable Accident occurs that results in significant injury to a person or substantial damage to equipment and/or property, the Chief Inspector must examine the boiler or pressure vessel and the circumstances surrounding the accident. The Chief Inspector may designate one or more individuals to assist in the examination.

When a Reportable Accident occurs that involves equipment failure of a boiler or pressure vessel and does not result in significant injury to a person or substantial damage to equipment, the Chief Inspector may authorize an Inspector or other individual(s) to examine the boiler or pressure vessel and to report to the Chief Inspector the findings from the examination.

- (2) Determination. After the Chief Inspector has examined, or has caused to be examined, the boiler or pressure vessel and the

circumstances surrounding the reportable accident, the Chief Inspector must:

- (a) Approve the resumption of operation;
- (b) Direct that the owner suspend operation until required repairs have been made;
- (c) Summarily revoke the inspection certificate in accordance with 32 M.R.S.A. § 15119(2); or
- (d) Take other action that the Chief Inspector deems appropriate to ensure the safety of the public.

6. **Unsafe Conditions**

If an owner becomes aware of an unsafe condition involving a boiler or pressure vessel, the owner immediately must notify the Chief Inspector in accordance with the procedure for reporting accidents specified in Section 5 of this Chapter.

7. **Placing a Boiler or Pressure Vessel Out of Service**

A. **Boiler.** When an owner voluntarily places a boiler out of service, is required to place a boiler out of service in accordance with Title 32, Chapter 131, or the Board's rules, or is directed by the Board or the Chief Inspector to place a boiler out of service, the owner must:

- (1) Disconnect the fuel supply, if applicable; and
- (2) Disconnect the electrical power to the unit.

The owner must ensure that the work required by Subparagraphs (1) and (2) is done under the supervision of the engineer-in-charge for a power boiler, or by a technician appropriately licensed with the Oil and Solid Fuel Board or the Propane and Natural Gas Board for a low pressure boiler.

B. **Pressure Vessel.** When an owner voluntarily places a pressure vessel out of service, is required to place a pressure vessel out of service in accordance with Title 32, Chapter 131, or the Board's rules, or is directed by the Board or the Chief Inspector to place a pressure vessel out of service, the owner must:

- (1) Disconnect the source of pressure input; and
- (2) Remove the relief valve.

The owner must ensure that the work required by subparagraphs (1) and (2) is done by an individual who is familiar with the hazards associated with the particular pressure vessel.

8. Personnel for Power Boilers

- A. The owner of a plant operating a power boiler must designate a person to be the engineer-in-charge of the plant. The designated person must have an appropriate license for the plant based on the classes of licensure specified in 32 M.R.S.A. § 15109.
- B. The owner of a power boiler must, at the time of installation and upon any change in the identity of the engineer-in-charge, inform the Board in writing of:
 - (1) The name(s) and address(s) of any person(s) designated engineer(s)-in-charge;
 - (2) The date when each person designated engineer-in-charge assumed that position; and
 - (3) The precise location and the registration number(s) of the power boiler(s) each engineer-in-charge will oversee.

9. Heating Boilers

The owner must ensure that heating boilers are properly maintained by appropriately licensed individuals to ensure safe and reliable operation at all times.

10. Personnel for Pressure Vessels

- A. Regardless of the number of pressure vessels installed at a plant, the owner remains responsible for ensuring that the pressure vessels are maintained and operated in a safe condition.
- B. Whenever 10 or more pressure vessels are installed at a plant, the following requirements apply:
 - (1) The owner must assign an individual who is responsible for ensuring that the pressure vessels are maintained and operated in a safe condition as required by these rules; and
 - (2) Duties relating to the operation and maintenance of the pressure vessels must be performed under the direct authority of the individual assigned responsibility in accordance with paragraph A.

11. Tests

An Inspector may at any time require an accumulation test or other test to determine if a boiler or pressure vessel is operating properly.

12. Inspection Certificate

- A. Subject to the provisions of 32 M.R.S.A. § 15121(1) and (2), an owner may not operate a boiler or pressure vessel without a current, valid inspection certificate. The Board must issue inspection certificates for boilers for a period of 12 months and for pressure vessels for a period of 36 months.
- B. An owner may obtain an inspection certificate from the Board if the following requirements have been satisfied:
 - (1) An Inspector has inspected the boiler or pressure vessel and has submitted the report of inspection to the Board;
 - (2) The Chief Inspector has approved the inspection report; and
 - (3) The Board has received payment for the inspection certificate, or for the inspection if performed by the Chief Inspector or the Deputy Inspector.
- C. In order to coordinate Inspectors' availability with the operating needs of the facility, the Chief Inspector may authorize an extension of up to 2 months beyond the expiration date of the inspection certificate. Except in cases of emergency, a written request to operate the boiler or pressure vessel beyond the expiration date must be submitted to the Chief Inspector no less than 15 days before the expiration date.

13. Boilers or Pressure Vessels Found to be Unsafe

- A. Suspension of Inspection Certificate. If an Inspector finds that a boiler or pressure vessel is unsafe to operate, the Inspector must notify the Chief Inspector immediately. The Chief Inspector must suspend the inspection certificate, and the owner must immediately suspend operation of the boiler or pressure vessel until the Chief Inspector approves the placing of the boiler or pressure vessel back in operation. Pursuant to 5 M.R.S.A. §10004(4), a suspension issued in accordance with this paragraph is effective for a period of not more than 30 days.

- B. Condemnation and Stamping. In the event that repairs to a boiler or pressure vessel are not feasible, the Chief Inspector must revoke the certificate and condemn the boiler or pressure vessel. Upon condemnation, the Chief Inspector must stamp the boiler or pressure vessel (“XXX Me”) in accordance with 32 M.R.S.A. § 15112, provided that the actual stamping must be stayed during the 7-day period set forth in Section 13, paragraph C of this Chapter and during the pendency of any appeal filed with the Board. Only the Chief Inspector may revoke a certificate and condemn a boiler or pressure vessel. Pursuant to 5 M.R.S.A. § 10004(4), a revocation issued in accordance with this paragraph is effective for a period of not more than 30 days.
- C. Owner’s Right to Appeal. When the Chief Inspector suspends or revokes a certificate, the Chief Inspector must give the owner written notice of the owner’s right to appeal the suspension or revocation to the Board within 7 calendar days of the suspension or revocation.
- D. Appeal Hearing. Upon receipt of a timely appeal from the owner, the Board will schedule an appeal hearing pursuant to 32 M.R.S.A. § 15104-A(2). The provisions of the Maine Administrative Procedure Act relating to adjudicatory proceedings govern the hearing. The Chief Inspector bears the burden of proof at the appeal hearing. The boiler or pressure vessel that is the subject of the appeal must remain out of service and may not be operated during the pendency of the appeal.

14. Portable Boilers

Whenever a portable boiler is installed for temporary use, an external inspection must be completed within 72 hours, provided the portable boiler has a current, valid inspection certificate issued by the State of Maine. If the portable boiler does not have a current, valid inspection certificate, a certificate inspection is required prior to operation. The owner of the boiler shall arrange for the required inspections to be conducted.

Note: It is recommended that the owner of portable boilers which may be rented out to facilities located in the State of Maine have the boilers inspected by an Authorized Inspector licensed by the State of Maine as required so the boilers have a current valid certificate on a continuous basis. This will expedite the installation of a portable boiler and reduce the likelihood of the boiler being shutdown to complete the internal inspection prior to continued operation at a site.

15. General Responsibility

Owners must ensure that all boilers, pressure vessels, and appurtenances are operated, inspected, and maintained in a condition sufficient to safely perform the

work for which they were intended and are kept sufficiently clean to prevent fire hazards.

AUTHORITY: 32 M.R.S.A. § 15104-A, § 15119, and § 15121
EFFECTIVE DATE: January 15, 2005

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

174 BOARD OF BOILERS AND PRESSURE VESSELS

Chapter 31 – Inspectors

Summary: This Chapter establishes requirements for initial and renewal licensure of Inspectors in addition to those established by 32 M.R.S.A. § 15108-A.

1. Qualifications for Licensure

To qualify for an Inspector's license, an applicant must:

- A. Application. Submit an application to the Board on a form provided by the Board;
- B. National Board Examination. Submit a copy of his or her current, valid National Board Commission;
- C. Employment. Submit written proof that the applicant is employed by the state regulatory body having jurisdiction over boilers and pressure vessels or an insurance company licensed to insure boilers or pressure vessels in this State;
- D. Maine-Specific Examination. Obtain a grade of at least 80% on a Maine-specific examination administered by the Board; and
- E. Fee. Submit the application fee.

2. Eligibility for Examinations

- A. National Board Examination. To be eligible to take the National Board examination in Maine, a person must:
 - (1) Satisfy the qualifications specified by the National Board's Rules for Commissioned Inspectors (approved April 26, 2003); and
 - (2) Submit an application to take the examination on a form provided by the Board.
- B. Maine-Specific Examination. To be eligible to take the Maine-specific examination, a person must:
 - (1) Submit an application together with the fee on a form provided by the Board. An applicant who fails to appear for a scheduled

examination without notifying the Board before the examination forfeits the examination fee;

- (2) Submit a copy of his or her current, valid National Board Commission; and
- (3) Submit written proof that the applicant is employed by the state regulatory body having jurisdiction over boilers and pressure vessels or an insurance company licensed to insure boilers or pressure vessels in this State.

3. Renewal of License

- A. Expiration. All Inspector licenses expire 1 year from the date of issuance.
- B. Eligibility for Renewal. Applications for renewal of an Inspector's license must be on forms provided by the Board and must be accompanied by:
 - (1) Satisfactory written evidence of employment by the state regulatory body having jurisdiction over boilers and pressure vessels or an insurance company licensed to insure boilers or pressure vessels in this State;
 - (2) Satisfactory written evidence of a current, valid National Board Commission; and
 - (3) The fee established by the Director.

A license may be renewed up to 90 days after expiration upon payment of a late fee in addition to the renewal fee.

4. Reinstatement of License

- A. More than 90 Days but Not More than 2 Years. An individual who fails to renew an Inspector's license for more than 90 days but not more than 2 years from the date of expiration may reinstate the license without taking the examination required by Section 2, paragraph A. To reinstate, an individual must file a new application for renewal and pay the application fee, license fee, and penalty as set forth in the Office of Licensing and Registration Rules Chapter 10, "Establishment of License Fees," Section 4, Subsection 9.
- B. More than Two Years. An individual who fails to renew an Inspector's license for more than 2 years from the date of expiration may obtain a new license by satisfying the requirements of Title 32, Chapter 131, and of Section 1 of this Chapter.

5. Licensure Conditioned

An Inspector's license is valid only during the time that the licensee:

- A. Is employed as an Inspector with the state regulatory body having jurisdiction over boilers and pressure vessels or as a Inspector with an insurance company licensed to insure boilers or pressure vessels in this State; and
- B. Holds a current, valid National Board Commission.

An Inspector's license is no longer valid if the Inspector: (i) is no longer employed by the state regulatory body having jurisdiction over boilers and pressure vessels; (ii) is no longer employed by an insurance company licensed to insure boilers or pressure vessels in this State; or (iii) no longer holds a current, valid National Board Commission.

6. Duties of Inspectors

- A. An Inspector has the right to refuse an inspection on any object which is not properly prepared for inspection or is deemed unsafe to inspect.
- B. In addition to other duties imposed by Title 32, Chapter 131, these rules, or the applicable code specified in Chapter 11, Section 1 of these rules, all Inspectors must perform all required inspections in accordance with the requirements of this Chapter.
- C. In addition to other duties imposed by Title 32, Chapter 131, these rules, or the applicable code specified in Chapter 11, Section 1 of these rules, Inspectors other than the Chief Inspector or Deputy Inspector must:
 - (1) Inspect only boilers or pressure vessels that are insured by their employer;
 - (2) Immediately, and in any event not later than 24 hours after becoming aware of the condition, report to the Chief Inspector any unsafe condition involving a boiler or pressure vessel. Notification to the Chief Inspector must include: (1) the boiler Inspector's name and telephone number; (ii) the location and registration number of the boiler or pressure vessel; (iii) the name of the owner; and (iv) the nature of the unsafe condition. The boiler Inspector must provide to the Chief Inspector any additional information requested by the Chief Inspector regarding the unsafe condition of the boiler or pressure vessel.

- (3) If an inspection of a newly insured location reveals conditions that result in the insurance company's refusal to insure a boiler or pressure vessel, the Inspector must submit to the Board a written report describing in detail each such condition within 10 days after becoming aware of the condition or condition(s); and
- (4) Report to the Chief Inspector any boiler or plant at which:
 - (a) The boiler operator or stationary steam engineer holds no license or holds a license of a lower class than required by 32 M.R.S.A. § 15109; or
 - (b) The attendance requirements of Chapter 32 Section 5 of these rules are not being met.

AUTHORITY: 32 MRSA § 15104-A and § 15108-A.
EFFECTIVE DATE: January 15, 2005

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

174 BOARD OF BOILERS AND PRESSURE VESSELS

Chapter 32 – Boiler Operators and Stationary Steam Engineers

Summary: This chapter establishes requirements for licensure and responsibilities of boiler operators and stationary steam engineers.

1. Applications

Applications for examination and licensure as a boiler operator or stationary steam engineer must be on a form provided by the Board and must be accompanied by the fees established by the Director.

2. Qualifications for Examination and Licensure

To qualify for licensure, an applicant must:

- A. Experience. Have the experience required by 32 M.R.S.A. § 15109(7)(A through I) for that grade or class of license at the time the applicant applies for examination. Proof of satisfactory completion of a Board-approved high pressure boiler operator's technical training course shall be considered the equivalent of 3 months' experience.
- B. Examination. Obtain a passing grade of at least 70% on an examination administered by the Board;
- C. Deadline for Application. Apply for the license within 90 days after receiving notification of a passing score on the examination; and
- D. Fee; Forfeiture. Submit the examination fee for the license together with the application for the license. An applicant who fails to appear for a scheduled examination without notifying the Board before the examination forfeits the examination fee.

3. Renewal of License

- A. Expiration. All licenses issued under this Chapter expire 3 years from the date of issuance.
- B. Eligibility for Renewal. Applications for renewal of a license governed by this Chapter must be on a form provided by the Board and must be accompanied by the fee established by the Director. A license may be

renewed up to 90 days after expiration upon payment of a late fee in addition to the renewal fee.

4. Reinstatement of License

- A. More than 90 Days but Not More than 2 Years. An individual who fails to renew a boiler operator or stationary steam engineer's license for more than 90 days but not more than 2 years from the date of expiration may reinstate the license without taking the examination required by Section 2, paragraph A of this chapter. To reinstate, an individual must file a new application for reinstatement and pay the application fee, license fee, and penalty as set forth in the Office of Licensing and Registration Rules Chapter 10, "Establishment of License Fees," Section 4, Subsection 9.
- B. More than Two Years. An individual who fails to renew a license governed by this Chapter for more than 2 years from the date of expiration may obtain a new license by satisfying the requirements of Title 32, Chapter 131, and Sections 2 and 3 of this Chapter.

5. Attendance Requirements for Power Boilers

The following rules govern the required power boiler attendance requirements of licensed boiler operators and/or stationary steam engineers, with consideration of the method of firing fuels, equipment, or machinery being supplied, or the occupation of the building being served:

- A. A licensed stationary steam engineer's duties include the observation and manipulation of mechanical, automatic, or remote controls and the testing, clearing, and blow-down or draining of these controls to ensure proper operation of these devices. A stationary steam engineer may also undertake routine cleaning of any boiler and its fuel burning equipment.
- B. Manual Boilers. Manual boilers must be constantly monitored while in operation by an appropriately licensed individual.
- C. Automatic Boilers.
 - (1) Power Plant. Boilers located in power plants must be constantly monitored while in operation by an appropriately licensed individual.
 - (2) Process Plant.
 - (a) Boilers located in process plants with **1,000,000 BTU/hour or more aggregate heat input** must be monitored at least every 2 hours while in operation by an appropriately licensed individual.

- (b) Boilers located in process plants with **less than 1,000,000 BTU/hour aggregate heat input** must be monitored at least every 8 hours while in operation by an appropriately licensed individual.

NOTE: Steam kettles used in cooking are considered process units.

- (3) Heating Plant. The attendance and monitoring requirements for heating plants are applicable when the boiler is in use and the school or building is open for public use. Any boiler located in a heating plant with **1,000,000 BTU/hour or more aggregate heat input** must be monitored at least every 8 hours while in operation by an appropriately licensed individual. Any boiler located in a heating plant with **less than 1,000,000 BTU/hour aggregate heat input** must be monitored at least once every 24 hours while in operation by an appropriate licensed individual. Only properly licensed stationary steam engineers may change the controls on a high pressure boiler to operate as a low pressure boiler and vice versa.

NOTE:

Notes are provided for informational or explanatory purposes. They are intended to provide guidance and/or clarify the rules. They are not part of the rules.

If a plant can simultaneously be classified as more than one type of plant (power, process, or heating), attendance requirements must meet the most stringent attendance requirements based on possible types of plant and operational conditions.

For example:

1. A hospital boiler typically provides steam for heating and process purposes simultaneously. The attendance requirements for a process boiler would meet the requirements of this rule while the plant is providing steam for process purposes. If the plant is only providing a heating load, the plant must meet the requirements for a heating plant.
2. A process boiler may provide steam for space heating in addition to steam for a process during production. While production is stopped at the end of the day or on the weekend, a boiler may be used for space heating. During this situation, a process boiler used exclusively for space heating may be considered to be functioning

as a heating plant during this time, provided the proper controls are installed for low pressure operation so as not to permit the boiler to operate at greater than 15 PSI steam pressure.

3. Process plants and heating plants that are operated as a low pressure boiler do not have mandatory attendance requirements; however, the boiler must be operated and maintained in a safe condition.
4. Aggregate heat input is the potential heat input of the plant based on the capacity of the installed boilers connected to a single plant.

6. Unsafe Conditions

A licensed boiler operator or stationary steam engineer must report an unsafe condition involving a boiler or pressure vessel to the Chief Inspector immediately and in any event not later than 24 hours after becoming aware of the condition. Notification to the Chief Inspector must include the licensee's name and telephone number, the location and registration number of the boiler or pressure vessel, the name of the owner, and the nature of the unsafe condition. The licensee must provide to the Chief Inspector any additional information requested by the Chief Inspector regarding the unsafe condition of the boiler or pressure vessel.

7. Engineers-in-Charge (Duties and Responsibilities)

- A. Persons designated engineers-in-charge are responsible for the safe and proper operation and maintenance of the power boilers over which they have charge.

Note: The engineer-in-charge has the responsibility to ensure that each plant is properly staffed for safe operation. The guidelines established in rule for attendance requirements are a minimum. The circumstances in any plant may require increased attendance of licensed personnel. This is especially a concern in plants that experience substantial fluctuation in output.

- B. Duties relating to the operation and maintenance of a power boiler must be performed by a stationary steam engineer under the direct authority of the engineer-in-charge.
- C. On each regularly scheduled work day, the engineer-in-charge must visit the plant and leave instructions for the stationary steam engineers who will operate the power boiler. On those days that the engineer-in-charge is not scheduled to work, the engineer-in-charge must leave written instructions for the stationary steam engineers. The instructions provided

by the engineer-in-charge must be made available to the Chief Inspector upon request.

- D. The engineer-in-charge must train other stationary steam engineers under the supervision of the engineer-in-charge.
- E. The engineer-in-charge must maintain a bound engineer's log book in ink and must ensure that the log book is maintained to adequately document plant operating parameters.

AUTHORITY: 32 MRSA § 15104-A and § 15109
EFFECTIVE DATE: January 15, 2005

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

041 OFFICE OF LICENSING AND REGISTRATION

Chapter 10: ESTABLISHMENT OF LICENSE FEES

Summary: This chapter establishes fees for professional and occupational licenses and registrations issued by the Office of Licensing and Registration.

1. Definitions

Unless the context otherwise indicates, the following words have the following meanings:

1. **3d party.** “3d party” refers to a fee for a standardized license examination that is paid directly by the applicant to the organization administering the examination or its designee.
2. **OLR.** “OLR” means the Office of Licensing and Registration.

2. Establishment of Fees; Effective Dates

OLR shall charge the license and other fees indicated in §§ 3 and 5 below. For initial licenses, and for applications and examinations, the fees set out below shall become effective upon the effective date of this chapter. For renewal licenses, the fees set out below shall become effective with the first renewal cycle occurring on or after the effective date of this chapter.

The license and other fees of OLR boards and regulatory functions not listed below are set by the statute and implementing rules governing the particular board or regulatory function.

3. Fees Applicable to All Boards and Regulatory Functions Listed in §4

Except as otherwise indicated, the fees listed in this section apply to all boards and regulatory functions listed in §5 below:

1. Replacement license \$10
2. Verification of licensure \$10
3. Photocopies..... No charge for first 7 pages, 25¢ for each page thereafter
4. Licensee register list on diskette or CD-ROM \$10

4. Refunds

If an applicant applies for a license listed in §5 for which a separate application fee is charged, the license fee will be refunded if the license is denied. All other fees listed in §§ 3 and 5 are nonrefundable.

5. Fees to be Charged For Particular Occupational and Professional Licenses and Registrations and Related Fees

The following fees shall be charged for the licenses, registrations, permits and other services listed in subsections 1–40 below. For any given license or registration, the designated fee shall apply to both initial issuance and renewal unless otherwise indicated. The term of a license or registration ends on the uniform expiration or renewal date established for that license or registration by law.

9. Board of Boilers and Pressure Vessels

Boiler Engineer (All Classes)	3 yr	\$150
Boiler Operator - High Pressure	3 yr	\$150
Boiler Operator Training Permit	6 mo	\$50
Boiler Inspector	1 yr	\$50
Application	NA	\$25
Examination	NA	\$50
Late renewal:		
91 days - 2 yrs	NA	\$50
Certificate of Inspection:		
Boilers	1 yr	\$60
Pressure Vessels	3 yr	\$60
Late Inspection Certificate Fee:		
>60 days after expiration	NA	\$100
>60 days from date of invoice	NA	\$50
Petition for a variance	NA	\$100

BOILER AND PRESSURE VESSEL INSPECTION FEES

1. POWER BOILERS AND HIGH TEMPERATURE WATER BOILERS (For inspection by a State Inspector).

1.1 Internal Inspections

Boilers less than 2,000 sq. ft. of heating surface \$75.00

Boilers of 2,000 sq. ft. of heating surface or more and less than 4,000 sq. ft. of heating surface..... \$100.00

Boilers of 4,000 sq. ft. of heating surface or more and less than 10,000 sq. ft. of heating surface..... \$150.00

Boilers of 10,000 sq. ft. of heating surface or more \$300.00

1.2 External Inspections

Boilers of 50 sq. ft. of heating surface or less \$50.00

Boilers over 50 sq. ft. of heating surface..... \$100.00

NOTE: For boilers where the only source of heat is electrical energy, the fees shall be based on one kilowatt being equal to one square foot of heating surface.

2. LOW PRESSURE STEAM, HOT WATER HEATING AND HOT WATER SUPPLY BOILERS (For inspection by a State Inspector).

2.1 Certificate Inspection \$50.00

3. INSPECTION FEES - PRESSURE VESSELS (For inspection by a State Inspector)

Fees are to be based upon the cross sectional area, which is the product of the maximum length of vessels and their maximum width or diameter:

3.1 Certificate inspection of each pressure vessel subject to inspection having a cross sectional area of 50 sq. ft. or less \$25.00

3.2 For each additional 100 sq. ft. of area in excess of 50 sq. ft. \$25.00

3.3 The total cost of inspection for any one vessel will not exceed \$500.00. For example, a group of pressure vessels, such as the rolls of a paper machine or dryer operating as a single machine or unit, shall be considered as one pressure vessel.

4. INSPECTION FEES (For inspection by a State Inspector)

Special trip or inspection by State employed inspectors will be based on \$50.00 per hour, at a minimum of 4 hours plus travel, lodging and meals.

Minimum \$200.00

Each additional hour \$50.00 plus travel expenses

STATUTORY AUTHORITY: OLR director uniform fee authority: 10 MRSA §8003(2-A)(D) and (E). OLR director fee authority in board statutes: 32 MRSA §§67, 287-A, 558, 1203-A, 1504, 1527, 2402-B, 3116-A, 3501-B, 3652, 3833-A, 4863-A, 4912, 5507, 6215, 9859-A, 12514-A, 13724, 13910-A, 14012-A, 14306-G, 14358, 15109(9) and 15225-A. Additional late fee authority in board statutes: 32 MRSA §§224, 224-A, 553-A, 1204, 2404, 3504, 3652, 4863, 5515(8), 9859, 9909(1), 13734(1), 13908(1), 14025, 14235, 14238, 14814, 15109(3), 15216-C.

EFFECTIVE DATE: February 10, 2007

Chapter 11: LATE RENEWALS

SUMMARY: This chapter establishes a uniform policy regarding the treatment of late renewals of licenses issued by the licensing boards and regulatory functions within the Office of Licensing and Registration (“OLR”).

1. Applicability

This chapter applies to the OLR licensing boards and regulatory functions enumerated in 10 MRSA §8001(38). For those programs, this chapter supersedes existing statutory and rule provisions dealing with the consequences of late renewal.

2. Late Renewal Within 90 Days of Expiration

1. A licensee who applies for renewal after expiration of the license but within 90 days of expiration shall pay a late renewal fee of \$50. The license will be issued as of the date of late renewal and will not be retroactive to the expiration of the prior license.
2. The licensee is considered to have been unlicensed from the date of expiration to the date of late renewal.
3. A licensee who applies for renewal within 90 days after expiration and pays the \$50 late renewal fee will not be subject to disciplinary action by the licensing authority for unlicensed practice during the period of nonlicensure. The licensee will remain subject to disciplinary action for all other violations.

3. Late Renewal Beyond 90 Days of Expiration

A licensee who fails to renew within 90 days after expiration shall be subject to:

1. Applicable administrative and judicial penalties for all unlicensed practice that occurred subsequent to expiration; and
2. Applicable statutory provisions relating to late renewal.

4. Notice

Licensees who fail to timely renew shall be notified of the consequences of late renewal as soon as practicable after expiration.

STATUTORY AUTHORITY: 32 MRSA §8003(2-A)(E)

EFFECTIVE DATE: September 9, 2001

Department of Professional and Financial Regulation
Office of Licensing and Registration
Board of Boilers & Pressure Vessels
35 State House Station
Augusta, ME 04333

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