

# BOILER LAW

## Health and Safety Code, Chapter 755

*Administered by the Texas Department of Licensing and Regulation  
(Effective September 1, 2009)*

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## SUBCHAPTER A. GENERAL PROVISIONS

### Sec. 755.001. DEFINITIONS.

In this chapter:

- (1) "**Alteration**" means a substantial change in an original design.
- (2) "**Board**" means the board of boiler rules.
- (3) "**Boiler**" means:
  - (A) a heating boiler;
  - (B) a nuclear boiler;
  - (C) a power boiler;
  - (D) an unfired steam boiler; or
  - (E) a process steam generator.
- (4) "**Certificate inspection**" means the required internal or external boiler inspection, the report of which is used by the chief inspector to decide whether to issue a certificate of operation.
- (5) "**Certificate of operation**" means a certificate issued by the executive director to allow the operation of a boiler.
- (6) "**Commission**" means the Texas Commission of Licensing and Regulation.
- (7) "**Department**" means the Texas Department of Licensing and Regulation.
- (7-a) "**Executive director**" means the executive director of the department.
- (8) "**External inspection**" means an inspection of the exterior of a boiler and its appurtenances that is made, if possible, while the boiler is in operation.
- (9) "**Heating boiler**" means a steam heating boiler, hot water heating boiler, hot water supply boiler, or potable water heater that is directly fired with oil, gas, solar energy, electricity, coal, or other solid or liquid fuel.
- (10) "**High-temperature water boiler**" means a water boiler designed for operation at pressures exceeding 160 pounds per square inch or temperatures exceeding 250 degrees Fahrenheit.
- (11) "**Hot water heating boiler**" means a boiler designed for operation at a pressure not exceeding 160 pounds per square inch or temperatures not exceeding 250 degrees Fahrenheit at or near the boiler outlet.
- (12) "**Hot water supply boiler**" means a boiler designed for operation at pressures not exceeding 160 pounds per square inch or temperatures not exceeding 250 degrees Fahrenheit at or near the boiler outlet if the boiler's:
  - (A) heat input exceeds 200,000 British thermal units per hour;

- (B) water temperature exceeds 210 degrees Fahrenheit; or
  - (C) nominal water-containing capacity exceeds 120 gallons.
- (13) "**Inspection agency**" means an authorized inspection agency providing inspection services.
- (14) "**Inspector**" means the chief inspector, a deputy inspector, or an authorized inspector.
- (15) "**Internal inspection**" means a complete and thorough inspection of the interior waterside and fireside areas of a boiler as construction allows.
- (16) "**Nuclear boiler**" means a nuclear power plant system, including its pressure vessels, piping systems, pumps, valves, and storage tanks, that produces and controls an output of thermal energy from nuclear fuel and the associated systems essential to the function of the power system.
- (17) "**Portable power boiler**" means a boiler primarily intended for use at a temporary location.
- (18) "**Potable water heater**" means a boiler designed for operation at pressures not exceeding 160 pounds per square inch and water temperatures not exceeding 210 degrees Fahrenheit if the boilers:
- (A) heat input exceeds 200,000 British thermal units per hour; or
  - (B) nominal water-containing capacity exceeds 120 gallons.
- (19) "**Power boiler**" means:
- (A) a high-temperature water boiler; or
  - (B) a boiler in which steam is generated at a pressure exceeding 15 pounds per square inch for a purpose external to the boiler.
- (20) "**Process steam generator**" means an evaporator, heat exchanger, or vessel in which steam is generated by the use of heat resulting from the operation of a processing system that contains a number of pressure vessels, such as used in the manufacture of chemical and petroleum products.
- (21) "**Repair**" means the work necessary to return a boiler to a safe and satisfactory operating condition without changing the original design.
- (22) "**Safety appliance**" means a safety device such as a safety valve or a safety relief valve for a boiler provided to diminish the danger of accidents.
- (23) "**Standard boiler**" means a boiler that bears a Texas stamp, the stamp of a nationally recognized engineering professional society, or the stamp of any jurisdiction that has adopted a standard of construction equivalent to the standard required by the executive director.
- (24) "**Steam heating boiler**" means a boiler designed for operation at pressures not exceeding 15 pounds per square inch.
- (25) "**Unfired steam boiler**" means an unfired pressure vessel in which steam is generated. The term does not include:
- (A) vessels known as evaporators or heat exchangers; or
  - (B) vessels in which steam is generated by using the heat that results from the operation of a processing system that contains a number of pressure vessels, as used in the manufacture of chemical and petroleum products.

## SUBCHAPTER B. BOARD OF BOILER RULES

### **Sec. 755.011. COMPOSITION OF BOARD.**

- (a) The Board of Boiler Rules is in the department.
- (b) The board is composed of the following 11 members appointed by the presiding officer of the commission, with the commission's approval:
  - (1) three members representing persons who own or use boilers in this state;
  - (2) three members representing companies that insure boilers in this state;
  - (3) one member representing boiler manufacturers or installers;
  - (4) one member representing organizations that repair or alter boilers in this state;
  - (5) one member representing a labor union; and
  - (6) two public members.
- (c) All members except the members appointed under Subsection (b)(6) must have experience with boilers. To the extent possible, at least four members should be professional engineers registered in this state.
- (d) The executive director serves as an ex officio board member.

*NOTE: ACTS 2009, 81<sup>st</sup> LEG., HB 2548, Section 8 reads:*

*The presiding officer of the Texas Commission of Licensing and Regulation shall appoint the public members of the advisory bodies to the Texas Department of Licensing and Regulation, as required by this Act, not later than December 1, 2009.*

### **Sec. 755.012. TERMS.**

Board members serve for staggered six-year terms, with the terms of three members expiring January 31 of each odd-numbered year.

### **Sec. 755.013. PRESIDING OFFICER.**

The chief inspector serves as presiding officer of the board.

### **Sec. 755.014. REMOVAL OF BOARD MEMBERS; VACANCY.**

- (a) The commission may remove a board member for inefficiency or neglect of official duty.
- (b) A board member's office becomes vacant on the resignation, death, suspension, or incapacity of the member. The presiding officer of the commission shall appoint, in the same manner as the original appointment, a person to serve for the remainder of the unexpired term.

### **Sec. 755.015. COMPENSATION.**

A board member may not receive a salary but is entitled to reimbursement for actual expenses incurred in performing board duties.

**Sec. 755.016. MEETINGS.**

The board shall meet at least twice each year at the call of the presiding officer at a place designated by the board.

**Sec. 755.017. POWERS AND DUTIES.**

The board shall advise the commission in the adoption of definitions and rules relating to the safe construction, installation, inspection, operating limits, alteration, and repair of boilers and their appurtenances.

**Sec. 755.018. MAJORITY VOTE REQUIRED.**

A board decision is not effective unless supported by the vote of at least five board members.

**SUBCHAPTER C. BOILER REGISTRATION AND INSPECTION**

**Sec. 755.021. REGISTRATION AND CERTIFICATE.**

Except as provided by Section 755.022, each boiler operated in this state must:

- (1) be registered with the department; and
- (2) have qualified for a current certificate of operation.

**Sec. 755.022. EXEMPTIONS FOR CERTAIN BOILERS.**

(a) This chapter does not apply to:

- (1) boilers owned or operated by the federal government;
- (2) pressure vessels or process steam generators, other than steam collection or liberation drums of process steam generators;
- (3) manually fired miniature boilers that:
  - (A) are constructed or maintained for locomotives, boats, tractors, or stationary engines only as a hobby for exhibition, recreation, education, or historical purposes and not for commercial use;
  - (B) have an inside diameter of 12 inches or less or a grate area of two square feet or less; and
  - (C) are equipped with a safety valve of adequate size, a water level indicator, and a pressure gauge; or
- (4) boilers that are designed for operation only at atmospheric pressure and that are equipped with two independent means to prevent the buildup of pressure.

(b) Heating boilers used to heat buildings that are exclusively for residential use and that have accommodations for not more than four families are exempt from Sections 755.025, 755.027, 755.029, and 755.030.

**Sec. 755.023. APPOINTMENT OF INSPECTORS AND OTHER PERSONNEL.**

(a) The executive director shall appoint a chief inspector of boilers to administer the boiler program. The chief inspector must:

- (1) be a resident of this state and a citizen of the United States;

- (2) have at least five years' experience in the construction, installation, inspection, operation, maintenance, or repair of boilers; and
  - (3) pass a written examination that demonstrates the necessary ability to judge the safety of boilers.
- (b) The chief inspector may not have a commercial interest in the manufacture, ownership, insurance, or agency of boilers or boiler appurtenances.
  - (c) As needed, the executive director shall appoint persons with qualifications similar to those of the chief inspector to serve as deputy inspectors.
  - (d) The executive director may employ clerical assistants as necessary to carry out this chapter.

**Sec. 755.024. AUTHORIZED INSPECTORS; EXAMINATIONS.**

- (a) To be an authorized inspector, a person must obtain a commission as a boiler inspector from the executive director and must be continuously employed by an inspection agency.
- (b) The executive director, by written examination, shall determine the qualifications of an applicant for a commission to be an authorized inspector.
- (c) After proper investigation, the executive director may accept an inspection commission issued to a person by any other jurisdiction that has a written examination equal to that of this state.
- (d) For good cause, the executive director may rescind a commission issued by this state.

**Sec. 755.025. INSPECTION.**

- (a) The executive director shall require each boiler to be inspected internally and externally at the time of initial installation and at subsequent intervals as provided by this section. The executive director may provide that the inspection be performed by any inspector.
- (b) Power boilers, unfired steam boilers, and steam collection or liberation drums of process steam generators must receive an annual certificate inspection and an annual external inspection.
- (c) Steam heating boilers and hot water heating boilers must receive a certificate inspection biennially.
- (d) Hot water supply boilers and potable water heaters must receive a certificate inspection triennially.
- (e) A portable power boiler must be inspected externally each time the boiler is moved to a new location and must receive an internal inspection at least annually.
- (f) The executive director shall designate the manner of inspection for nuclear boilers, the form of the inspection report, and the information to be reported. The executive director and the owner of a nuclear boiler shall establish the intervals of inspection for the boiler.
- (g) The executive director may authorize the inspection of a boiler at any reasonable time if the executive director determines that the boiler may be in an unsafe condition. The executive director shall notify the inspection agency that insures that boiler and request the authorized inspector employed by that agency to participate with the chief inspector or a deputy inspector in a joint inspection of the boiler not later than the 20th day after the date on which the executive director notifies the inspection agency. An additional charge may not be made for the joint inspection.

**Sec. 755.026. EXTENSIONS.**

- (a) With the approval of the executive director and the inspection agency that has jurisdiction for the power boiler, the interval between internal inspections may be extended to a period not exceeding a total of 60 months. For unfired steam boilers or steam collection or liberation drums of process steam generators, the inspection interval may be extended to the next scheduled downtime of the boiler, but not exceeding a total of:
  - (1) 84 months for unfired steam boilers; or
  - (2) 120 months for steam collection or liberation drums of process steam generators.
- (b) The interval between internal inspections of a boiler may be extended only if:
  - (1) continuous water treatment under competent and experienced supervision to control and limit corrosion and deposits has been in effect since its last internal inspection;
  - (2) the last internal and current external inspection of the boiler indicates that the interval may safely be extended; and
  - (3) accurate and complete records are available that show:
    - (A) that since the last internal inspection samples of boiler water have been taken or monitored at regular intervals not exceeding 24 hours of operation and that the water condition in the boiler is satisfactorily controlled;
    - (B) the dates that the boiler was out of service since the last internal inspection and the reasons that the boiler was taken out of service; and
    - (C) the nature of the repairs made to the boiler and the reasons that those repairs were made.
- (c) In addition to an extension authorized under Subsection (a), the executive director and the inspection agency may grant an emergency extension for a period not exceeding 120 days to the inspection interval covered by the boiler's certificate of operation on receipt of a request for extension stating that an emergency exists. Before the extension may be granted, the inspection agency must make an external inspection of the boiler, and the conditions imposed under Subsection (b) must be met. The executive director and the inspection agency may not grant more than one emergency extension under this subsection in an interval between internal inspections.
- (d) If an extended period between internal inspections is approved by the executive director and the inspection agency, the executive director shall issue a new certificate of operation for the extended period of operation.
- (e) If the interval between internal inspections of a gas fired boiler is extended under Subsection (a), the executive director and inspection agency shall require that an inspection of the gas regulator or pressure reducing valve that services the boiler be performed as part of the next regularly scheduled external certificate inspection of the boiler to verify proper venting of gas to a safe point of discharge.

**Sec. 755.027. REPORTS BY INSPECTION AGENCY; JOINT INSPECTIONS.**

- (a) Not later than the 30th day after the date on which a certificate inspection is performed by an authorized inspector, the inspection agency employing the authorized inspector shall file a report with the executive director in the manner specified by the executive director.
- (b) A boiler inspected by an authorized inspector is exempt from other inspections and inspection fees under this chapter, other than an inspection authorized under Section 755.025(g).

- (c) An inspection agency shall notify the executive director in writing of the cancellation or expiration of any insurance policy issued by that agency to cover a boiler located in this state, and shall include in the notice the reason for the cancellation or expiration. The notice must state the date the policy was issued and the date on which the cancellation or expiration takes effect.

**Sec. 755.028. SPECIAL INSPECTIONS.**

The executive director may provide a special inspection service to the owners, operators, and manufacturers of boilers. The service may include surveys required for certification to construct, assemble, or repair boilers or pressure vessels.

**Sec. 755.029. CERTIFICATE OF OPERATION.**

- (a) The executive director shall issue to the owner or operator of a boiler a certificate of operation for the boiler if after a certificate inspection:
  - (1) the boiler is found to be in a safe condition for operation; and
  - (2) the owner or operator has paid the fees assessed under Section 755.030.
- (b) The certificate of operation is valid for not longer than the interval required for certificate inspections of that boiler.
- (c) A certificate of operation must be posted under glass in a conspicuous place on or near the boiler for which it is issued.

**Sec. 755.030. FEES.**

- (a) In addition to the fees described by Section 51.202, Occupations Code, the commission may authorize the collection of fees for:
  - (1) boiler inspections, including fees for special inspections; and
  - (2) other activities administered by the boiler inspection section and authorized by rule of the commission.
- (b) The commission shall consider the advice of the board in setting the amount of a fee for:
  - (1) a boiler inspection, including a fee for a special inspection;
  - (2) a certificate of operation;
  - (3) the administration of an examination under this chapter; or
  - (4) any other activity administered by the boiler inspection section.
- (c) The fees, travel, and per diem collected under this chapter may be appropriated only to the department.

**Sec. 755.032. RULES.**

- (a) The commission may adopt and enforce rules, in accordance with standard boiler usage, for the construction, inspection, installation, use, maintenance, repair, alteration, and operation of boilers.
- (b) The executive director may exchange information, including data on experience, with other authorities that inspect boilers or their appurtenances, to obtain information necessary to adopt rules.

- (c) The executive director or a department employee may not prescribe the make, brand, or kind of boilers or any appurtenances on the boiler to purchase.

**Sec. 755.033. INTERAGENCY INSPECTION AGREEMENTS.**

- (a) The executive director shall enter into interagency agreements with the Texas Department of Health, the Texas Commission on Fire Protection, and the Texas Department of Insurance under which inspectors, marshals, or investigators from those agencies who discover unsafe or unregistered boilers in the course and scope of inspections conducted as part of regulatory or safety programs administered by those agencies are required to report the unsafe or unregistered boilers to the executive director.
- (b) The executive director may enter into analogous agreements with local fire marshals.
- (c) The commission shall adopt rules relating to the terms and conditions of an interagency agreement entered into under this section.

**SUBCHAPTER D. ENFORCEMENT AND PENALTIES**

**Sec. 755.041. REGULATION OF UNSAFE BOILERS.**

- (a) If an inspection shows that a boiler is unsafe, the chief inspector or any deputy inspector shall issue a written preliminary order requiring repairs and alterations as necessary to make the boiler safe for use. The inspector may also order discontinuing the use of the boiler until the repairs and alterations are made or the unsafe conditions are remedied.
- (b) On written request, an owner or operator who does not comply with a preliminary order is entitled to a hearing before the executive director to show cause for not enforcing the preliminary order. If, after the hearing, the executive director determines that the boiler is unsafe and that the preliminary order should be enforced, or that other acts are necessary to make the boiler safe, the executive director may order or confirm the withholding of the certificate of operation for that boiler, and may impose additional requirements as necessary for the repair or alteration of the boiler or the correction of the unsafe conditions.
- (c) The chief inspector may issue a temporary certificate of operation for a period not to exceed 30 days pending the completion of the replacement or repairs.
- (d) This section does not limit the executive director's authority under Section 755.028 or the commission's authority under Section 755.032.
- (e) A boiler that cannot be made safe for use shall be condemned and the use of that boiler prohibited.

**Sec. 755.042. PROSECUTION; INJUNCTION.**

- (a) A prosecution may not be maintained if the issuance or renewal of a certificate of operation has been requested for a boiler but has not been acted on. However, the executive director may petition a district court for an injunction to restrain the operation of the boiler until the condition restraining its use is corrected and a certificate of operation is issued if the executive director determines that the operation of the boiler without a certificate of operation constitutes a serious menace to the life and safety of the persons in or about the premises. The attorney general or the district or county attorney may bring the suit, and venue is in the county in which the boiler is located or in Travis County. It is not necessary for the prosecutor to verify the pleadings or for the state to execute a bond.
- (b) The executive director's affidavit that a certificate of operation or an application for a certificate does not exist for a boiler, and the affidavit of the chief inspector or a deputy inspector that the operation of the boiler

constitutes a menace to the life and safety of persons in or about the premises, are sufficient proof to warrant the immediate issuance of a temporary restraining order.

**Sec. 755.043. GENERAL CRIMINAL PENALTY.**

- (a) A person, firm, or corporation commits an offense if:
- (1) the person, firm, or corporation owns a boiler in this state, has the custody, management, use, or operation of a boiler in this state, or is otherwise subject to this chapter or a rule adopted under this chapter; and
  - (2) the person, firm, or corporation violates this chapter, a rule adopted under this chapter, or an order issued by the commission, the executive director, or a regularly employed inspector authorized to enforce this chapter and rules and orders.
- (b) An offense under this section is a Class B misdemeanor.

**Sec. 755.045. NOTICE OF RULE OR ORDER REQUIRED BEFORE PROSECUTION.**

A criminal action may not be maintained against any person relating to the violation of a rule adopted or an order issued under this chapter until the commission gives notice of the rule or order.

**Sec. 755.046. AFFIDAVIT OF ORDERS.**

An affidavit is admissible as evidence in any civil or criminal action involving an order adopted by the commission or the executive director and the publication of the order, without further proof of the order's issuance or publication or of the contents of the order, if the affidavit:

- (1) is issued under the seal of the commission or executive director;
- (2) is executed by the commission, the executive director, the chief inspector, or a deputy inspector;
- (3) states the terms of the order;
- (4) states that the order was issued and published; and
- (5) states that the order was in effect during the period specified by the affidavit.