



STATE OF TENNESSEE
DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
BOARD OF BOILER RULES
220 FRENCH LANDING DRIVE
NASHVILLE, TN 37243
(615) 741-2123

MINUTES

QUARTERLY MEETING OF THE
STATE OF TENNESSEE
BOARD OF BOILER RULES
9:00 A.M. (CT) OCTOBER 16, 2013
TOSHA HEARING ROOM – FIRST FLOOR
220 FRENCH LANDING DRIVE
NASHVILLE, TENNESSEE

- I. **CALL TO ORDER – (23)** -The meeting was called to order at 9:02 a.m. (CT) by Chairman Morelock.
- II. **INTRODUCTIONS AND ANNOUNCEMENTS – (31)** - Board members present were: Brian Morelock; Dr. Dominic Canonico; Eugene Robinson; Dave Baughman; Ed Vance and Dr. Glenn Cunningham. Department of Labor and Workforce Development employees in attendance: Chad Bryan; Carolyn Sherrod; Kim Jefferson; Deborah Rhone; Dan Bailey and Sam Chapman.

Chairman Morelock welcomed the newest member appointed to the Board of Boiler Rules Dr. Glen Cunningham (Tennessee Technological University), representing academia and mechanical engineering, Kim Jefferson the newly appointed Administrator of Workplace Regulations and Compliance (WRC) and Dan Bailey (Department Legal Counsel serving in Sydné Ewell's absence) to the meeting and continued by making the safety announcement that in the event of an emergency or natural disaster, security personnel would take attendees to a safe place in the building or direct them to exit the building on the Rosa Parks side.

- III. **ADOPTION OF AGENDA – (55)** - Dr. Canonico motioned to adopt the agenda which was seconded by Ed Vance.
 - **(60)** Dr. Canonico offered to amend the Agenda by adding the discussion of licensing boiler operators. At which point Chairman Morelock announced that the topic would be added to the other list of discussion items and called for the motion to accept the amended agenda. The Board voted their approval.

IV. APPROVAL OF AUGUST 21, 2013 MEETING MINUTES – (71) - It was motioned by Dr. Canonico and seconded by Eugene Robinson to accept the minutes. After no discussion, the Board voted their approval of the August 21, 2013 minutes.

V. CHIEF'S REPORT – (86) – Chief Bryan's report reflects data from April – June 2013

- Nine thousand eight hundred eighty-nine (9,889) total inspections performed.
- A total of two thousand five hundred forty-one (2,541) total delinquents.
- Fifteen (15) violations found.
- Eight (8) uncorrected code violations.
- Ten (10) quality control reviews performed.
- Three (3) boiler variance inspections performed.

VI. OLD BUSINESS - (106)

None pertaining to boiler variances, Tennessee Board cases or interpretations but old business issues that are open discussion items being worked on by both the Board and the Boiler Unit to include:

- **(118) Fall Conference** – Chief Bryan explained the concept of the Fall Boiler Conference, which began in 2004, to Administrator Jefferson. This off-site training was sponsored by different organizations to provide meals, locations, times and assisted in covering the expenses of some of the instructors/teachers (from all over the United States and Canada) who provided training to the Department of Labor and Workforce Development inspectors, insurance inspectors and the public and providing them with better knowledge of boiler pressure vessels. From 2004 to 2007 the Conference grew tremendously. In 2007 the findings of an Internal Audit determined that the Boiler Unit could not handle the monies and hence advised to discontinue the Conference. Chief Bryan explained that we are now exploring the proper avenues for reinstating the Fall Conference. The Boiler Unit is continuously contacted by various companies regarding the Spring/Fall Conference as this was a means of training for their staff as required by National Board requirements.
- **(145)** Administrator poses the question if this training is mandatory and what measures are being taken to secure assistance from outside sources. Chief Bryan explains that the state auditors have made some suggestions: (1) an account can be established with all monies being managed by the Department of Finance and Administration (F&A); (2) or an outside entity (such as the Chamber of Commerce of the city in which the conference is held) manage the monies and make all the arrangements with our assistance still allowing for donations/sponsorships from participating companies or (3) some company (for example Eastman) handle all the monies and setting up all of the events with our (Boiler Unit) assistance. Dr. Cunningham asked if a university can be

the controlling partner. Chief Bryan answers that that issue can be taken up with the auditors. Dr. Cunningham explains how Tennessee Tech works closely with the Chamber of Commerce and the Fall Conference may be something that TTU would be interested in. Dan Bailey offers another option which is to model the Fall Conference after the TOSHA Safety Congress which is a 501c3 organization made up of representatives from TN OSHA and representatives from industry and labor whereby they have their own board. The Safety Congress is set up by the Board. That way the department is not involved in the handling of the monies.

- **(186)** Chairman Morelock asks again for clarification that the Safety Congress is a 501c3 organization separate from the State. Also reiterating the enormous amount of interest expressed in the reinstatement of the conference. Contacts made by Chairman Morelock offer some of the same suggestions as posed to Chief Bryan by state auditors and the suggestion by Dan Bailey to follow the example of the TOSHA Safety Congress. (Dan Bailey interjects briefly to officially introduce our new Administrator, Kim Jefferson).
- **(225)** Eugene Robinson asks if since the TOSHA Safety Congress is already an established 501c3 entity, would it be possible for them to double as the established entity for the Boiler Safety Conference. Dan Bailey offers that since it all pertains to safety, they might be able to expand their board to include the boiler unit and suggests that Steve Hawkins, Administrator for TN OSHA be consulted and a member of the TOSHA Safety Congress Board.
- **(245)** Chairman Morelock asks Chief Bryan to follow up on that suggestion.
- **(253)** Dr. Canonico offers that perhaps in conjunction with the conference a tour of some facility (the VW Plant, Chattanooga) might be a possibility...just something to think about when a conference site is selected.
- **(278)** Administrator Jefferson inquires as to what topics are covered during these conferences to which Chairman Morelock explains that the main focus centers around boilers and pressure vessels and safety (our main concern). The National Board posts the National Board Inspection Code which the state has written into Title 68-Chapter 122. Chairman Morelock, Dr. Canonico and Chief Bryan all serve on National Board Committees. The National Board will come in and make presentations about the on-going revisions. Administrator Jefferson asks what is the largest attendance recorded. Chief Bryan reports in 2007 the attendance reached approximately (500) attendees. At which plans were being made to accommodate over (1,000) attendees during the following year (2008). Chairman Morelock asks Chief Bryan to share how the conference participation had grown from (55) attendees from its inception in 2004 to a projected attendance of over (1,000) in 2008.
- **(335)** Chairman Morelock explains how we will work in conjunction with the National Board to get the training in place to convey the many rule changes.
- **(347)** Dr. Canonico offers that in addition to the NBIC (National Boiler Inspection Code) we should invite the ASME (American Society of Mechanical Engineers) Code representatives to come in and present since both groups work so closely together.
- **(425) Moving Code Requirements into Tennessee Rules** - Chief Bryan explains that including a rule inspection reference in the code book is referenced in our rules and laws by adding a “verbal blurb” of Section 8

Division 1 paragraph 23b. This will actually help the installers and repair companies to better understand where this particular code is coming from in regards to the operations/repairs of the different vessels. We had previously discussed including an index into the rules and codes books. Chairman Morelock adds his support and shares that this code reference will give better insight into what the codes state. Dan Bailey asks if this process is has is in progress. Chief Bryan offers that there has been discussion with our legal counsel that this is no attempt to rewrite the law but to insert a reference to the code on the page. So far, no decision has been reached as to what format would be utilized. Dan Bailey suggests that the decision should be up to the pleasure of the Board since these are their rules. Chairman Morelock asks for the help of legal counsel to ensure that we remain within the boundaries of the Board and not impose changes that would require legislative action.

- **(505)** Administrator Jefferson questions for clarity that the Board is not attempting to change the statutory law but to amend the department rules. Dan Bailey explains that the rules would be amended by inserting references inside the “already written” rules and offers that he doesn’t foresee where there would be a problem statutorily. Chairman Morelock reiterates that the changes would be “editorial improvements” to the content and not a change to the technical document. Administrator Jefferson reminds the Board of the Rulemaking Process. Chief Bryan explains that discussion has been held regarding changes but we are not at the point to proceed. Administrator Jefferson also states that deadlines for submitting changes will have to be considered.
- **(541)** Chairman Morelock explains that these “action items” are going to be taken on either individually by a Board member or a small task group of Board members to enable that person/task group to discuss this and collaborate between meetings without making any decisions. Then the item will be presented to the Board to satisfy the Open Meeting Act. The proposal would be discussed under open meeting and the public would have the opportunity to comment; it would be voted on at the Board meeting to satisfy the Open Meeting Act as well so there would be no decision making outside of the Board meeting.
- **(557)** Chairman Morelock reminds the Board that updates will be provided on both the Fall Conference and Moving Code Requirements into Tennessee Rules until something is assembled for a vote we will satisfy the (45) day advance notice to take an item out....it will be placed on the agenda and sent out so that people will have time to review it and come to the meeting to make public comments.
- **(564) Realigning State rules for ease of use by Installers and Owners -** Chief Bryan explains that this issue is an attempt to compartmentalize the rules (not rewrite or change them) but organize them so that they will be easier for the installers/owners to follow. This is only an effort to categorize the rules for high pressure, low pressure, hot water heaters and antique type boilers and asks Dan Bailey if this can be done legally or would this require legislative action. Dan Bailey explains that this action can be accomplished through the Rulemaking Process detailing that it will take someone/some group to arrange the code references in the manner that the you would like to

arrange them in draft form of how you want the rules to be look and then presenting it to the Board in open meeting for the Board to approve. Once that is accomplished you would follow the Rulemaking Process to get it approved by the Secretary of State's Office.

- **(621)** Chief Bryan references a document from the state of Washington which had been made available by Eugene Robinson. The layout of the document is in line with the type of document that we would like to draft. Chief Bryan states that after reviewing several documents everyone is in agreement that the "Washington document" is one of the best layouts reviewed. Chairman Morelock poses the question that if contact information is included in the document and having gone through the Rulemaking Process and been approved...some things could change such as contact information. Would we be required to go back through the Rulemaking Process in order to make those changes? Administrator Jefferson suggests that in the contact information she would list positions....not names.

VII. NEW BUSINESS (857)

The Licensing of Boiler Operators

- **(859)** Dr. Canonico expresses his concern with the various companies who come before the Board requesting a change in the "20 minute rule" and they mention boiler operators but we can't find out what a boiler operator is. In some instances it's a guard, etc. They are given a sheet of paper to read and that is the extent of their training. He further states that he thinks somewhere there needs to be a requirement that they have to be registered as a boiler operator. Maybe the National Board can be contacted to offer a course that would result in the attendee receiving a certificate designating that they have fulfilled the training as boiler operator. Dr. Canonico offers to contact the National Board to see if they would be interested in offering such a course.
- **(894)** Chairman Morelock adds that there are boiler attendants, boiler monitors and boiler operators. We challenge anyone who comes before the Board and clearly admonish them that the Board will not write their variance manual for them but we are going to make sure that their job titles are clearly defined. The boiler monitor could be a receptionist...they are only monitoring a panel. The boiler operator is that person who is responsible for the safe operation of the boiler. We want to make sure that the boiler operator has some certification that they do know how to handle the boiler.
- **(1050)** Eugene Robinson expresses that the Board's biggest hurdle right now is how do we produce legislation or implement that added level of security for our operators?
- **(1053)** Administrator Jefferson explains how the state took on the responsibility to provide adjuster training in Workers' Comp. There might be some things that could possibly help with this issue. The state trains the adjusters and expresses her intent to further discuss the matter with Chief Bryan for further presentation to the Board.

- **(1086)** David Baughman gives shares some history on Rule 22 and adds that Rule 22 needs to be re-evaluated to its current day applications in the industry and identifying what needs to be done on training, operating and going from a change of 20 minutes to possibly once hour.
 - **(1198)** Chairman Morelock adds that that change would require legislative action. David Baughman offers that this item needs to be added to the list of issues that need to be identified and hammered out and bring to the table.
 - **(1201)** Chairman Morelock mentions that as discussion items are developed, there will be one item that can be handled strictly through the Rulemaking Process and others will require legislative action. The Rulemaking issues can be process while the legislative issues may take a while longer.
 - **(1212)** David Baughman expressed his desire to implement the addition of monitoring the deaerator to the list of required inspection items.
 - **(1214)** Chairman Morelock clarifies that the DA falls under unfired pressure vessels which is required to be inspected every (2) years by Tennessee law. But if the DA tank is deemed to be a non-corrosive service then an internal inspection is not required by law. So we need to re-evaluate that issue in conjunction with the boiler variances to see if that might be an unfired pressure vessel that we need to include in the boiler variance.
- (1339)** David Baughman also suggests that the issue of gauges be added to future discussion items (800-03-03.06 #8).
- (1391)** Chief Bryan alerts the Board to an item issued by the ASME regarding the accreditation stamp removal of a manufacturer. It is on the removal of the “U Stamp” from the Wadsworth Industries, LLC of Wichita Falls, TX. That carrier of an ASME “U Stamp” affixed by the manufacturer does not comply with the applicable codes. These vessels are sand retaining vessels and cone bottomed bulk storage vessels. Chief Bryan adds that he will forward to each member of the Board photos of these vessels via e-mail. It is mandated by the National Board and the ASME that when these vessels are found by the inspectors, the tags are to be removed and deemed unusable. A list with every identifying National Board number and ASME number on every vessel from 2004 to date that shall be deemed null and void will accompany the photos.
- (1441)** Chairman Morelock clarifies that this company (Wadsworth Industries, LLC) has been found negligent in their manufacturing and as a result have lost their ASME mark.

VIII. RULE CASES & INTERPRETATIONS – (1449) -There were no rule cases and interpretations.

IX. THE NEXT BOARD OF BOILER RULES MEETING (1452) - is scheduled for 9:00 a.m. (CT), Wednesday, December 4, 2013 at the Department of Labor & Workforce Development office building located at 220 French Landing Drive, Nashville, TN.

DISCUSSION (1473) – David Baughman asked for more clarity on deadlines, i.e. legislation. Do we know when the deadline is....will follow up be conducted? Administrator Jefferson explains that follow up is necessary. Dan Bailey

announces that anything requiring legislative action will need to be discussed with Commissioner Phillips in September/October (for the following year). Any rulemaking issues can proceed.

- X. **ADJOURNMENT – (1494)** – The Board signified their approval for adjournment by standing. The October 16, 2013 Board of Boiler Rules Meeting meeting was adjourned.