

FULL NOTICE OF INTENT TO AMEND ADMINISTRATIVE RULES
RELATING TO BOILER INSPECTION

TAKE NOTICE that the North Dakota Department of Environmental Quality (“Department”) will hold a public hearing to address proposed amendments to North Dakota Administrative Code (N.D. Admin. Code) § 33.1-14-01-01 at the following time and location:

2nd Floor Conference Room
North Dakota Department of Environmental Quality
4201 Normandy St, Bismarck, ND 58503-1324
August 19, 2025
11:00 am CST

The purpose of the proposed amendment is to update referenced code editions of the boiler and pressure vessel construction code of the American Society of Mechanical Engineers and the manual for boiler and pressure vessel inspectors supplied by the National Board in N.D. Admin. Code § 33.1-14-01-01.

The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

The proposed rules may be reviewed at the Department’s office located at 4201 Normandy St, Bismarck, ND 58503-1324 or on the Department’s website at: <https://deq.nd.gov/PublicNotice.aspx>. A copy of the proposed rule amendments may be requested by writing to the North Dakota Department of Environmental Quality, Boiler Inspection Program at the above address or calling (701) 328-5150. Written comments on the proposed rule amendments sent to the above mailing address and received by September 1, 2025 will be fully considered.

If you plan to attend the public hearing and will need special facilities or assistance relating to a disability, please contact the Department at the above address or telephone number below at least two days prior to the public hearing. The NDDEQ will consider every request for reasonable accommodation to provide an accessible meeting facility or other accommodation for people with disabilities, language interpretation for people with limited English proficiency (LEP), and translations of written material necessary to access programs and information. Language assistance services are available free of charge to you. To request accommodations or language assistance, contact the NDDEQ Non-discrimination/EJ Coordinator at (701) 328-5150 or deqEJ@nd.gov. TTY users may use Relay North Dakota at 711 or 1-800-366-6888

There will be real time public streaming of the public hearing through a Microsoft Teams meeting. No testimony will be accepted through the Microsoft Teams meeting. Information concerning listening access by telephone or through Microsoft Teams can be obtained by calling (701) 328-5150 or can be found on the Department’s website at: <https://deq.nd.gov/PublicNotice.aspx>.

Dated this 11 day of July, 2025.

A handwritten signature in blue ink, appearing to read 'Karl Rockeman', with a stylized, flowing script.

Karl Rockeman, P. E.
Deputy Director
Department of Environmental Quality

REGULATORY ANALYSIS PURSUANT TO
NORTH DAKOTA CENTURY CODE § 28-32-08
TO AMEND NORTH DAKOTA ADMINISTRATIVE CODE
SECTION 33.1-14-01-01 – BOILER INSPECTION

The following analysis is prepared to comply with the requirements for changes to the North Dakota Administrative Code (N.D.A.C.). Under N.D.C.C. § 28-32-08, this regulatory analysis is not required. However, for consistency purposes, the North Dakota Department of Environmental Quality (NDDEQ) prepared this regulatory analysis.

1. Who are the classes of persons who will probably be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule? **The classes of persons who will be affected by the proposed rules are companies, state agencies, cities, counties, and individuals who operate a boiler in the state as defined in N.D.C.C. ch. 23.1-16.**
2. What is the probable impact, including economic impact, of the proposed rule? **There is not a probable impact for this rule amendment.**
3. What is the probable costs to the agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues? **There are no estimated costs to the agency for the implementation of the proposed rule amendments.**
4. What were the alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency/board and why was each method rejected in favor of the proposed rule? **The NDDEQ considered not updating the code, however this would have boiler owners, operators, installers, manufacturers, and repair firms using outdated code and associated forms, and cause disruptions for those that work in other states.**
5. Please explain the information and data assessment as well as how the amounts of impact were determined, to the extent practicable? **N/A.**

TAKINGS ASSESSMENT PURSUANT TO
NORTH DAKOTA CENTURY CODE § 28-32-09
TO AMEND NORTH DAKOTA ADMINISTRATIVE CODE
SECTION 33.1-14-01-01 – BOILER INSPECTION

1. Assess the likelihood that the proposed rule may result in a taking or regulatory taking. **The proposed amendments to North Dakota Administrative Code Section 33.1-14-01-01 will not limit the use of real property, therefore, a taking assessment is not required**
2. Clearly and specifically identify the purpose of the proposed rule. **The purpose of the proposed amendment is to update referenced code editions of the boiler and pressure vessel construction code of the American Society of Mechanical Engineers and the manual for boiler and pressure vessel inspectors supplied by the National Board in Section 33.1-14-01-01.**
3. Explain why the proposed rule is necessary to substantially advance that purpose and why no alternative action is available that would achieve the agency's goals while reducing the impact on private property owners. **It is important to adopt the current code because it ensures boiler owners, operators, installers, manufacturers, and repair firms use the correct codes and forms accepted nationally.**
4. Estimate the potential cost to the government if a court determines that the proposed rule constitutes a taking or regulatory taking. **N/A**
5. Identify the source of payment within the agency's budget for any compensation that may be ordered. **N/A**
6. Certify that the benefits of the proposed rule exceed the estimated compensation costs. **N/A**

SMALL ENTITY REGULATORY ANALYSIS PURSUANT TO
NORTH DAKOTA CENTURY CODE § 28-32-08.1
TO AMEND NORTH DAKOTA ADMINISTRATIVE CODE
SECTION 33.1-14-01-01 – BOILER INSPECTION

None of the rules amended under North Dakota Administrative Code § 33.1-14-01-01, were mandated by federal law.

The amended rules are to update the Boiler Inspection Rules under North Dakota Department of Environmental Quality.

The following methods were considered for reducing impact on small entities:

1. **Was establishment of less stringent compliance or reporting requirements for small entities considered? To what result?**

Section 23.1-16-05, N.D.C.C., requires that every boiler in the state must be constructed, installed, and maintained according to the rules adopted to implement this chapter. Any person who owns a boiler, including small entities as defined under N.D.C.C. § 28-32-08.1(1)(b), would be subject to these requirements.

2. **Was establishment of less stringent schedules or deadlines for compliance or reporting requirements for small entities? To what results?**

See 1 above.

3. **Was consolidation or simplification of compliance or reporting requirements for small entities considered? To what results?**

See 1 above.

4. **Were performance standards established for small entities for replacement design or operational standards required in the proposed rule? To what result?**

Section 23.1-16-05, N.D.C.C. requires that every boiler in the state must be constructed, installed, and maintained according to the rules adopted to implement this chapter. Small entities would be subject to these requirements.

5. **Was exemption of small entities from all or any part of the requirements in the proposed rules considered? To what result?**

No, the amended rules are to update the Boiler Inspection Rules under North Dakota Department of Environmental Quality. Any person who owns a boiler, including small entities as defined under N.D.C.C. § 28-32-08.1(1)(b), would be subject to these requirements.

SMALL ENTITY ECONOMIC IMPACT STATEMENT PURSUANT TO
NORTH DAKOTA CENTURY CODE § 28-32-08.1
TO AMEND NORTH DAKOTA ADMINISTRATIVE CODE
SECTION 33.1-14-01-01 – BOILER INSPECTION

1. Which small entities are subject to the proposed rule?

Section 23.1-16-05, N.D.C.C., requires that every boiler in the state must be constructed, installed, and maintained according to the rules adopted to implement this chapter. Any person who owns a boiler, including small entities, as defined under N.D.C.C. § 28-32-08.1(1)(b), would be subject to these requirements.

2. What are the administrative and other costs required for compliance with the proposed rule?

There are no expected compliance costs in connection with the proposed rule.

3. What is the probable cost and benefit to private persons and consumers who are affected by the proposed rule?

There are no expected compliance costs in connection with the proposed rule.

4. What is the probable effect of the proposed rule on state revenues?

\$0.00

5. Is there any less intrusive or less costly alternative methods of achieving the purpose of the proposed rule?

There are no expected compliance costs in connection with the proposed rule.

Yearly Fiscal Note for Implementing Rules:

COST TO AGENCY AND EFFECT ON STATE REVENUES

N.D.A.C. § 33.1-14-01-01 – BOILER RULES

The North Dakota Department of Environmental Quality, Boiler Inspection Program is amending North Dakota Administrative Code § 33.1-14-01-01.

It is anticipated that there will be no additional costs to implement and enforce these proposed rules changes and no other fiscal impact on state revenues or expenditures as these rules are being modified to update definitions.

NORTH DAKOTA DEPARTMENT OF ENVIRONMENTAL QUALITY

Section 33.1-14-01-01, N.D. Admin. Code, is being amended as follows:

33.1-14-01-01 Definitions.

As used in this article:

4. "A.S.M.E. code" means the boiler and pressure vessel construction code of the American Society of Mechanical Engineers of which sections I, II, IV, V, VIII (divisions 1, 2 and 3), IX, and X, ~~2023~~2025 edition, are hereby adopted by the director and incorporated by reference as a part of this article. A copy of the American Society of Mechanical Engineers Code is on file at the office of the boiler inspection program. The American Society of Mechanical Engineers Code may be obtained from the American Society of Mechanical Engineers headquarters at 2 park avenue, New York, New York 10016-5990 or from www.asme.org.
23. "National Board Inspection Code" means the manual for boiler and pressure vessel inspectors supplied by the national board. The National Board Inspection Code, ~~2023~~2025 edition, is hereby adopted by the director and incorporated by reference as a part of this article. Copies of this code may be obtained from the national board at 1055 Crupper Avenue, Columbus, Ohio 43229.

History: Effective July 1, 2020, October 1, 2021, January 1, 2024, January 1, 2026.

General Authority: NDCC 23.1-16-01

Law Implemented: NDCC 23.1-16-01