

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 33.1-14-01 and 33.1-14-03 at the following time and location:

4th Floor Conference Room
North Dakota Department of Environmental Quality
918 E Divide Avenue, Bismarck, ND 58501
April 15, 2021
11:00 am CST

The purpose of the proposed amendment is to update referenced code editions in chapter 33.1-14-01 and simplify the certificate fee reference in chapter 33.1-14-03.

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 918 E Divide Avenue, Bismarck, ND 58501 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 or oral comments on the proposed rule amendments sent to the above mailing address or telephone number and received by April 26, 2021 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 at least two days prior to the public hearing.

DUE TO COVID-19 and the limited number of people that can be accommodated due to limited capacity, we encourage written or oral comments be submitted as set forth above. 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 18th day of February, 2021.



L. David Glatt, P. E.
Director
Department of Environmental Quality

REGULATORY ANALYSIS PURSUANT TO
NORTH DAKOTA CENTURY CODE SECTION 23.1-16
TO AMEND NORTH DAKOTA ADMINISTRATIVE CODE
CHAPTER 33.1-14-01 AND 33.1-14-03 – BOILER INSPECTION

I. CLASS OF PERSONS AFFECTED BY THE RULES

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. 23.1-16.

II. PROBABLE IMPACT

There is not a probable impact for this rule amendment.

III. COST TO AGENCY AND EFFECT ON STATE REVENUES

There are no estimated costs to the agency for the implementation of the proposed rule amendments.

IV. ALTERNATIVE METHODS

No alternative methods were seriously considered.

Takings Assessment

1. Assess the likelihood that the proposed rule may result in a taking or regulatory taking.

The proposed amendments to North Dakota Administrative Code 33.1-14-01 and 33.1-14-03 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.

N/A

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.

N/A

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 SECTION 28-32-08.1**

None of the rules amended under North Dakota Administrative Code Chapter 33.1-14, 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?

The N. D. C. C. chapter 23.1-16-05 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.

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

The N. D. C. C. chapter 23.1-16-05 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.

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

The N. D. C. C. chapter 23.1-16-05 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.

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

The N. D. C. C. chapter 23.1-16-05 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. Small entities would be subject to these requirements.

Small Entity Economic Impact Statement

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

The N. D. C. C. chapter 23.1-16-05 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.

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

There is no impact on small entities.

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

There is no impact on small entities

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

There is no impact on small entities.

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

There is no impact on small entities.

Yearly Fiscal Note for Implementing Rules:

COST TO AGENCY AND EFFECT ON STATE REVENUES

N.D.A.C. ch. 33.1-14 – BOILER RULES

The North Dakota Department of Environmental Quality, Boiler Inspection Program is amending North Dakota Administrative Code 33.1-14-01 and 33.1-14-03.

These amendments will have no fiscal impact.

DRAFT

Version 2-17-21

NORTH DAKOTA DEPARTMENT OF ENVIRONMENTAL QUALITY

**CHAPTER 33.1-14-01
DEFINITIONS**

Section

33.1-14-01-01 Definitions

33.1-14-01 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, 20~~21~~¹⁹ 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, 20~~21~~¹⁹ 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.

General Authority: NDCC 23.1-16-01

Law Implemented: NDCC 23.1-16-01

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Version 2-17-21

NORTH DAKOTA DEPARTMENT OF ENVIRONMENTAL QUALITY

**CHAPTER 33.1-14-03
GENERAL
REQUIREMENTS**

Section

- 33.1-14-03-01 Inspection of Boilers
- 33.1-14-03-01.1 Boiler Inspection Fees
- 33.1-14-03-02 Preparation for Internal Inspection
- 33.1-14-03-03 Boiler Improperly Prepared for Inspection
- 33.1-14-03-04 Removal of Covering to Permit Inspection
- 33.1-14-03-05 Lap Seam Crack
- 33.1-14-03-06 Hydrostatic Pressure Tests
- 33.1-14-03-07 Automatic Low-Water Fuel Cutoff or Water-Feeding Device
- 33.1-14-03-08 Safety Appliances
- 33.1-14-03-09 Blowoff Tanks
- 33.1-14-03-10 Blowoff Piping
- 33.1-14-03-11 Location of Blowoffs and Vents
- 33.1-14-03-12 Underground Installations
- 33.1-14-03-13 Supports
- 33.1-14-03-14 Pressure Reducing Valves
- 33.1-14-03-15 Ladders and Runways
- 33.1-14-03-16 Boiler Logs
- 33.1-14-03-17 Major Repairs and Alterations
- 33.1-14-03-18 Same Material to Be Used
- 33.1-14-03-19 Repairs to Boilers
- 33.1-14-03-20 Removal of Safety Appliances
- 33.1-14-03-21 Repairs and Renewals of Boiler Fittings and Appliances
- 33.1-14-03-22 Return Pump
- 33.1-14-03-23 Shop Inspection - Manufacturing - Repairs - Alterations
- 33.1-14-03-24 Director to Arrange for Examinations
- 33.1-14-03-25 Conditions Not Covered by this Article
- 33.1-14-03-26 Inspection of Boilers
- 33.1-14-03-27 Steam Traction Engines
- 33.1-14-03-28 Safety Valves

33.1-14-03-01.1. Boiler inspection fees.

The following will be charged for boiler inspections:

- 4. Certificate fee, per certificate as required by North Dakota Century Code section 23.1-16-10

~~\$20.00, per year of
certificate issued~~

History: Effective July 1, 2020, October 1, 2021.

General Authority: NDCC 23.1-16-09

Law Implemented: NDCC 23.1-16-09

