

Enrolled Senate Bill 193

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CHAPTER

AN ACT

Relating to systems subject to Board of Boiler Rules regulation; creating new provisions; amending ORS 455.148, 455.150, 480.515, 480.520, 480.525, 480.560, 480.570, 480.585, 480.595, 480.600, 480.607, 480.615, 480.630 and 480.640; repealing section 10, chapter 271, Oregon Laws 2007 (Enrolled House Bill 2219); and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 455.148 is amended to read:

455.148. (1)(a) A municipality that assumes the administration and enforcement of a building inspection program on or after January 1, 2002, shall administer and enforce the program for all of the following:

(A) The state building code, as defined in ORS 455.010, except as set forth in paragraph (b) of this subsection.[]

(B) Manufactured structure installation requirements under ORS 446.155, 446.185 (1) and 446.230.[]

(C) Manufactured dwelling parks and mobile home parks under ORS chapter 446.[]

(D) Park and camp programs regulated under ORS 455.680.[]

(E) Tourist facilities regulated under ORS 446.310 to 446.350.[]

(F) Manufactured dwelling alterations regulated under ORS 446.155.[] *and*

(G) Manufactured structure accessory buildings and structures under ORS 446.253.

(H) Boilers and pressure vessels described in rules adopted under ORS 480.525 (4).

(b) A building inspection program of a municipality may not include:

(A) Boiler and pressure vessel programs under ORS 480.510 to 480.670 **except those described in rules adopted under ORS 480.525 (4);**

(B) Elevator programs under ORS 460.005 to 460.175;

(C) Amusement ride regulation under ORS 460.310 to 460.370;

(D) Prefabricated structure regulation under ORS chapter 455;

(E) Manufacture of manufactured structures programs under ORS 446.155 to 446.285, including the administration and enforcement of federal manufactured dwelling construction and safety standards adopted under ORS 446.155 or the National Manufactured Housing Construction and Safety Standards Act of 1974;

(F) Licensing and certification, or the adoption of statewide codes and standards, under ORS chapter 446, 447, 455, 479 or 693; or

(G) Review of plans and specifications as provided in ORS 455.685.

(2) A municipality that administers a building inspection program as allowed under this section shall do so for periods of four years. The Department of Consumer and Business Services shall adopt rules to adjust time periods for administration of a building inspection program to allow for variations in the needs of the department and participants.

(3) When a municipality administers a building inspection program, the governing body of the municipality shall, unless other means are already provided, appoint a person to administer and enforce the building inspection program, who shall be known as the building official. A building official shall, in the municipality for which appointed, attend to all aspects of code enforcement, including the issuance of all building permits. Two or more municipalities may combine in the appointment of a single building official for the purpose of administering a building inspection program within their communities.

(4)(a) By January 1 of the year preceding the expiration of the four-year period described in subsection (2) of this section, the governing body of the municipality shall notify the Director of the Department of Consumer and Business Services and, if the municipality is not a county, notify the county whether the municipality will continue to administer and enforce the building inspection program after expiration of the four-year period.

(b) Notwithstanding the January 1 date set forth in paragraph (a) of this subsection, the director and the municipality and, if the municipality is not a county, the county may by agreement extend that date to no later than March 1.

(5) If a city does not notify the director, or notifies the director that it will not administer the building inspection program, the county or counties in which the city is located shall administer and enforce the county program within the city in the same manner as the program is administered and enforced outside the city, except as provided by subsection (6) of this section.

(6) If a county does not notify the director, or notifies the director that it will not administer and enforce a building inspection program, the director shall contract with a municipality or other person or use such state employees or state agencies as are necessary to administer and enforce a building inspection program, and permit or other fees arising therefrom shall be paid into the Consumer and Business Services Fund created by ORS 705.145 and credited to the account responsible for paying the expenses thereof. A state employee may not be displaced as a result of using contract personnel.

(7) The governing body of a municipality may commence responsibility for the administration and enforcement of a building inspection program beginning July 1 of any year by notifying the director no later than January 1 of the same year and obtaining the director's approval of an assumption plan as described in subsection (11)(c) of this section.

(8) The department shall adopt rules to require the governing body of each municipality assuming or continuing a building inspection program under this section to submit a written plan with the notice required under subsection (4) or (7) of this section. If the department is the governing body, the department shall have a plan on file. The plan must specify how cooperation with the State Fire Marshal or a designee of the State Fire Marshal will be achieved and how a uniform fire code will be considered in the review process of the design and construction phases of buildings or structures.

(9) A municipality that administers and enforces a building inspection program pursuant to this section shall recognize and accept the performances of state building code activities by businesses and persons authorized under ORS 455.457 to perform the activities as if the activities were performed by the municipality. A municipality is not required to accept an inspection, a plan or a plan review that does not meet the requirements of the state building code.

(10) The department or a municipality that accepts an inspection or plan review as required by this section by a person licensed under ORS 455.457 has no responsibility or liability for the activities of the licensee.

(11) In addition to the requirements of ORS 455.100 and 455.110, the director shall regulate building inspection programs that municipalities assume on or after January 1, 2002. Regulation under this subsection shall include but not be limited to:

(a) Creating building inspection program application and amendment requirements and procedures;

(b) Granting or denying applications for building inspection program authority and amendments;

(c) Requiring a municipality assuming a building inspection program to submit with the notice given under subsection (7) of this section an assumption plan that includes, at a minimum:

(A) A description of the intended availability of program services, including proposed service agreements for carrying out the program during at least the first two years;

(B) Demonstration of the ability and intent to provide building inspection program services for at least two years;

(C) An estimate of proposed permit revenue and program operating expenses;

(D) Proposed staffing levels; and

(E) Proposed service levels;

(d) Reviewing procedures and program operations of municipalities;

(e) Creating standards for efficient, effective, timely and acceptable building inspection programs;

(f) Creating standards for justifying increases in building inspection program fees adopted by a municipality;

(g) Creating standards for determining whether a county or department building inspection program is economically impaired in its ability to reasonably continue providing the program throughout a county, if another municipality is allowed to provide a building inspection program within the same county; and

(h) Enforcing the requirements of this section.

(12) The department may assume administration of a building inspection program:

(a) During the pendency of activities under ORS 455.770;

(b) If a municipality abandons or is no longer able to administer the building inspection program; and

(c) If a municipality fails to substantially comply with any provision of this section or of ORS 455.465, 455.467 and 455.469.

(13) A municipality that abandons or otherwise ceases to administer a building inspection program that the municipality assumed under this section may not resume the administration or enforcement of the program for at least two years. The municipality may resume the administration and enforcement of the abandoned program only on July 1 of an odd-numbered year. Prior to resuming the administration and enforcement of the program, the municipality must follow the notification procedure set forth in subsection (7) of this section.

SECTION 2. ORS 455.150 is amended to read:

455.150. (1) **Except as provided in subsection (14) of this section**, a municipality that assumes the administration and enforcement of a building inspection program prior to January 1, 2002, may administer and enforce all or part of a building inspection program. A building inspection program:

(a) Is a program that includes **the following**:

(A) The state building code, as defined in ORS 455.010, except as set forth in paragraph (b) of this subsection.[:]

(B) Manufactured structure installation requirements under ORS 446.155, 446.185 (1) and 446.230.[:]

(C) Manufactured dwelling parks and mobile home parks under ORS chapter 446.[:]

(D) Park and camp programs regulated under ORS 455.680.[:]

(E) Tourist facilities regulated under ORS 446.310 to 446.350.[:]

(F) Manufactured dwelling alterations regulated under ORS 446.155.[: and]

(G) Manufactured structure accessory buildings and structures under ORS 446.253.

(H) Boilers and pressure vessels described in rules adopted under ORS 480.525 (4).

(b) Is not a program that includes:

(A) Boiler and pressure vessel programs under ORS 480.510 to 480.670 **except those described in rules adopted under ORS 480.525 (4)**;

(B) Elevator programs under ORS 460.005 to 460.175;

(C) Amusement ride regulation under ORS 460.310 to 460.370;

(D) Prefabricated structure regulation under ORS chapter 455;

(E) Manufacture of manufactured structures programs under ORS 446.155 to 446.285, including the administration and enforcement of federal manufactured dwelling construction and safety standards adopted under ORS 446.155 or the National Manufactured Housing Construction and Safety Standards Act of 1974;

(F) Licensing and certification, or the adoption of statewide codes and standards, under ORS chapter 446, 447, 455, 479 or 693; and

(G) Review of plans and specifications as provided in ORS 455.685.

(2) A municipality that administers a building inspection program as allowed under this section shall do so for periods of four years. The Department of Consumer and Business Services shall adopt rules to adjust time periods for administration of a building inspection program to allow for variations in the needs of the department and participants.

(3) When a municipality administers a building inspection program, the governing body of the municipality shall, unless other means are already provided, appoint a person to administer and enforce the building inspection program or parts thereof, who shall be known as the building official. A building official shall, in the municipality for which appointed, attend to all aspects of code enforcement, including the issuance of all building permits. Two or more municipalities may combine in the appointment of a single building official for the purpose of administering a building inspection program within their communities.

(4)(a) By January 1 of the year preceding the expiration of the four-year period described in subsection (2) of this section, the governing body of the municipality shall notify the Director of the Department of Consumer and Business Services and, if not a county, notify the county whether the municipality will continue to administer the building inspection program, or parts thereof, after expiration of the four-year period. If parts of a building inspection program are to be administered and enforced by a municipality, the parts shall correspond to a classification designated by the director as reasonable divisions of work.

(b) Notwithstanding the January 1 date set forth in paragraph (a) of this subsection, the director and the municipality and, if the municipality is not a county, the county may by agreement extend that date to no later than March 1.

(5) If a city does not notify the director, or notifies the director that it will not administer certain specialty codes or parts thereof under the building inspection program, the county or counties in which the city is located shall administer and enforce those codes or parts thereof within the city in the same manner as it administers and enforces them outside the city, except as provided by subsection (6) of this section.

(6) If a county does not notify the director, or notifies the director that it will not administer and enforce certain specialty codes or parts thereof under the building inspection program, the director shall contract with a municipality or other person or use such state employees or state agencies as are necessary to administer and enforce those codes or parts thereof, and permit or other fees arising therefrom shall be paid into the Consumer and Business Services Fund created by ORS 705.145 and credited to the account responsible for paying such expenses. A state employee may not be displaced as a result of using contract personnel.

(7) If a municipality administering a building inspection program under this section seeks to administer additional parts of a program, the municipality must comply with ORS 455.148, including the requirement that the municipality administer and enforce all aspects of the building inspection program. Thereafter, the municipality is subject to ORS 455.148 and ceases to be subject to this section.

(8) The department shall adopt rules to require the governing body of each municipality to submit a written plan with the notice required under subsection (4) of this section. If the department is the governing body, the department shall have a plan on file. The plan shall specify how cooperation with the State Fire Marshal or a designee of the State Fire Marshal will be achieved and how a uniform fire code will be considered in the review process of the design and construction phases of buildings or structures.

(9) A municipality that administers a code for which persons or businesses are authorized under ORS 455.457 to perform activities shall recognize and accept those activities as if performed by the municipality. A municipality is not required to accept an inspection, a plan or a plan review that does not meet the requirements of the state building code.

(10) The department or a municipality that accepts an inspection or plan review as required by this section by a person licensed under ORS 455.457 has no responsibility or liability for the activities of the licensee.

(11) In addition to the requirements of ORS 455.100 and 455.110, the director shall regulate building inspection programs of municipalities assumed prior to January 1, 2002. Regulation under this subsection shall include but not be limited to:

(a) Creating building inspection program application and amendment requirements and procedures;

(b) Granting or denying applications for building inspection program authority and amendments;

(c) Reviewing procedures and program operations of municipalities;

(d) Creating standards for efficient, effective, timely and acceptable building inspection programs;

(e) Creating standards for justifying increases in building inspection program fees adopted by a municipality;

(f) Creating standards for determining whether a county or department building inspection program is economically impaired in its ability to reasonably continue providing the program or part of the program throughout a county, if another municipality is allowed to provide a building inspection program or part of a program within the same county; and

(g) Enforcing the requirements of this section.

(12) The department may assume administration of a building inspection program:

(a) During the pendency of activities under ORS 455.770;

(b) If a municipality abandons any part of the building inspection program or is no longer able to administer the building inspection program; and

(c) If a municipality fails to substantially comply with any provision of this section or of ORS 455.465, 455.467 and 455.469.

(13) If a municipality abandons or otherwise ceases to administer all or part of a building inspection program described in this section, the municipality may not resume the administration and enforcement of the abandoned program or part of a program for at least two years. The municipality may resume the administration and enforcement of the abandoned program or part of a program only on July 1 of an odd-numbered year. To resume the administration and enforcement of the abandoned program or part of a program, the municipality must comply with ORS 455.148, including the requirement that the municipality administer and enforce all aspects of the building inspection program. Thereafter, the municipality is subject to ORS 455.148 and ceases to be subject to this section.

(14) A municipality that administers and enforces a building inspection program under this section shall include in the program the inspection of boilers and pressure vessels described in subsection (1)(a)(H) of this section.

SECTION 3. ORS 480.515 is amended to read:

480.515. As used in ORS 480.510 to 480.670, unless the context requires otherwise:

(1) "Board" means the Board of Boiler Rules created under ORS 480.535.

(2) "Boiler" or "boilers" means:

(a) A closed vessel or vessels intended for the heating or vaporizing of liquids to be used externally to such vessel or vessels by the application of heat from combustible fuels, electricity or nuclear energy;

(b) Related appurtenances including but not limited to pressure piping directly connected and related to the safe operation of a boiler; and

(c) Pressure piping consisting of boiler or nonboiler external piping connected to a boiler, but not potable water nonboiler external piping.

(3) "Boiler external piping" has the meaning given the term in the 1986 Pressure Piping Code B 31.1, adopted by the American Society of Mechanical Engineers.

(4) "Certificate of competency" means a certificate issued under the provisions of ORS 480.565 (3).

(5) "Department" means the Department of Consumer and Business Services.

(6) "Director" means the Director of the Department of Consumer and Business Services.

(7) **"Install, alter or repair permit" means a written approval issued by the department under ORS 480.630 authorizing the installation, alteration or repair of a boiler or pressure vessel.**

[(7)] (8) "Minimum safety standards" means the rules, regulations, formulae, definitions and interpretations for the safe construction, installation, operation and repair of boilers and pressure vessels either adopted by ORS 480.510 to 480.670 or adopted by the board, under ORS 480.510 to 480.670.

[(8)] (9) "Nonboiler external piping" has the meaning given the term in the 1986 Pressure Piping Code B 31.1, adopted by the American Society of Mechanical Engineers.

[(9)] *"Permit" means a card issued by the department authorizing the operation of a vessel but the permit does not signify that the vessel has been inspected or meets minimum safety standards until an actual inspection has been made and no deviation from the minimum safety standards exists.*

(10) **"Operating permit" means a written approval issued by the department authorizing the operation of a boiler or pressure vessel.**

[(10)] (11) "Pressure vessel" means containers 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, or any combination thereof.

[(11)] (12) "Related appurtenances" means any equipment instrumental to the safe operation of a boiler or pressure vessel.

[(12)] (13) "Shop inspection" means the inspection and testing, to determine the meeting of minimum safety standards, of boilers and pressure vessels being manufactured, altered, repaired or installed or in the process of manufacture, alteration, repair or installation in the shop or on the job site.

SECTION 4. ORS 480.520 is amended to read:

480.520. The purpose of ORS 480.510 to 480.670 is to protect the safety of the people of Oregon and to protect property situated in Oregon from the hazard of fires and explosions caused by boilers and pressure vessels. To accomplish this purpose the Legislative Assembly intends by ORS 480.510 to 480.670 to provide a system:

(1) For determining where and by whom boilers and pressure vessels are being constructed, installed, repaired, used and operated.

(2) To [assure] **ensure** that only qualified persons do welding on boilers and on pressure vessels.

(3) To [assure] **ensure** that boilers and pressure vessels are manufactured, installed, repaired, operated, inspected and maintained so as to meet the minimum safety standards formulated and promulgated by the Board of Boiler Rules.

(4) For the administration and enforcement of ORS 480.510 to 480.670 by the Department of Consumer and Business Services and the board.

(5) To defray the cost of administration and the cost of enforcing ORS 480.510 to 480.670 by establishing fees to be charged for [*the issuing of permits, for giving welding examinations, and for the making of inspections.*]:

- (a) Issuing operating permits;
- (b) Issuing install, alter or repair permits;
- (c) Giving examinations; and
- (d) Making inspections.

SECTION 5. ORS 480.525 is amended to read:

480.525. (1) ORS 480.510 to 480.670 do not apply to:

(a) Boilers and pressure vessels under federal safety regulations or control.
 (b) Domestic water heaters designed for heating potable water, equipped with an approved pressure-relieving device, containing only water and that do not exceed a:

- (A) Capacity of 120 gallons;
- (B) Water temperature of 210 degrees Fahrenheit;
- (C) Pressure of 150 pounds per square inch gauge pressure; or
- (D) Heat input of 200,000 BTU per hour.

(c) Pressure vessels containing liquefied petroleum gas[, and which] **that** are under the jurisdiction of the State Fire Marshall; *except that*. **However**, the construction and repair of such vessels shall be in compliance with ORS 480.510 to 480.670 and shall be under the jurisdiction of the Board of Boiler Rules.

(d) Air tanks used in the operation of brakes on self-propelled vehicles and trailers[, which vehicles or trailers] **that** are used for transporting freight or passengers.

(e) Medical sterilizers that do not exceed one and one-half cubic feet in volume.

(f) Pressure vessels that do not exceed one and one-half cubic feet in volume and [which]:

- (A) Are not operated at gauge pressure of more than 150 pounds per square inch[.];
- (B) **Are** equipped with a relief valve[.];

(C) **Are** approved under the American Society of Mechanical Engineers code adopted by the board[.];

(D) **Are** set at a maximum pressure of 150 pounds per square inch or less; and

(E) **Are** located in a place of public assembly.

(g) Pressure vessels that do not exceed five cubic feet in volume and [which]:

- (A) Are not operated at gauge pressure of more than 150 pounds per square inch[.];
- (B) **Are** equipped with a relief valve[.];

(C) **Are** approved under the American Society of Mechanical Engineers code adopted by the board; and

(D) **Are** set at a maximum pressure of 150 pounds per square inch[.] or less.

(2) Notwithstanding subsection (1) of this section, if the board, upon presentation of satisfactory evidence, determines that danger to health or safety is evident in any pressure vessel or class of pressure vessels exempted under subsection (1)(f) of this section, the board may require the inspection or reinspection of the pressure vessel or class of pressure vessels and make the pressure vessel or class of pressure vessels subject to the fee, construction or other requirements of ORS 480.510 to 480.670.

[2] **(3)** The following boilers and pressure vessels are exempt from ORS 480.510 to 480.670, except as to all provisions relating to construction, [or] installation, **alteration or repair** and to the inspection and fees in connection [therewith] **with construction, installation alteration or repair:**

(a) Boilers [which] **that** are not operated at gauge pressures of more than 15 pounds per square inch and [which] **that** are located on farms and used solely for agricultural purposes except when used in connection with a greenhouse.

(b) Air tanks located on farms and used solely for agricultural purposes.

[c] *Any boiler or pressure vessel which is used in a single private residence shall have an installation inspection and be provided with a permit to operate but shall be exempt from subsequent inspection required in ORS 480.560 (1)(a) to (d).]*

(c) Boilers and pressure vessels that are located in private residences and may be inspected only by a boiler inspector.

(d) Pressure vessels being operated at gauge pressures of less than 15 pounds per square inch and [which are] equipped with a pressure relief device set to open at a pressure [no greater than] **that does not exceed the lesser of the pressure vessel's maximum allowed working pressure**[, but in no case shall the gauge pressure exceed] or 15 pounds per square inch **gauge pressure**.

(4) The Director of the Department of Consumer and Business Services may adopt rules identifying boilers and pressure vessels used in single family dwellings or other structures that may be inspected by an inspector certified under ORS 455.715 to 455.740 for a specialty code other than the code adopted under ORS 480.545. The boilers and pressure vessels identified in the rules shall be subject to inspection upon installation, alteration or repair, but be exempt from periodic inspection under ORS 480.560 and from the operating permit requirements of ORS 480.585.

[(3) If the board, upon presentation of satisfactory evidence, determines that jeopardy to health and safety is evident in any vessel or class of vessels subject to subsection (1)(f) of this section, the board may require that the vessel or class of vessels be inspected or reinspected, subject to fees or construction requirements or any other requirements of ORS 480.510 to 480.670.]

(5) Notwithstanding any requirement of ORS 480.510 to 480.670 or the state building code, the Department of Consumer and Business Services may adopt rules granting partial or complete exemption from ORS 480.510 to 480.670 for a boiler or pressure vessel if the board determines that the boiler or pressure vessel does not present a danger to public health or safety within this state.

SECTION 6. ORS 480.560 is amended to read:

480.560. *[(1) Each boiler and pressure vessel used or proposed to be used within this state, except as exempted under ORS 480.510 to 480.670, shall be thoroughly inspected as to its construction, installation, operation and condition as follows:]*

[(a) Power boilers, meaning boilers used to produce steam or vapor at a pressure in excess of 15 pounds per square inch gauge pressure, or a boiler used for heating liquid to a pressure in excess of 160 pounds per square inch gauge pressure, shall be annually inspected both internally, where construction permits, and externally while not under pressure and shall also be annually inspected externally while under pressure.]

[(b) Low pressure steam or vapor heating boilers, hot water heating boilers and hot water supply boilers shall be biennially inspected externally, while under pressure, and internally, where construction permits, except that cast iron heating boilers shall be inspected only externally unless the Board of Boiler Rules has reason to believe that an internal inspection of an individual boiler is necessary to assure safe operation.]

[(c) Pressure vessels subject to internal corrosion or erosion shall be inspected biennially both internally and externally where construction permits.]

[(d) Pressure vessels, no part of which are subject to internal corrosion or erosion shall be biennially inspected externally, except that vessels containing anhydrous ammonia, intended for use as fertilizer, shall be inspected externally once every three years and fixed vessels, containing only air, not located at a place of public assembly, not exceeding 20 cubic feet in volume and which are operated at gauge pressures of not more than 200 pounds per square inch shall be inspected once every five years.]

(1) The Board of Boiler Rules shall adopt rules to provide for the inspection of the installation, operation and condition of boilers and pressure vessels that are used or proposed for use in this state and not made exempt from periodic inspection under ORS 480.510 to 480.670.

[(e)] **(2) Pressure piping that is nonboiler external piping, but [which] that excludes potable water nonboiler external piping, shall be inspected on installation only and [shall] may not thereafter be considered as part of the boiler for the purposes of any subsequent inspections required by this section. Fees for such inspections shall be as provided in ORS 480.605 (1).**

[(2) The board, upon presentation of satisfactory evidence that jeopardy to health and safety will not be substantially increased thereby, may:]

[(a) Broaden the intervals between inspections, eliminate types of inspections, and correspondingly reduce the fees charged where the use, contents or construction of the vessel warrant special consideration; or]

[(b) Exempt additional classes of vessels to the same extent vessels are exempted either under ORS 480.525 (1) or (2).]

(3) If a hydrostatic test is necessary to determine the safety of a boiler or pressure vessel, the test shall be made by the owner or user of *[such]* **the** boiler or pressure vessel and witnessed by a deputy or special inspector.

(4) All boilers and pressure vessels to be installed in this state *[after July 1, 1961,]* shall be inspected during construction:

(a) By an inspector authorized to inspect boilers in this state*[, or,]* **or authorized under ORS 455.715 to 455.740 to perform inspections of boilers and pressure vessels identified by rule as provided in ORS 480.525 (4); or**

(b) If constructed outside of the state, by an inspector holding a certificate of competency issued by a state that has a standard of examination substantially equal to that of this state.

SECTION 7. ORS 480.570 is amended to read:

480.570. (1) A special inspector receiving a certificate of competency under ORS 480.565 (3)(b) *[shall]* **may** not inspect under ORS 480.510 to 480.670 any boiler*[, nor shall the special inspector inspect under ORS 480.510 to 480.634 any]* **or** pressure vessel not used or not to be used by the employer of the special inspector.

(2) *[When the individual]* **If a special inspector** holds a certificate of competency issued *[pursuant to]* **under** ORS 480.565 (3)(a), *[a]* **the** special inspector *[is authorized to]:*

(a) **May** conduct **periodic** shop inspections of boilers and pressure vessels manufactured or to be installed in this state whether or not such boilers or pressure vessels are insured or will be insured by the employer of the special inspector; and

[(b) Inspect all boilers and pressure vessels insured or to be insured by the special inspector's employer or all pressure vessels operated by the special inspector's employer.]

(b) Upon being notified that the boilers or pressure vessels are ready for inspection, shall perform all installation and operating inspections required under ORS 480.510 to 480.670 on boilers and pressure vessels that are operated or insured by the special inspector's employer.

(3) A boiler contractor licensed under ORS 480.630 that performs an alteration or repair on a boiler or pressure vessel shall utilize the services of:

(a) An authorized inspector certified under this chapter with whom the contractor has an agreement for inspection of the alteration or repair;

(b) A special inspector of an insurance company with which the contractor has an inspection contract; or

(c) A designated inspector who is authorized to inspect the alteration or repair.

[(3)] (4) A special inspector's certificate of competency remains in force only while the special inspector is continuously employed by one of the persons mentioned in ORS 480.565 (3).

[(4)] (5) *[When a]* **If a boiler or pressure** vessel is inspected by a special inspector as provided in this section, *[the owner or user of such boiler or pressure vessel is exempt from payment of the permit fee]* **the boiler or pressure vessel is subject** during the inspection period*[, except as provided]* **to the special permit fee described in ORS 480.600 (2) instead of the operating permit fee established under ORS 480.595.**

[(5)] (6) The Department of Consumer and Business Services may cause a deputy inspector to inspect or reinspect all boilers and pressure vessels *[which could be inspected by]* **that** a special inspector **is authorized or required to inspect.** However, *[there shall be no]* **the deputy inspector may not conduct an** internal inspection or reinspection unless there is a question as to whether or not the boiler or pressure vessel meets the minimum safety standards and the special inspector who made the original inspection, or the employer of the special inspector, is given reasonable notice *[of the intention to make such inspection or reinspection so the special inspector or the employer*

of the special inspector can] **and opportunity to be present during the internal inspection or re-inspection.**

(7) Subsections (1) to (6) of this section do not apply to boilers or pressure vessels located in a residential structure that contains fewer than six dwelling units.

SECTION 8. ORS 480.585 is amended to read:

480.585. (1) Any person may apply to the Department of Consumer and Business Services for [a] **an operating** permit for a boiler or pressure vessel:

(a) By filing reports showing details of the proposed construction before construction is started; or

(b) By submitting satisfactory proof that the boiler or pressure vessel has been constructed in accordance with minimum safety standards and has been found to be safe.

(2) [A] **An operating** permit for a boiler or pressure vessel shall [bear the date of the inspection period and] specify the maximum pressure under which the boiler or pressure vessel may be operated. Except as provided by regulation, a permit must be posted in the room containing the boiler or pressure vessel for which the permit is issued.

(3) The department may at any time suspend or revoke [a permit when, in the department's opinion,] **an operating permit if the department finds that** the boiler or pressure vessel, or related appurtenances, for which the permit was issued [is found not to] **does not** comply with ORS 480.510 to 480.670. Suspension of any permit continues in effect until the vessel conforms to ORS 480.510 to 480.670 and the permit is reissued. However, before suspending or revoking a permit, the department shall first notify the person concerned of the department's intention. The notice must be in writing and advise the person concerned of the right to appeal in writing within 10 days and that the appeal will be heard by the Board of Boiler Rules. [When] **If** there is a timely appeal, the department may not suspend or revoke the permit pending the appeal unless the reason for suspension or revocation constitutes an immediate menace to health or safety or the person concerned fails to prosecute an appeal with diligence.

(4)(a) Except as provided in ORS 480.510 to 480.670, a person may not operate a boiler or pressure vessel unless a valid **operating** permit [for the operation of the boiler or pressure vessel,] issued under this section[,] is attached [thereto] **to the boiler or pressure vessel** or posted in a conspicuous place in the room where the boiler or pressure vessel is located.

(b) A person may not permit or suffer the operation of a boiler or pressure vessel on property the person owns, controls, manages or supervises unless a valid **operating** permit [for the operation of the boiler or pressure vessel,] issued under this section[,] is attached [thereto] **to the boiler or pressure vessel** or posted in a conspicuous place in the room where the boiler or pressure vessel is located.

(c) The owner or lessee or person having possession of a boiler or pressure vessel may not permit or suffer the operation of the boiler or pressure vessel unless a valid **operating** permit[,] issued under this section[,] is attached [thereto] **to the boiler or pressure vessel** or posted in a conspicuous place in the room where the boiler or pressure vessel is located.

(5) The board may [waive by rule the] **adopt rules waiving** provisions of this section.

SECTION 9. ORS 480.595 is amended to read:

480.595. [(1) Upon receipt of a permit fee due on a date determined by the Department of Consumer and Business Services, and on the same day of each year thereafter in which an inspection is due pursuant to ORS 480.560, the Department of Consumer and Business Services may issue or renew a permit before or after an inspection has been made pursuant to ORS 480.510 to 480.670.]

(1) The Department of Consumer and Business Services may adopt rules establishing procedures and requirements regarding operating permits, including but not limited to the term for which an operating permit is valid.

(2) Upon timely receipt of an operating permit fee, the department may issue or renew an operating permit.

[(2)] **(3) Operating** permit fees shall be prescribed by the Board of Boiler Rules with approval of the Oregon Department of Administrative Services, and may be prorated.

[3] (4) Maximum operating permit fees shall be determined as follows:

- (a) Boilers of 15 horsepower or less \$ 65
- (b) Boilers greater than 15 horsepower to 100 horsepower \$ 85
- (c) Boilers greater than 100 horsepower to 500 horsepower \$100
- (d) Boilers greater than 500 horsepower \$110
- (e) Cast iron boilers \$ 65
- (f) Pressure vessels having a product volume of 20 cubic feet or less \$ 55
- (g) Pressure vessels having a product volume greater than 20 cubic feet \$ 75

[4] (5) A reinspection fee shall be charged at the maximum rate of \$60 per hour for travel and inspection time to defray the cost of a reinspection when deviations from the minimum safety standards are found during any inspection.

SECTION 10. ORS 480.600 is amended to read:

480.600. (1) The **operating** permit fee established under ORS 480.510 to 480.670, for a quantity of **boilers or** pressure vessels available for inspection at the same location, shall be fixed by the Board of Boiler Rules at cost, in accordance with the time required to conduct the inspection and the inspector's mileage to the place of inspection. *[However, in no case shall the total payment be more than the total of the individual pressure vessel fees fixed by]* **The operating permit fee charged for a quantity of boilers or pressure vessels available for inspection at the same location may not exceed the total amount that would be charged for individual boiler or pressure vessel operating permit fees under ORS 480.510 to 480.670.**

(2)(a) **Notwithstanding ORS 480.595, except as provided in this subsection,** the owner or user of any **boiler or pressure** vessel *[which]* **that** is to be inspected **under ORS 480.570 (1) or (2)** during the inspection period *[under the provisions of ORS 480.570]* shall pay to the Department of Consumer and Business Services a special permit fee of \$25. **However,** *[except that]* the department may require payment of *[a]* **an operating** permit fee as provided in ORS 480.595 *[where it]* **if the department** finds the **boiler or pressure** vessel to be in violation of the minimum safety standards during the inspection period. *[In addition,]*

(b) For a quantity of **boilers or** pressure vessels inspected at the same location, the board may establish a different special permit fee *[which]* **that** recognizes the lower costs of handling. *[, but in no such case shall the total payment be more than the total of individual pressure vessel fees fixed by ORS 480.510 to 480.670.]* **The special permit fee charged for a quantity of boilers or pressure vessels inspected at the same location may not exceed the total amount that would be charged for individual boiler or pressure vessel special permit fees under paragraph (a) of this subsection.**

[(3) If there is a lengthened inspection interval under ORS 480.560 (2), the permit fee interval shall be lengthened correspondingly.]

[(4)] (3) *[Whenever]* **If** an insurance company notifies its insured that *[it]* **the insurance company** will no longer insure a boiler or pressure vessel, or that insurance on a boiler or pressure vessel is no longer in force, the insurance company shall also notify the chief boiler inspector, in a form and manner prescribed by the chief boiler inspector, of the description and vessel registration numbers of the boilers or pressure vessels for which insurance is canceled or suspended or is not to be renewed.

[(5)] (4) *[Whenever]* **If** an owner or user of a boiler or pressure vessel fails to pay any fee required by this chapter within 60 days after the date of depositing written notification in the United

States mail, postage prepaid, and addressed to the last-known address of the owner or user, the fee [*shall be considered*] **is** delinquent and [*the fee*] shall be increased by an amount equal to 50 percent of the original fee. The court may award reasonable attorney fees to the department if the department prevails in an action to collect a fee required by this chapter. The court may award reasonable attorney fees to a defendant who prevails in an action to collect a fee required by this chapter if the court determines that the department had no objectively reasonable basis for asserting the claim or no reasonable basis for appealing an adverse decision of the trial court.

SECTION 11. ORS 480.607 is amended to read:

480.607. Notwithstanding the fees prescribed in ORS 480.595 [(3) and] (4) **and (5)**, 480.600 (2) and 480.630 (4) and (5), and subject to the prior approval of the Department of Consumer and Business Services, the Oregon Department of Administrative Services and a report to the Emergency Board prior to adopting the fees, the Board of Boiler Rules may increase the fees referred to in this section by an amount not greater than 10 percent. The fees shall be within the budget authorized by the Legislative Assembly as that budget may be modified by the Emergency Board. The fees must not exceed the cost of the program, including but not limited to the cost of administering a continuing education registry.

SECTION 12. ORS 480.615 is amended to read:

480.615. (1) The Board of Boiler Rules shall hear the appeal of an appellant who has filed a timely written request and who (a) has received notice that a restraining order or injunction will be sought, or (b) has received notice that [*a*] **an operating** permit will be suspended or revoked, or (c) is affected by either of such notices. The board shall likewise hear the appeal of an appellant who has filed a written request and who has reason to desire a change in the minimum safety standards or the rules.

(2) The board shall set the time and place for hearing and give the appellant 10 days' written notice.

(3) All appeals shall be heard within three months of receipt of the request. Provided, if immediate menace to health or safety is involved, the appeal shall be heard within 20 days of receipt of the request.

(4)(a) Two or more appeals may be consolidated for hearing, if based upon substantially the same facts.

(b) The board and the appellant may subpoena witnesses who shall receive the same compensation and mileage pay as circuit court witnesses.

(c) A written or recorded record shall be kept.

SECTION 13. ORS 480.630 is amended to read:

480.630. (1) A person engaging in the business of installing, repairing or altering boilers or pressure vessels must possess a boiler contractor license issued by the Department of Consumer and Business Services.

(2) A person who installs, repairs or alters boilers or pressure vessels as the employee or agent of a business engaged in the installation, repair or alteration of boilers or pressure vessels must possess an employee or agent license issued by the department.

(3) The chief inspector may conduct examinations for licensing an employee or agent of a business to establish the competency of the applicant.

(4) [*Licenses shall be issued and renewed by*] The department **shall issue and renew licenses** as provided by rules adopted under ORS 455.117 by the Board of Boiler Rules upon payment of a fee of \$25 for each application for an employee or agent license and \$150 for each application for a boiler contractor license.

(5) A person required to be licensed under this section may not install, alter or repair a boiler or pressure vessel unless an [*appropriate*] **install, alter or repair** permit is first secured from the department. Permits shall be issued only to persons possessing a valid boiler contractor license or as provided by the department by rule. [*A*] **An install, alter or repair** permit fee of \$15 shall be paid directly to the department.

(6) *[In the case of]* **If** an emergency **exists**, a permit under subsection (5) of this section is not required in advance for boiler or pressure vessel installations or repair, *[if]* **provided that** an application accompanied by the appropriate fee for *[a]* **the** permit is submitted to the department within five days after the commencing of the boiler or pressure vessel work.

(7) The license and examination requirements of this section **and ORS 480.632** do not apply when a person is brought in from out of state to repair or alter a boiler or pressure vessel utilizing special tools or a special process for which that person is uniquely qualified. The activity shall be limited solely to the special process and the person performing the work shall have qualifications that meet or exceed license standards as determined by the chief boiler inspector. The chief boiler inspector shall be notified prior to performance of any work under this subsection.

(8) If a license issued under subsection (4) of this section is of a class that authorizes a person to perform work equivalent to that performed by pressure vessel installers, building service mechanics, boilermakers or pressure piping mechanics, the person must complete eight hours of board-approved continuing education every year.

SECTION 13a. If House Bill 2219 becomes law, section 10, chapter 271, Oregon Laws 2007 (Enrolled House Bill 2219) (amending ORS 480.630), is repealed and ORS 480.630, as amended by section 13 of this 2007 Act, is amended to read:

480.630. (1) A person engaging in the business of installing, repairing or altering boilers or pressure vessels must possess a boiler contractor license issued by the Department of Consumer and Business Services.

(2) A person who installs, repairs or alters boilers or pressure vessels as the employee or agent of a business engaged in the installation, repair or alteration of boilers or pressure vessels must possess an employee or agent license issued by the department.

(3) The chief inspector may conduct examinations for licensing an employee or agent of a business to establish the competency of the applicant.

[(4) The department shall issue and renew licenses as provided by rules adopted under ORS 455.117 by the Board of Boiler Rules upon payment of a fee of \$25 for each application for an employee or agent license and \$150 for each application for a boiler contractor license.]

(4) Upon payment of the applicable application fee, the department shall issue a license to an applicant who qualifies as provided in rules adopted under ORS 455.117 by the Board of Boiler Rules. Upon payment of the applicable renewal application fee, the department shall renew the license of a person who complies with ORS 480.510 to 480.670 and the rules adopted by the board under ORS 455.117 or 480.545. The fee to apply for or renew a license is:

(a) \$25 per year for an employee or agent license.

(b) \$150 per year for a boiler contractor license.

(5) A person required to be licensed under this section may not install, alter or repair a boiler or pressure vessel unless an install, alter or repair permit is first secured from the department. Permits shall be issued only to persons possessing a valid boiler contractor license or as provided by the department by rule. An install, alter or repair permit fee of \$15 shall be paid directly to the department.

(6) If an emergency exists, a permit under subsection (5) of this section is not required in advance for boiler or pressure vessel installations or repair, provided that an application accompanied by the appropriate fee for the permit is submitted to the department within five days after the commencing of the boiler or pressure vessel work.

(7) The license and examination requirements of this section and ORS 480.632 do not apply when a person is brought in from out of state to repair or alter a boiler or pressure vessel utilizing special tools or a special process for which that person is uniquely qualified. The activity shall be limited solely to the special process and the person performing the work shall have qualifications that meet or exceed license standards as determined by the chief boiler inspector. The chief boiler inspector shall be notified prior to performance of any work under this subsection.

(8) If a license issued under subsection (4) of this section is of a class that authorizes a person to perform work equivalent to that performed by pressure vessel installers, building service me-

chanics, boilermakers or pressure piping mechanics, the person must [complete eight hours of board-approved continuing education every year] **comply with continuing education requirements.**

SECTION 13b. If House Bill 2219 becomes law, the amendments to ORS 480.630 by section 13a of this 2007 Act become operative on January 1, 2008.

SECTION 14. ORS 480.640 is amended to read:

480.640. A person providing services connected with boilers or pressure vessels may not bring or maintain an action in the courts of this state to recover for those services unless the person alleges and proves that, at the time the services were performed, the person performing the services held a license issued under ORS 480.630. **This section does not apply to a person exempted from licensing by ORS 480.630 (7).**

SECTION 15. (1) The amendments to ORS 480.570 by section 7 of this 2007 Act apply to boiler and pressure vessel inspection periods that begin on or after the effective date of this 2007 Act.

(2) A permit issued by the Department of Consumer and Business Services under ORS 480.630 (5) before the effective date of this 2007 Act is an install, alter or repair permit for purposes of the amendments to ORS 480.515, 480.520, 480.570 and 480.630 by sections 3, 4, 7 and 13 of this 2007 Act.

(3) The amendments to ORS 480.640 by section 14 of this 2007 Act apply to actions to recover for services performed before, on or after the effective date of this 2007 Act.

SECTION 16. (1) The amendments to ORS 455.148 and 455.150 by sections 1 and 2 of this 2007 Act become operative July 1, 2008.

(2) Notwithstanding ORS 455.148 and 455.150 (7), the assumption of a boiler and pressure vessel inspection program in compliance with the amendments to ORS 455.150 by section 2 of this 2007 does not make a municipality that administers and enforces a building inspection program under ORS 455.150 subject to ORS 455.148.

SECTION 17. This 2007 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect July 1, 2007.

Passed by Senate April 3, 2007

Received by Governor:

Repassed by Senate June 7, 2007

.....M.,....., 2007

Approved:

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Secretary of Senate

.....M.,....., 2007

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President of Senate

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Governor

Passed by House June 5, 2007

Filed in Office of Secretary of State:

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Speaker of House

.....M.,....., 2007

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Secretary of State