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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Virginia Department of Labor and Industry
Virginia Administrative Code (VAC) citation(s)	16 VAC 25-50
Regulation title(s)	Boiler and Pressure Vessel Rules and Regulations
Action title	Proposed regulation to adopt revisions to the Boiler and Pressure Vessel Rules and Regulations
Date this document prepared	April 21, 2016

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Subject matter and intent

Please describe briefly the subject matter, intent, and goals of the planned regulatory action.

The purpose of this NOIRA is to provide both increased protection of human life and property from the unsafe or dangerous construction, installation, inspection, operation, and repair of boilers and pressure vessels in the Commonwealth of Virginia by adopting the most current version of documents incorporated by reference to take advantage of the latest technical advance in safety.

Legal basis

Please identify the (1) the agency (includes any type of promulgating entity) and (2) the state and/or federal legal authority for the proposed regulatory action, including the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable. Your citation should include a specific provision, if any, authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

The Safety and Health Codes Board is authorized by Title 40.1-51.6.A. of the *Code of Virginia* to, “formulate definitions, rules, regulations and standards which shall be designed for the protection of human life and property from the unsafe or dangerous construction, installation, inspection, operation, maintenance and repair of boilers and pressure vessels in this Commonwealth.

In promulgating such rules, regulations and standards, the Board shall consider any or all of the following:

1. Standards, formulae and practices generally accepted by recognized engineering and safety authorities and bodies...”

Title 40.1-51.6.B. of the *Code of Virginia* authorizes the following: “The Commissioner shall ensure that the costs of administering this chapter shall not exceed revenues generated from fees collected pursuant to the provisions of this chapter.”

The Safety and Health Codes Board is authorized by Title 40.1-51.15.A. of the *Code of Virginia* to: “establish fees required under this chapter...”

Purpose

Please describe the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, please explain any potential issues that may need to be addressed as the regulation is developed.

The purpose of this intended regulatory action is to provide both increased protection of human life and property from the unsafe or dangerous construction, installation, inspection, operation, and repair of boilers and pressure vessels in the Commonwealth of Virginia by complying with the most recent editions of industry required guidance documents.

Substance

Please briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.

The Department is considering the following suggested changes to the Boiler and Pressure Vessel Rules and Regulations, “Documents Incorporated by Reference”:

1. Adopt the 2015 Edition of the Boiler and Pressure Vessel Code, ASME Code, American Society of Mechanical Engineers for compliance with the most recent edition of documents incorporated by reference to take advantage of the latest technology available;
2. Adopt ANSI/NB 23, 2015 Edition of the National Board Inspection Code, National Board of Boiler and Pressure Vessel Inspectors for compliance with the most recent edition of documents incorporated by reference to take advantage of the latest technology available;
3. Adopt the 2014 Edition of B31.1, ASME Code for Power Piping, American National Standards Institute to comply with the most recent edition of documents incorporated by reference; thereby, taking advantage of the latest technology available;
4. Adopt the 2015 Edition of the NFPA 85, Boiler and Combustion Systems Hazards, National Fire Protection Association, to comply with the most recent edition of documents incorporated by reference; thereby, taking advantage of the latest technology available;
5. Adopt the 2012 Edition of Part CG (General), Part CW (Steam and Waterside Control) and Part CF (Combustion Side Control) Flame Safeguard of ANSI/ASME CSD-1, Controls and Safety Devices for Automatically Fired Boilers, American Society of Mechanical Engineers; thereby, taking advantage of the latest technology available; and
6. Adopt the API 510, Pressure Vessel Inspection Code, Maintenance Inspection, Rating, Repair and Alteration, Tenth Edition, May 2014, American Petroleum Institute to comply with the most recent edition of documents incorporated by reference thereby, taking advantage of the latest technology available.

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

Many of the suggested changes involve updating the Boiler and Pressure Vessel Rules and Regulations, §§40.1-51.5, *et seq.*, mandated by Chapter 3.1 of Title 40.1 of the *Code of Virginia*, for consistency with the most recent editions of forms or national and international documents incorporated by reference into the Boiler and Pressure Vessel Rules and Regulations; therefore, there is no alternative to adopting related changes.

Public participation

Please indicate whether the agency is seeking comments on the intended regulatory action, including ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also, indicate whether a public hearing is to be held to receive comments. Please include one of the following choices: 1) a panel will be appointed and the agency's contact if you're interested in serving on the panel is _____; 2) a panel will not be used; or 3) public comment is invited as to whether to use a panel to assist in the development of this regulatory proposal.

The agency is seeking comments on this regulatory action, including but not limited to: ideas to be considered in the development of this proposal, the costs and benefits of the alternatives stated in this background document or other alternatives, and the potential impacts of the regulation.

The agency is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include: projected reporting, recordkeeping, and other administrative costs; the probable effect of the regulation on affected small businesses; and the description of less intrusive or costly alternatives for achieving the purpose of the regulation.

Anyone wishing to submit comments may do so via the Regulatory Town Hall website (<http://www.townhall.virginia.gov>), or by mail, email, or fax to Mr. Ed Hilton, Director/Chief Inspector, Main Street Centre, 600 East Main Street, Suite 207, Richmond, Virginia 23219, ed.hilton@doli.virginia.gov. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by midnight on the last day of the public comment period.

A public hearing will be held following the publication of the proposed stage of this regulatory action and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<http://www.townhall.virginia.gov>) and on the Commonwealth Calendar website (<https://www.virginia.gov/connect/commonwealth-calendar>). Both oral and written comments may be submitted at that time.