



BOILER SAFETY INTERPRETATION/TECHNICAL LETTER  
BSI11

MEMORANDUM

TO: All Inspectors

FROM: Fred P. Barton, Director/Chief Inspector  
Boiler Safety Compliance Division

DATE: August 20, 1996  
(Revised July 5, 2001)

SUBJECT: Penalties

On July 1, 1995 Section 40.1-51-12(A) of the Boiler and Pressure Vessel Safety Act was changed and paragraphs B and C were added.

There are two types of violations: (1) operating a boiler/pressure vessel without a valid Inspection Certificate or (2) operating at a pressure above that specified on the Certificate. Violations are now subject to a civil penalty of maximum of \$100 per day.

Procedures have been developed and approved to implement the revised law including the establishment of procedural rights for the owner/user. The following is a summary of the changes:

- A. Effective immediately, owner/users operating a boiler/pressure vessel at a pressure above that specified on the certificate (MAWP) will be assessed a penalty. The violation will be effective on the date of inspection and penalty will be \$1000 for the first notification and an additional \$2000 for a second issuance.
  - B. Owner/users operating a boiler/pressure vessel without a valid Certificate of Inspection is a separate violation from that described above in paragraph A, and will be assessed differently.
1. For operating a boiler/pressure vessel with a lapsed certificate past the grace period, nonpayment of the certificate fee, or 30 days after a DOLI employee courtesy visit, the owner will be assessed a penalty of \$1000 to \$2000.

2. Section 2.10 of the Boiler and Pressure Vessel Rules and Regulations describes the biggest change affecting Inspectors.

“If upon inspection, a Special Inspector finds a boiler or pressure vessel to be unsafe for initial or further operation, he shall promptly notify the owner or user, stating what repairs or other corrective measures are required to bring the object into compliance with these rules and regulations. Unless the owner or user agrees to make the repairs or adopt such other corrective measures promptly, the Special Inspector shall immediately notify the Chief Inspector.”

We encourage Inspectors to resolve as many nonconformances as possible within five (5) business days and report both the nonconformances and resolution to this office.

Effective October 1, 1996, in those cases when any Inspector reports a nonconformance of the Virginia rules which cannot be resolved promptly, and the Chief Inspector suspends the Certificate due to it being a hazard or unsafe condition, a penalty of \$600 to \$1200 will be assessed. “Promptly” in this application means no more than three to five business days.

In the Citation, Suspension and Notification of Penalty form the owner/user will be given an abatement period of 10 to 60 days to correct the nonconformance; and in some cases arrange verification of the correction action by the Inservice Inspector.

Some examples of nonconformances which will result in suspensions and fines if not completed by the abatement date are general piping conditions, lack of temperature pressure controls or low water fuel cutoffs, leakage where weld repair is necessary, lack of follow-up on any nonconformance including inspections, excessive scale, etc.

An example of a nonconformance where fines may be avoided through prompt abatement could be: lack of preparation for an internal inspection, insufficient relieving capacity of safety/relief valves, nameplate covered, etc.

The new procedure requires the following changes to completing and handling of Inspection Reports:

1. State conditions found clearly as we will repeat your statement verbatim in the Citation, Suspension and Notification of Penalty form.
2. The name, title and phone number of the person to whom nonconformances, options were explained must be on the report.

3. The Inspector should include the recommended abatement date for each nonconformance/violation not resolved and provide a copy of the report to the owner/user.
4. Any reports including nonconformances for which the Certificate may be suspended or violations shall be sent so that we receive them within fifteen (15) days of the actual inspection date.
5. Follow-up verification of corrective actions must be completed sooner. The Abatement Letter will clearly indicate when Inspector follow-up verification is required.

Owners/users will have seven (7) days to contest any part of the notification of nonconformance, penalty or suspension as long as it is in writing. Phone calls do not count! Owners/users have the right to an Informal Conference, giving an opportunity for all parties to resolve issues and possibly avoid court. Inspectors will be encouraged to attend Informal Conferences especially if the owner/user has a significantly different view of the condition.

Please direct any questions, comments or solutions to me at (804) 786-3262.

FPB/fs

## NEW PROCEDURES TO USE IN ASSESSING PENALTIES

### NEW PROCEDURES WILL:

- streamline notice requirements
- minimize delay between discovery of non-conformances and assessment of penalties
- standardize written corrections needed
- fair, consistent, prompt application of the Law

### VIOLATION: OPERATING A BOILER, WATER HEATER, OR UNFIRED PRESSURE VESSEL WITHOUT A VALID CERTIFICATE OF INSPECTION

### DOLI WILL:

- A) Suspend certificates when non-conformances are found which are immediate threat to life and property
- B) Assess penalties for other situations if not corrected in 10 OR 30 days
- SAFETY NON-CONFORMANCES
  - a) Minimum 10 days abatement
  - b) PENALTY - \$600
- LAPSED CERTIFICATES/UNREGISTERED EQUIPMENT (30 days notice)
  - a) Minimum 10 days abatement
  - b) PENALTY - \$1000 (Minimum \$70)

### OWNER CAN:

- Contest suspension, abatement period, or penalty
- Discuss all issues at Informal Conferences
- Appeal any court order