



BOILER SAFETY INTERPRETATION/TECHNICAL LETTER BSI22

MEMORANDUM

TO: All Commissioned Inspectors

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

SUBJECT: Reporting Non-Conformances

DATE: April 27, 2005

The Virginia Boiler and Pressure Vessel Rules and Regulations describe two (2) categories where it is required for Inspectors to report these serious situations to the Chief Inspector in order that Citations may be issued.

The critical categories are when either hazardous (risky) conditions are found (Section 16 VAC 25-50-90) or a boiler or pressure vessel is found to be unsafe (Section 16 VAC 25-50-110). Examples of hazardous conditions/unsafe boilers or pressure vessels are stuck or no safety (relief) valves; LWCs, controls, valves, thermometers not installed; or leaks requiring welded repairs.

There is a third category where most of the reported nonconformities reside de minimis. A de minimis violation is a violation, which has no direct or immediate relationship to safety (and health). The reference for the term de minimis can be found in Section 40.1-49.4 of the Virginia Code as referred to in the Violation section of the Boiler part of the Virginia Code, Section 40.1-51.12 (B). Over the years we have considered reported maintenance issues such as gaskets leaking, lack of feedwater treatment, or one (1) or two (2) leaking boiler tubes as de minimis, and encouraged Inspectors to recommend issuing Certificates.

For any hazardous condition or unsafe boiler/pressure vessel not completely resolved within five (5) business days, either a Citation or a Nonconformance Letter is issued. In many cases inspection companies are also sending letters to the owners/users. In addition to reporting risky condition(s) or unsafe boiler/pressure vessels the inspection companies are reporting other issues that may affect their business relationship such as maintenance or exposures.

Effective June 1, 2005 Boiler Safety will no longer write any nonconformance letters for de minimis violations. This includes both maintenance types and others. Examples of de minimis violations (non-conformances) are (hand hole or LWC) gaskets leaking; one (1) or two (2) boiler tubes leaking; certificate(s) not posted; clearance(s); and installed thermometers, gauge glasses, and pressure gages on automatic boilers not working. Instead, we will rely on the judgment of the Inspector to determine with which de minimis violations a Certificate can still be recommended and those where Certificates cannot be recommended. Inspectors will be expected to still communicate in writing to the owner/user in the same manner that their supervisor directs.

The Inspection Report for de minimis violations that an Inspector initially doesn't recommend a Certificate for will not be processed until Boiler Safety receives verification that those de minimis violations have been resolved satisfactorily. The verification can be in the form of a Reinspection report, an email, or a copy of the owners/users' written response to the inspection company's letter. Inspectors are cautioned to only use terminology in their letter that reflects the Rules. In other words, when dealing with unsafe objects or risky conditions continue to use language that reflects nonconformance of the Rules must be corrected before operating Certificates can be issued, as in every case Boiler Safety will continue to issue a Nonconformance Letter/Citation. However, when dealing with de minimis violations, Inspectors are cautioned to select only terminology in their letters that doesn't suggest action is necessary before operating Certificates can be issued.

Please review and keep the attached Flow Chart handy for future reference. It is our intent to expand examples of the different categories and list all examples on our Web site for easy reference to Inspectors.

The above changes will:

- a. Give Inspectors wider latitude in reporting and correcting a majority of non-conformances; and
- b. Bring about a major reduction in duplicating, sometimes contradictory letters, to owners/users.

FPB/fs