

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 802 Session of 2013

INTRODUCED BY CORMAN, TARTAGLIONE, VOGEL, WAUGH AND SOLOBAY, APRIL 4, 2013

SENATOR GORDNER, LABOR AND INDUSTRY, AS AMENDED, MAY 7, 2013

AN ACT

1 Amending the act of June 18, 1998 (P.L.655, No.85), entitled "An
2 act regulating the construction, equipment, maintenance,
3 operation and inspection of boilers and unfired pressure
4 vessels; granting certain authority to and imposing certain
5 duties upon the Department of Labor and Industry; providing
6 for penalties; and making a repeal," further providing for
7 definitions, for design and construction, for construction of
8 act, for registration of boilers and unfired pressure
9 vessels, for shop inspection, for repairs and alterations and
10 for field inspection; repealing provisions relating to
11 issuance of certificates of operation, inspector commissions
12 and fees for examination, enforcement, placement of equipment
13 out of service, regulatory authority, right of entry,
14 accident report, fees, procedure in prosecutions and
15 penalties; and providing for field inspection frequency, for
16 certificates of operation, for inspector commissions and for
17 authorized private inspection agencies, for powers of
18 department, for department investigation, for accident
19 report, for fees, for department enforcement and for
20 administrative penalties.

21 The General Assembly of the Commonwealth of Pennsylvania
22 hereby enacts as follows:

23 Section 1. Sections 2, 4, 5, 6, 7, 8 and 9 of the act of
24 June 18, 1998 (P.L.655, No.85), known as the Boiler and Unfired
25 Pressure Vessel Law, are amended to read:

26 Section 2. Definitions.

27 The following words and phrases when used in this act shall

1 have the meanings given to them in this section unless the  
2 context clearly indicates otherwise:

3 "Accident." A failure of a boiler or unfired pressure vessel  
4 resulting in personal injury or property loss.

5 "Agricultural building." A structure utilized to store farm  
6 implements, hay, feed, grain or other agricultural or  
7 horticultural products or to house poultry, livestock or other  
8 farm animals, a milk house and OR a structure used to grow <--  
9 mushrooms. The term includes a carriage house owned and used by  
10 members of a recognized religious sect for the purposes of  
11 housing horses and storing buggies. The term does not include  
12 habitable space or spaces in which agricultural products are  
13 processed, treated or packaged and shall not be construed to  
14 mean a place of occupancy by the general public.

15 "ASME." The American Society of Mechanical Engineers.

16 "Authorized private inspection agency." An entity which  
17 employs one or more commissioned private inspectors possessing  
18 valid current commissions.

19 "Board." The Industrial Board of the Commonwealth.

20 "Boiler." Any closed vessel in which water is heated, steam  
21 is generated, steam is superheated or any combination thereof  
22 under pressure or vacuum for use external to itself by the  
23 direct application of heat from the combustion of fuels or from  
24 electricity. The term shall include fired vessels for heating or  
25 vaporizing liquids other than water where these vessels are  
26 separate from processing systems and are complete within  
27 themselves. The term does not include kitchen-type appliances or  
28 sterilizers used in medical applications when the device is  
29 designed not to exceed 5 psi internal pressure whether by use of  
30 a relief valve or other design.

1 "Commissioned private inspector." A person not employed by  
2 the Department of Labor and Industry nor by an insurance company  
3 or owner of one or more boilers or unfired pressure vessels who  
4 has satisfied the requirements for obtaining and maintaining a  
5 commission to perform inspections of boilers and unfired  
6 pressure vessels in this Commonwealth, under this act and the  
7 regulations promulgated by the department.

8 "Department." The Department of Labor and Industry of the  
9 Commonwealth.

10 ["Farms." Any properties or structures used primarily for  
11 production and/or raising of agriculture.]

12 "Field inspection." An internal/external inspection as  
13 defined by the National Board Inspection Code (ANSI/NB-23).

14 "Heat exchanger." A device used for the purpose of  
15 transferring heat or cold from one medium to another and having  
16 passages for each of the two streams of medium separated by a  
17 heat-exchange surface frequently in the form of plates or tubes.

18 "Heating boiler." A closed vessel in which water is heated  
19 or steam is generated by the direct application of heat from the  
20 combustion of fuels or from electricity for the purpose of  
21 providing heat to any part of a building. The heat may be  
22 distributed in the form of radiators, baseboard units, in floor  
23 convection coils or air heating coils for hot air heat. The term  
24 includes cast iron boilers, fire tube boilers, water tube  
25 boilers, fired heat exchangers and instantaneous hot water  
26 heaters or any type of heater, boiler or heat exchanger.

27 "Inspector." A person commissioned by the Department of  
28 Labor and Industry to field-inspect boilers or unfired pressure  
29 vessels in this Commonwealth. The term includes a commissioned  
30 private inspector.

1       "Instantaneous heating boiler." A vessel known as  
2 instantaneous, tankless, continuous flow, in-line, flash, on-  
3 demand or instant-on water heater designed and built to provide,  
4 but not to store, hot water used in hot water heating systems,  
5 similar to an instantaneous water heater, but constructed to  
6 meet the requirements of a heating boiler.

7       "Instantaneous water heater." A vessel known as  
8 instantaneous, tankless, continuous flow, in-line, flash, on-  
9 demand or instant-on water heater designed and built to provide,  
10 but not to store, hot water and which is limited to hot water  
11 supply.

12       "Modular boiler." An assembly of individual steam or hot  
13 water heating boilers consisting of a group of individual  
14 boilers called modules, intended to be installed as a unit, with  
15 no intervening stop valves between the modules, with a single  
16 inlet and a single outlet. Modules may be under one jacket or  
17 may be individually jacketed. The term does not include  
18 assemblies of fired heat exchangers constructed and stamped as a  
19 part, assembled under one jacket and connected with no  
20 intervening stop valves.

21       "National [board] Board." The National Board of Boiler and  
22 Pressure Vessel Inspectors.

23       "Person." Any individual, firm, partnership, unincorporated  
24 association, corporation or municipality. The term shall include  
25 the Commonwealth.

26       "Portable boiler." A boiler mounted on or in a truck,  
27 trailer or skid that is used as a temporary installation. The  
28 term includes portable boilers that heat any medium used in a  
29 process.

30       "Power boiler." A boiler in which steam or other vapor is

1 generated at a pressure of more than 15 [pounds per square inch  
2 (psi)] psi.

3 "Process boiler." Any vessel in which steam is generated or  
4 superheated under pressure or vacuum for use external to itself  
5 by direct or indirect application of heat. The source of heat  
6 must be in part or whole from a process other than the boiler  
7 itself. In order to be classified as a process boiler, the  
8 boiler must be directly tied to another process other than the  
9 generation of steam.

10 "Storage water heater." A vessel in which water is heated by  
11 the direct application of heat from the combustion of fuels or  
12 from electricity for the purpose of providing and storing hot  
13 water, which operates at a maximum pressure of 160 psi and a  
14 maximum temperature of 210°F and is limited to hot water supply.

15 "Unfired pressure vessel." Any vessel in which pressure is  
16 obtained from an external source or from an indirect application  
17 of heat.

18 Section 4. Design and construction.

19 (a) General rule.--Every boiler or unfired pressure vessel  
20 used or destined for use in this Commonwealth shall be [so  
21 designed and constructed with respect to the thickness and  
22 strength of the materials used in construction, stay bolts and  
23 braces, drums, headers, tubes, doors, riveting, welding, steam,  
24 air and water gauges, safety devices, blow-offs, all necessary  
25 piping and all other parts and appurtenances and shall be  
26 installed, operated and maintained] designed, constructed and  
27 installed in accordance with the codes adopted under this act,  
28 or any successor code adopted by the department, and shall be  
29 operated and maintained ~~so as~~ [AS] to safely sustain the  
30 pressure at which the boiler or unfired pressure vessel is

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1 designed and intended to operate.

2 (b) Interim requirements.--The department shall use the  
3 following codes and editions until such time as new regulations  
4 are promulgated and become effective:

5 (1) ASME Boiler and Pressure Vessel Codes 2010 edition  
6 and 2011 addenda.

7 (2) National Board Inspection Code (NBIC) (ANSI/NB23),  
8 2011 edition.

9 (3) National Fire Protection Association (NFPA) Code  
10 Pamphlet 85 (Boiler and Combustion Systems Hazards Code),  
11 2011 edition.

12 (4) ASME CSD1 Code Controls and Safety Devices, 2009  
13 edition.

14 (5) ASME Piping Code ASME B31.1 (Power Piping) and ASME  
15 B31.3 (Process Piping), 2010 edition.

16 Section 5. Construction of act.

17 Nothing in this act shall be construed to apply to:

18 (1) Boilers and unfired pressure vessels owned or  
19 operated by the Federal Government.

20 (2) Boilers and unfired pressure vessels regulated under  
21 the Atomic Energy Act of 1954 (68 Stat. 921, 42 U.S.C. § 2011  
22 et seq.).

23 (3) Pressure vessels used for the transportation of  
24 compressed gases if constructed and operated in compliance  
25 with specifications and regulations of the United States  
26 Department of Transportation. This paragraph includes the  
27 stationary use of these vessels.

28 (4) Air tanks located on vehicles operating under the  
29 rules of other Commonwealth agencies and used for carrying  
30 passengers or freight.

1 (5) Air tanks installed on the right-of-way of railroads  
2 and used directly in the operation of switcher and signals  
3 and under Federal or other Commonwealth agency jurisdiction.

4 (6) Boilers located in [single-family] one-family and  
5 two-family dwellings[, multiunit dwellings with four or fewer  
6 units].

7 (7) Boilers located in [farms, except in sales areas  
8 which are accessible to the public] agricultural buildings.

9 (8) Storage water heaters and instantaneous water  
10 heaters if all of the following limitations are not exceeded:

11 (i) A heat input of 200,000 BTUs/hour (58.6kW).

12 (ii) A water temperature of 210°F (99°C).

13 (iii) A nominal water-containing capacity of 12  
14 gallons (454 L).

15 (9) Unfired pressure vessels having an internal or  
16 external operating pressure of no more than 15 psi with no  
17 limitation on size when equipped with approved safety  
18 devices.

19 (10) Unfired pressure vessels with a nominal water  
20 containing capacity of up to 120 gallons containing liquid  
21 under pressure and not exceeding 100 psi at ambient  
22 temperature. These vessels include unfired pressure vessels  
23 that contain air, which is trapped in the system and where  
24 the compression air serves only as a cushion.

25 (11) Filters and softeners with a nominal water  
26 containing capacity of 120 gallons or less and pressures not  
27 exceeding 100 psi at ambient temperature.

28 (12) Air conditioner heat exchangers or chillers and  
29 refrigeration unit heat exchangers with a design pressure not  
30 more than 300 psi and a water temperature not more than

1       210°F.

2           (13) Any other type of boiler or unfired pressure vessel  
3       that the department may identify by regulation.

4 Section 6. Registration of boilers and unfired pressure  
5           vessels.

6       (a) Registration required.--The owner [or user] of every  
7 boiler or unfired pressure vessel subject to this act shall  
8 register with the department every boiler or unfired pressure  
9 vessel it operates, showing compliance with the provisions of  
10 this act and the regulations promulgated under this act. The  
11 registration shall be in a format prescribed by the department.

12       (b) Change of location.--If the location of any boiler or  
13 unfired pressure vessel, including a portable boiler, is  
14 changed, a change of address shall be filed with the department  
15 within ten days of the change in a format prescribed by the  
16 department.

17       (c) Change of use.--If the boiler or unfired pressure vessel  
18 is to be used for a purpose other than that shown on the  
19 original registration, the owner [or user] must reregister the <--  
20 equipment with the department prior to the change of use.

21       (d) Inspection.--No boiler or unfired pressure vessel shall  
22 be operated in this Commonwealth until it is inspected under  
23 sections 9 and 10 and the department issues a certificate of  
24 operation under section 11.

25 Section 7. Shop inspection.

26       (a) Inspection required.--Every boiler or unfired pressure  
27 vessel destined for use in this Commonwealth shall be inspected  
28 during its construction by an individual who has a valid  
29 [national board] National Board commission to perform an  
30 inspection. Every boiler or unfired pressure vessel which has

1 been so inspected shall, upon completion, have placed upon it [a  
2 stamp bearing a symbol and number authorized by the department  
3 for this purpose.] the appropriate ASME symbol. The following  
4 apply:

5       (1) The department may accept comparable shop inspection  
6 and quality control standards which are equivalent to or  
7 exceed the ASME or [national board] National Board standards.

8       (2) A manufacturer's data report for every boiler or  
9 unfired pressure vessel inspected under this subsection shall  
10 be registered with the [national board] National Board.

11       (b) Boiler not shop-inspected.--Any boiler or unfired  
12 pressure vessel which has not been shop-inspected and registered  
13 with the National Board as required under subsection (a) may be  
14 installed within this Commonwealth if either of the following  
15 requirements are met:

16       (1) Submission of an ASME data report and payment of a  
17 special equipment application fee.

18       (2) Submission of all of the documentation under this  
19 paragraph. For purposes of this paragraph, all tests shall be  
20 made under the supervision of a Commonwealth-commissioned  
21 inspector or an individual holding a valid National Board  
22 commission. The required documentation is as follows:

23               [(1) Submission of a] (i) A request for approval to  
24 install the equipment, in a form prescribed by the  
25 department, to the department.

26               [(2)] (ii) Furnishing of mill test reports of  
27 material to show compliance with the ASME Code or another  
28 code accepted by the department. If mill test reports or  
29 other required information cannot be produced, the  
30 department may, in its discretion, accept other

1           documentation.

2           [(3)] (iii) Furnishing of calculations and stress  
3 analyses showing the maximum allowable working pressure  
4 under the ASME Code or another code accepted by the  
5 department. These stress analyses shall be certified by a  
6 registered professional engineer.

7           [(4) If] (iv) Documentation of X-ray testing where  
8 equipment is of welded construction[,]. The documentation  
9 ~~must~~ SHALL show that all seams [that are] required to be <--  
10 X-rayed [by] ACCORDING TO the ASME Code or another code <--  
11 accepted by the department [shall be] were X-rayed.

12           [(5)] (v) Establishment that welding meets  
13 requirements of the ASME Code or another code accepted by  
14 the department. If names of welders or other required  
15 information cannot be produced, the department may, in  
16 its discretion, accept other documentation.

17           [(6)] (vi) Subjection of equipment to nondestructive  
18 examination or test that verifies structural integrity.

19           [(7) All tests shall be made under the supervision of a  
20 Commonwealth-commissioned inspector or an individual holding  
21 a valid national board commission.]

22           [(8)] (vii) Submission of a data sheet comparable to  
23 the appropriate ASME data report form and certified by a  
24 [national board-commissioned] National Board-commissioned  
25 inspector.

26           [(9) If mill test reports, names of welders or other  
27 required information cannot be produced, the department may,  
28 in its discretion, accept other documentation.

29           [(10)] (viii) Payment of a special equipment  
30 application fee.

1 [(11) Compliance with the requirements outlined under  
2 section 7.]

3 (c) Exemption.--[Boilers] A boiler built prior to December  
4 31, 1929, or [any] an unfired pressure [vessels] vessel built  
5 prior to June 1, 1938, which [have] has not been removed from  
6 this Commonwealth shall be exempt from the requirements of  
7 subsections (a) and (b).

8 Section 8. Repairs and alterations.

9 (a) General rule.--Repairs and alterations to [boilers and]  
10 a boiler or unfired pressure [vessels] vessel shall be made in  
11 accordance with [the requirements of the most current edition of  
12 the National Board Inspection Code (ANSI/NB-23) and] the edition  
13 of the code currently adopted by the department at the time of  
14 the repair or alteration, if technically feasible. If it is not <--  
15 technically feasible to repair or alter the boiler or unfired  
16 pressure vessel to the current code, the owner may use the code  
17 in effect at the time the boiler or unfired pressure vessel was  
18 constructed. Any repair or alteration must SHALL be performed by <--  
19 a person holding a [national board] National Board inspection  
20 code "R," "VR" or "NR" repair certificate [or a certificate of  
21 authorization issued by the ASME].

22 (b) Alternative repair or alteration guidelines.--The  
23 department may approve alternative repair or alteration  
24 guidelines for any boiler or unfired pressure vessel subject to  
25 section 7(b).

26 Section 9. Field inspection.

27 (a) Insurance company.--If a boiler or unfired pressure  
28 vessel is insured by a company authorized to insure boilers or  
29 unfired pressure vessels in this Commonwealth, the owner may  
30 request that the insurance company assure that a field

1 inspection is made by an inspector employed by the insurance  
2 company. The furnishing of or failure to furnish field  
3 inspections, insurance inspections or advisory services in  
4 connection with or incidental to the issuance or renewal of a  
5 policy of property, casualty or boiler and machinery insurance  
6 shall not subject the insurer, whether domestic or foreign, its  
7 agents, employees or service contractors to liability for  
8 damages from injury, death or loss occurring as a result of any  
9 act or omission in the course of those services. This provision  
10 shall not apply in the event the intentional act of the insurer,  
11 its agent, employee or service contractor created the condition  
12 that was the proximate cause of injury, death or loss.

13 (b) Inspector employed by owner.--[Boilers] A boiler or  
14 unfired pressure [vessels] vessel may be field-inspected by an  
15 inspector in the employ of the owner if all of the following  
16 apply:

17 (1) The inspector is a full-time employee of the owner  
18 for the purpose of making inspections of boilers or unfired  
19 pressure vessels used or to be used by the owner.

20 (2) The inspector has obtained a commission from the  
21 department as required under section [11] 12.

22 (3) The owner continuously maintains an engineering  
23 division.

24 (4) The [boilers] boiler or unfired pressure [vessels  
25 are] vessel is involved in process operations, of which a  
26 knowledge of the process, in addition to that of the  
27 construction of the vessels, is required by the inspector.

28 (5) The owner files regular field inspection reports  
29 with the department in a form approved by the department and  
30 pays the certificate fee set by the department through

1 regulation.

2 (c) Commissioned private inspector.--Boilers A BOILER or <--  
3 unfired pressure vessels VESSEL may be field inspected FIELD- <--  
4 INSPECTED by a commissioned private inspector if all of the  
5 following apply:

6 (1) The inspector, at the time of inspection, possesses  
7 a valid commission issued by the department under section 12.

8 (2) The inspector is employed by or possesses a  
9 certification as an authorized private inspection agency  
10 under section 12.

11 (3) THE BOILER OR UNFIRED PRESSURE VESSEL IS NOT INSURED <--  
12 BY A COMPANY AUTHORIZED TO INSURE BOILERS OR UNFIRED PRESSURE  
13 VESSELS IN THIS COMMONWEALTH, UNLESS THE INSPECTOR HAS  
14 CONTRACTED WITH SUCH COMPANY TO PERFORM THE FIELD INSPECTION.

15 [(c)] (d) Department inspector.--If the owner does not  
16 assure that a field inspection is made by an inspector, the  
17 boiler or unfired pressure vessel shall be inspected by a  
18 department inspector. The owner shall be responsible to pay the  
19 department a fee for the inspection.

20 (e) Failure to comply.--If the owner of a boiler or unfired  
21 pressure vessel fails to assure a field inspection is performed  
22 in accordance with the schedule set forth in section 11, the  
23 owner shall be subject to appropriate enforcement action as  
24 provided under this act.

25 [(d)] Regular field inspections.--Regular field inspections  
26 shall be made as follows:

27 (1) Power boilers and process boilers shall be field-  
28 inspected once every 12 months except as provided under  
29 subsections (e) and (f).

30 (2) Low-pressure steam vapor, hot water heating and hot

1 water supply boilers shall be field-inspected every two  
2 years.

3 (3) Unfired pressure vessels shall be inspected every  
4 three years.

5 (4) The department by regulation may adopt different  
6 inspection frequencies for specific classifications of  
7 boilers, miniature boilers and unfired pressure vessels.

8 (e) Power boiler internal inspections.--Power boiler  
9 internal inspections may be extended to 24 months if the  
10 following requirements are met:

11 (1) Continuous boiler water treatment under the direct  
12 supervision of persons trained and experienced in water  
13 treatment for the purpose of controlling and limiting  
14 corrosion and deposits.

15 (2) Recordkeeping available for review showing:

16 (i) The date and time the boiler is out of service  
17 and the reason therefor.

18 (ii) Daily analysis of water samples that adequately  
19 show the conditions of the water and any elements or  
20 characteristics which are capable of producing corrosion  
21 or other deterioration to the boiler or its parts.

22 (3) Annual external inspections are performed by a  
23 Commonwealth-commissioned inspector, which shall include a  
24 review of items under paragraphs (1) and (2).

25 (4) The boiler is operated under direct supervision of  
26 persons competent in all aspects of boiler operations.

27 (5) Inspection records demonstrate that no significant  
28 scaling, corrosion, erosion or overheating has occurred.

29 (f) Process boiler internal inspections.--Process boiler  
30 internal inspections may be extended to 60 months if:

1 (1) Conditions under subsection (e) (1), (2), (3) and (5)  
2 are met.

3 (2) The boiler is in continuous operation and is fully  
4 attended.

5 (g) Altering inspection.--The department upon the request of  
6 the owner, user or insurer of the boiler or unfired pressure  
7 vessel may alter the inspection schedule for a period of not  
8 more than six months.

9 (h) Certificate of operation.--The department upon written  
10 notification to the owner may limit issuance of the certificate  
11 of operation based on conditions reported by the department  
12 inspector.

13 (i) Extension.--Holders of current certificates of operation  
14 for process boilers or power boilers may apply for extension of  
15 their certificates by written request to the department. The  
16 request must include an assurance that all requirements  
17 specified in this act are being met. The department may carry  
18 out any necessary inspections to verify the accuracy of this  
19 assurance.]

20 (f) Report.--Each inspector shall forward to the department  
21 a report of each field inspection made of any boiler or unfired  
22 pressure vessel showing the exact condition of the boiler or  
23 unfired pressure vessel. Inspection reports shall be submitted  
24 within 15 days of the date of inspection. Inspection reports  
25 received more than 15 days after the inspection was made may be  
26 considered invalid by the department. The report shall be filed  
27 on the form and in the manner prescribed by the department.

28 Section 2. Sections 10, 11, 12, 13, 14, 15, 16, 17, 18 and  
29 19 of the act are repealed:

30 [Section 10. Issuance of certificates of operation.

1 (a) Report.--Every inspector shall forward to the department  
2 a report of each field inspection made of any boiler or unfired  
3 pressure vessel showing the exact condition of the boiler or  
4 unfired pressure vessel. Inspection reports shall be submitted  
5 within 30 days of the date of inspection. Inspection reports  
6 received 30 days after the inspection was made may be considered  
7 invalid by the department. This report shall be filed in a  
8 manner prescribed by the department.

9 (b) Initial certificate of compliance.--If the initial  
10 inspection indicates that the boiler or unfired pressure vessel  
11 is in compliance and is in a safe condition to be operated, the  
12 inspector shall so notify the department. The department shall  
13 issue an initial certificate of operation. The certificate of  
14 operation shall become valid upon payment of the appropriate  
15 fee.

16 (c) Renewal certificate.--If subsequent inspections indicate  
17 that the boiler or unfired pressure vessel is in a safe  
18 condition to be operated, the inspector shall so notify the  
19 department. The department shall issue a renewal certificate.  
20 The renewal certificate shall become valid upon payment of the  
21 appropriate fee.

22 (d) Boiler not to be operated.--If an inspection indicates  
23 that the boiler or unfired pressure vessel is not in a safe  
24 condition to be operated, the boiler or unfired pressure vessel  
25 shall not be operated until:

26 (1) Proper repairs are made in accordance with this act.

27 (2) An inspection or reinspection of the boiler or  
28 unfired pressure vessel indicates that it is in a safe  
29 condition to be operated.

30 (3) An initial certificate of operation or renewal

1 certificate of operation, as appropriate, is issued.

2 (e) Boiler dangerous to life or property.--If an inspector,  
3 upon inspection, finds that a boiler or unfired pressure vessel  
4 is dangerous to life or property, the inspector shall  
5 immediately notify the department of all facts in connection  
6 with the boiler or unfired pressure vessel. After review of all  
7 facts presented, the department may require the owner or user of  
8 the boiler or unfired pressure vessel to discontinue its  
9 operation immediately, and the department shall place a notice  
10 upon the boiler or unfired pressure vessel placing the boiler or  
11 unfired pressure vessel out of service. The owner or user of the  
12 boiler or unfired pressure vessel shall not operate the same  
13 until the requirements of subsection (d) are met.

14 Section 11. Inspector commissions and fees for examination.

15 (a) Examination.--No person shall perform field inspections  
16 until he has passed an examination administered by the  
17 department.

18 (b) Issuance of commission.--The department shall issue an  
19 inspector commission if the applicant passes the examination  
20 described under subsection (a) and remits the appropriate fee.

21 (c) Renewal.--An inspector shall renew his commission  
22 annually by submitting an application to the department,  
23 accompanied by the appropriate renewal fee.

24 (d) Suspension.--The Secretary of Labor and Industry may  
25 suspend an inspector commission for due cause. No inspector  
26 commission may be revoked until the inspector has been granted  
27 an opportunity to appear before the department at a hearing.

28 Section 12. Enforcement.

29 The department shall enforce this act and the regulations  
30 promulgated under this act.

1 Section 13. Placement of equipment out of service.

2 If the owner, operator or user of any boiler or unfired  
3 pressure vessel fails to comply with the provisions of this act  
4 or has received a written order served by the department  
5 requesting compliance with the provisions of this act and  
6 nevertheless fails to comply with the written order within the  
7 time specified, the department may immediately order the boiler  
8 or unfired pressure vessel to be placed out of service until the  
9 requirements of this act have been fully complied with.

10 Section 14. Regulatory authority.

11 The department may make, alter, amend or repeal regulations  
12 for the construction, stamping, installation, maintenance,  
13 repair, inspection and operation of boilers and unfired pressure  
14 vessels used or destined for use in this Commonwealth. The  
15 regulations may be based upon generally accepted national or  
16 international engineering standards, formulas and practices  
17 established and pertaining to boiler and unfired pressure vessel  
18 construction insofar as they are consistent with this act.

19 Section 15. Right of entry.

20 For the purposes of enforcing this act, the department shall  
21 have the power to enter any buildings or structures housing  
22 boilers or unfired pressure vessels, and no person shall hinder,  
23 delay or interfere with the department in the performance of its  
24 duty nor refuse information necessary to determine whether the  
25 provisions of this act are or will be complied with.

26 Section 16. Accident report.

27 The owner, user or operator of a boiler or unfired pressure  
28 vessel shall immediately notify the department by telephone,  
29 fax, telegraph or messenger of any accident. No part or parts of  
30 the affected equipment shall be removed or disturbed without the

1 permission of the department except to perform emergency rescue  
2 or limit serious property damage. Within five days of the  
3 accident, the owner, user or operator shall file with the  
4 department a written report in a form prescribed by the  
5 department.

6 Section 17. Fees.

7 Fees for inspections, certificates of operation, inspector  
8 commission examinations, inspector commission renewals,  
9 registration of equipment and special equipment application  
10 shall be as set forth in section 613-A of the act of April 9,  
11 1929 (P.L.177, No.175), known as The Administrative Code of  
12 1929, until changed by law.

13 Section 18. Procedure in prosecutions.

14 Prosecutions for violations of the provisions of this act or  
15 the regulations promulgated under this act may be instituted by  
16 the department and shall be in the form of summary proceedings  
17 before a district justice. Upon conviction after a hearing, the  
18 penalties provided in this act shall be imposed and shall be  
19 final unless an appeal is taken to a court of proper  
20 jurisdiction in the manner prescribed by law.

21 Section 19. Penalties.

22 (a) Violation of provisions.--A person who violates this act  
23 or the regulations promulgated under this act or who fails or  
24 neglects to pay the fees required by this act shall, upon  
25 conviction for the first offense, be sentenced to pay a fine of  
26 not more than \$500 plus costs and, upon nonpayment thereof, to  
27 imprisonment for not more than ten days. For each subsequent  
28 offense, the person shall, upon conviction, be sentenced to pay  
29 a fine of not more than \$1,000 plus costs and, upon nonpayment  
30 thereof, to imprisonment for not more than 30 days.

1 (b) Interfering with enforcement.--A person who hinders or  
2 delays or interferes with the department in the enforcement of  
3 this act shall, upon conviction, be sentenced to pay not more  
4 than \$500 for the first offense. For subsequent offenses, the  
5 person may be sentenced to pay not more than \$1,000 plus costs  
6 or to not more than three months' imprisonment, or both, in the  
7 discretion of the court.

8 (c) Refusal to put boiler out of service.--A person who  
9 fails or refuses to place a boiler or unfired pressure vessel  
10 out of service after the department serves notice on him and  
11 upon the boiler or unfired pressure vessel shall, upon  
12 conviction, be sentenced to pay \$500 per day for each day he  
13 fails or refuses to place the boiler or unfired pressure vessel  
14 out of service.]

15 Section 3. The act is amended by adding sections to read:  
16 Section 10. Field inspection frequency.

17 (a) General rule.--A boiler or unfired pressure vessel shall  
18 be inspected before being placed into service and on a periodic <--  
19 basis. Regular field inspection shall be made ON A PERIODIC <--  
20 BASIS as provided in this section.

21 (b) Power boilers and process boilers.--Power boilers and  
22 process boilers shall be internally field-inspected once every  
23 12 months, except as follows:

24 (1) Power boiler internal inspections may be extended to  
25 24 months if the following requirements are met:

26 (i) Continuous boiler water treatment under the  
27 direct supervision of persons trained and experienced in  
28 water treatment for the purpose of controlling and  
29 limiting corrosion and deposits.

30 (ii) Recordkeeping available for review showing:



1 (f) Boilers determined deficient.--If an inspector finds  
2 that a boiler is dangerous to life or property, the inspector  
3 shall immediately notify the department of all deficiencies and <--  
4 other pertinent facts. If the department determines that a  
5 boiler or unfired pressure vessel is not in a safe condition to  
6 be operated, the boiler or unfired pressure vessel shall not be  
7 operated until the following occur:

8 (1) Proper repairs are made in accordance with this act.

9 (2) An inspection of the boiler or unfired pressure  
10 vessel indicates that it is in a safe condition to be  
11 operated.

12 (3) A certificate of operation is issued by the  
13 department.

14 Section 11. Certificates of operation.

15 If the inspection report received pursuant to section 9(f)  
16 indicates that the boiler or unfired pressure vessel is in  
17 compliance with the applicable codes and is safe for operation,  
18 the department shall issue a certificate of operation. The  
19 certificate of operation is valid upon payment of the  
20 appropriate fee.

21 Section 12. Inspector commissions and authorized private  
22 inspection agencies.

23 (a) Inspector commissions.--

24 (1) No person shall perform field inspections until the  
25 person has passed an examination administered by the  
26 department.

27 (2) The department shall issue an inspector commission  
28 if the applicant passes the examination under paragraph (1)  
29 and remits the appropriate fee.

30 (3) An inspector ~~must~~ SHALL renew an inspection <--

1 commission annually by submitting an application to the  
2 department, accompanied by the appropriate fee.

3 (b) Authorized private inspection agencies.--

4 (1) Current certification as an authorized private  
5 inspection agency is required to conduct inspections of  
6 boilers or unfired pressure vessels if the inspector is not  
7 employed by an insurance company authorized to insure boilers  
8 or unfired pressure vessels in this Commonwealth, by the  
9 owner of the boiler or unfired pressure vessel or by the  
10 department.

11 (2) Any person, firm or corporation ~~wishing~~ INTENDING to <--  
12 be commissioned by the department to conduct inspections in  
13 the capacity of a commissioned private inspector shall first  
14 obtain certification as an authorized private inspection  
15 agency.

16 (3) The department may promulgate regulations for the  
17 certification and renewal of certification of authorized  
18 private inspection agencies. The regulations shall include:

19 (i) Submission of an application on a form  
20 established by the department.

21 (ii) Payment of a fee to be established by the  
22 department.

23 (iii) Submission of satisfactory proof of liability  
24 insurance for the purpose of compensation to third  
25 parties for injuries to persons or property, including,  
26 but not limited to, bodily injury and property damage,  
27 which result from or relate to an inspector's or agency's  
28 negligent inspection or recommendation for certification  
29 of a boiler or pressure vessel, in an amount to be  
30 established by the department.

1           (iv) Submission of proof of accreditation as an  
2           authorized inspection agency by the National Board.

3           (c) Lack of direct or indirect interest.--No person or  
4           entity shall be commissioned to act as an inspector or as an  
5           authorized private inspection agency if the person or entity  
6           possesses any direct or indirect interest in the manufacture,  
7           sale or repair of boilers or unfired pressure vessels. Any  
8           commissioned inspector or authorized private inspection agency  
9           that acquires an interest shall immediately disclose the  
10           interest to the department. The acquisition of the interest  
11           shall be grounds for suspension or revocation of a commission.

12           (d) Revocation.--The Secretary of Labor and Industry may  
13           suspend or revoke an inspector commission or commission as an  
14           authorized private inspection agency for just cause. Proceedings  
15           under this section are subject to the right of notice, hearing  
16           and adjudication under 2 Pa.C.S. (relating to administrative law  
17           and procedure). Proceedings shall be conducted under 1 Pa. Code  
18           Pt. II (relating to the general rules of administrative practice  
19           and procedure).

20           Section 13. Powers of department.

21           (a) Enforcement and regulation.--The department shall  
22           enforce this act and is empowered to promulgate and enforce  
23           regulations to implement this act. The regulations may be based  
24           upon generally accepted national or international engineering  
25           standards, formulas and practices established and pertaining to  
26           boiler and unfired pressure vessel construction insofar as they  
27           are consistent with this act.

28           (b) Interim regulations.--The department shall use the  
29           current regulations under 34 Pa. Code Ch. 3a (relating to boiler  
30           and unfired pressure vessel regulations) until new regulations

1 are promulgated and published as final rule in the Pennsylvania  
2 Bulletin and become effective, unless otherwise specified in  
3 this act.

4 Section 14. Department investigation.

5 (a) Authority to investigate.--The department is authorized  
6 to investigate violations of this act and regulations under this <--  
7 act.

8 (b) Right of entry.--For the purposes of enforcing this act,  
9 the department shall have the power to enter any building or  
10 structure housing boilers or unfired pressure vessels. No person  
11 shall hinder, delay or interfere with the department in the  
12 performance of its duty nor refuse information necessary to  
13 determine whether the provisions of this act have been or will  
14 be complied with.

15 Section 15. Accident report.

16 The owner of a boiler or unfired pressure vessel shall  
17 immediately notify the department of any accident involving the  
18 boiler or unfired pressure vessel. No part of the affected  
19 equipment shall be removed or disturbed without the permission  
20 of the department except to perform emergency rescue or limit  
21 serious property damage. Within five days of the accident, the  
22 owner shall file with the department a written report in a form  
23 prescribed by the department.

24 Section 16. Fees.

25 (a) Fees.--Fees for inspections, certificates of operation,  
26 inspector commission examinations, inspector commission  
27 renewals, registration of equipment and special equipment  
28 applications shall be as set forth in section 613-A of the act  
29 of April 9, 1929 (P.L.177, No.175), known as The Administrative  
30 Code of 1929.

1 (b) Disposition of fees collected.--All fees collected under  
2 this act or the rules and regulations established under this act  
3 shall be paid to the department and deposited in a restricted  
4 account to be used for the enforcement of this act.

5 Section 17. Department enforcement.

6 (a) Authority.--The department may, upon discovering a  
7 violation of this act or a regulation under this act, issue an <--  
8 order to place a boiler or unfired pressure vessel out of  
9 service. An order under this section ~~must~~ SHALL comply with all <--  
10 of the following:

11 (1) Be in writing.

12 (2) State any corrective action necessary.

13 (b) Appeal.--

14 (1) A person may appeal to the board the issuance of an  
15 order under subsection (a).

16 (2) This subsection is subject to 2 Pa.C.S. Chs. 5  
17 Subch. A (relating to practice and procedure of Commonwealth  
18 agencies) and 7 Subch. A (relating to judicial review of  
19 Commonwealth agency action).

20 Section 18. Administrative penalties.

21 (a) Administrative penalty.--The department may impose the  
22 following administrative penalties for each violation of this  
23 act:

24 (1) A fine of no more than ~~\$5,000~~ \$2,500 for each <--  
25 violation of this act.

26 (2) Any other corrective action that it deems necessary  
27 to address a violation of this act.

28 (b) Separate violation.--A violation of this act occurs for  
29 each boiler or unfired pressure vessel that is found to be in  
30 violation of this act.

1 (c) Procedure.--This section is subject to 2 Pa.C.S. Chs. 5  
2 Subch. A (relating to practice and procedure of Commonwealth  
3 agencies) and 7 Subch. A (relating to judicial review of  
4 Commonwealth agency action).

5 (d) Disposition of fines collected.--All fines collected  
6 under this act or the rules and regulations established under  
7 this act shall be paid to the department and deposited in a  
8 restricted account to be used for the enforcement of this act.

9 Section 4. This act shall take effect as follows:

10 (1) The addition of sections 9(c) and 12(b) of the act  
11 shall take effect 60 days following publication of notice in  
12 the Pennsylvania Bulletin that the regulations required to  
13 commission authorized private inspection agencies have been  
14 finally adopted.

15 (2) The remainder of this act shall take effect in 180  
16 days.