REQUEST FOR TECHNICAL CHANGE

AGENCY: N.C. DEPARTMENT OF LABOR

DEADLINE FOR RECEIPT: TUESDAY, JUNE 14, 2011

RULE CITATION: 13 NCAC 13 .0101

The staff of the Rules Review Commission has completed its opinion review of the rule or set of rules your agency filed with us for review by the RRC at its next meeting. The Commission has not yet met and therefore there has not been a determination as to whether the rule will be approved.

In reviewing the rules, the staff determined that one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.1.

*In the introductory sentence of this rule please delete in lines 4 and 5 “and shall be construed as controlling … in any other standard or code.” This is a legal conclusion outside the agency’s rulemaking authority regardless of whether or not it is a correct conclusion. It would certainly likely not be correct in the case of a conflict with, e.g., North Carolina statutory definitions. On the other hand if you wished to specify that in the event of a conflict with another non-statutory or public law controlling definition (e.g. one from a private association) the definitions found in these rules control, then you can specify that. This is the approach used in Rule .0103.*

*In addition in line 4 change the comma following “Chapter,” to a colon.*

*In (8) line 33 either delete the commas before and after “as defined in G.S. 95-69.9(b)” (preferred) or move the comma following “’Boiler’,” to inside the quotation mark immediately following “Boiler” (“Boiler,”).*

*In (8) at the end of (a) page 1 line 37 and (b) – (d) page 2 lines 8, 18 and 22 change the period to a semicolon. At the end of (8)(d) page 2 line 22 add the word “and” after the semicolon.*

*Follow the same formatting and change (8)(b)(i) – (iii) and (8)(c)(i) and (ii), page 2 lines 5, 6, 7, 14 and 16.*

*These two changes will make the formatting consistent with most of the other sub- and sub-sub-items in this rule.*

*Given the definitions of high and low pressure boiler in (8)(b) and (c) could a low pressure boiler with a temperature less than 250°F but pressure less than 160 psig still have pressure above 15 psig? If so, would that still not meet the definition of a high pressure boiler? I think there might be some other permutations that I could think about that would seem to be a problem.*

*Please verify that in (10) the entire term “boiler proper or pressure vessel” is meant to be in quotes and is the term defined and that it is not actually meant to be the same definition for two different terms, “boiler proper” and “pressure vessel.” Based on its use within the definition it seems to me that it is the latter. But I’ll accept whatever you tell me.*

*In (14), page 3 line 10, if a “steam drum” has “no steam space” I think it would be better to place it immediately after “boiler” with or without any commas. If a steam drum does have “steam space” I think the rule might be clearer if you deleted any reference to a steam drum.*

*At the end (41)(a) page 5 line 21 change the period to a semicolon and add the word “and” following the semicolon.*

*At the end of (41)(b)(i) and (ii) page 5 lines 27 and 31 change the periods to semicolons and add the word “and” following the semicolon at the end of line 31.*

*It seems to me that the definition of “safety valve” in (41)(b)(iii) is redundant and essentially repeats the definition for a specific type of “safety relief valve” found in (ii). Given the definition of “safety relief valve” a “safety valve” will also always be a “safety relief valve.” Therefore it seems to me the definition is unnecessary and should be deleted.*

*If sub-sub-item (41)(b)(iii) is deleted it means that the request concerning changing the periods to semicolons and adding the word “and” will have to be adjusted accordingly.*

*In (44) page 6 line 3 it seems to me that “owners” should be “owner’s.”*

*Also please see the comments concerning Rule .0211 and the use of “NB.”*

Please retype or otherwise correct the rule(s) or submission form(s) as necessary and submit it along with two copies and an electronic copy to our office at 1711 New Hope Church Rd., Raleigh, North Carolina 27609.

If you have any questions or problems concerning this request, please contact me.

Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: N.C. DEPARTMENT OF LABOR

DEADLINE FOR RECEIPT: TUESDAY, JUNE 14, 2011

RULE CITATION: 13 NCAC 13 .0103

The staff of the Rules Review Commission has completed its opinion review of the rule or set of rules your agency filed with us for review by the RRC at its next meeting. The Commission has not yet met and therefore there has not been a determination as to whether the rule will be approved.

In reviewing the rules, the staff determined that one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.1.

*In the introductory sentence change the period at the end of line 6 (after “exists”) to a colon. As an alternative you could put the colon at the end of the first sentence and move the second sentence to the end of the rule. You could even make the first sentence paragraph (a) and the second (b). If you do move the second sentence be sure to change “following” in line 5 to “above” or similar language.*

*You also need to specify that where the NC Building Code does apply it would (likely) still control over a weaker provision in one of your rules. You could specify that the “stricter” or “more stringent” (or similar term) prevails in the event of a conflict between codes.*

*In (1) line 13 change “and/or” to “and” or “or.”*

*In (3) line 23 it seems to me that “may also either be obtained from” should be “may also be obtained either from.”*

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Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: N.C. DEPARTMENT OF LABOR

DEADLINE FOR RECEIPT: TUESDAY, JUNE 14, 2011

RULE CITATION: 13 NCAC 13 .0202

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In reviewing the rules, the staff determined that one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.1.

*In (c) line 13 unless the term “inactive” is defined elsewhere it is unclear what constitutes an “inactive” commission. If it is “one inspection … per year” then the “inactive” part of that sentence is unnecessary. If the term is defined elsewhere please reference where it is found.*

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REQUEST FOR TECHNICAL CHANGE

AGENCY: N.C. DEPARTMENT OF LABOR

DEADLINE FOR RECEIPT: TUESDAY, JUNE 14, 2011

RULE CITATION: 13 NCAC 13 .0204

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In reviewing the rules, the staff determined that one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.1.

*Have you given any thought to rewording the introduction to the prohibitions in this rule as: “No one holding a commission in North Carolina shall engage …”? I can’t give an adequate explanation for this, but the present introduction doesn’t ring true to me. However it is correct – I think – and the call is up to you.*

*In item (4) is it a conflict of interest for an owner-user inspector to also perform such services for another company? What about an insurance inspector performing such services for a company not insured by his employer?*

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REQUEST FOR TECHNICAL CHANGE

AGENCY: N.C. DEPARTMENT OF LABOR

DEADLINE FOR RECEIPT: TUESDAY, JUNE 14, 2011

RULE CITATION: 13 NCAC 13 .0208

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In reviewing the rules, the staff determined that one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.1.

*In (a) line 5 I am not sure what you mean by boiler or pressure vessel “risks.” But it appears that what you might mean is actually encompassed by the three sub-paragraphs included. If that is the case you should change “notify the Chief Inspector within 30 days regarding actions taken on all boiler or pressure vessel risks, including” to “notify the Chief Inspector within 30 days any of the following actions taken concerning boilers or pressure vessels:” or similar language.*

*In (b) line 11 please change “because” to “because of.”*

*In (c) line 14 there is an extraneous space between the phone number and the comma.*

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REQUEST FOR TECHNICAL CHANGE

AGENCY: N.C. DEPARTMENT OF LABOR

DEADLINE FOR RECEIPT: TUESDAY, JUNE 14, 2011

RULE CITATION: 13 NCAC 13 .0209

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In reviewing the rules, the staff determined that one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.1.

*In line 7 please delete (or define) “formally.”*

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Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: N.C. DEPARTMENT OF LABOR

DEADLINE FOR RECEIPT: TUESDAY, JUNE 14, 2011

RULE CITATION: 13 NCAC 13 .0211

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*In (m) page 2 line 12 delete or define “highly.” It seems to be encompassed in the phrase that follows: “that require level B personal protective equipment, or ….”*

*lines 14 and 15 delete the commas before and after “by video camera.”*

*In (m) the initials “NB” are used at least twice. I presume it means “National Board.” But that is not certain. Whatever it does mean should be defined either in this rule or the definitions rule.*

*In (m)(3) line 22 delete or define “close.” The word “proximity” includes the concept of “close” as part of the meaning of the word.*

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REQUEST FOR TECHNICAL CHANGE

AGENCY: N.C. DEPARTMENT OF LABOR

DEADLINE FOR RECEIPT: TUESDAY, JUNE 14, 2011

RULE CITATION: 13 NCAC 13 .0212

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In reviewing the rules, the staff determined that one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.1.

*In (a)(2) line 7 delete or define “thoroughly.”*

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REQUEST FOR TECHNICAL CHANGE

AGENCY: N.C. DEPARTMENT OF LABOR

DEADLINE FOR RECEIPT: TUESDAY, JUNE 14, 2011

RULE CITATION: 13 NCAC 13 .0214

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*In the introductory paragraph line 7 delete or define “thorough.”*

*At the end of that introduction there needs to be an additional sentence to indicate what items (1) – (6) are. A better alternative might be to label the first unlabeled paragraph (a) and items (1) – (6) as (b) – (g).*

*Regardless of which format is used, at the end of current (1)(a) – (c), lines 23, 28 and 33 change the periods to semicolons and add the word “and” after the semicolon at the end of (c) line 33.*

*Please apply the same formatting in (2) – (4) pages 2 and 3, and (4)(c)(i) and (ii) page 3.*

*In (2) page 2 lines 3 – 6, the introduction in both (2) and (2)(a) should be combined to introduce the sub-items (b) – (d) which would become (a) – (c). You might also rework (2) into sub-items of how to initiate the inspection process along with any other substantive items that are also included that might not be included as part of the “initiat[ion of] the inspection process.”*

*For consistency it seems to me that “External Inspection” should be lower case in (2)(d) lines 13, 14, and 15.*

*The same applies in (3) line 19.*

*In (3)(g) page 2 line 30 delete “a” in “a copies.”*

*In (4) line 35 “Inspections” should be lowercase.*

*Likewise “Operational Test” in (4)(a) line 36.*

*It seems to me that in item (6) page 3 line 22 you do need the word “form” or something similar.*

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REQUEST FOR TECHNICAL CHANGE

AGENCY: N.C. DEPARTMENT OF LABOR

DEADLINE FOR RECEIPT: TUESDAY, JUNE 14, 2011

RULE CITATION: 13 NCAC 13 .0301

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*In (f) line 18 delete or define “detailed.”*

*In line 20 it seems to me that the word “detail” should be changed to “note” or other similar term.*

*In (f) line 21 “Owner/User” is usually lowercase.*

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REQUEST FOR TECHNICAL CHANGE

AGENCY: N.C. DEPARTMENT OF LABOR

DEADLINE FOR RECEIPT: TUESDAY, JUNE 14, 2011

RULE CITATION: 13 NCAC 13 .0401

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*In (d) line 14 make “Alterations” lowercase.*

*In (e) line 17 delete or define “strict.”*

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AGENCY: N.C. DEPARTMENT OF LABOR

DEADLINE FOR RECEIPT: TUESDAY, JUNE 14, 2011

RULE CITATION: 13 NCAC 13 .0409

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*In (a) and (b) correct the formatting at the ends of (1) – (4). Change the periods to semicolons and add the word “and” after the semicolon in (a)(4) and (b)(4).*

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AGENCY: N.C. DEPARTMENT OF LABOR

DEADLINE FOR RECEIPT: TUESDAY, JUNE 14, 2011

RULE CITATION: 13 NCAC 13 .0411

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*In (c), (d) and (i) correct the formatting at the ends of (c)(1) – (3), (d)(1) – (3) and (i)(1) and (2). Change the periods to semicolons and add the word “and” after the semicolon in (c)(3), (d)(3) and (i)(2).*

*In (j) line 17 please verify that there is no requirement concerning the maximum height for the internal drain pipe above the lowest internal surface.*

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