



South Carolina Boiler Safety Program

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New Boiler Installation Exemption for Installation and Operation or Variance

South Carolina Boiler Safety Program

Document 230

Any new boiler installed and operated in this State, unless otherwise exempted, must be designed and constructed in accordance with the ASME Code or a nationally recognized code of construction. Any new boiler installed in this State must be marked in accordance with the code of construction and must be registered with the National Board of Boiler and Pressure Vessel Inspectors. Copies of registration documents must be provided to the jurisdiction when requested.

Only a boiler that conforms **to the regulations of the department governing installation** must be **installed and operated in this State** after twelve months from the date upon which the first regulations under this chapter pertaining to installation have become effective; however, the department may issue a special installation and operating permit for a boiler that is of **special design or construction** and that is consistent with the spirit and safety objectives of the regulations. The department shall issue a special installation and operating permit after determining on the record and after an opportunity for inspection of the boiler or the plans for the boiler that the proponent of the special permit has demonstrated by a preponderance of the evidence that the special design or construction will provide an equivalent degree of safety to that of conformance with the regulations. The department shall accept comments from any interested party concerning the application for a special installation and operating permit. The permit so issued shall prescribe the conditions the owner or operator must maintain.

Any person who believes the boiler safety standards promulgated by the Department impose an undue burden upon the owner or user **may request a variation** from such rule or regulation. The request for variation shall be in writing and shall specify how equivalent safety is to be maintained. The Department, after investigation and such hearing as it may grant such variation from terms of any rule or regulation provided such special conditions as may be specified are maintained in order to provide equivalent safety. A copy of the application for variation **shall be given by the owner** or use to affected employees and to the local fire authority, who shall be given adequate opportunity to respond in writing and to appear and offer evidence at any hearing.

When there is a reason to believe, or upon receipt of a complaint that a variation does not provide freedom from danger equivalent to the published rule or regulation, the Department after notice to the owner or user to the complainant and to the affected employees and the local fire authority and after such hearing and investigation as it may direct, may continue to reaffirm, suspend, revoke, or modify the conditions specified in any variation.

No declaration, act, or omission of the Department, chief boiler administrator, or special inspectors, other than a written order authorizing a variation as permitted above, shall be deemed to exempt, either wholly or in part, expressly or implied, any owner or user from full compliance with the terms of any rule or regulation.

Any owner of a boiler may apply to the South Carolina Labor, Licensing and Regulation, Boiler Safety Program for an exemption or variance from Regulation Section 71-9102 of the 2005 Code of Laws of South Carolina for the installation of new boilers and Section 71-9103.1 for existing boilers.

(A) Such requests shall be granted at the discretion of the Department's director if the owner establishes by sufficient evidence that:

- (1) The owner is unable to comply with a rule or regulation because of unavailability of materials and equipment needed to come into compliance with the rule or regulation; and
- (2) The owner is taking effective steps alternative steps to safeguard the public and the owner's employees against the hazard covered by the rule or regulation.

(B) An exemption or variance request shall include:

- (1) The name and address of the petitioner;
- (2) identifying information concerning the facility for which the variance is sought;
- (3) a specification of the standard or portion thereof for which the variance is sought;
- (4) a representation by the petitioner, supported by statements from qualified persons having first-hand knowledge of the facts represented, that he/she is unable to comply with the standards or portion thereof and detailed statement of the reasons thereof;
- (5) A statement of the steps the petitioner has taken or will take, with specified dates where appropriate, to protect against the hazard addressed by the standards;
- (6) Where a temporary variance is sought, a statement of the time required to achieve compliance with the standard, not to exceed two (2) years; and
- (7) The owner must immediately provide a copy of the request to affected employees and local fire authority with appropriate documentation of the notification accompanying the variance request to the Department.