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RULE PROPOSALS

**LABOR AND WORKFORCE DEVELOPMENT
DIVISION OF PUBLIC SAFETY AND OCCUPATIONAL SAFETY AND HEALTH**

49 N.J.R. 3417(a)

Proposed Readoption with Amendments: *N.J.A.C. 12:90*

[Click here to view Interested Persons Statement](#)

Boilers, Pressure Vessels, and Refrigeration

Authorized By: Aaron R. Fichtner, Ph.D., Acting Commissioner, Department of Labor and Workforce Development.

Authority: *N.J.S.A. 34:1-20, 34:1-47, 34:1A-3, and 34:7-18*; and Reorganization Plan 002-2002.

Calendar Reference: See Summary below for explanation of exception to the calendar requirement.

Proposal Number: PRN 2017-256.

A **public hearing** on the proposed readoption with amendments will be held on the following date at the following location:

Thursday, November 16, 2017

10:00 A.M. to 12:00 Noon

NJ Department of Labor and Workforce Development

John Fitch Plaza

3rd Floor, Large Conference Room

Trenton, New Jersey

Please call the Office of Legal and Regulatory Services at (609) 292-2789 if you wish to be included on the list of speakers.

Submit written comments by December 15, 2017, to:

David Fish, Executive Director

Legal and Regulatory Services

NJ Department of Labor and Workforce Development

PO Box 110
13th Floor
Trenton, New Jersey 08625-0110
E-mail: david.fish@dol.nj.gov.

The agency proposal follows:

Summary

Pursuant to *N.J.S.A. 52:14B-5.1*, *N.J.A.C. 12:90*, Boilers, Pressure Vessels, and Refrigeration, was scheduled to expire on October 1, 2017. In accordance with *N.J.S.A. 52:14B-5.1.c(2)*, by submission of this notice of proposal to the Office of Administrative Law prior to the expiration date, the expiration date is extended 180 days to March 30, [page=3418] 2018. The Department has reviewed the chapter and, with the exception of the technical amendments described below, has determined the chapter to be necessary, reasonable, and proper for the purposes for which it was originally promulgated. Accordingly, the Department proposes that *N.J.A.C. 12:90* be readopted with amendments.

A summary of the subchapters proposed for readoption follows:

N.J.A.C. 12:90-1 sets forth general provisions, including the purpose and scope of the chapter.

N.J.A.C. 12:90-2 provides the definitions for the chapter.

N.J.A.C. 12:90-3 addresses administrative functions required to be performed by the owner or user of any boiler, pressure vessel, or refrigeration system covered by this chapter.

N.J.A.C. 12:90-4 concerns various types of boilers and their inspection and registration.

N.J.A.C. 12:90-5 addresses unfired pressure vessels, their design, inspection, and registration.

N.J.A.C. 12:90-6 concerns refrigeration systems.

N.J.A.C. 12:90-7 concerns pressure relief valves.

N.J.A.C. 12:90-8 addresses licensing of operating engineers and boiler operators.

N.J.A.C. 12:90-9 addresses violations and penalties.

N.J.A.C. 12:90-10 addresses standards and publications referred to in this chapter.

A summary of the proposed amendments follows:

Within *N.J.A.C. 12:90-2.1*, Definitions, the Department is proposing to delete existing definitions for the abbreviations "N.J.A.C." and "N.J.S.A.," as these definitions are not necessary.

As the Department has provided a 60-day comment period for this notice of proposal, this notice is excepted from the rulemaking calendar requirements pursuant to *N.J.A.C. 1:30-3.3(a)5*.

Social Impact

The rules proposed for readoption with amendments would enable the Department to protect the lives and safety of persons who operate boilers, pressure vessels, and refrigeration units or who live or work in buildings in which this equipment is in use. By maintaining strict licensing and enforcement procedures, the Department can help eliminate accidents caused by human error and equipment failure.

Economic Impact

The rules proposed for readoption with amendments have required and would continue to require owners and operators of boilers, pressure vessels, and refrigeration units to incur maintenance costs. The cost of maintaining boilers, pressure vessels, and refrigeration units in accordance with the rules varies according to the size, nature, age, and condition of the equipment. These costs are necessary for the protection and safety of persons who work with, or live or work in proximity to, the equipment, and failure to maintain the equipment in accordance with these standards would have significant adverse effects in terms of loss of life and property and consequent liability. Also, the rules proposed for

readoption with amendments would require owners and operators of this equipment to pay inspection fees, which vary depending on the nature of the equipment.

Federal Standards Statement

The rules proposed for readoption with amendments are governed by *N.J.S.A. 34:7-1* et seq., and *34:7-14* et seq., and are not subject to any Federal standards or requirements. Therefore, a Federal standards analysis is not required.

Jobs Impact

The Department does not anticipate that any jobs would be lost as a consequence of the rules proposed for readoption with amendments. The rules proposed for readoption with amendments have required and would continue to require owners and operators of boilers, pressure vessels, and refrigeration equipment to have workers available who are able to maintain the equipment in accordance with the chapter. This has resulted and would continue to result in the creation of jobs and would continue to maintain the need for existing jobs in this area.

Agriculture Industry Impact

The rules proposed for readoption with amendments would have an impact on the agriculture industry to the extent that a farm operator may be the owner or operator of boilers, pressure vessels, or refrigeration equipment in some aspect of operations, in which case the farm operator would be required to comply with the rules, just as would any other owner or operator of such equipment. The impact would vary depending on the size, nature, and condition of the equipment.

Regulatory Flexibility Analysis

The rules proposed for readoption with amendments would continue to impose reporting, recordkeeping, and other compliance requirements upon owners and operators of boilers, pressure vessels, and refrigeration units, some of whom may be "small businesses" within the meaning of the New Jersey Regulatory Flexibility Act, *N.J.S.A. 52:14B-16* et seq.

The reporting requirements imposed by the rules proposed for readoption with amendments include the filing of reports of repairs, design plans, alterations, tests, and employment of unlicensed persons, and filing of applications for approvals. The recordkeeping requirements imposed by the rules proposed for readoption with amendments are the maintenance of logs concerning equipment performance by various categories of licensed persons. The compliance requirements imposed by the rules proposed for readoption with amendments provide that boilers, pressure vessels, and refrigeration equipment using toxic or flammable refrigerants must be maintained and, when necessary, operated by licensed individuals. The professional services of such individuals would have to be contracted for if there were no qualified individual in the owner or operator's employ. No other professional services would be required to be retained to comply with the rules proposed for readoption with amendments.

The rules proposed for readoption with amendments would continue to impose specific technical requirements for the design, construction, inspection, installation, repair, and alteration of these types of equipment. The rules proposed for readoption would also impose inspection fees and requirements for registration certificates.

The Division has determined that these rules proposed for readoption with amendments are necessary for the protection of the lives and safety of persons who work with, or live or work in proximity to, boilers, pressure vessels, and refrigeration units. The Division has not provided differing or lesser standards for small businesses because this would endanger the safety and welfare of workers and the public generally.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments would not evoke a change in the affordability of housing or the average costs associated with housing. The basis for this finding is that the rules proposed for readoption with amendments pertain to boilers, pressure vessels, and refrigeration systems, not housing.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments would not evoke a change in the housing production within Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan. The basis for this finding is that the rules proposed for readoption with amendments pertain to boilers, pressure vessels, and re-

frigeration systems and do not pertain to housing production, either within Planning Areas 1 or 2, within designated centers, or anywhere in the State of New Jersey.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at *N.J.A.C. 12:90*.

Full text of the proposed amendments follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

CHAPTER 90
BOILERS, PRESSURE VESSELS, AND REFRIGERATION

SUBCHAPTER 2. DEFINITIONS

12:90-2.1 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

[page=3419] ...

["N.J.A.C." means the New Jersey Administrative Code.]

["N.J.S.A." means the New Jersey Statutes Annotated.]

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