

Possible Amendments to Minn. Stat. Chapters 326B and 327B (2009)
Proposed by Minnesota Department of Labor and Industry

Note: Amendments in *italics* are included in HF 0927, 5th engrossment (posted 5/19/09). Words that are added by HF 0927 are shown as underlined italics. Words that are deleted by HF 0927 are shown as ~~stricken italics~~.

Amendments that are not in italics need to be included in a new fee restructuring bill. Words that need to be added by the fee restructuring bill are shown as underlined (not italics). Words that need to be deleted by the fee restructuring bill are shown as ~~stricken (not italics)~~.

CHAPTER 326B. CONSTRUCTION CODES AND LICENSING

326B.01 DEFINITIONS.

Subdivision 1. **Scope.**

The definitions in this section apply to this chapter.

Subd. 2. **ASME.**

"ASME" means the American Society of Mechanical Engineers.

Subd. 3. **Commissioner.**

"Commissioner" means the commissioner of labor and industry or a duly designated representative of the commissioner who is either an employee of the Department of Labor and Industry or a person working under contract with the department.

Subd. 4. **Department.**

"Department" means the Department of Labor and Industry.

Subd. 5. **Day.**

"Day" means calendar day unless otherwise provided.

Subd. 6. **Individual.**

"Individual" means a human being.

Subd. 7. **Person.**

"Person" means any individual, limited liability company, corporation, partnership, incorporated or unincorporated association, sole proprietorship, joint stock company, or any other legal or commercial entity.

326B.02 POWERS.

Subdivision 1. **Transfer of responsibilities.**

The responsibilities of the commissioner of administration relating to the State Building Code, sections 16B.59 to 16B.76; construction of low-cost manufactured home park storm shelters, section 327.205; manufactured homes, sections 327.31 to 327.36 and 327B.01 to 327B.12; and statutory warranties in connection with the sale of dwellings and home improvement work, chapter 327A, are transferred under section 15.039 to the commissioner of labor and industry as amended and recodified in this chapter. The responsibilities of the commissioner of health relating to the State Plumbing Code and licensing, sections 16B.61, 144.99 to 144.993, and 326.37 to 326.45, and water conditioning contractors and installers, sections 326.57 to 326.65, are transferred under section 15.039 to the commissioner of labor and industry as amended and recodified in

(3) If the commissioner determines that the person to whom the order was issued has failed to correct the violation within the time set by the order or has failed to develop a correction plan acceptable to the commissioner within the time set by the order, then the forgivable portion of the penalty is due and payable 20 days after the commissioner serves notice of the determination on the person or on the date the administrative order becomes final, whichever is later.

(c) This paragraph applies if an administrative order or a licensing order includes a penalty assessment and if the person subject to the order has requested a hearing. The administrative law judge may not recommend a change in the amount of the penalty if the penalty was assessed in accordance with a plan prepared under section 326B.082, subdivision 14. If the commissioner has not prepared a plan under section 326B.082, subdivision 14, then the administrative law judge may not recommend a change in the amount of the penalty unless the administrative law judge determines that, based on the factors in section 14.045, subdivision 3, the amount of the penalty is unreasonable.

(d) The assessment of a penalty does not preclude the use of other enforcement provisions, under which penalties are not assessed, in connection with the violation for which the penalty was assessed.

326B.084 FALSE INFORMATION.

Subdivision 1. False information. A person subject to any of the requirements in the applicable law may not make a false material statement, representation, or certification in; omit material information from; or alter, conceal, or fail to file or maintain a notice, application, record, report, plan, or other document required under the applicable law.

Subd. 2. Unlicensed advertising. *No person shall offer to perform services for which a license issued by the commissioner is required unless the person holds an active license to perform those services. Nothing herein shall prohibit an offer to sell, repair, or perform services provided those services are performed by a licensed person.*

326B.085 RECOVERY OF LITIGATION COSTS AND EXPENSES.

In any action brought by the commissioner for enforcement of an order issued under section 326B.082 for injunctive relief, or to compel performance pursuant to the applicable law, if the state finally prevails, the state, in addition to other penalties provided by law, may be allowed an amount determined by the court to be the reasonable value of all or part of the litigation expenses incurred by the state. In determining the amount of the litigation expenses to be allowed, the court shall give consideration to the economic circumstances of the defendant.

GENERAL LICENSING AND CONTINUING EDUCATION REQUIREMENTS

326B.091 DEFINITIONS.

Subdivision 1. Applicability. For purposes of sections 326B.091 to 326B.098, the terms defined in this section have the meanings given them.

Subd. 2. Applicant. "Applicant" means a person who has submitted to the department an application for a license.

Subd. 3. License. "License" means any registration, certification, or other form of approval authorized by chapters 326B and 327B to be issued by the commissioner or department as a condition of doing business or conducting a trade, profession, or occupation in Minnesota. "License" includes specifically but not exclusively an authorization issued by the commissioner or department: to perform electrical work, plumbing or water conditioning work, high pressure piping work, or residential building work of a residential

contractor, residential remodeler, or residential roofer; to install manufactured housing; to serve as a building official; or to operate a boiler or boat.

Subd. 4. **Licensee.** “Licensee” means the person named on the license as the person authorized to do business or conduct the trade, profession, or occupation in Minnesota.

Subd. 5. **Notification date.** “Notification date” means the date of the written notification from the department to an applicant that the applicant is qualified to take the examination required for licensure.

Subd. 6. **Renewal deadline.** “Renewal deadline,” when used with respect to a license, means 30 days before the date that the license expires.

326B.092 FEES.

Subdivision 1. Licenses requiring examination administered by commissioner.

- (a) If the applicant for a license must pass an examination administered by the commissioner in order to obtain the license, then the application for the initial license must be accompanied by an application/examination fee of \$60, which is separate from the license fee. The license fee is due after the applicant passes the examination and before the license is issued.
- (b) If the applicant for a Minnesota license holds a license in another state and is seeking Minnesota licensure without examination based on reciprocity, then the application for the Minnesota license must be accompanied by the application/examination fee of \$60, which is separate from the license fee. If the commissioner approves the application, then the license fee is due before the license is issued.

Subd. 2. **Licenses not requiring examination administered by commissioner.** If the applicant for a license is not required to pass an examination in order to obtain the license, or is required to pass an examination that is not administered by the commissioner, then the license fee must accompany the application for the license. If the application is for a license issued under sections 326B.802 to 326B.885 and is not an application for license renewal, then the contractor recovery fund fee required under section 326B.89, subdivision 3, is due after the department has determined that the applicant meets the qualifications for licensing and before the license is issued.

Subd. 3. **Late fee.** The department must receive a complete application for license renewal by the renewal deadline but not more than 90 days before the renewal deadline. If the department receives a renewal application after the expiration of the license, then the renewal application must be accompanied by a late fee equal to one-half of the license renewal fee; except that, for the purpose of calculating the late fee only, the license renewal fee shall not include any contractor recovery fund fee required by section 326B.89, subdivision 3.

Subd. 4. **Lapsed license fee.** If the department receives a renewal application within two years after expiration of the license, the renewal application must be accompanied by all license renewal fees to cover the period that the license was expired, plus the late fee described in subdivision 3 and the license renewal fee for the current renewal period.

Subd. 5. **Insufficient fees.** If the applicant does not include all required fees with the application, then the application will be incomplete and the department will notify the applicant of the amount of the deficiency.

Subd. 6. **Fees nonrefundable.** Application/examination fees, license fees, license renewal fees, and late fees are nonrefundable except for: (1) license renewal fees received more than two years after expiration of the license, as described in section 326B.094, subdivision 2; (2) any overpayment of fees; and (3) if the license is not renewed, the contractor recovery fund fee and any additional assessment paid under subdivision 7, item E.

Subd. 7. License fees and license renewal fees. The license fee for each license except a renewed license shall be the base license fee plus any applicable board fee, as set forth in this subdivision. The license renewal fee for each renewed license shall be the base license fee plus any applicable board fee, continuing education fee, and contractor recovery fund fee and additional assessment, as set forth in this subdivision.

- A. For purposes of this section, the phrase “license duration” shall mean the number of years for which the license is issued except that: (i) if the initial license is not issued for a whole number of years, the “license duration” shall be rounded up to the next whole number; and (ii) if the department receives an application for license renewal after the renewal deadline, the phrase “license duration” shall mean the number of years for which the renewed license would have been issued if the renewal application had been submitted on time and all other requirements for renewal had been met.
- B. The base license fee shall depend on whether the license is classified as an entry level, master, journeyman, or business license, and on the license duration. The base license fee shall be:

<u>License Classification</u>	<u>License Duration</u>		
	<u>1 Year</u>	<u>2 Years</u>	<u>3 Years</u>
<u>Entry level</u>	<u>\$10</u>	<u>\$20</u>	<u>\$30</u>
<u>Journeyman</u>	<u>\$20</u>	<u>\$40</u>	<u>\$60</u>
<u>Master</u>	<u>\$50</u>	<u>\$100</u>	<u>\$150</u>
<u>Business</u>	<u>\$100</u>	<u>\$200</u>	<u>\$300</u>

- C. If there is a continuing education requirement for renewal of the license, then a continuing education fee must be included in the renewal license fee. The continuing education fee for all license classifications shall be: \$10 if the renewal license duration is one year; \$20 if the renewal license duration is two years; and \$30 if the renewal license duration is three years.
- D. If the license is issued under sections 326B.31 to 326B.59 or 326B.90 to 326B.93, then a board fee must be included in the license fee and the renewal license fee. The board fee for all license classifications shall be: \$4 if the license duration is one year; \$8 if the license duration is two years; and \$12 if the license duration is three years.
- E. If the application is for the renewal of a license issued under sections 326B.802 to 326B.885, then the contractor recovery fund fee required under section 326B.89, subdivision 3, and any additional assessment required under section 326B.89, subdivision 16, must be included in the license renewal fee.

326B.093 LICENSES REQUIRING EXAMINATION ADMINISTERED BY COMMISSIONER.

Subdivision 1. Qualifications for examination. If the applicant for a license must pass an examination administered by the commissioner in order to obtain the license, then the applicant’s complete application must demonstrate that the applicant is qualified to take the examination. The applicant is qualified to take the examination if the applicant meets all requirements for the license except for passing the examination.

Subd. 2. Not qualified for examination. If the applicant is not qualified to take the examination, then the commissioner will deny the application. The applicant may subsequently submit another application, accompanied by the required fee.

Subd. 3. Taking the examination. If the applicant is qualified to take the examination, then the department will notify the applicant, and the applicant may schedule a time to take the examination within one year after the notification date. If the applicant does not take the examination at the scheduled time, the applicant may, one time only, reschedule a time to take the examination on a date within one year after the notification date. If the applicant fails to take the examination within one year after the notification date, the commissioner will deny the application and the applicant forfeits the application/examination fee. The applicant may subsequently submit another application, accompanied by the required application/examination fee.

Subd. 4. Examination results. If the applicant receives a passing score on the examination and meets all other requirements for licensure, the commissioner will approve the application and notify the applicant of the approval. The applicant must, within 90 days after the notification of approval, pay the license fee. Upon receipt of the license fee, the commissioner will issue the license. If the applicant does not pay the license fee within 90 days after the notification of approval, the commissioner will rescind the approval and will deny the application. If the applicant does not receive a passing score on the examination, the commissioner will deny the application. If the application is denied because of the applicant's failure to receive a passing score on the examination, then the applicant cannot submit a new application for the license until at least 30 days after the notification of denial.

326B.094 RENEWAL OF LICENSES.

Subdivision 1. Expiration of licenses. Unless and until the department or commissioner issues a renewal of a license, the license expires on the expiration date printed on the license. While the license is expired, the licensee cannot perform the activities authorized by the license.

Subd. 2. Availability of renewal. A licensee may apply to renew a license no later than two years after the expiration of the license. If the department receives a complete renewal application no later than two years after the expiration of the license, then the department will approve or deny the renewal application. If the department receives a renewal application more than two years after the expiration of the license, the department will return the renewal license fee to the applicant without approving or denying the application. If the licensee wishes to obtain a valid license more than two years after expiration of the license, the licensee must apply for a new license.

Subd. 3. Deadline for avoiding license expiration. The department must receive a complete application to renew a license no later than the renewal deadline. If a complete application is not received by the renewal deadline, the license may expire before the department has either approved or denied the renewal application.

326B.095 INCOMPLETE LICENSE APPLICATIONS.

This section applies to both applications for initial licenses and license renewal applications. If the department determines that an application is incomplete, the department will notify the applicant of the deficiencies that must be corrected in order to complete the application. If the applicant wishes to complete the application, the department must receive the completed application within 90 days after the date the department mailed or delivered the incomplete application to the applicant. If the department does not receive the completed application by this deadline, the commissioner will deny the application and the applicant will forfeit all fees except as provided in section 326B.092, subdivision 6. If the application is for license renewal and the department receives the corrected application after the license has expired, then the corrected application must be accompanied by the late fee.

326B.096 REINSTATEMENT OF LICENSES

Subdivision 1. Reinstatement after revocation.

- (a) If a license is revoked under this chapter and if an applicant for a license needs to pass an examination administered by the commissioner before becoming licensed, then, in order to have the license reinstated, the person who holds the revoked license must: (i) re-take the examination and achieve a passing score; and (ii) meet all other requirements for an initial license, including payment of the application/examination fee and the license fee. The person holding the revoked license is not eligible for Minnesota licensure without examination based on reciprocity.
- (b) If a license is revoked under a chapter other than this chapter, then, in order to have the license reinstated, the person who holds the revoked license must: (i) apply for reinstatement to the commissioner no later than two years after the effective date of the revocation; (ii) pay a \$100 reinstatement application fee and any applicable renewal license fee; and (iii) meet all applicable requirements for licensure, except that, unless required by the order revoking the license, the applicant does not need to retake any examination and does not need to repay a license fee that was paid before the revocation.

Subd. 2. Reinstatement after suspension. If a license is suspended, then, in order to have the license reinstated, the person who holds the suspended license must: (i) apply for reinstatement to the commissioner no later than two years after the completion of the suspension period; (ii) pay a \$100 reinstatement application fee and any applicable renewal license fee; and (iii) meet all applicable requirements for licensure, except that, unless required by the order suspending the license, the applicant does not need to retake any examination and does not need to repay a license fee that was paid before the suspension.

Subd. 3. Reinstatement after voluntary termination. A licensee who is not an individual may voluntarily terminate a license issued to the person under this chapter. If a licensee has voluntarily terminated a license under this subdivision, then, in order to have the license reinstated, the person who holds the terminated license must: (i) apply for reinstatement to the commissioner no later than the date that the license would have expired if it had not been terminated; (ii) pay a \$100 reinstatement application fee and any applicable renewal license fee; and (iii) meet all applicable requirements for licensure, except that the applicant does not need to repay a license fee that was paid before the termination.

326B.097 PROHIBITION OF TRANSFER.

A licensee shall not transfer or sell any license.

326B.098 CONTINUING EDUCATION.

Subdivision 1. Applicability. This section applies to seminars offered by the department for the purpose of allowing licensees to meet continuing education requirements for license renewal.

Subd. 2. Rescheduling. An individual who is registered with the department to attend a seminar may reschedule one time only, to attend the same seminar on a date within one year after the date of the seminar the individual was registered to attend.

Subd. 3. Fees nonrefundable. All seminar fees paid to the department are nonrefundable except for any overpayment of fees.

326B.101 POLICY AND PURPOSE.

The State Building Code governs the construction, reconstruction, alteration, and repair of buildings and other structures to which the code is applicable. The commissioner shall administer and amend a state code of building construction which will provide basic and uniform performance standards, establish reasonable safeguards for health, safety, welfare, comfort, and security of the residents of this state and provide for the use of

modern methods, devices, materials, and techniques which will in part tend to lower construction costs. The construction of buildings should be permitted at the least possible cost consistent with recognized standards of health and safety.

326B.103 DEFINITIONS.

Subdivision 1.Scope.

For the purposes of sections 326B.101 to 326B.194, the terms defined in this section have the meanings given them.

Subd. 2.Administrative authority.

"Administrative authority" means a municipality's governing body or their assigned administrative authority.

Subd. 3.Agricultural building.

"Agricultural building" means a structure on agricultural land as defined in section 273.13, subdivision 23, designed, constructed, and used to house farm implements, livestock, or agricultural produce or products used by the owner, lessee, and sublessee of

The board is subject to chapter 13, the Minnesota Government Data Practices Act, and shall protect from unlawful disclosure data classified as not public.

Subd. 10.Official records.

The board shall make and preserve all records necessary to a full and accurate knowledge of its official activities in accordance with section 15.17.

326B.93 INSPECTION PERSONNEL.

Subdivision 1.Inspectors.

The department may employ such inspectors and other persons as are necessary to efficiently perform the duties and exercise the powers imposed upon the department.

Subd. 2.Chief boiler inspector.

The commissioner shall appoint a chief boiler inspector who, under the direction and supervision of the commissioner, shall administer this chapter and the rules adopted under this chapter. The chief boiler inspector must:

- (1) be licensed as a chief Grade A engineer; and
- (2) possess a current commission issued by the National Board of Boiler and Pressure Vessel Inspectors.

The chief boiler inspector shall be the state of Minnesota representative on the National Board of Boiler and Pressure Vessel Inspectors, shall be the final interpretative authority of the rules adopted under this chapter, and shall perform other duties in administering this chapter and the rules adopted under this chapter as assigned by the commissioner. Any person aggrieved by a ruling of the chief boiler inspector may appeal the ruling in accordance with chapter 14.

326B.94 BOATS; MASTERS.

Subdivision 1.Boat.

"Boat" means any vessel navigating inland waters of the state that is propelled by machinery or sails, is carrying passengers for hire, and is 21 feet or more in length.

Subd. 2.Number of passengers.

The department shall designate the number of passengers that each boat may safely carry, and no such boat shall carry a greater number than is allowed by the inspector's certificate.

Subd. 3.Annual permit.

The commissioner shall issue an annual permit to a boat for the purpose of carrying passengers for hire on the inland waters of the state provided the boat satisfies the inspection requirements of this section. A boat subject to inspection under this chapter shall be registered with the department and shall be inspected before a permit may be issued. No person shall operate a boat or cause a boat to be operated for the purpose of carrying passengers for hire on the inland waters of the state without a valid annual permit issued under this section.

Subd. 4. Examinations, licensing.

Every master of a boat must hold a current master's license issued by the commissioner, unless the individual holds a valid, unlimited, current United States Coast Guard master's license. The commissioner shall develop and administer an examination for all masters of boats carrying passengers for hire on the inland waters of the state as to their qualifications and fitness. If found qualified and competent to perform their duties as a master of a boat carrying passengers for hire, they shall be issued a license authorizing them to act as such on the inland waters of the state. All initial master's licenses shall be for two years. The commissioner shall in a manner determined by the commissioner, without the need for any rulemaking under chapter 14, phase in the renewal of master's licenses from one year to two years. By June 30, 2011, all renewed master's licenses shall be two-year licenses. Fees for the original issue and renewal of the license authorized under this section shall be pursuant to section ~~326B.986, subdivision 2~~ 326B.092.

Subd. 5. Rules.

(a) The department shall prescribe rules for the inspection of the hulls, machinery, boilers, steam connections, firefighting apparatus, lifesaving appliances, and lifesaving equipment of all power boats navigating the inland waters of the state, which shall conform to the requirements and specifications of the United States Coast Guard in similar cases as provided in Code of Federal Regulations, title 46, as applicable inland waters; these rules shall have the force of law.

(b) The commissioner shall make such rules for inspection and operation of boats subject to inspection under this chapter, the licensing of masters, and the navigation of any such boat as will require its operation without danger to life or property.

Subd. 6. Drugs, alcohol.

No master shall be under the influence of illegal drugs or alcohol when on duty.

326B.952 BOILER INSPECTOR; INSPECTIONS; EXAMINATIONS; LICENSES.

Subdivision 1. All boilers inspected.

The commissioner shall inspect all boilers and pressure vessels in use not expressly excepted from such inspection by law. Upon inspection the commissioner shall issue a certificate of inspection therefor or a certificate condemning the boiler or pressure vessel and shall seal it. Forms for these licenses and certificates shall be prepared and furnished by the commissioner. The commissioner shall examine all applicants for engineer's licenses. The commissioner shall issue such license to an applicant as the examination shall show the applicant is entitled to receive.

Subd. 2. Inspector's examination.

For the purpose of examining applicants for a National Board of Boiler and Pressure Vessel Inspectors commission, the commissioner shall fix and determine a time and place for the examinations, and give notice to all applicants of the time and place. The commissioner shall grant and sign such license certificates as applicants are entitled to receive upon examination. Applicants may be examined and issued certificates of competency as inspectors of boilers and pressure vessels.

326B.954 BOILER INSPECTOR LICENSE.

Each boiler inspector shall be licensed in this state as a chief grade A engineer, and must hold a national board commission as a boiler inspector within 12 months of being employed as a boiler inspector by the department. An inspector shall not be interested in the manufacture or sale of boilers or steam machinery or in any patented article required or generally used in the construction of engines or boilers or their appurtenances.

326B.961. TRIENNIAL AUDITS AND TEAM LEADER CERTIFICATIONS.

*Subdivision 1. **Triennial audits; assignment; qualifications.** The chief boiler inspector shall assign a qualified ASME designee or team leader to perform triennial audits on ASME Code and national board stamp holders at the request of the stamp holder. The department shall maintain qualifications for ASME designees and national board team leaders in accordance with ASME and national board requirements.*

*Subd. 2. **Fees.** The fee for performing ASME and national board triennial audits shall be the hourly rate pursuant to section 326B.986, subdivision 4.*

326B.962 TESTS.

In subjecting both high- and low-pressure boilers and pressure vessels to the hydrostatic test, and to determine the safe allowable working pressure, the inspector shall use the latest approved formula of the ASME Code or National Board Inspection Code, as applicable.

326B.964 STANDARDS OF INSPECTION.

The engineering standards of boilers and pressure vessels for use in this state shall be that established by the current edition of and amendments to the ASME Code or the National Board Inspection Code, as applicable, for construction, operation and care of, in-service inspection and testing, and controls and safety devices, and by the rules adopted by the department.

326B.966 STANDARDS OF REPAIRS.

The rules for repair of boilers and pressure vessels for use in this state shall be those established by the National Board of Boiler and Pressure Vessel Inspectors inspection code and the rules adopted by the department.

326B.968 EXAMINATION FINDING BOILER UNSAFE.

If an inspector examines a boiler or pressure vessel and determines that the boiler or pressure vessel is unsafe, the inspector shall notify the owner or operator of any defect in that boiler or pressure vessel. Such boiler or pressure vessel shall not thereafter be used until the defect is corrected. Boilers found to be operated by unlicensed or improperly licensed persons shall not be used until the operators are properly licensed. If circumstances warrant continued operation, approval may be given for continuing operation for a specific period of time, not to exceed 30 days, at the discretion of the boiler inspector.

326B.97 INSPECTION OF BOILERS AND PRESSURE VESSELS.

The owner or manager of a boiler or pressure vessel shall allow inspectors full access thereto. Every engineer operating a boiler shall assist the inspector in the examination, and point out any known defects in the boilers, steam engines, or turbines in the engineer's charge.

326B.972 LICENSE REQUIREMENT.

(a) To operate a boiler, steam engine, or turbine an individual must have received a license for the grade covering that boiler, steam engine, or turbine. Except for licenses described in section 326B.956 and except for provisional licenses described in paragraphs (d) to (g):

(1) all initial licenses shall be for two years;

(2) the commissioner shall in a manner determined by the commissioner, without the need for any rulemaking under chapter 14, phase in the renewal of licenses from one year to two years; and

(3) by June 30, 2011, all licenses shall be two-year licenses.

(b) For purposes of sections 326B.952 to 326B.998, "operation" does not include monitoring of an automatic boiler, either through on premises inspection of the boiler or by remote electronic surveillance, provided that no operations are performed upon the boiler other than emergency shut down in alarm situations.

(c) No individual under the influence of illegal drugs or alcohol may operate a boiler, steam engine, or turbine or monitor an automatic boiler.

(d) The commissioner may issue a provisional license to allow an employee of a high pressure boiler plant to operate boilers greater than 500 horsepower at only that boiler plant if:

(1) the boiler plant has a designated chief engineer in accordance with Minnesota Rules, part 5225.0410;

(2) the boiler plant employee holds a valid license as a second-class engineer, Grade A or B;

(3) the chief engineer in charge of the boiler plant submits an application to the commissioner on a form prescribed by the commissioner to elicit information on whether the requirements of this paragraph have been met;

(4) the chief engineer in charge of the boiler plant and an authorized representative of the owner of the boiler plant both sign the application for the provisional license;

(5) the owner of the boiler plant has a documented training program with examination for boilers and equipment at the boiler plant to train and test the boiler plant employee; and

(6) if the application were to be granted, the total number of provisional licenses for employees of the boiler plant would not exceed the total number of properly licensed first-class engineers and chief engineers responsible for the safe operation of the boilers at the boiler plant.

(e) A public utility, cooperative electric association, generation and transmission cooperative electric association, municipal power agency, or municipal electric utility that employs licensed boiler operators who are subject to an existing labor contract may use a provisional licensee as an operator only if using the provisional licensee does not violate the labor contract.

(f) Each provisional license expires 36 months after the date of issuance unless revoked less than 36 months after the date of issuance. A provisional license may not be renewed.

(g) The commissioner may issue no more than two provisional licenses to any individual within a four-year period.

326B.974 SCHOOL ENGINEER ~~OPERATIONAL~~ REQUIREMENTS.

*Subdivision 1. **License required.*** Any custodial engineer employed by a school whose duties include the operation of a boiler shall be licensed pursuant to section 326B.978, to operate the particular class of boiler used in the school.

*Subd. 2. **School district training.*** A school district shall allow to occur annually at least eight hours of training related to boiler operation to a licensee described in subdivision 1.

The training must be administered by a licensed first or chief class engineer during the licensee's normal working hours. Two hours of the required training shall occur in the boiler room and must include demonstration of tasks associated with operating boilers. The tasks associated with operating boilers acceptable for the training must be from the list of approved tasks supplied by the chief boiler inspector. The administrator of the training shall receive training credit for time spent administering training pursuant to this subdivision.

326B.976 APPLICATIONS FOR LICENSES.

~~The commissioner shall prepare blank applications on which applications for licenses shall be made. These blanks shall elicit such information as is needed to determine whether an applicant meets the qualifications required for the license.~~[Repeal]

326B.978 EXAMINATIONS; CLASSIFICATIONS; QUALIFICATIONS.

Subdivision 1. Engineers, classes.

Engineers shall be divided into four classes:

- (1) Chief engineers; Grade A, Grade B, and Grade C.
- (2) First class engineers; Grade A, Grade B, and Grade C.
- (3) Second class engineers; Grade A, Grade B, and Grade C.
- (4) Special engineers.

Subd. 2. Applications.

Any individual who desires an engineer's license shall submit an application on a written or electronic form prescribed by the commissioner, ~~at least 15 days before the requested exam date. If the commissioner approves the applicant for examination, the applicant may take the examination on one occasion within one year from the date the commissioner receives the application with all fees required by section 326B.092.~~

Subd. 3. Examinations.

Each applicant for a license must pass an examination developed and administered by the commissioner. The examinations shall be of sufficient scope to establish the competency of the applicant to operate a boiler of the applicable license class and grade.

Subd. 4. Continuing education.

The commissioner may require continuing education prior to the renewal of any license. Before requiring continuing education, the commissioner shall adopt rules that specify the continuing education requirements.

Subd. 5. High- and low-pressure boilers.

For the purposes of this section and section 326B.97, high-pressure boilers shall mean boilers operating at a steam or other vapor pressure in excess of 15 p.s.i.g., or a water or other liquid boiler in which the pressure exceeds 160 p.s.i.g. or a temperature of 250 degrees Fahrenheit.

(b) An individual seeking licensure as a special engineer who is at least 16 years of age but less than 18 years of age must be enrolled in a course approved by the commissioner, and have habits and experience that justify the belief that the individual is competent to take charge of and be responsible for the safe operation and maintenance of all classes of boilers and their appurtenances of not more than 50 horsepower or to operate as a shift engineer in a plant of not more than 100 horsepower, or to serve as an apprentice in any plant under the direct supervision of the properly licensed engineer.

Subd. 16. Current boiler operators.

Any individual operating a boiler other than a steam boiler on or before April 15, 1982, shall be qualified for application for the applicable class license upon presentation of an affidavit furnished by an inspector and sworn to by the individual's employer or a chief engineer. Except as provided in subdivision 18, the applicant must have at least the number of years of actual experience specified for the class of license requested and pass the appropriate examination.

Subd. 17. Rating horsepower.

For the purpose of rating boiler horsepower for engineer license classifications only: ten square feet of heating surface shall be considered equivalent to one boiler horsepower for conventional boilers and five square feet of heating surface equivalent to one boiler horsepower for steam coil type generators.

Subd. 18. Educational offset.

Notwithstanding the experience requirements in subdivisions 6 to 16, the commissioner may by rule establish educational equivalencies that an applicant may meet instead of a portion of the specified operating experience.

Subd. 19. **Applicability.** This section shall not apply to traction or hobby boiler engineer's licenses or provisional licenses.

326B.98 VERIFICATION OF CERTIFICATE.

In making an inspection of boilers, machinery, or vessels, inspectors may act jointly or separately. In all cases inspectors shall verify the certificate of inspection.

326B.982 CERTIFICATE DELIVERY; PAYMENT OF INSPECTION FEES.

Subdivision 1. Inspection certificate.

After examination and tests of the boiler or pressure vessel being inspected, the boiler inspector shall document the condition of the boiler or pressure vessel as required by the commissioner. The inspector shall issue an inspection certificate, as prescribed by the commissioner, to the owner or operator for the inspected boilers and pressure vessels found to be safe and suitable for use. The inspector shall immediately notify the owner or operator of any deficiencies found on the boilers and pressure vessels during the inspection on a form prescribed by the commissioner.

Subd. 2. Failure to pay fee.

If the owner or lessee of any boiler or pressure vessel, which boiler or pressure vessel has been duly inspected, refuses to pay the required fee within 30 days from the date of the invoice, the department may seal the boiler or pressure vessel until the fee is paid.

326B.986 FEES FOR INSPECTION AND LICENSES.

Subdivision 1. Fee amount; vessels operated on inland waters.

The fees for the inspection of the hull, boiler, machinery, and equipment of vessels operated on inland waters and that carry passengers for hire are as follows:

- (1) annual operating permit and safety inspections shall be \$200; and
- (2) other inspections, including dry-dock inspections, boat stability tests, and plan reviews, are billed at the hourly rate set in subdivision 4.

Subd. 2. ~~Fee amounts; master's.~~

~~The license and application fee for an initial master's license is \$70, or \$40 if the applicant possesses a valid, unlimited, current United States Coast Guard master's license. The renewal fee for a master's license is \$20 for one year or \$40 for two years. If the renewal fee is paid later than 30 days after expiration, then a late fee of \$15 will be added to the renewal fee. [Repeal]~~

Subd. 3. Boiler and pressure vessel inspection fees.

The fees for the annual inspection of boilers and biennial inspection of pressure vessels are as follows:

- (1) boiler inaccessible for internal inspection, \$55;
- (2) boiler accessible for internal inspection, \$55;
- (3) boiler internal inspection over 2,000 square feet heating surface shall be billed at the hourly rate set in subdivision 4;
- (4) boiler accessible for internal inspection requiring one-half day or more of inspection time shall be billed at the hourly rate set in subdivision 4;
- (5) pressure vessel for internal inspection via manhole, \$35; and
- (6) pressure vessel inaccessible for internal inspection, \$35.

Subd. 4. Hourly rate.

The hourly rate for an inspection not set elsewhere in sections 326B.952 to 326B.998 is \$80 per hour. Inspection time includes all time related to the inspection. Travel time, billed at the hourly rate, and travel expenses shall be billed for shop inspections, triennial audits, boat stability tests, hydrostatic tests of a boiler or pressure vessel, or any other inspection or consultation requiring a special trip.

Subd. 5. Boiler engineer license fees.

~~(a) For the following licenses, the nonrefundable license and application fee is:~~

- ~~(1) chief engineer's license, \$70;~~
- ~~(2) first class engineer's license, \$70;~~
- ~~(3) second class engineer's license, \$70;~~
- ~~(4) special engineer's license, \$40;~~
- ~~(5) traction or hobby boiler engineer's license, \$50; and~~
- ~~(6) provisional license, \$50.~~

~~(b) An engineer's license, except a provisional license, may be renewed upon application and payment of a renewal fee of \$20 for one year or \$40 for two years. If the renewal fee is paid later than 30 days after expiration, then a late fee of \$15 will be added to the renewal fee. For purposes of calculating license fees and renewal license fees required under section 326B.092:~~

- (i) the boiler special engineer license shall be considered an entry level license;
- (ii) the following licenses shall be considered journeyman licenses: first-class engineer, Grade A; first-class engineer, Grade B; first-class engineer, Grade C; second class engineer, Grade A; second class engineer, Grade B; second class engineer, Grade C; and provisional license; and
- (iii) the following licenses shall be considered master licenses: boiler chief engineer, Grade A; boiler chief engineer, Grade B; boiler chief engineer, Grade C; boiler commissioner inspector; or traction or hobby boiler engineer.

(b) Notwithstanding section 326B.092, subd. 7, paragraph A, the license duration for steam traction and hobby engineer licenses shall be one year only for the purpose of calculating license fees under section 326B.092, subd. 7, paragraph B.

Subd. 6. National board inspectors.

The fee for an examination of an applicant for a National Board of Boiler and Pressure Vessels Inspectors commission is \$100.

Subd. 7. Nuclear endorsement.

The fee for each examination of an applicant for a National Board of Boiler and Pressure Vessels commissioned inspectors nuclear endorsement is \$100.

Subd. 8. Certificate of competency.

The fee for issuance of the original state of Minnesota certificate of competency for inspectors is \$85 for inspectors who did not pay the examination fee or \$35 for inspectors who paid the examination fee. All initial certificates of competency shall be effective for more than one calendar year and shall expire on December 31 of the year after the year in

which the application is made. The commissioner shall in a manner determined by the commissioner, without the need for any rulemaking under chapter 14, phase in the renewal of certificates of competency from one calendar year to two calendar years. By June 30, 2011, all renewed certificates of competency shall be valid for two calendar years. The fee for renewal of the state of Minnesota certificate of competency is \$35 for one year or \$70 for two years, and is due the day after the certificate expires.

Subd. 9. Boiler and pressure vessel registration fee.

The annual registration fee for boilers and pressure vessels in use and required to be inspected per section 326B.958 shall be \$10 per boiler and pressure vessel.

Subd. 10. Late fee.

The commissioner may assess a late fee of up to \$100 for each invoice issued under subdivision 1, 3, or 4 that is not paid in full by the due date stated on the invoice.

326B.988 EXCEPTIONS.

(a) The provisions of sections 326B.952 to 326B.998, shall not apply to:

- (1) boilers in buildings occupied solely for residence purposes with accommodations for not more than five families;
- (2) railroad locomotives operated by railroad companies for transportation purposes;
- (3) air tanks installed on the right-of-way of railroads and used directly in the operation of trains;
- (4) boilers and pressure vessels under the direct jurisdiction of the United States;
- (5) unfired pressure vessels having an internal or external working pressure not exceeding 15 p.s.i.g. with no limit on size;
- (6) pressure vessels used for storage of compressed air not exceeding five cubic feet in volume and equipped with an ASME code stamped safety valve set at a maximum of 100 p.s.i.g.;