

**From:** [Ken Barkdoll](#)  
**To:** [zzMSHA-OSRVRegulatoryReform](#)  
**Subject:** MSHA Program Policy Manual - 77.413 Boilers  
**Date:** Friday, September 13, 2019 3:09:46 PM

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Hello,

I would like to suggest a change to MSHA Program Policy Manual, 77.413 Boilers. The manual states:

“It is not the intent of this regulation to cause electric hot water heaters to meet the requirements of this Section, even though the name "boiler" appears on the name plate. The regulation applies only to steam boilers.”

As a National Board Commissioned Inspector and Zurich Risk Engineer this regulation explanation has created multiple dangerous risk exposures by essentially exempting all fired heating boilers and high temperature hot water supply boilers. I suspect that the Program Policy originally intended to exempt only HLW stamped, potable hot water heaters, which is a common practice in most boiler and pressure vessel jurisdictional regulations. Typically HLW stamped hot water heaters that have a rated input of less than 200,000 BTUs or 59 kW/h are exempted from inspection requirements, but all HLW, H and S stamped boilers with inputs equal to or greater than 200,000 BTUs or 59 kW/h are required to be inspected, installed, operated and maintained in accordance to ASME and NBIC Codes and standards due to the hazard potentials they present.

I would like to purpose the wording be changed as follows:

“It is not the intent of this regulation to cause electric HLW stamped hot water heaters with heat inputs not exceeding 59 kW/h to meet the requirements of this Section, even though the name "boiler" appears on the name plate. The regulation applies only to electric or fired boilers with heat inputs equal to or greater than 200,000 BTUs or 59 kW/h.”

I would be happy to discuss or further explain the risk exposure mitigations this purpose change would accomplish; please feel free to contact me at your convenience.

Best regards,

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Reg Reform Comm - 090

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