

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF OCCUPATIONAL SAFETY AND HEALTH

INITIAL STATEMENT OF REASONS

Subject: Pressure Vessel Fees

TITLE 8 of the CALIFORNIA CODE OF REGULATIONS
Division 1. Department of Industrial Relations
Chapter 3.2. California Occupational Safety and Health Regulations
Subchapter 2. Regulations of the Division of Occupational Safety and Health
Article 5. Boiler and Tank Permit and Inspection Fee Schedule
Section 344. Shop and Resale Inspection Fees, Consultation and Audit Fees, Boilers and Tanks
Section 344.1. Air Tank, Liquefied Petroleum Gas (L.P.G.), and Boiler Inspection Fees.
Section 344.2. Boiler, Tank and Resale Inspection Reports and Permits to Operate.

PROBLEM STATEMENT

The Department of Industrial Relations, Division of Occupational Safety and Health (“the Division”) is not collecting enough fees under its existing pressure vessel fee schedule to fund its pressure vessel program. The purpose of this Proposed Rulemaking is to correct this deficit by increasing most pressure vessel-related inspection and permitting fees.

The Division’s Pressure Vessel Unit enforces the pressure vessel and boiler safety standards through shop, field, and resale inspections, tank and boiler inspections, and the issuance of permits to operate. (Cal. Code Regs., tit. 8, §§ 344, 344.1, and 344.2.) Labor Code section 7721 authorizes the Division to fix and collect fees for shop, field, and resale inspections; the permitting of tanks and boilers; and other services it renders to the owners and operators of pressure vessels. All fees promulgated under sections 7720 through 7728 must cover the Division’s costs in performing its statutory duties, including administrative costs.

At the direction of the Department of Industrial Relations, the Division has evaluated the costs associated with administering its Pressure Vessel Unit, and determined that the Unit is expending significantly more money issuing permits, performing inspections, and providing related services at private, non-governmental businesses than it recoups through the current fees it charges those businesses for permits, inspections, and consultation.¹ The Pressure Vessel Unit’s fund has been in various states of insolvency for several years now. The Proposed Rulemaking is necessary to stabilize the Pressure Vessel Unit’s fund. Without the Proposed Rulemaking, the Division cannot adequately fund the Pressure Vessel Unit’s operations and cannot meet its objective of ensuring occupational and public safety.

¹ Government Code § 6103 prohibits the Division from charging fees for inspections or permits for pressure vessels and boilers owned or operated by public entities including the state or any city, county, district or other political subdivision. The costs associated with such inspections by the Division and permits issued to public entities have been funded through revenues received pursuant to Labor Code section 62.5, subdivision (d).

The Proposed Rulemaking seeks to amend sections 344, 344.1 and 344.2 of title 8, of the California Code of Regulations. Specifically, the Proposed Rulemaking would amend section 344 to increase the hourly inspection rate from \$135.00 to \$150.00, and delete subsections (a)(1), (b)(1), (b)(2) and (b)(3); amend section 344.1 to decrease the hourly fee amount charged for field permit inspections from \$160.00 to \$150.00, delete subsection (a)(1), separate subsection (a) into subsections (a), (b) and (c), and change subsection (b) to subsection (d); and amend section 344.2 to increase the fees related to the issuance of a Permit to Operate from \$15.00 to \$45.00, and delete superfluous language under subsections (a),(b) and (c).

The Proposed Rulemaking was adopted by the Division as emergency regulations, pursuant to Labor Code, section 7721, subdivision (e), effective November 15, 2018 and expiring November 5, 2019. The purpose of the Proposed Rulemaking is to codify the emergency regulations as regular, non-emergency regulations after considering all public comments and recommendations.

BENEFITS

The broad objective of the Proposed Rulemaking is to correct the Pressure Vessel fund's insolvency by increasing most pressure vessel-related inspection and permitting fees. The Proposed Rulemaking will allow the Division to recover the actual costs it incurs in having its qualified safety engineers provide on-site inspection services for the private sector owners/operators who use pressure vessels, tanks, and boilers that must be inspected prior to the issuance of a permit to operate. In addition, the inspection of pressure vessels, tanks and boilers is necessary to protect the lives, health, and safety of the public and of employees working in the vicinity of such equipment; to avoid business disruption from explosions of such equipment, and to protect the environment from contamination that could result from uncontrolled emissions or spills of the gases and other substances stored in pressure vessels, tanks, and boilers. Given the above, the Proposed Rulemaking will allow the Division to adequately fund its Pressure Vessel Unit's operations and meet its objective of ensuring occupational and public safety.

PURPOSE AND NECESSITY FOR PROPOSED CHANGES

Section 344. Shop and Resale Inspection Fees, Consultation and Audit Fees, Boilers and Tanks.

Purpose. The purpose for the Proposed Rulemaking is to permanently increase the hourly fee under subsection (a) from \$135.00 to \$150.00. Section 344 applies to all shop inspections, field erection and resale inspections, consultations, surveys, audits, and other reviews and activities required or related to American Society of Mechanical Engineers (ASME) Code or other national standards concerning the design of boilers or pressure vessels or for evaluating a fabricator's plant facilities when requested by entities desiring these services. Section 344 sets out the hourly inspection fee amounts, rules governing how inspection and travel time is charged, conditions under which a penalty for late payment of fees may be assessed and the penalty amount, and the basis and amount for expenses to be charged by the Division when Division inspectors are requested to inspect pressure vessels, tanks, boilers, parts of tanks and boilers and nuclear components.

The Proposed Rulemaking makes the following changes to section 344:

Title. The Proposed Rulemaking would permanently amend the title of section 344 from “Shop and Resale Inspection Fee Consultation and Audit Fees, Boilers and Tanks” to “Shop, Field and Resale Inspection Program Fees” to more accurately describe the regulation’s subject matter.

Subsection (a). The Proposed Rulemaking would permanently increase the hourly rate for services rendered by the Division under subsection (a) from \$135.00 to \$150.00 per hour. In addition, the Proposed Rulemaking would permanently delete the heightened fee for inspections requested to be conducted after 5 PM on Monday through Friday, and at any hour on Saturday, Sunday or on any State holiday because the Division anticipates that the combined proposed fee modifications to sections 344, 344.1 and 344.2 will achieve full cost recovery of the pressure vessel program. The Division included all expenditures when calculating the proposed fee modifications.

The Proposed Rulemaking also would permanently (1) delete the terms “or any part thereof” after the hourly fee amount, and insert at the end of the subsection the sentence, “Time shall be billed in quarter-hour increments, rounded up to the nearest quarter hour” for clarity; (2) insert the terms “all work performed in connection with” before the terms “all shop, field erection and resale inspections . . .” to clarify that the fee applies to all work related to the services specified therein, including, for example, travel and research; and (3) insert the term “and” between the terms “boilers, and nuclear” for clarity.

Subsection (a)(1). The Proposed Rulemaking would permanently delete subsection (a)(1) because the combined proposed fee modifications to sections 344, 344.1 and 344.2 stand to achieve full cost recovery to the pressure vessel program. The proposed modified fees incorporate travel time as an expenditure.

Subsection (b). The Proposed Rulemaking would permanently (1) change “qualified engineers” to “a qualified safety engineer employed by the division” to ensure consistency with Labor Code, section 7650; and (2) delete the last sentence, and combine the content therein into the first sentence for brevity and clarity.

Subsections (c), (c)(1), (c)(2), & (c)(3). The Proposed Rulemaking would permanently delete subsections (c), (c)(1), (c)(2), and (c)(3) because the proposed fee modifications incorporate the expenses addressed therein and render these subsections unnecessary.

Note: Authority cited. Permanently include a reference to Labor Code section 7728 under “Note: Authority cited” because that statute vests the Division with the authority to charge a penalty for late payment of fees.

Reference. Permanently insert under “Reference” Labor Code sections: (1) 7650 because it defines the term “qualified safety engineer” referenced in section 344; and (2) 7725 because it defines the terms “shop inspection,” “field inspection,” and “resale inspection” referenced in section 344.

Necessity. The Division determined that the hourly inspection amount needs to be increased from \$135.00 to \$150.00 to enable the Division to meet the costs it incurs in performing the services described in Part 6, Division 5, of the Labor Code as part of the safety inspections it

provides to private sector owners and operators of such equipment. (See Appendix A.) The Division's inspection and permit system protects the public and local workers and employers from possible death and serious injury or illness, and protects local businesses and local government from economic disruption and the use of emergency rescue and police services that would result from an explosion or uncontrolled leak of hot, toxic or otherwise harmful contents in pressure vessels, tanks and boilers. By having sufficient fee revenue to meet the Division's costs of conducting these inspection and permit services, the Division will be able to continue protecting the safety and health of the public, the safety and health of employees working in the vicinity of pressure vessels, tanks and boilers and the uninterrupted commerce of businesses and government operating near such equipment.

Authority and Reference.

Authority cited: Sections 60.5, 6308, 7721, 7722 and 7728, Labor Code.

Labor Code section 60.5, subdivision (b) provides that the Division of Occupational Safety and Health succeeds to and is vested with all of the powers duties, purposes, responsibility, and jurisdiction of the Division of Industrial Safety.

Labor Code section 6308, subdivision (a) provides that in enforcing occupational safety and health standards and orders and special orders, the Division may:

[d]eclare and prescribe what safety devices, safeguards, or other means or methods of protection are well adapted to render the employees of every employment and place of employment safe as required by law or lawful order.

Labor Code section 7721, subdivision (a) expressly provides:

The division shall fix and collect fees for the shop, field, and resale inspection of tanks and boilers and for consultations, surveys, audits, and other activities required or related to national standards concerning the design or construction of boilers or pressure vessels or for evaluating fabricator's plant facilities when these services are requested of the division by entities desiring these services. The division shall fix and collect the fees for the inspection of pressure vessels by a division safety engineer. The division may charge an additional fee for necessary subsequent inspections to determine if applicable safety orders have been complied with.

Labor Code section 7721, subdivision (b) provides that "[t]he division shall charge a fee for processing a permit."

Labor Code section 7721, subdivision (c) provides that "[t]he division shall fix and collect fees for field consultations regarding pressure vessels."

Labor Code section 7721, subdivision (d) provides that “[w]henever a person owning or having the custody, management, or operation of a pressure vessel fails to pay the fees required under this chapter within 60 days after notification, he or she shall pay, in addition to the fees required under this chapter, a penalty fee equal to 100 percent of the fee.”

Labor Code section 7721, subdivision (e) provides that the fees authorized under Labor Code section 7721 “shall be in amounts sufficient to cover the direct and indirect costs of the division for administering” the Division’s pressure vessel program, and be embodied in regulations.

Labor Code section 7722 requires the division to “establish criteria upon which fee charges are based...”, and to deposit such fees collected in the Pressure Vessel Account, which shall be created and used for the administration of the division pressure vessel safety program.

Labor Code 7728 provides:

Whenever an owner or user of any apparatus or equipment fails to pay the fees required under this chapter within 60 days after notification, said owner or user shall pay, in addition to the fees required under this chapter, a penalty fee equal to 100 percent of such fee. For the purposes of this section, the date of the invoice shall be considered the date of notification.

Reference: Sections 7650, 7721, 7725 and 7728, Labor Code.

Labor Code section 7650 states that required inspections “shall be made either by qualified safety engineers employed by the division or by certified inspectors; provided, however, that shop inspections shall be made by the division, acting through its qualified safety engineers when request therefor is made by any manufacturer of tanks or boilers.” Subdivision (b) of section 7650 defines a “qualified safety engineer” as “one who is qualified to make inspections or examinations of boilers or tanks according to the rules under which the vessel is constructed” and provides that “[s]uch qualification is to be determined by a written examination prescribed by the division.”

Labor Code section 7725, subdivision (a) defines “small tank” to mean “any tank 1,200 gallons water capacity or less”; subdivision (b) defines “large tank” to mean “any tank of more than 1,200 gallons water capacity”; subdivision (c) defines “shop inspection” to mean “the inspection and testing of tanks or boilers, manufactured, or in the process of manufacture, repair, or alteration, in the manufacturer’s shops, or at the jobsite, in accordance with the applicable rules of the respective codes under which they are manufactured”; subdivision (d) defines “field inspection” to mean “the inspection and testing of installed tanks or boilers or both tanks and boilers, regardless of location;” subdivision (e) defines “resale inspection” to mean “the inspection of boilers or tanks in the possession of a dealer or vendor at the request of a user who contemplates the purchase thereof.”

As explained above, Labor Code sections 7721 and 7728 enumerate the various fees the division may fix and collect related to its inspection of pressure vessels, tanks and boilers. Section 344, 344.1 and

344.2 of title 8 of the California Code of Regulations are regulations that interpret, make specific and implement the provisions of these statutes.

Section 344.1. Air Tank, Liquefied Petroleum Gas (L.P.G.) Tank, and Boiler Inspection Fees.

Purpose. The purpose of the Proposed Rulemaking is to permanently decrease the hourly fee under subsection (a) from \$160.00 to \$150.00. Section 344.1 applies to the hourly fee charged by the Division, including specified travel time, and penalties for late payment, for field permit inspections of air tanks, liquefied petroleum gas (L.P.G.) tanks and boilers performed by its qualified safety engineers when requested by the owner or operator of such equipment.

The Proposed Rulemaking makes the following changes to section 344.1:

Title. The Proposed Rulemaking would permanently amend the title of section 344.1 from “Air Tank, Liquefied Petroleum Gas (L.P.G.), and Boiler Inspection Fees” to “Air Tank, Liquefied Petroleum Gas (L.P.G.) Tank, and Boiler Permit Inspection Program Fees” to more accurately describe the regulation’s subject matter.

Subsection (a). The Proposed Rulemaking would permanently decrease the hourly rate for services rendered by the Division under subsection (a) from \$160.00 to \$150.00 per hour. The proposed decrease would make the hourly fee under section 344.1 consistent with the proposed hourly fee under section 344.

In addition, the Proposed Rulemaking would permanently (1) break subsection (a) into three subsections titled (a), (b), and (c); (2) delete the reference to travel time because anticipated travel expenditures were calculated into the proposed fee modifications; (3) replace the text reading, “for field permit inspection of air tanks, L.P.G. tanks, and boilers by qualified safety engineers employed by the division” with the following text, “for all field, resale and alteration permit inspections of air tanks, liquefied petroleum gas (L.P.G.) tanks, and boilers performed by a qualified safety engineers employed by the division” for clarity; (4) insert the terms “all work performed in connection with all” before the terms “field, resale and alteration permit inspection . . .” to clarify that the fee applies to all work related to the services specified therein, including, for example, travel and research; and (5) delete the terms “or any part thereof” after the hourly fee amount, and insert at the end of the subsection the sentence, “Time shall be billed in quarter-hour increments, rounded up to the nearest quarter hour” for clarity.

New subsection (b). The Proposed Rulemaking would permanently (1) insert the \$150 proposed fee amount and rephrase the sentence structure for clarity; (2) replace the term “subsequent” with “all follow-up” for clarity and consistency with new subsection (c); (3) delete the term “consultation” and specify the stated fee only applies to follow-up inspections where safety requirements have not been complied with within 15 days of the date shown on the preliminary order; (4) insert the terms “all work performed in connection with” before “all follow-up inspections” to clarify that the fee applies to all work related to the services specified therein, including, for example, travel and research; and (5) insert at the end of the subsection the sentence, “Time shall be billed in quarter-hour increments, rounded up to the nearest quarter hour” for clarity.

New subsection (c). The Proposed Rulemaking would permanently remove the capitalization from words for consistency with the balance of the regulations, and insert the terms “is” and “of such compliance” for clarity.

Subsection (a)(1). The Proposed Rulemaking would permanently delete subsection (a)(1) because the combined proposed fee modifications to sections 344 to 344.2 stand to achieve full cost recovery to the program. The proposed modified fees incorporate travel time as an expenditure.

Subsection (b). The Proposed Rulemaking would permanently renumber subsection (b) to new subsection (d) and rephrase the sentence structure for clarity and consistency with the balance of the regulation.

Note: Authority cited. Permanently insert under “Note: Authority cited” section 7728 because it vests the Division with the authority to charge a penalty for late payment.

Reference. Permanently insert under “Reference” Labor Code sections: (1) 7650 because it defines the term “qualified safety engineer” referenced in section 344.1; (2) 7680 because it sets forth the permit mandate referenced in section 344.1; (3) 7681 because it sets forth the permit inspection of tanks mandate referenced in section 344.1; (4) 7682 because it sets forth the permit inspection of boilers mandate referenced in section 344.1; and (5) 7683 because it sets forth the permit requirements and specifications referenced in section 344.1.

Necessity. The Division anticipates that the combined proposed fee modifications to sections 344, 344.1 and 344.2 stand to achieve full cost recovery to the pressure vessel program as set forth in Appendix A. Further, the proposed decrease is necessary to make the hourly fee under section 344.1 consistent with the proposed hourly fee under section 344 for ease of administration

Authority and Reference.

Authority cited: Sections 60.5, 6308, 7721, 7722 and 7728, Labor Code.

Reference: Sections 7650, 7680, 7681, 7682, 7683, 7721 and 7728, Labor Code.

The reasons explained above under the Authority and Reference for section 344 with respect to Labor Code, sections 60.5, 6308, 7650, 7721, 7722, and 7728 apply equally to section 344.1.

Labor Code section 7680 states “[n]o tank or boiler shall be operated unless a permit for its operation has been issued by or in behalf of the division.”

Labor Code section 7681, subdivision (a) requires the Division to “inspect or cause to be inspected each installed tank at least every five years” except for those tanks expressly exempted under subdivision (b). Subdivision (b) exempts from inspection:

Any air pressure tank which contains 25 cubic feet or less and is not subject to pressure of more than 150 pounds per square inch and any liquefied petroleum gas tank used for storage, except a tank used for dispensing purposes as part of a dispensing unit, which contains 575 gallons or less

shall be inspected or caused to be inspected by the division when the tank is initially placed into service if the tank is constructed, inspected and stamped in compliance with the American Society of Mechanical Engineers (ASME) Code, or the design, material, and construction of the tank is approved by the division as equivalent to the ASME Code.

Labor Code section 7682 requires the Division to “inspect or cause to be inspected each installed fired boiler internally and externally at least every year” but allows the Division to “grant extensions to permit the interval between internal inspections to be increased to a maximum interval of 36 months where operating experience and design of the boiler has demonstrated to the satisfaction of the division that equivalent safety will be maintained.” For other classes of boilers, section 7682 requires the Division to “establish internal inspection intervals which will ensure the safety of people working in the vicinity of the boiler,” while considering factors such as the design and construction of the boilers and the conditions under which they operate. Section 7682 also requires external inspections of all boilers at the time of the internal inspection and at any other intervals deemed necessary by the Division.

Labor Code section 7683, subdivision (a) provides that if a tank or boiler is found to be in a safe condition of operation, the Division shall issue a permit for its operation.

Permits for tanks not specified in subdivision (b) of section 7681 expire after five years unless otherwise exempted. (Lab. Code, § 7683, subd. (b).)

Permits for tanks specified in subdivision (b) of Section 7681 remain in effect as long as the tank is in compliance with the law; however, a “new inspection and permit for operation shall be required whenever there is a change in ownership and permanent location of the tank or there is an alteration or change in the tank which affects the tank’s safety.” (Lab. Code, § 7683, subd. (c).)

Permits for boilers shall remain in effect for a period not longer than one year. (Lab. Code, § 7683, subd. (d).)

Section 344.2. Boiler, Tank and Resale Inspection Reports and Permits to Operate.

Purpose. The purpose for the Proposed Rulemaking is to permanently increase the permit fee under subsection (b) from \$15.00 to \$45.00. Section 344.2 applies to the permitting fee charged by the Division to cover the cost of processing each permit to operate, and penalties for late payment.

The Proposed Rulemaking makes the following changes to section 344.2:

Title. The Proposed Rulemaking would permanently amend the title from “Boiler, Tank and Resale Inspection Reports, and Permits to Operate” to “Air Tank, Liquefied Petroleum Gas (L.P.G.) Tank, and Boiler Permit to Operate Program Fees” to more accurately describe the regulation’s subject matter.

Subsection (a). The Proposed Rulemaking would permanently delete the text appearing after the term “division” under subsection (a) to clarify that permits to operate must be issued by or in behalf of the Division pursuant to Labor Code section 7680.

Subsection (b). The Proposed Rulemaking would permanently increase the permit fee under subsection (b) from \$15.00 to \$45.00. In addition, the Proposed Rulemaking would rephrase the sentence structure for brevity and clarity.

Subsection (c). The Proposed Rulemaking would permanently rephrase the sentence structure for clarity, and replace the term “L.P.G.” with “liquefied petroleum gas (L.P.G.).”

Note: Authority cited. Permanently insert under “Note: Authority cited” Labor Code sections: (1) 60.5 because it vests the Division with the authority to implement, interpret and makes specific sections 7680 et seq. relating to the permitting of tanks and boilers; and (2) 7728 because it vests the Division with the authority to charge a penalty for late payment.

Reference. Permanently insert under “Reference” Labor Code sections (1) 7683 because it sets forth the permit requirements and specifications referenced in section 344.2; and (2) 7728 because it sets forth the late payment penalty mandate referenced in section 344.2.

Necessity. The Division determined that it must permanently increase its permit fee under subsection (b) from \$15.00 to \$45.00 to enable the Division to meet its expenses and costs for conducting the inspection and permit services described in Part 6, Division 5, of the Labor Code for the pressure vessel, boiler and tank safety inspections performed for private sector owners and operators of such equipment. (See Appendix A.) As discussed above, the proposed amendment is necessary to allow the Division to adequately fund its Pressure Vessel Unit’s operations and meet its objective of ensuring occupational and public safety.

Authority and Reference.

Authority cited: Sections 60.5, 6308, 7721 and 7728, Labor Code.

Reference: Sections 7650, 7654, 7680, 7683, 7721 and 7728, Labor Code.

The reasons explained above under the Authority and Reference for section 344 and 344.1 with respect to Labor Code, section 60.5, 6308, 7650, 7680, 7683, 7721, and 7728 apply equally to section 344.2.

Labor Code section 7654 requires certified inspector to (1) forward a report of his or her inspection, on prescribed forms, to the Division within twenty-one (21) days after each routine inspection; and (2) report to the Division within twenty-four (24) hours, by telegraph or telephone, serious conditions that would jeopardize the life, limb, or safety of employees discovered during his or her inspection.

ECONOMIC IMPACT ASSESSMENT

The Proposed Rulemaking will affect the 26,674 owners and operators of pressure vessels, tanks and boilers in California; 86% which are small businesses. The Proposed Rulemaking applies to all non-exempt businesses operating pressure vessels, tanks and boilers in this state, and thus, is neutral in its treatment of California businesses compared to businesses from other states.

- a) Creation or elimination of jobs within the State of California. The Division does not anticipate that the Proposed Rulemaking will result in the creation or elimination of any jobs in the State of California. The fee increase is required by Labor Code section 7721 and is necessary to fund the Division's Pressure Vessel Unit program to ensure safety and health of workers. This proposed action will not affect the increase and decrease of employment.

- b) Creation of new businesses or the elimination of existing businesses within the State of California. The Proposed Rulemaking will not affect the creation of new businesses or the elimination of existing business within the State of California. The proposed regulation merely modifies the fees prescribed under California Code of Regulations, title 8, sections 344, 344.1 and 344.2 to allow the Division to recoup the costs it incurs in administering its pressure vessel program as required by Labor Code section 7721. The fee increase to sections 344 and 344.2 is minimal and will not significantly affect owners/operator of pressure vessels and boiler in California. (See Appendix A)

- c) Expansion of businesses currently doing business within the State of California. The Proposed Rulemaking will not affect the expansion of businesses currently doing business within the state. The proposed fee increase to sections 344 and 344.2 is necessary to allow the Division to better recover the actual costs it incurs in having its qualified safety engineers provide on-site inspection services for the private sector owners/operators who use pressure vessels, tanks, and boilers that must be inspected prior to the issuance of a permit to operate as required by Labor Code section 7721. Labor Code section 7721 states that the fees charged must cover the inspection and administration of cost of Division. Thus, no businesses in the pressure vessel industry are expected to develop into a new unit or department.

BENEFITS OF THE PROPOSED ACTION

The Proposed Rulemaking, by funding the regulation of pressure vessels, tanks and boilers to ensure their safe operation, will (1) protect the lives, health and safety of the public and of employees working in the vicinity of pressure vessels, tanks, and boilers; (2) protect businesses and local governments from economic disruption and expense incurred for emergency rescue and police services that would occur from an explosion or uncontrolled leak of hot, toxic or otherwise harmful contents in pressure vessels, tanks and boilers; and (3) protect the environment from contamination that could result from uncontrolled emissions or spills of the materials, gases and substances stored in pressure vessels, tanks and boilers. If the Division is unable to increase its inspection and permitting fees, it will be required to suspend its safety inspection and permit program for pressure vessels, tanks and boilers, which would expose the public and employees in the vicinity of such equipment to a credible risk of significant injury, impairment or death upon failure of a pressure vessel, tank or boiler, and result in economic disruption to businesses and local governments.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDUES, REPORTS, OR DOCUMENTS ON WHICH THE DIVISION RELIED IN CONNECTION WITH THE PROPOSED RULEMAKING

Program Cost Detail of the Division's Pressure Vessel Unit, which is attached to this ISOR as Appendix A.

SPECIFIC TECHNOLOGIES OR EQUIPMENT

The Proposed Rulemaking is a fee regulation and does not mandate the use of specific technologies or equipment.

REASONABLE ALTERNATIVES TO THE PROPOSED RULEMAKING

As discussed above, the Division is not collecting enough fees to fund its pressure vessel program. The Division determined that the proposed fee changes will adequately correct the Pressure Vessel Account's deficit, and allow the Division to better cover the actual costs going forward. Any alternative fee structures would need to have an equivalent effect.

Evidence Relied Upon to Support the Initial Determination that the Proposed Rulemaking Will Not Have a Significant Adverse Economic Impact on Business

The Division has made an initial determination that the Proposed Rulemaking will not result in significant adverse economic impact on private persons or businesses.

The Division is not aware of any cost impacts that a representative private person would necessarily incur in reasonable compliance with the Proposed Rulemaking. Indeed, a private person who does not own or operate a pressure vessel, tank or boiler subject to the Pressure Vessel Safety Orders would not experience a direct cost impact as a result of the Proposed Rulemaking.

The Division has determined that the Proposed Rulemaking will not have a significant statewide adverse economic impact directly affecting business, including the ability of California business to compete with businesses in other states.

The Proposed Rulemaking will only affect owners and operators of non-exempt pressure vessels, tanks and boilers by (1) increasing the hourly rate for all services under section 344 by about 11% (\$135/\$150); (2) decreasing the hourly rate for all services under section 344.1 by about 6% (\$160/\$150); and (3) tripling the permit fee under 344.2 from \$15.00 to \$45.00. The Division anticipates that the Proposed Rulemaking will result in an estimated cost increase of \$829,000 for small businesses, and \$135,000 for other businesses. (See Appendix A.)

Proposed Rulemaking does not require the purchase of new equipment or training or technology, so it will not involve "initial costs" as that term is commonly understood.

