

Cause #: 97-24B

Name: Al Pete Meats, Inc. d/b/a Veil Meets

Administrative Law Judge: William K. Teeguarden

Date: December 30, 1997

Commission Action: Affirmed

FINDINGS OF FACT

1. The Office of the State Building Commissioner (“SBC”) and the Fire Prevention and Building Safety Commission (“FPBSC”) are agencies within the meaning of IC 4-21.5.
2. IC 4-21.5 , IC 22-15 and 680 IAC 2 apply to this proceeding.
3. The FPBSC is the ultimate authority with respect to enforcement actions taken by the SBC.
4. The SBC, through the Boiler and Pressure Vessel Safety Division, is the state agency responsible for the regulation of pressure vessels.
5. At all times relevant to this proceeding, Al Peter Meats, Inc.¹ (“APM”) operated a pork processing plant in Muncie, Indiana, which included two pressure vessels (#167638 and #167763) which are hereby designated “Vessel I” and Vessel II”.
6. The purpose of the pressure vessels at APM is to provide hot water under pressure for plant cleanup.
7. On May 19, 1997, an insurance company inspector conducting an insurance inspection of APM’s boilers discovered the pressure relief valves on both Vessel I and Vessel II did not have the required markings stamped on the valves.
8. The insurance inspector is also a licensed inspector by the state who is authorized to perform periodic boiler inspections and acting in this capacity, he forwarded the results of the inspection to the SBC.

¹The violation was written to Veil Foods. During the hearing, the APM representative explained Veil Foods is a wholly owned subsidiary of APM and that APM is the real party in interest.

9. On June 2, 1997, the SBC issued a correction order.
10. APM filed a timely petition for administrative review.
11. A follow-up letter dated June 11, 1997, for the SBC specifies 680 IAC 2-6-1 (ASME Code, Section IU, HG 400.2) as the code section violated.
12. 680 IAC 2-6-1 adopts ASME standards, as did its predecessor, 680 IAC 1.
13. ASME Code, Section IV, HG 400.2 requires each boiler to have at least one officially rated safety relief valve identified with the V or HV symbol.
14. Vessel I and Vessel II did not have officially rated safety relief valves.
15. Vessel I and Vessel II were in violation of the ASME code.
16. By the time of the hearing, Vessel I was no longer in violation since it was in bad enough shape that APM had removed it and sold it for scrap.
17. The primary pressure cleaning device at this time is a high pressure pump.
18. Vessel II is currently used infrequently as a backup to the pressure pump.
19. The primary defense of APM was the failure to cite the valves in previous inspections.
20. APM's evidence goes more to the seriousness of the violation rather than whether or not a violation exists. The fact that prior inspections had not resulted in a violation being issued does not change the fact that a violation existed.

NONFINAL ORDER

The order of the State Building Commission finding vessels #167638 and #167763 to be in violation is affirmed. Vessel #167638 is now in compliance in that it has been removed and is no longer in service. Vessel #167763 shall not be used until a properly rated valve has been installed.

