



# RISK ALERT

## February 8, 2023

### TWCARMF Risk Alert - Boiler Inspections

You should be aware that the Texas Department of Licensing and Regulation (TDLR) is resuming enforcement of fees/penalties imposed by the State of Texas following a hiatus during the pandemic, for the owner of any boilers or pressure vessels that require inspections. According to the State of Texas Chief Boiler Inspector Rob Troutt, TDLR will start to charge the maximum fee allowable under Texas law which is up to **\$5,000 PER DAY for late inspections starting on March 1<sup>st</sup>, 2023**. Relevant excerpts from the statute related to penalties for non-compliance read as follows:

#### **Texas Occupations Code Title 2 - General Provisions Relating to Licensing**

#### **Chapter 51 - Texas Department of Licensing and Regulation**

#### **Subchapter F. Administrative Penalty**

#### **Section 51.302. Amount of Penalty**

Sec. 51.302. AMOUNT OF PENALTY. (a) If the relevant law establishing a program regulated by the department does not state the maximum amount of an administrative penalty under that law, the amount of the penalty shall be assessed by the commission or executive director in an amount that may not exceed \$5,000 per day for each violation. Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty.

(b) The amount of the penalty shall be based on:

- (1) the seriousness of the violation;
- (2) the respondent's history of previous violations;
- (3) the amount necessary to deter a future violation;

(4) efforts made by the respondent to correct the violation; and

(5) any other matter that justice may require.

(c) The commission shall by rule or by procedure published in the Texas Register establish a written enforcement plan that provides notice to license holders of the specific ranges of penalties that apply to specific alleged violations and the criteria by which the department determines the amount of a proposed administrative penalty.

In accordance with Texas Boiler Law, §755.025, Power Boilers, Unfired Boiler and Process Steam Generators are required to be inspected on an annual basis. Hot Water Heating Boilers and Steam Heating Boilers are required to be inspected every two years and Hot Water Supply Boilers and Potable Water Heaters must be inspected every three years.

FM Global, which provides Boiler and Machinery coverage for members of the TWCARMF, alerted us to this change. Staff responsible for boiler or pressure vessel maintenance should immediately check for the most recent inspection date and contact the Fund for assistance in bringing your equipment into compliance to avoid this fine.