

PROFESSIONAL ENGINEER REGULATIONS

1.01 DEFINITIONS

“Company” or “Gas Company” means all entities, individuals, or corporations to which G.L. c. 164, § 148 applies.

“Complex Project” means any engineering work that requires a job-specific design plan, such as the following:

- A. Installation that creates or reconfigures district pressure regulator stations or gate/take stations.
- B. Installation of new compressor stations.
- C. Installation, uprating, or abandonment of intrastate transmission lines.
- D. Installation work on distribution mains that:
 - 1. Involves two or more tie-ins;
 - 2. Requires a bypass; or
 - 3. Changes the system operating pressure.
- E. Uprating or abandonment of distribution mains.
- F. All distribution main replacement projects pursuant to G.L. c. 164, § 145.
- G. Distribution main replacement/extension projects within or crossing any public or private rights-of-way, including installation on bridges or installation that uses trenchless technology.
- H. Installation of service lines that require the bypass of a distribution line to supply service.
- I. Installation or abandonment of service lines that require an interruption of flow in the distribution main.
- J. Installation or abandonment of service lines connecting to a distribution main with an MAOP exceeding 60 p.s.i.g.
- K. Installation of service lines if 2” or greater in nominal diameter.

- L. Installation or reconfiguration of LNG vaporization facilities.
- M. Installation of large volume meter sets if the inlet line to the meter is 4” or greater in nominal diameter.
- N. Installation, reconfiguration, or annual review of relief valve capacity calculations per 49 C.F.R § 192.739 for district regulator and relief valve stations.

“Department” means the Department of Public Utilities.

“Design” refers to the design of new facilities and the design of changes to existing facilities.

“Installation” means either or both design and construction.

“MAOP” means maximum allowable operating pressure.

“Professional Engineer” means a person who, by reason of his special knowledge of the mathematical and physical sciences and the principles and methods of engineering analysis and design acquired by professional education and practical experience, is qualified to practice engineering, as attested by his registration as a professional engineer and certification under G.L. c. 112, § 81E.

“Reconfigure” means to rebuild or relocate parts, and it includes the replacement of any individual component that would alter the MAOP or volumetric capacity, but excludes individual component replacement that has no effect on operation or function.

“Sufficient Knowledge” means having an understanding of the pipeline design, construction, and operations of a company’s gas system.

“Trenchless Technology” means methods used to minimize excavation activity, such as horizontal directional drilling, tunneling, and auger boring.

1.02 GENERAL

(1) Purpose and Scope

The purpose of these Professional Engineer Regulations is to promote the safety of natural gas engineering work or services through the use of professional engineers, with sufficient knowledge of natural gas facilities, to provide direction to gas companies for certain engineering work or services.

These Professional Engineer Regulations do not waive or otherwise modify any provisions of 250 CMR. Further, these regulations may be supplemented by guidelines from the Department's Director of the Pipeline Safety Division or another designee of the Department's Commission.

(2) Incorporation of Guidelines into Operations and Maintenance Procedures

Each gas company shall incorporate these Professional Engineer Regulations into their written procedures under 49 C.F.R. Part 192 as applicable, to ensure compliance with G.L. c. 164, §§ 105A and 148.

(3) Applications for Exceptions

Any gas company may make a written request to the Department for an exception to these Professional Engineer Regulations, in whole or in part. The request shall justify why the exception should be granted and shall demonstrate why the exception sought does not detract from the safety objectives of these guidelines. The request shall state the need for the exception, specific information on the circumstances surrounding the requested exception, the specific provision from which the exception is sought, the time period for which the exception is sought, and a description of any safety consequences that might result from the exception.

The Department may deny the exception or grant the exception as requested, or as modified by the Department and subject to conditions. Any exception or denial shall be issued in writing and shall be made by the Department's Director of the Pipeline Safety Division or another designee of the Department's Commission. Any person aggrieved by a decision regarding a request for an exception may appeal that decision to the Department's Commission. Any appeal shall be in writing and shall be made not later than ten business days following issuance of the written decision on the request for an exception.

1.03 USE OF PROFESSIONAL ENGINEERS

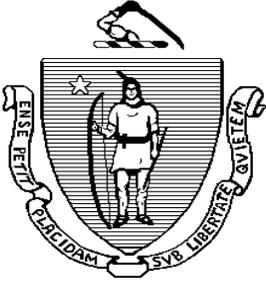
(1) Any gas pipeline engineering plans or specifications for engineering work or services on complex projects must be produced by or under the direct charge and supervision of a Professional Engineer with sufficient knowledge of a gas company's natural gas distribution system, and they must bear the Professional Engineer's stamp, in accordance with 250 CMR.

(2) A Professional Engineer must ensure that the plan or specification conforms to the applicable pipeline safety laws, regulations, and standards, and his or her review, and use of a Professional Engineer's stamp must comply with the professional and ethical obligations set forth in 250 CMR 5.00.

- (3) A Professional Engineer's stamp is not required for emergency work, but a Professional Engineer's stamp is required after the emergency has been resolved if the remaining work or services are on a complex project.
- (4) A Professional Engineer's stamp may not be used on standardized plans or specifications. All plans and specifications with a Professional Engineer's stamp must be part of a specific project package and checked for applicability with the specific project requirements.
- (5) A company must ensure that all documents bearing a Professional Engineer's stamp are accurate, complete, and correct prior to commencing the work.

1.04 DOCUMENTATION

At a gas company's office within the Commonwealth of Massachusetts, each company shall maintain the plans and specifications that must bear a Professional Engineer's stamp pursuant to either these regulations or guidelines from the Department's Director of the Pipeline Safety Division. These plans and specifications shall be readily accessible upon request by the staff of the Department, and they shall be maintained in accordance with the document retention timelines set forth in 49 C.F.R. Part 192.



The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC UTILITIES

D.P.U. 19-34-A

October 11, 2019

Inquiry by the Department of Public Utilities, on its own motion, into the use of professional engineers by natural gas companies pursuant to G.L. c. 164, § 148, as added by St. 2018, c. 339, § 2.

INTERLOCUTORY ORDER AND STRAW PROPOSAL ON PROFESSIONAL ENGINEER REGULATIONS

I. INTRODUCTION

On December 31, 2018, Governor Baker signed as an emergency law Chapter 339 of the Acts of 2018, An Act Further Providing for the Safety of the Commonwealth's Natural Gas Infrastructure ("Act"). Section 2 of the Act amends G.L. c. 164 by adding Section 148, which provides for professional engineers certified under G.L. c. 112, § 81E to stamp any gas company's engineering plans or specifications for engineering work or services that could pose a material risk to public safety, as determined by the Department. Section 2 of the Act further states that the Department may promulgate regulations as necessary to implement G.L. c. 164, § 148 ("Section 148") and applicable provisions of G.L. c. 112, § 81R subsection (l).¹

On March 18, 2019, to facilitate the promulgation of those regulations, the Department commenced this proceeding to explore issues related to the use of professional engineers in relation to natural gas engineering plans, work, or services that could pose a

¹ As amended by the Act, G.L. c. 112, § 81R, subsection (l) provides in pertinent part that nothing in G.L. c. 112, §§ 81D to 81T, regarding the certification of professional engineers by the Board of Registration of Professional Engineers and of Land Surveyors, shall be construed to prevent or to affect the following:

the performance of engineering work and services by a person, firm or corporation subject to the jurisdiction of the [Department] ... which work and services are performed as part of their employment and for the benefit of such person, firm, or corporation; *provided, however, that this subsection shall not apply to engineering work or services that could pose a material risk to public safety, as determined by the [Department], performed by or on behalf of a gas company, as defined in section 1 of chapter 164, that distributes and sells gas within the commonwealth* (new language in italics).

material risk to public safety. In the Order opening the inquiry, The Department solicited comments on the issues that the professional engineer regulations should address. The Department accepted initial written comments through April 18, 2019,² and reply comments through May 2, 2019.³

Based on the comments received, the Department has developed the Straw Proposal attached to this Order (“Straw Proposal”). The Straw Proposal represents the Department’s analysis of the comments received and establishes specific criteria for the use of professional engineers in relation to natural gas engineering plans, work, or services that could pose a material risk to public safety. In particular, the Straw Proposal delineates how natural gas companies are to use professional engineers on complex projects and defines the types of complex projects that warrant the use of professional engineers. The Department may initiate

² The following entities filed initial comments: the Office of the Attorney General of Massachusetts; Massachusetts Board of Registration of Professional Engineers and Land Surveyors; Bay State Gas Company d/b/a Columbia Gas of Massachusetts; NSTAR Gas Company d/b/a Eversource Energy; Boston Gas Company and Colonial Gas Company each d/b/a National Grid; Liberty Utilities (New England Natural Gas Company) Corp. d/b/a Liberty Utilities; Fitchburg Gas & Electric Light Company d/b/a Until; The Berkshire Gas Company; New England Gas Workers Alliance; Massachusetts Society of Professional Engineers, Inc.; American Council of Engineering Companies of Massachusetts; and National Association of Pipeline Safety Representatives.

³ The following entities filed reply comments: Bay State Gas Company d/b/a Columbia Gas of Massachusetts; NSTAR Gas Company d/b/a Eversource Energy; Boston Gas Company and Colonial Gas Company each d/b/a National Grid; Liberty Utilities (New England Natural Gas Company) Corp. d/b/a Liberty Utilities; Fitchburg Gas & Electric Light Company d/b/a Unutil; and Northeast Gas Association.

a formal rulemaking proceeding after we review the comments submitted pursuant to this Order.

II. SOLICITATION OF COMMENTS

The Straw Proposal is attached to this Order and may be inspected at the Department's offices, One South Station, Boston, Massachusetts or on the Department's website by looking up the docket in the docket database at <https://eeaonline.eea.state.ma.us/DPU/Fileroom/dockets/bynumber> (enter "19-34"). The Department seeks initial written comments on the Straw Proposal no later than **5:00 p.m. on Monday, November 4, 2019**. The Department seeks reply written comments no later than **5:00 p.m. on Monday, November 11, 2019**. Written comments shall be limited in length to a maximum of ten one-sided, double-spaced typewritten pages. Based on the comments received, the Department will establish a further procedural schedule that may provide for technical sessions. The Department anticipates that this proceeding will result in a rulemaking conducted pursuant to G.L. c. 30A, § 2, and 220 CMR 2.00, to establish regulations for the use of professional engineers by natural gas companies.

Any person who desires to file written comments shall file an original and one copy of such written comments with Mark D. Marini, Secretary, Department of Public Utilities, One South Station, Fifth Floor, Boston, Massachusetts, 02110. All documents should also be submitted to the Department in electronic format using one of the following methods: (1) by e-mail attachment to dpu.efiling@mass.gov and the hearing officer, laurie.e.weisman@mass.gov; or (2) on a CD-ROM or USB drive. The text of the e-mail,

CD-ROM, or USB drive must specify: (1) the docket number of the proceeding (D.P.U. 19-34); (2) the name of the person or company submitting the filing; and (3) a brief descriptive title of the document. The electronic filing should also include the name, title, and telephone number of a person to contact in the event of questions about the filing.

Documents filed with the Department will be available for public inspection at its offices during business hours and through our website by looking up the docket by its number in the docket database as noted above. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), contact the Department's ADA coordinator at DPUADACoordinator@state.ma.us or (617) 305-3642.

III. ORDER

Accordingly, the Department

ORDERS: That the Secretary of the Department shall serve a copy of this Order on all persons that have asked to be placed on the Department's general distribution list pursuant to 220 CMR 2.09 and the D.P.U. 19-34 distribution list.

By Order of the Department,

/s/

Matthew H. Nelson, Chair

/s/

Robert E. Hayden, Commissioner

/s/

Cecile M. Fraser, Commissioner