

Massachusetts Legislation

**Chapter 149 AN ACT RELATIVE TO
NATURAL GAS LEAKS**

Effective October 1, 2014

SECTION 1

- Section 105A of chapter 164 of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-
 - Any person, firm or corporation who violates any provision of any code adopted by the department pertaining to the safety of pipeline facilities and the transportation of gas, or any regulation or rule thereunder, at a time when the department has submitted and has in effect the annual certification to the United States Secretary of Transportation provided for in 49 U.S.C. section 60105 shall be subject to civil penalties as specified in 49 U.S.C. section 60122(a)(1) or any successor statute enacted into federal law for the same purposes as said section 60122(a)(1).
- Was - \$50,000 for each violation, for each day the violation continues not to exceed \$1,000,000
- Now - \$200,000 for each violation, for each day the violation continues not to exceed \$2,000,000
- Automatically adopts the federal limit

SECTION 2.

Said chapter 164 is hereby further amended by adding the following 2 sections:-
Section 144.

- (a) There shall be uniform natural gas leaks classification for all gas companies.
- (b) (1) Gas companies shall assess a grade to all reported natural gas leaks based on the system provided in this section.
(2) Grade 1 leak – operators shall immediately schedule a completion of repairs and the condition shall be kept under continuous surveillance until the hazard or source of the leak is eliminated. Whenever appropriate and feasible, a gas company shall notify the fire department and chief law enforcement officer in each city or town where a Grade 1 leak is identified.
- (3) A Grade 2 leak shall be a leak that is recognized as non-hazardous to persons or property. repair Grade 2 leaks or replace the main within 12 months from the date the leak was classified. All Grade 2 leaks shall be reevaluated by a gas company at least once every 6 months until eliminated.
- (4) A Grade 3 leak shall be a leak that is recognized as non-hazardous. Operators shall reevaluate Grade 3 leaks during the next scheduled survey, or within 12 months from the date last evaluated, whichever occurs first, until the leak is eliminated or the main is replaced.

- (c) Upon the undertaking of a significant project on a public way exposing confirmed natural gas infrastructure, and with sufficient notice, a municipality or the commonwealth shall submit written notification of the project to a gas company. The gas company shall survey the project area for the presence of Grade 1 or Grade 2 leaks and set repair and replacement schedules for all known or newly detected Grade 1 or Grade 2 leaks.
- The gas company shall ensure that any shut off valve in the significant project area has a gate box installed upon it or a reasonable alternative that would otherwise ensure continued public safety and that any critical valve that has not been inspected and tested within the past 12 months is verified to be operational and accessible. The gas company shall provide the repair and replacement schedule of gas leaks to the municipality or the commonwealth.
- (d) Gas companies shall prioritize any pipeline repairs required under this section for gas leaks detected within a school zone. For the purposes of this section, “school zone” shall mean on or within 50 feet of the real property comprising a public or private accredited preschool, accredited Head Start facility, elementary, vocational or secondary school.
- (e) As part of the annual service quality standards report required by section 11, each gas company shall report to the department the location of each Grade 1, Grade 2 and Grade 3 leak existing as of the date of the report, the date each Grade 1, Grade 2 and Grade 3 leak was classified and the dates of repairs performed on each Grade 1, Grade 2 and Grade 3 leak. A gas company shall specify any reclassification of previously identified leaks in its annual report. Gas leak information shall be made available to any municipal or state public safety official upon written request to the department.
- (f) The department shall promulgate regulations necessary to implement the uniform natural gas leak classifications as specified in this section and shall oversee and monitor company response and reporting.

Section 145.

- “Eligible infrastructure replacement”, a replacement or an improvement of existing infrastructure of a gas company that: (i) is made on or after January 1, 2015; (ii) is designed to improve public safety or infrastructure reliability; (iii) does not increase the revenue of a gas company by connecting an improvement for a principal purpose of serving new customers; (iv) reduces, or has the potential to reduce, lost and unaccounted for natural gas through a reduction in natural gas system leaks; and (v) is not included in the current rate base of the gas company as determined in the gas company’s most recent rate proceeding.
- (b) A gas company may file with the department a plan to address aging or leaking natural gas infrastructure
- (c) Any plan filed with the department shall include, but not be limited to: (i) eligible infrastructure replacement of mains, services, meter sets and other ancillary facilities. Prioritized to implement the federal gas distribution pipeline integrity management plan. A gas company shall include a timeline for removing all leak-prone infrastructure on an accelerated basis specifying an annual replacement pace and program end date with a target end date of either (i) not more than 20 years or (ii) a reasonable target end date considering the allowable recovery cap.
- (d) If a gas company files a plan on or before October 31 for the subsequent construction year, the department shall review the plan within 6 months. The plan shall be effective as of the date of filing, pending department review.
- (e) If a plan is in compliance with this section and the department determines the plan to reasonably accelerate eligible infrastructure replacement and provide benefits, the department shall issue preliminary acceptance of the plan in whole or in part. A gas company shall then be permitted to begin recovery of the estimated costs of projects included in the plan beginning on May 1 of the year following the initial filing and collect any revenue requirement.

(f) On or before May 1 of each year, a gas company shall file final project documentation for projects completed in the prior year to demonstrate substantial compliance with the plan approved pursuant to subsection (e) and that project costs were reasonably and prudently incurred. The department shall investigate project costs within 6 months of submission and shall approve and reconcile the authorized rate factor, if necessary, upon a determination that the costs were reasonable and prudent.

Annual changes in the revenue requirement eligible for recovery shall not exceed (i) 1.5 per cent of the gas company's most recent calendar year total firm revenues, including gas revenues attributable to sales and transportation customers.

SECTION 3. On or before January 1, 2015, the department of public utilities shall authorize gas companies, as defined in section 1 of chapter 164 of the General Laws, to design and offer programs to customers which increase the availability, affordability and feasibility of natural gas service for new customers

SECTION 4. Notwithstanding any general or special law to the contrary, the department of public utilities shall open an investigation into gas operator compliance with the directives set forth in its Order D.T.E.\D.P.U. 06-48-A. The department shall complete its investigation and submit its findings to the clerks of the house of representatives and the senate and the house and senate chairs of the joint committee on telecommunications, utilities and energy on or before June 1, 2015.

SECTION 5. Notwithstanding any general or special law to the contrary, each operator shall give notice to the department of public utilities of each incident at the earliest practicable moment following discovery of said incident, in such form as the department may require. Within 30 days of notice of an incident under this section, the department of public utilities shall post a notice on its website describing whether it will investigate said incident. In the event the department determines not to investigate the incident, it shall set forth in writing the reasons for its decision.

SECTION 7. Notwithstanding any general or special law to the contrary, explosive material, as defined in 527 CMR 13.03, shall not be used to fire a blast in any blasting operation at a site primarily used as a source of mined products from the earth if such site is within 500 feet of a natural gas pipeline or metering and regulation station without written approval by the department of public utilities.

SECTION 8. The department of public utilities shall investigate whether it shall require the winter surveillance and patrol of cast iron gas pipelines in the commonwealth and shall determine whether the presence of extended frost cap conditions may result in additional stress on cast iron pipe segments, requiring enhanced surveillance and patrol. The department may establish minimum uniform procedures for cast iron winter surveillance and patrols consistent with any federally mandated standards for integrity management programs for distribution pipelines. Gas companies, may establish procedures that exceed any minimum standards, subject to applicable filing requirements with the department.

SECTION 9. The department of public utilities shall issue a report addressing the prevalence of gas leaks in the natural gas system. The report shall include, but not be limited to: (i) the total number of Grade 1, Grade 2 and Grade 3 leaks as classified in section 144 of chapter 164 of the General Laws and reported in the previous year; (ii) estimates for lost and unaccounted for natural gas and methane emissions as a result of such Grade 1, Grade 2 and Grade 3 leaks; and (iii) time and cost estimates for eliminating the backlog of Grade 1, Grade 2 and Grade 3 leaks. The department shall issue the first report not later than 1 year after the effective date of this act.

The second and all subsequent reports shall be filed annually thereafter until the department determines that the backlog has been sufficiently addressed and the natural gas distribution system is in a state of good repair. The final annual report issued by the department pursuant to this section shall estimate the total cost of eliminating the backlog and the annual estimated cost to maintain a state of good repair. The second report and all subsequent reports shall be filed with the house and senate chairs of the joint committee on telecommunications, utilities and energy and the house and senate chairs of the joint committee on public safety and homeland security on or before December 31 of each year.