



# The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC UTILITIES

OFFICE OF THE CITY CLERK  
CAMBRIDGE, MASSACHUSETTS

## NOTICE OF PUBLIC HEARING AND REQUEST FOR COMMENTS

D.P.U. 12-33

April 25, 2012

Investigation of the Department of Public Utilities, on its own motion, instituting a Rulemaking pursuant to G.L. c. 164B, § 1; G.L. c. 30A, § 2; and 220 C.M.R. § 2.00 et seq., pertaining to Steam Distribution Companies

On April 25, 2012, the Department of Public Utilities ("Department") issued an Order instituting a rulemaking proceeding, pursuant to G.L. c. 164B, G.L. c. 30A, § 2 and 220 C.M.R. § 2.00 et seq. The Department commences this rulemaking, for the purpose of promulgating new regulations, 220 C.M.R. § 20.00 et seq.: Steam Distribution Companies.

Chapter 169 of the Acts of 2008, An Act Relative to Green Communities, directs the Department to establish reasonable rules and regulations pertaining to steam distribution companies. G.L. c. 164B, § 1. Pursuant to St. 2008, c. 169, § 79, set forth at G.L. c. 164B, the proposed regulations prescribe minimum safety requirements for the design, fabrication, installation, inspection, testing, operation, and maintenance of steam facilities by Steam Distribution Companies. Every Steam Distribution Company, as defined in G.L. c. 164, § 1, is required to comply with 220 C.M.R. § 20.00 et seq. The proposed new regulations require Steam Distribution Companies to (1) establish and file operating and maintenance plans and emergency plans and (2) respond immediately to emergency leaks. The regulations also prescribe periodic inspections of certain steam distribution facilities such as steam traps, valves, manholes and expansion joints. Further, the regulations state that the Department of has the authority to conduct examinations and investigations into a Steam Distribution Company's safety performance, and to levy fines against Steams Distribution Companies for failure to comply with G.L. c. 164B or 220 CMR § 20.00 et seq.

The Department's Order and proposed regulations are available for public inspection at the Department's offices during regular business hours. In addition, electronic copies of the documents are posted on the Department's website, <http://www.mass.gov/dpu>.

The Department will conduct a public hearing to receive comments on the proposed regulations. The hearing will take place on Thursday, June 14, 2012, beginning at 10:00 a.m., at the Department's offices, 5th Floor, One South Station, Boston, Massachusetts. Any person interested in commenting on this matter may appear at the public hearing or submit written

comments to the Department no later than 5:00 p.m., Thursday, June 7, 2012. Written reply comments must be filed no later than 5:00 p.m. on Thursday, June 21, 2012.

All written documents must be filed with Mark D. Marini, Secretary, Department of Public Utilities, One South Station, 5th Floor, Boston, Massachusetts 02110. Please file one original and two (2) copies and direct one copy to William Stevens, Hearing Officer. 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@state.ma.us](mailto:dpu.efiling@state.ma.us) and; [william.stevens@state.ma.us](mailto:william.stevens@state.ma.us) or (2) on a CD-ROM. The text of the e-mail or CD-ROM must specify: (1) the docket number of the proceeding (D.P.U. 12-33); (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. The Department strongly encourages filers to avoid submitting scanned files but will accept them for posting when an alternative version does not exist in electronic format. All documents submitted in electronic format will be posted on the Department's website: <http://www.mass.gov/dpu>.

#### **SMALL BUSINESS IMPACT STATEMENT**

*In order to accurately predict the impact the adoption, amendment, or repeal of a regulation will have on small businesses, the promulgating authority must conduct a thorough analysis that not only considers the potential effects of the action but also quantifies the costs, if any, associated with each. The questions below are designed to aid promulgating authorities in conducting their analysis.*

**Agency Submitting Regulation:** Department of Public Utilities

**Subject Matter of Regulation:** Steam Distribution Companies

**Regulation No:** 220 C.M.R. § 20.00 *et seq.*

**Statutory Authority:** G.L. c. 164B, § 1

**Other Agencies Affected:** None. By statute, the "[D]epartment's authority [over steam distribution companies] shall not diminish the authority of any municipality to regulate steam distribution, nor shall it diminish the authority of the department of public safety under chapter 146." G.L. c. 164B, § 3.

**Other Regulations That May Duplicate or Conflict with the Regulation:** There are no conflicting regulations. The Department of Public Safety regulates steam boilers only, not steam distribution. See: G.L. c. 146, §§ 46-51 (Boilers Pressure/Vessels); 522 C.M.R. §§ 1.00 - 14.00 (Board of Boiler Rules); 522 C.M.R. § 15.00 (Boiler and Pressure Vessel Inspection Code); 522 C.M.R. § 16.00 (Controls and Safety Devices for Automatically Fired Boiler units over 200,000 BTU's). Municipalities have authority to regulate steam and pipes in their streets. G.L. c. 40, § 43 (municipalities regulate steam); G.L. c. 158, § 14 (municipalities regulate pipes). Some steam distribution facilities may have asbestos. The Department of Environmental Protection regulates any release of asbestos. G.L. c. 149, §§ 6 through 6F (asbestos); 453 C.M.R. § 6.00 (asbestos).

**Describe the Scope and Objectives of the Regulation:** 220 C.M.R. § 20.00 *et seq.* prescribes minimum safety requirements for the design, fabrication, installation, inspection, testing, operation, and maintenance of main and service piping by Steam Distribution Companies.

**Business Industry(ies) Affected by the Regulation:** Steam Distribution Companies

**Types of Businesses Included in the Industry(ies):** Steam Distribution Companies operating a plant, equipment or facilities for the manufacture, production, transmission, furnishing or distribution of steam to or for the public for compensation within the Commonwealth of Massachusetts.

**Total Number of Small Businesses Included in the Regulated Industry(ies)** *Please see the attached guidance documents for assistance determining the total number of small businesses:* None. The Department identified two Steam Distribution Companies that are subject to 220 C.M.R. § 20.00 et seq.: Dalkia Energy Services, LLC (“DES”) in Cambridge; and Veolia Energy Boston, Inc. (“VEBI”). Neither VEBI nor DES is a “small business.” VEBI is 100% owned by Veolia Environment (“VE”), a \$47 billion company; and DES is majority owned by VE and minority owned by EDF, an \$87 billion company.

**Number of Small Businesses Potentially Subject to the Proposed Regulation:** None.

**Effective Date Used In Cost Estimate:** June 10, 2011.

Yes	No	<i>*Note: For each question, please answer “yes” or “no” and offer a brief explanation. Please describe any facts, data, views, arguments, or other input from small businesses, organizations or any other sources that were used to quantify the impacts outlined below.</i>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<b>Will small businesses have to create, file, or issue additional reports?</b> There are no small businesses subject to 220 C.M.R. § 20.00 <u>et seq.</u> Steam Distribution Companies must file with the Department, safety related reports every year. The companies must also file reports of incidents and interruptions that may occur from time to time.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<b>Will small businesses have to implement additional recordkeeping procedures?</b> There are no small businesses subject to 220 C.M.R. § 20.00 <u>et seq.</u> The regulations require Steam Distribution Companies to prepare, and follow operating and maintenance, and emergency plans, specific to the services they provide. The plans are part of the company’s ordinary course of business, and no additional recordkeeping procedures are needed.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<b>Will small businesses have to provide additional administrative oversight?</b> There are no small businesses subject to 220 C.M.R. § 20.00 <u>et seq.</u> Steam Distribution Companies routinely maintain records needed to produce the reports required by 220 C.M.R. § 20.00 <u>et seq.</u> and minimal additional administrative oversight is needed to produce the reports.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<b>Will small businesses have to hire additional employees in order to comply with the proposed regulation?</b> There are no small businesses subject to 220 C.M.R. § 20.00 <u>et seq.</u> Steam Distribution Companies will not have to hire additional employees to comply with and produce the reports required by 220 C.M.R. § 20.00 <u>et seq.</u>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<b>Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)?</b> There are no small businesses subject to 220 C.M.R. § 20.00 <u>et seq.</u> Steam Distribution Companies will not have to hire additional professionals to comply with 220 C.M.R. § 20.00 <u>et seq.</u>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<b>Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation?</b> There are no small businesses subject to 220 C.M.R. § 20.00 <u>et seq.</u> Steam Distribution Companies are not required to purchase a product or make any other capital investments in order to comply with 220 C.M.R. § 20.00 <u>et seq.</u>

<p>Yes <input checked="" type="checkbox"/></p>	<p>No <input type="checkbox"/></p>	<p><b>Are performance standards more appropriate than design standards?</b> In general, the regulations are performance-based regulations. The regulations require Steam Distribution Companies to prepare, and follow operating and maintenance, and emergency plans, specific to the services they provide. The plans are part of the company's ordinary course of business. Any regulatory costs would be to copy and file the plans with the Department.</p> <p>There are some periodic inspections required that are already done in the ordinary course of business. Any regulatory costs would be to copy and file the documentation.</p> <p>The regulations do have some design standards for construction. The regulations require the companies to comply with a standard code, "Power Piping, American Society of Mechanical Engineers (ASME), Code for Pressure Piping, B31.1-2010," or the most recent successor edition of AMSE B31.1-2010. The code is part of the company's ordinary course of business. Any regulatory cost would be administrative, requiring the company to demonstrate, upon request, that the companies are in compliance with the regulations.</p>
<p>Yes <input type="checkbox"/></p>	<p>No <input checked="" type="checkbox"/></p>	<p><b>Does the regulation require small businesses to cooperate with audits, inspections, or other regulatory enforcement activities?</b> There are no small businesses subject to 220 C.M.R. § 20.00 <u>et seq.</u></p> <p>Steam Distribution Companies will be required to cooperate with periodic inspections.</p>
<p>Yes <input type="checkbox"/></p>	<p>No <input checked="" type="checkbox"/></p>	<p><b>Will the regulation have the effect of creating additional taxes and/or fees for small businesses?</b> There are no small businesses subject to 220 C.M.R. § 20.00 <u>et seq.</u></p> <p>The regulations will not have the effect of creating additional taxes and/or fees for Steam Distribution Companies.</p>
<p>Yes <input type="checkbox"/></p>	<p>No <input checked="" type="checkbox"/></p>	<p><b>Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements?</b> There are no small businesses subject to 220 C.M.R. § 20.00 <u>et seq.</u></p> <p>Steam Distribution Companies must maintain a program for customer education and must ensure that their employees complete training to ensure effective and safe implementation of the procedures required by 220 C.M.R. § 20.00 <u>et seq.</u> We anticipate no cost or minimal training costs. The two steam operators are already following the statutory requirements for operating and maintenance plans, and they have been trained on international and national safety codes, as well as implementing those plans.</p>
<p>Yes <input type="checkbox"/></p>	<p>No <input checked="" type="checkbox"/></p>	<p><b>Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts?</b> The regulatory costs are administrative. It includes costs to submit filings on the Steam Distribution Companies' operations and maintenance, and, in the event of an incident, documentation on abnormal conditions. The administrative burden is not likely to be a major factor in deterring new business in the state.</p>
<p>Yes <input type="checkbox"/></p>	<p>No <input checked="" type="checkbox"/></p>	<p><b>Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts?</b></p>
<p>Yes <input type="checkbox"/></p>	<p>No <input checked="" type="checkbox"/></p>	<p><b>Can the regulation provide for less stringent compliance or reporting requirements for small businesses?</b> There are no small businesses subject to 220 C.M.R. § 20.00 <u>et seq.</u></p> <p>220 C.M.R. § 20.00 <u>et seq.</u> prescribes minimum safety requirements for the design, fabrication, installation, inspection, testing, operation, and maintenance of main and service piping by Steam Distribution Companies.</p>
<p>Yes <input type="checkbox"/></p>	<p>No <input checked="" type="checkbox"/></p>	<p><b>Can the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses?</b> There are no small businesses subject to 220 C.M.R. § 20.00 <u>et seq.</u></p> <p>The schedules and deadlines for compliance or reporting requirements are not burdensome for Steam Distribution Companies.</p>
<p>Yes <input type="checkbox"/></p>	<p>No <input checked="" type="checkbox"/></p>	<p><b>Can the compliance or reporting requirements be consolidated or simplified for small businesses?</b> There are no small businesses subject to 220 C.M.R. § 20.00 <u>et seq.</u></p> <p>The reporting requirements for Steam Distribution Companies are not burdensome.</p>
<p>Yes <input type="checkbox"/></p>	<p>No <input checked="" type="checkbox"/></p>	<p><b>Can performance standards for small businesses replace design or operational standards?</b> As noted above, in general, the regulations are performance-based regulations. The regulations do have some design standards for construction. The regulations require the companies to</p>

		comply with a standard code, that is part of the company's ordinary course of business.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are there alternative regulatory methods that would minimize the adverse impact on small businesses? There are no small businesses subject to 220 C.M.R. § 20.00 <u>et seq.</u> The Department of Public Utilities was directed to establish regulations pertaining to Steam Distribution Companies pursuant to G.L. c. 164B, § 1.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Were any small businesses or small business organizations contacted during the preparation of this document? If so, please describe.

By Order of the Department,

  
Mark D. Marini, Secretary