

The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC UTILITIES

NOTICE OF PUBLIC HEARING AND REQUEST FOR COMMENTS

D.P.U. 23-148

November 6, 2023

Investigation of the Department of Public Utilities, on its own motion, instituting a rulemaking pursuant to G.L. c. 30A, § 2, and 220 CMR 2.00, to amend 220 CMR 99.00, Procedures for the Determination and Enforcement of Violations of Safety Codes Pertaining to Damage Prevention.

On November 6, 2023, the Department of Public Utilities ("Department"), issued an Order instituting a rulemaking proceeding, pursuant to G.L. c. 30A, § 2, and 220 CMR 2.00, to amend 220 CMR 99.00, "Procedures for the Determination and Enforcement of Violations of Safety Codes Pertaining to Damage Prevention." The Department has docketed this matter as D.P.U. 23-148.

The Department proposes changes to comply with Section 81, Chapter 8 of the Acts of 2021, An Act Creating a Next-Generation Roadmap for Massachusetts Climate Policy, as well as changes to comply with existing statutory language. Specifically, the Department proposes changes to ensure consistency between the regulations and the Dig Safe Law, G.L. c. 82, §§ 40 through 40E. The Department will consider other relevant changes to the regulation to promote safety and ensure regulatory compliance. A copy of the Department's Order Instituting Rulemaking and Proposed Regulations may be viewed on the Department's website as referenced below.

The Department will conduct a virtual public hearing to receive comments on the rulemaking. The Department will conduct the hearing using Zoom videoconferencing on Wednesday, January 10, 2024, beginning at 2:00 p.m. Attendees can join by entering the link, <https://us06web.zoom.us/j/81056776169>, from a computer, smartphone, or tablet. For audio-only access to the hearings, attendees can dial in at 1 (646) 558-8656 (not toll free) and then enter ID# 810 5677 6169. If you anticipate providing comments during the public hearing, please send an email by Wednesday, January 3, 2024, to Emily.J.Hamrock@mass.gov with your name, email address, and mailing address, or leave a voicemail message by Wednesday, January 3, 2024, at (617) 275-6105 with your name, telephone number, and mailing address.

Any person interested in commenting may also submit written comments to the Department no later than 5:00 p.m. on Wednesday, January 3, 2024. Written reply comments must be filed no later than 5:00 p.m. on Wednesday, January 17, 2024. Written comments and reply comments shall be limited to a maximum of ten one-sided, double-spaced, typewritten pages.

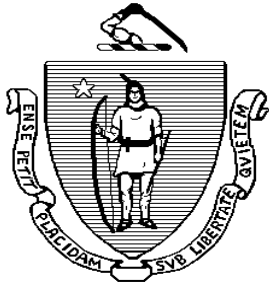
All documents must be submitted to the Department in **.pdf format** by e-mail attachment to dpu.efiling@mass.gov and Emily.J.Hamrock@mass.gov. The text of the e-mail must specify: (1) the docket number of the proceeding (D.P.U. 23-148); (2) the name of the person or company submitting the filing; and (3) a brief descriptive title of the document. All documents submitted in electronic format will be posted on the Department's website through our online File Room as soon as practicable (enter "23-148") at: <https://eeaonline.eea.state.ma.us/DPU/Fileroom/dockets/bynumber>.

Please note that in the interest of transparency any comments will be posted to our website as received and without redacting personal information, such as addresses, telephone numbers, or email addresses. As such, consider the extent of information you wish to share when submitting comments. The Department strongly encourages public comments to be submitted by email. If, however, a member of the public is unable to send written comments by email, a paper copy may be sent to Mark D. Marini, Secretary, Department of Public Utilities, One South Station, Boston, Massachusetts, 02110.

All documents, pleadings, or filings submitted to or issued by the Department will be available on the Department's website as referenced above as soon as practicable. To the extent a person or entity wishes to submit comments in accordance with this Notice, electronic submission, as detailed above, is sufficient. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), contact the Department's ADA coordinator at Gabriella.Knight@mass.gov. For further information regarding this notice, please contact Emily Hamrock, Hearing Officer, Department of Public Utilities, at Emily.J.Hamrock@mass.gov.

By Order of the Department,

/s/
Mark D. Marini, Secretary



The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC UTILITIES

November 6, 2023

Small Business Impact Statement <i>(As required by M.G.L. c. 30A §§ 2, 3 & 5)</i>		
CMR No: 220 CMR 99.00: Procedures for the Determination and Enforcement of Violations of Safety Codes Pertaining to Damage Prevention		
Estimate of the Number of Small Businesses Impacted by the Regulation: There are 20 small business utility companies impacted by the regulations. Small business excavators are also impacted by the regulations.		
Select Yes or No and Briefly Explain		
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to create, file, or issue additional reports? The amendment to 220 CMR 99.00 does not require small businesses to create, file, or issue additional reports.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to implement additional recordkeeping procedures? Small businesses will not have to implement additional recordkeeping procedures.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to provide additional administrative oversight? Most likely small businesses will not have to provide additional administrative oversight to comply with the amendment to 220 CMR 99.00.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to hire additional employees in order to comply with the proposed regulation? Most likely small businesses will not have to hire additional employees to comply with the amendment to 220 CMR 99.00.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)? Most likely small businesses will not have to hire other professionals to comply with the amendment to 220 CMR 99.00.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation? Small businesses will not have to purchase a product or make any other capital investments to comply with the amendment to 220 CMR 99.00.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective? (Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.)
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Do any other regulations duplicate or conflict with the proposed regulation?

Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? Yes, small businesses must comply with the regulatory enforcement procedures of 220 CMR 99.00.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? The amendment to 220 CMR 99.00 does not require small businesses to provide educational services to keep up to date with regulatory requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts?
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts?
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation provide for less stringent compliance or reporting requirements for small businesses? The amendment to 220 CMR 99.00 does not provide for less stringent compliance or reporting requirements for small businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? The amendment to 220 CMR 99.00 does not establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Did the agency consolidate or simplify compliance or reporting requirements for small businesses? The DPU did not consolidate or simplify compliance or reporting requirement for small businesses in amending 220 CMR 99.00.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective? Performance standards for small businesses cannot replace design or operational standards without hindering delivery of the regulatory objective.
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 alternative regulatory methods that would minimize the adverse impact on small businesses.