

**G.L. c. 25 § 1A**

*[Text of section added by 2021, 8, Sec. 15 effective June 24, 2021.]*

Section 1A. In discharging its responsibilities under this chapter and chapter 164, the department shall, with respect to itself and the entities it regulates, prioritize safety, security, reliability of service, affordability, equity and reductions in greenhouse gas emissions to meet statewide greenhouse gas emission limits and sublimits established pursuant to chapter 21N.

**G.L. c. 164 § 145: Plan for replacement or improvement of aging or leaking natural gas infrastructure**

Section 145. (a) For the purposes of this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:--

"Customer", a retail natural gas customer.

*[Definition of "Eligible infrastructure replacement" of subsection (a) effective until August 11, 2022. For text effective August 11, 2022, see below.]*

"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.

*[Definition of "Eligible of subsection (a) as amended by 2022, 179, Sec. 58 effective August 11, 2022. For text effective until August 11, 2022, see above.]*

"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 "infrastructure replacement" 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; (v) is not included in the current rate base of the gas company as determined in the gas company's most recent rate proceeding; (vi) may include use of advanced leak repair technology approved by the department to repair an existing leak-prone gas pipe to extend the useful life of the such gas pipe by no less than 10 years; and (vii) may include replacing gas infrastructure with utility-scale non-emitting renewable thermal energy infrastructure.

"Plan", a targeted infrastructure replacement program construction plan that a gas company files pursuant to subsection (b).

"Project", an eligible infrastructure replacement project proposed by a gas company in a plan filed under this section.

(b) A gas company shall file with the department a plan to address aging or leaking natural gas infrastructure within the commonwealth and the leak rate on the gas company's natural gas infrastructure in the interest of public safety and reducing lost and unaccounted for natural gas through a reduction in natural gas system leaks. Each company's gas infrastructure plan shall include interim targets for the department's review. The department shall review these interim targets to ensure each gas company is meeting the appropriate pace to reduce the leak rate on and to replace the gas company's natural gas

**Commented [PG1]:** -change department mandates to focus on greenhouse gas emissions and energy transition, while maintaining a safe and reliable system and ensuring affordability & preventing stranded assets

**Commented [PG2]:** Ref 21n as well as state directives that electrification is the path to decarbonization

**Commented [PG3]:** Change to necessary to protect the public from imminent harm

**Commented [PG4R3]:** Same comments for below

infrastructure in a safe and timely manner. The interim targets shall be for periods of not more than 6 years or at the conclusion of 2 complete 3-year walking survey cycles conducted by the gas company. The gas companies shall incorporate these interim targets into timelines for removing all leak-prone infrastructure filed pursuant to subsection (c) and may update them based on overall progress. The department may levy a penalty against any gas company that fails to meet its interim target in an amount up to and including the equivalent of 2.5 per cent of such gas company's transmission and distribution service revenues for the previous calendar year.

(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 composed of non-cathodically protected steel, cast iron and wrought iron, prioritized to implement the federal gas distribution pipeline integrity management plan annually submitted to the department and consistent with subpart P of 49 C.F.R. part 192; (ii) an anticipated timeline for the completion of each project; (iii) the estimated cost of each project; (iv) rate change requests; (v) a description of customer costs and benefits under the plan; (vi) the relocations, where practical, of a meter located inside of a structure to the outside of said structure for the purpose of improving public safety; and (vii) any other information the department considers necessary to evaluate the plan.

As part of each plan filed under this section, 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: (i) not more than 20 years from the filing of a gas company's initial plan; or (ii) a reasonable target end date considering the allowable recovery cap established pursuant to subsection (f). The department shall not approve a timeline as part of a plan unless the allowable recovery cap established pursuant to subsection (f) provides the gas company with a reasonable opportunity to recover the costs associated with removing all leak-prone infrastructure on the accelerated basis set forth under the timeline utilizing the cost recovery mechanism established pursuant to this section. After filing the initial plan, a gas company shall, at 5-year intervals, provide the department with a summary of its replacement progress to date, a summary of work to be completed during the next 5 years and any similar information the department may require. The department may require a gas company to file an updated long-term timeline as part of a plan if it alters the cap established pursuant to subsection (f).

(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. The department may modify a plan prior to approval at the request of a gas company or make other modifications to a plan as a condition of approval. The department shall consider the costs and benefits of the plan including, but not limited to, impacts on ratepayers, reductions of lost and unaccounted for natural gas through a reduction in natural gas system leaks and improvements to public safety. The department shall give priority to plans narrowly tailored to addressing leak-prone infrastructure most immediately in need of replacement.

(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, including depreciation, property taxes and return associated with the plan.

(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, or (ii) an amount determined by the department that is greater than 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. Any revenue requirement approved by the department in excess of such cap may be deferred for recovery in the following year.

(g) All rate change requests made to the department pursuant to an approved plan, shall be filed annually on a fully reconciling basis, subject to final determination by the department pursuant to subsection (f). The rate change included in a plan pursuant to section (c), reviewed pursuant to subsection (d) and taking effect each May 1 pursuant to subsection (e) shall be subject to investigation by the department pursuant to subsection (f) to determine whether the gas company has over collected or under collected its requested rate adjustment with such over collection or under collection reconciled annually. If the department determines that any of the costs were not reasonably or prudently incurred, the department shall disallow the costs and direct the gas company to refund the full value of the costs charged to customers with the appropriate carrying charges on the over-collected amounts. If the department determines that any of the costs were not in compliance with the approved plan, the department shall disallow the costs from the cost recovery mechanism established under this section and shall direct the gas company to refund the full value of the costs charged to customers with the appropriate carrying charges on the over collected amounts.

(h) The department may promulgate rules and regulations under this section. The department may discontinue the replacement program and require a gas company to refund any costs charged to customers due to failure to substantially comply with a plan or failure to reasonably and prudently manage project costs.

**Commented [PG5]:** Largely needs to be scrapped and rewritten; we do not anticipate the continued use of pipeline infrastructure, it simply needs to be safe and reliable for the next ~15 years while we work to rapidly electrify. We should set metrics based on area (eg sq mi) to determine whether to focus on retiring a section of pipeline and work to electrify, whether to replace a moderate section of pipe, or whether to patch/repair a leak.