

Lepore, Theresa (DPS)

From: Mason, Brigitte (DPS) on behalf of DPSinfo (DPS)
Sent: Monday, November 23, 2015 10:41 AM
To: Lepore, Theresa (DPS)
Subject: FW: EO 562
Attachments: DPS Interpretation.pdf

From: Jennifer Pederson [
Sent: Monday, November 23, 2015 10:12 AM
To: DPSinfo (DPS)
Cc: 'Jennifer Pederson'
Subject: EO 562

Good morning,

During the Executive Order 562 process, Massachusetts Water Works Association (MWWA) would like the Department of Public Safety to revisit its memo and interpretation "Official Interpretation of Sprinklerfitter License Requirement" dated September 17, 2008 and June 4, 2009 respectively. This memorandum and an associated Administrative Ruling interpret MGL Chapter 146, Sections 81-89 to mean that the installation, repair, testing and maintenance of hydrants and associated piping and valves can only be performed by sprinklerfitters licensed pursuant to these sections of the statute. The memorandum further clarifies that municipal employees are not exempt from these requirements.

Across the Commonwealth, the installation, repair, testing and maintenance of hydrants and related underground piping has been the responsibility of public water systems. Sprinklerfitters have been responsible for dedicated fire sprinkler systems inside of buildings with the point of departure being the backflow prevention device or alarm check. With this ruling any work on hydrants done by public water systems since September 17, 2008 may be deemed unlawful and the individuals involved could be punishable in accordance with section 89 of Chapter 146 (fines of \$10-\$500; 6 months in prison). If public water systems were to cease performing all hydrant maintenance activities out of fear of legal action by DPS, a serious and immediate "service vacuum" would be created. This vacuum would directly compromise the integrity of each and every water system. Local water suppliers are the entities whom possess the knowledge, experience and equipment to operate and maintain hydrants and underground piping used for the purpose of ensuring safe and reliable potable water. Public water suppliers are responsible for budgeting, purchasing and installing hydrants and making important decisions on when to repair or replace hydrants. There would be a great cost to public water suppliers and their ratepayers if licensed drinking water operators had to also obtain and maintain sprinklerfitter licenses. As the focus of sprinklerfitter training is on dedicated fire sprinkler systems, no added benefit would be provided to a licensed drinking water operator.

While DPS revised their interpretation on June 4, 2009 by including the word **dedicated** before fire protection in the third section on municipal piping; however, they failed to remove the example of a hydrant which continues to lead one to believe that hydrants are a component of a dedicated fire protection system. MWWA remains concerned that there might be some ambiguity with this revised interpretation which could unfairly and irresponsibly create a liability to public water suppliers whom continue to maintain their hydrants. We would ask DPS to amend this sentence in the interpretation, striking the words "e.g. fire hydrants)": **"Accordingly, any municipal employee who installs, removes, repairs, or maintains a pipe or other component of a municipal dedicated fire protection sprinkler system (e.g., fire hydrants) must be properly licensed by the Department of Public Safety."** MWWA and Sprinklerfitter Union Local 550 have been working jointly on legislation to amend the statute for several years to provide employees of a public water system with an exemption from the licensing requirements; however, it would be far easier for DPS just to amend the interpretation. We had a meeting with previous Commissioner Gatzunis last year and he pledged to take another look at this interpretation, but it did not happen before he left.



Deval L. Patrick
Governor

Timothy P. Murray
Lieutenant Governor

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Kevin M. Burke
Secretary

Thomas G. Gatzunis, P.E.
Commissioner

September 17, 2008

Administrative Ruling – M.G.L. c. 146 section 81

Pursuant to Massachusetts General Law Chapter 30A section 8, the following is a ruling with respect to the definition of the word “inspection”, and “test” as used in Massachusetts General Law Chapter 146 section 81 as it applies to sprinkler systems.

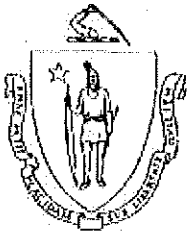
For the purposes of enforcing Massachusetts General Law Chapter 146 section 81, the term “inspection”, as used in relation to sprinkler systems is hereby defined as “documented visual observation and testing of a fire protection system required to be performed on a monthly, quarterly, semi-annually or annual basis that impares or disables the system. Inspections must be performed by a duly licensed Fire Protection Sprinkler Contractor Company. Individual employees performing the inspection under the employ of a Fire Protection Sprinkler Contractor are not required to hold a license, however it is strongly recommended.

“Routine surveillance”, is the daily or weekly monitoring of a fire protection sprinkler system, by the owner or their employee, whereby the system is not impaired and may include the verification of valve position.

“Testing”, is the visual observation of a fire protection sprinkler system by any individual that does not impair or disable the fire protection system.

All repairs of a fire protection sprinkler system must be performed by duly licensed Massachusetts Sprinklerfitters. There is no exemption under the law for this work and unlicensed individuals may not work under another persons license.

Mark F. Mooney
Chief of Inspections - Mechanical
Chairman, Bureau of Pipefitters, Sprinklerfitters and Refrigeration Technicians



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MEMORANDUM

FROM: Edward S. Kawa Jr., Chief of Inspections – Mechanical
RE: Official Interpretation of Sprinklerfitter License Requirement
DATE: 06/04/2009

I. Introduction

This shall serve as an official interpretation relative to the necessity of a license issued by the Department of Public Safety (“Department”) to perform work on fire protection sprinkler systems. This opinion is being issued by the Department as it is the agency¹ that enforces G.L. c.146, §§81-88.² There are two specific questions that have been raised: (1) when it comes to the installation and maintenance of pipes that ultimately service fire protection sprinkler systems, when is a fire protection sprinkler system contractor’s license required? and (2) is a license required to install or maintain piping leading to a municipal fire hydrant? Each question is addressed in turn below.

II. When is a license required?

No person shall work as a fire protection sprinkler system contractor unless that person is lawfully licensed by the Department for those purposes. See GL. c.146, §84. Work on a fire protection sprinkler system includes:

the installation of all fire protection and fire control systems, including both overhead and underground water mains, fire hydrants and hydrant mains, standpipes and hose connections to sprinkler systems, sprinkler tank heaters, air lines and thermal systems, hot water fire protection systems and standpipes connected to sprinkler systems.

G.L. c.146, §81.

¹ Via its division of inspection.

² The Bureau of Pipefitters, Refrigeration Technicians and Sprinklerfitters’ jurisdiction extends solely to the promulgation of rules and regulations for the examining and licensing of fire sprinkler contractors, not to the enforcement of G.L. c.146.

Given the complexity of piping systems involved in the conveyance of water, questions have been raised as to precisely where in a system a license is first required to perform work.³ Certainly, the law does not require a person to be a licensed fire protection sprinkler system contractor to perform work on a pipe that services numerous depots and is miles underground from a fire protection sprinkler system. As such, the Department shall enforce the law in the following manner as it is the only practical approach towards furthering the clear intent of the statutory scheme.

A fire protection sprinkler system contractor license is only required when the work at issue involves *dedicated* fire protection sprinkler lines. That is, in order to install or maintain a pipe the sole purpose of which is to provide water to a fire protection sprinkler system, a license is required. Alternatively stated, if a pipe is bifurcated or serves any purpose other than supplying water to a fire protection sprinkler system (e.g.- delivering potable water) , no sprinklerfitter license is required to install it or perform work on it. A pipe shall be considered to begin at the first circumferential weld off of a main line.

III. Municipal piping

The law does not provide for any exemption for work being performed on municipal fire protection sprinkler systems. The analysis employed in section II above applies equally to systems on municipal property. Accordingly, any municipal employee who installs, removes, repairs, or maintains a pipe or other component of a municipal *dedicated* fire protection sprinkler system (e.g.- fire hydrants) must be properly licensed by the Department of Public Safety.

Though G.L. c.40N does grant municipalities the power to create a commission to oversee an effective and efficient system of water and sewer works, it does not in any way exempt municipal employees from the licensing requirements of G.L. c.146, §84. Similarly, G.L. c.40, §§38-42 grants municipalities the right to create, maintain, and operate a water supply system. However, both chapters are silent when it comes to licensing issues. It is not inconsistent with the purposes of either chapter to require licensure to perform work on municipal fire protection sprinkler systems. To the contrary, it will serve to ensure that such work is undertaken by qualified individuals. Just as a town snow plow driver must possess a state issued driver's license, a town employee engaging in fire protection sprinkler work must possess a Department issued license.

³ By statute, the term 'work' includes "the execution of contracts, the preparation of technical drawings, sale, installation, alteration, modification, inspection, maintenance, removal and repairing of any [fire protection sprinkler] system or any part of such system." G.L. c.146, §81.