

Tuesday, October 29, 2019

The Honorable Senator Edward Markey
255 Dirksen Senate Office Building
Washington, DC 20510

Dear Senator Markey,

On behalf of the more than 28,000 NSPE members, I am writing to express NSPE's disappointment in the recent amendments to S. 1097—The Leonel Rondon Pipeline Safety Act—and to offer a potential way forward that could result in greater protection of the public health and safety through the elimination of the engineering license exemption for gas pipeline operators, while minimizing the financial burden on the industry.

On September 24, the National Transportation Safety Board held a meeting to discuss its investigation of the Merrimack Valley, Massachusetts gas pipeline explosion. A significant amount of time was spent discussing the engineering license exemption, and several comments were made that are worth noting.

- A common criticism from industry with regard to potential elimination of the license exemption is that they don't want to be forced to hire engineers who aren't familiar with their systems. However, during its investigation, NTSB found that Columbia Gas's own engineers lacked recent experience in critical pipeline systems, including sensing lines.
 - o Exclusion of the sensing lines from construction documents and risk assessments was a key factor in the explosion.¹
- Roger Evans, NTSB investigator-in-charge, stated that “without [risk assessment and change management] processes in place” covering every aspect of constructability is very difficult.
 - o Having a professional engineer in responsible charge is one way to ensure that these processes *are* in place and being followed by someone who is properly educated and trained, and who has an ethical duty to protect the public.
- Robert Hall, director of the NTSB Office of Railroad, Pipeline and Hazardous Materials Investigations, noted that “in all 50 states, you have to have a license to cut hair, but you can design a gas system that affects public safety, and 31 states exempt you from having a license or even an engineering degree.”²
 - o Licensing exemptions prevent state and national entities from setting basic minimum requirements for engineering duties that have a direct impact on public health, safety, and welfare.

NTSB's September 24 [abstract and summary](#) of its investigation includes two critical recommendations:

- 1) that all 31 states that currently have engineering licensing exemptions for public utilities eliminate that exemption, and
- 2) that a professional engineer be required to review and approve gas pipeline construction and maintenance documents.

¹ <https://www.nts.gov/news/events/Documents/2019-PLD18MR003-BMG-abstract.pdf> (pg. 2, points 3 and 4)

² NTSB Board meeting, September 24, 2019: <http://ntsb.windrosemedia.com/09242019/>

NSPE was encouraged when, in response to NTSB's urgent recommendation in November that Massachusetts eliminate its license exemption for public utilities, the state responded by eliminating the exemption for gas pipeline operators. We were equally encouraged when you and Rep. Lori Trahan introduced legislation to end the exemption nationally. It is unfortunate that the professional engineer requirement was omitted from S. 1097 when it was added as an amendment to S. 2299.

NSPE understands that compromises must be made during the legislative process, but also believes compromises that put the public at risk simply go too far. Removal of the professional engineer requirement is one such compromise, and in light of the NTSB's final recommendations, NSPE respectfully urges you to consider including the PE requirement.

NSPE's government relations staff has talked with industry representatives about licensing exemptions. They have learned that few operators have considered the possibility of licensing their current employees. Instead, the belief within industry is that industry would be forced to use professional engineers who have no knowledge of the operator systems. With that misunderstanding in mind, NSPE proposes a two-step solution that would result in gas pipeline operators having professional engineers in responsible charge, while mitigating the costs to the gas pipeline industry:

- 1) encourage gas pipeline operators to license the engineers they already employ, and
- 2) create a grant program similar to the Department of Education's National Professional Development Program (NPD) that provides grants to cover related costs such as professional engineering licensure examination preparation and fees.

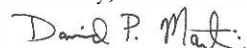
We are eager for the opportunity to work with both your staff and industry representatives to develop and implement a solution that serves industry by mitigating costs and serves the public by providing a layer of protection for gas pipeline operations.

There were many things that went wrong in Merrimack Valley—omission of sensing lines from constructability documents, inability of monitoring stations to quickly locate and/or take immediate action to shut down the affected regulator, lack of sensing line information in the GIS data—all played a role in this deadly explosion. In addition, there was no professional engineer in responsible charge of constructability or work order documents. NTSB's findings make it clear that addressing each of these issues—taking a comprehensive approach—is necessary to improve pipeline safety. NSPE and the Massachusetts congressional delegation generally agree on these critical points as evidenced by the original version of the Leonel Rondon Pipeline Safety Act.

NSPE commends NiSource and the state of Massachusetts for the actions both have already taken to improve safety and emergency measures for gas pipeline networks. We appreciate your attention to this issue.

If you or your staff would like to discuss this further, please contact Stephanie Hamilton, government relations manager, at shamilton@nspe.org.

Sincerely,



David Martini, P.E., F.NSPE
President