

New York OQ Final Rule



Lauren Toczyłowski, Con Edison, OQ Committee Chair
Paul Armstrong, NGA, VP Training & Qualification Services

Discussion Topics

- Background of NY OQ Rule
- Key Rulemaking Topics:
 - “Operator Ownership”
 - Covered Task definition
 - Qualified definition
 - Abnormal Operating Conditions
 - Evaluations
 - Span of Control records
 - Training records
 - Mutual Aid
 - Individuals not performing a Covered Task correctly
 - Management of Change
 - Program Effectiveness
- Compliance schedule
- Non-OQ aspects of the rule
- Other States’ OQ activities

Background of NY OQ Rule

- NY specific issues related to OQ:
 - 2014: East Harlem incident identified gaps in PE-joining qualifications
 - Individual utility redig programs required
 - Late 2016: written evaluation testing breach
 - Various LDCs reporting work performed by non-qualified individuals
- NY DPS OQ Actions:
 - October 2017: OQ Workshop hosted by DPS Staff
 - February 2019: OQ White Paper and Best Practices authored by DPS Staff
 - Commented on by NGA and other stakeholders
 - April 2021: NY issues first OQ notice of proposed rulemaking
 - 14 entities submitted comments
 - November 2021: NY issued a revised OQ notice of proposed rulemaking
 - 7 entities submitted comments
 - March 18, 2022: NY PSC adopted OQ Final Rule

“Operator Ownership” of OQ Programs

- Concerns with “off-the-shelf” OQ programs
- Emphasis on “Operator Ownership” of OQ programs and alignment with Operator’s procedures/requirements/expectations

For example:

255.604(a) Each operator shall have and follow a written qualification program. The program shall include provisions [to]that:

- (1) Identify covered tasks and abnormal operating conditions on the operator’s system with sufficient specificity to that system;
- (3) Ensure through evaluation that each individual[s] performing a covered task has gained the knowledge and skills needed [are qualified] to perform the covered task in accordance with the operator’s procedures and on the type of equipment used by the operator for the task for which the individual is deemed qualified

- Will require review by operators and likely customization of certain covered tasks, performance evaluations, “hybrid tasks”, “challenge tests”, or other means to ensure alignment with company requirements.

Changes to the Covered Task definition

255.3 (10) Covered tasks are all activities, identified by the operator, that:

(i) are performed on a pipeline facility; and

(ii) [are operations and maintenance tasks;

(iii) are performed as a requirement of this Part; and

(iv)] affect the safety [operation] or integrity of the pipeline.

- A more stringent definition than that of PHMSA's rule (4-part test) or current NGA written plan (3-part test)
- Will likely require additional covered tasks to be added to the list. Some examples:
 - Integrity Management functions: ECDA surveillances, in-line inspections, etc.
 - Heat wrapping of pipes
 - Jeeping inspections of pipe coating
 - Flow Tests
 - Bypassing a building (using CNG Box)
 - Relights

Qualified definition

255.3 (45) Qualified means that an individual has completed an evaluation and can correctly:...

(iii) Demonstrate the knowledge required to perform the covered tasks, such as: selection, maintenance requirements, calibration requirements and proper operation of equipment, including variations that may be encountered in the performance of the covered task due to equipment, environmental conditions, and context differences;

(iv) Demonstrate the skill required to perform the covered tasks including variations required in the performance of the covered task due to equipment or new operation differences or changes or both;...

- Performance evaluations being developed to address differences in equipment and materials of construction (various tapping/stopping equipment, design/types of fittings, etc.)
- Review is needed of all covered tasks to determine if such variations exist, and then new sub-tasks/evaluations be developed and/or modifications made to existing evaluations.
 - LDCs should perform a similar review for their company specific tasks.

Changes to Abnormal Operating Conditions

255.604(a)(3)(iv):

A passing grade on an evaluation shall not be awarded if the individual incorrectly answered any question about an abnormal operating condition;

New York State Code: 255.3 Definitions:

Abnormal operating condition means a condition identified by the operator that may indicate a malfunction of a component or deviation from normal operations that may indicate a condition exceeding design limits or result in a hazard(s) to persons, property, or the environment.

AOC context references:

- AOC is a pipeline condition that could cause an incident
- One incorrectly repaired AOC can cause catastrophic problems, such as that which occurred in the Merrimack Valley, MA
- AOCs, conditions that often warrant an emergency response

Rulemaking preamble: “The commission reiterates that operators shall adhere to the definition of an AOC when identifying AOCs and shall continue to monitor for other substandard conditions.”

AOC Changes continued

255.604(a)(3)(iv):

A passing grade on an evaluation shall not be awarded if the individual incorrectly answered any question about an abnormal operating condition;

➤ Next Steps for compliance:

- Currently reviewing all NGA covered tasks to identify true AOCs versus “other substandard conditions”
 - Modify NGA task sheets to clarify this
 - NY LDCs should do the same for company specific tasks
- Determining if AOCs can be incorporated into covered task’s practical evaluation
 - Practicals are already 100% pass
- When AOCs remain in written exams, implement the 100% pass requirement with ITS functionality

➤ Task 70 effects:

- Task 70 currently consists of properties of natural gas topics, true AOCs as well as “other substandard conditions”
- Considering breaking out CT70 into subgroups, for smaller written tests and/or integrating AOC questions in practical evaluations.

Changes to Evaluations

255.3 Definitions:

(16) Evaluation means a process, established and documented by the operator, to determine an individual's ability to correctly perform a covered task by the following:

(i) written or oral examination; **and**

(ii) observation during performance on the job or during simulations.

- Preamble gave clarification that written/oral evaluation can be combined within one observation
 - A single evaluation that includes “performance” along with knowledge and AOC questions
- Preamble gave clarification that images presented during written/oral evaluations would be considered “simulations”
- Next Steps:
 - Expanded practical evaluation development is ongoing for NGA covered tasks
 - NY LDCs should do the same for company specific tasks

Changes to Evaluations continued

255.604 (a) (3) (ii) Evaluations shall not be conducted within 48 hours of training;

- 48-hour lock out required for written and practical evaluations
- May require process modifications, depending on LDCs current practices
- May also require ITS functionality improvements

Span of Control Records

255.604(b)(2)(i)

Records shall be kept and made available for audit for work completed by a non-qualified individual while being directed and observed by a qualified individual.

- Pre-amble agreed with industry comments, and stated various types of records would be acceptable, as long as they document/record the span-of-control.
- Flexibility in span-of-control documentation but will likely require modifications to existing records.

Training Records

255.604(b)(1)

(1) Individual Qualification records shall include, at a minimum:

(vii) Training that took place to support the individual's qualification or requalification for each covered task.

- Pre-able confirms flexibility in options for records, and location where records can be found:
 - *“operator is responsible for maintaining training and OQ records regardless of their specific locations, provided they are readily available upon request”*
- Recent PHMSA OQ FAQs discuss the need for training prior to requalification
 - That training too must be recorded
 - For some LDCs, this may be a big change, especially for contractor community

Mutual Aid

255.604(a)(13):

Includes a Mutual Aid training and evaluation plan. Operator contingencies must be in place for the use of outside operator qualified resources when the operator is responding to events that exceed in-house capabilities. During Mutual Aid situations, operators may petition the Commission to suspend any of the requirements specified in this Section;

- *Pre-amble: “The intent of this language is for operators to proactively establish a process that allows for the use of outside OQ resources including the verification of qualifications and training on operator-specific tasks.”*
- A documented process must be established to address this new requirement
 - Consider advance review/acceptance of OQ Plans from Operators who may reasonably be expected to respond to a mutual aid request along with “arrival training” that will address company specific procedures/requirements.

Individuals Not Performing a Task Correctly

255.604(a)(6) and (7):

(6) Evaluates an individual's qualifications, if the operator has reason to believe that the individual did not correctly perform a covered task, or if the individual's performance of a covered task contributed to an incident requiring the submission of a report pursuant to 255.801(d), or is otherwise significant in the judgment of the operator;

(7) Evaluates an individual's qualifications, if the operator has reason to believe that the individual is no longer qualified to perform a covered task;

➤ Preamble clarifications:

- “the intent of these provisions...if there are indications that the individual failed to perform the covered task correctly, which contributed to an incident or other significant event, or if the individual is no longer qualified to perform the covered task”
- “The intent of this language is for an operator to have a written OQ program that includes a mechanism for evaluating the individual. Any disqualification, or further evaluation prior to disqualification, would be solely based on the operator's OQ program”

➤ OQ Written Plan updates will be needed to comply, and potentially process improvements

Management of Change

255.604(a)(8)

Establish and maintains a Management of Change program that will address and communicate significant changes in procedures, specifications, tools, materials of construction, and technology, that affect covered tasks to individuals performing or within the span of control for those covered tasks;

(i) The operator shall determine what constitutes a significant change;

(ii) The operator shall determine whether, and which, changes require suspension of operator qualification and requalification due to the change

(iii) The operator shall determine what supplemental training is required for individuals when such significant changes affect the covered task;

- OQ Written Plan updates will be needed to comply, and potentially process improvements.
- Company specific MOC processes will need to address training and qualification requirements associated with significant changes.

Program Effectiveness

255.604(e) Program Effectiveness. Operator Qualification programs shall include a written process to measure the program's effectiveness. An effective program minimized human error caused by an individual's lack of knowledge, skills, and abilities (KSAs) to perform covered tasks.

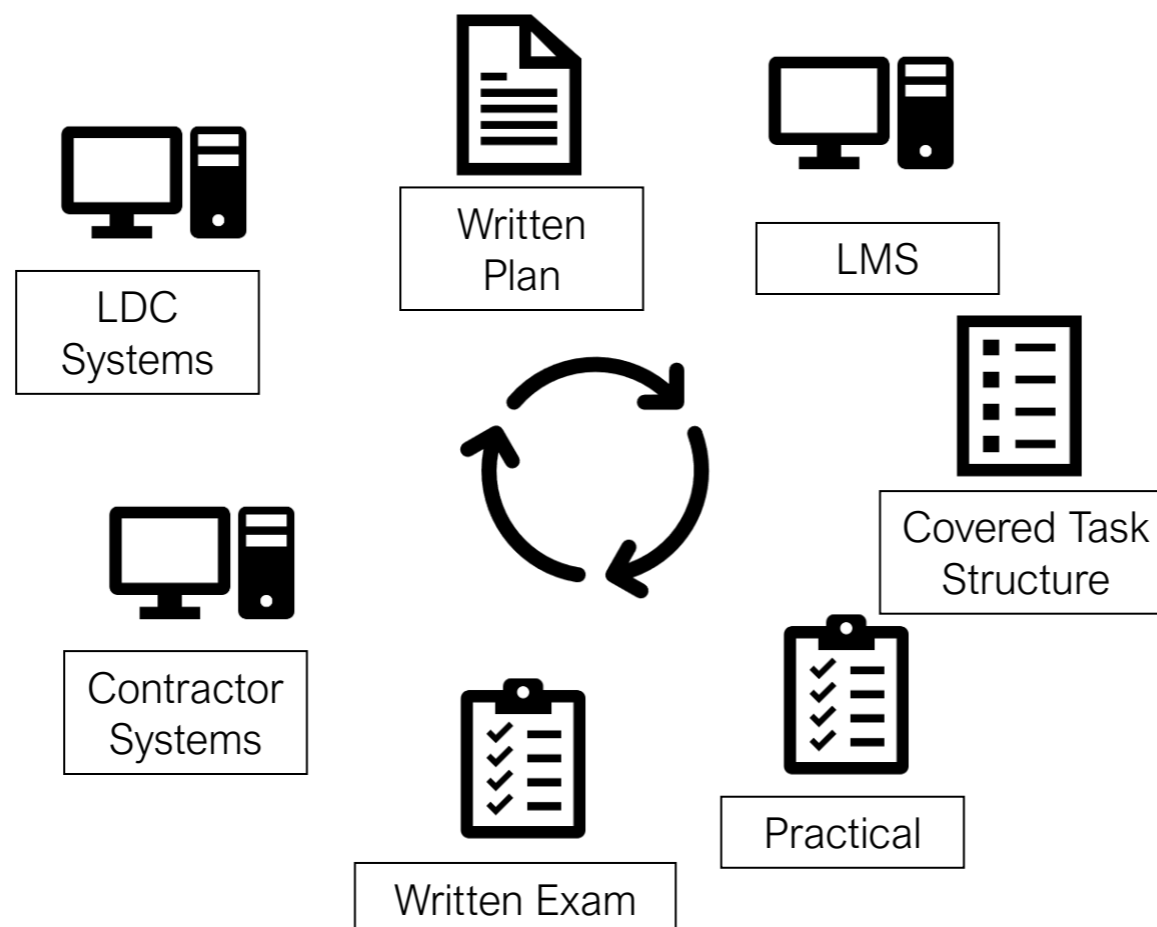
Metrics include: (a) Evaluation was not conducted properly; (b) KSAs used to assign qualification for the specific covered task(s) were not adequate; (c) Training was not adequate for the specific covered task(s); (d) Change made to a covered task or the KSAs was not adequately evaluated; (e) Change to a covered task(s) or the KSAs was not adequately communicated; (f) Individual failed to recognize an AOC, (g) Individual failed to take the appropriate action following the recognition of an AOC; (h) Individual who failed to perform a covered task properly was not operator qualified; (i) Nonqualified individual was not being directed and observed by a qualified individual; (j) Individual did not follow approved procedures and/or use approved equipment; (k) Span of control was not followed; (l) Evaluator or training did not follow program or meet program requirements; or (m) A qualified individual was directing and observing more unqualified individuals than circumstances showed was safe for the given covered task.

- First review to be done by March 18, 2025, with additional reviews conducted every 2-years.
- OQ Written Plan updates will be needed to comply, and potentially process improvements such as data collection and reporting.

Compliance Schedule

255.604(c) Operators shall have a written qualification program consistent with the requirements herein and in effect by **April 1, 2023.**

- Preamble: “each operator shall clearly define the time required for each phase of implementation or training of personnel within their specific OQ program”
- Current NGA project plan extends through 2023; feedback required from Operators as each Operator and their contractors may be in different places in terms of compliance.



Non-OQ Topics

§255.481 **Atmospheric corrosion control:** monitoring

(a) Each operator must inspect each pipeline or portion of pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion, as follows:

Onshore Service Lines: **At least once every 5 calendar years**, but within intervals not to exceed 63 months

§255.604 (f) **Engineering Functions.** The operator shall determine engineering functions specific to the design, construction, operation, and integrity of pipelines that contain elevated risk. **The operator shall have and follow a written program that includes a training, mentoring, and evaluation process to be used for establishing competency of personnel performing these higher risk engineering functions.**

Other States' OQ initiatives

- Connecticut:
 - Comprehensive revisions to the CT regulations are being proposed, inclusive of OQ
 - Proposed OQ requirements in CT mirror that of NY
 - Informal review and technical sessions have been ongoing with CT operators from Q1 2021 – present
 - Formal NOPR is a likely next step
 - Timeframe TBD

- Other States - TBD

Closing Remarks

- Thank you to the various committees, subcommittees and working groups who have been working on the necessary changes to the OQ Program
- Key areas of focus:
 - Practical Evaluation expansion and development
 - OQ Written Plan revisions (and implementation of all changes)
 - ITS improvements
- Future opportunities to discuss with DPS Staff

Thank You!
Any Questions?

