



Dates of Interest

May 2014

30 [Comments due](#) on PHMSA OPID Assignment Request and Operator Registry Notification

June 2014

2-6 [NAPSR Eastern Region Meeting](#), Virginia Beach, VA

4-5 [Northwest Gas Ass'n Annual Energy Conference](#), Stevenson, WA

3-5 [Southern Gas Ass'n Advanced In-Line Inspection Workshop](#), Dublin, OH

5 [Comments due](#) on PHMSA Information Collection

11-14 [Southern Gas Ass'n Offshore & Coastal Pipeline Operations Conference and Exhibits](#), Biloxi, MS

17-19 [AGA Gas Utility Operations Best Practices Follow-up Conference](#), New York, NY

18-19 [API 2014 Pipeline Emergency Response Forum](#), Houston, TX

27 [Comments due](#) PHMSA Revisions to Gas Distribution Annual Report

Pipeline Safety Update

ISSUE NO. 77 – MAY 28, 2014

[Susan Olenchuk](#), [James Curry](#), [Keith Coyle](#), [Barbara Deathe](#)

House Subcommittee holds hearing on implementation of 2011 Act. PHMSA and NAPSR schedule public meetings. New updates on PHMSA rulemakings. Legislative updates from the States and Canada.

House Subcommittee Holds Hearing on Implementation of 2011 Act

On May 20, the House Transportation & Infrastructure Subcommittee on Railroads, Pipelines, and Hazardous Materials held a hearing to review implementation of the requirements of the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, which amended the federal Pipeline Safety Laws. Witnesses included Cynthia Quarterman, Administrator of the Pipeline and Hazardous Materials Safety Administration, and representatives of the American Gas Association (AGA), the Interstate Natural Gas Association of America, the Association of Oil Pipe Lines, and the Pipeline Safety Trust. A webcast of the hearing and written testimony is available [here](#).

Update on PHMSA Activities

PHMSA and the National Association of Pipeline Safety Representatives (NAPSR) schedule public meeting on “Managing Pipeline Cracking Challenges.” On August 5, PHMSA and NAPSR will convene a [public meeting](#) on “Managing Pipeline Cracking Challenges.” The meeting’s purpose is to gather and disseminate information on state-of-the-art crack detection techniques for hazardous liquid and natural gas pipelines. The meeting will be held in Chicago and will be webcast.

PHMSA and NAPSR schedule R & D forum. On August 6-7, PHMSA and NAPSR will convene a [Government/Industry R&D Forum](#). The Forum’s purpose is to identify key pipeline technical challenges facing the pipeline industry and government, to disseminate information on current research efforts, and to identify new research that can help to address known challenges. The meeting will be held in Chicago.

PHMSA Rulemakings. The table below reflects information on the status of PHMSA rulemakings as reported in the DOT’s May Significant Rulemaking [Report](#).¹ Additional information from the Office of Management and Budget’s (OMB) Office of Information and Regulatory Affairs (OIRA) is [here](#).² New information in the table is reflected in bold.

OIRA has received PHMSA’s notices of proposed rulemakings for excess flow valves and the safety of onshore hazardous liquid pipelines. Under Executive Order (EO) 12866, OIRA will review these rulemaking proposals to ensure they are consistent with applicable law, the President’s priorities, and the principles set forth in the EO. OIRA will also ensure the proposals do not conflict with another agency’s policies or actions. Under the EO, OIRA is to provide PHMSA the results of the review within 90 days, unless that period is extended for an additional 30 days.

Dates of Interest (continued)

July 2014

- 7-11 [NAPSR Southwest Region Meeting](#), Bentonville, AR
- 17 [One Call Systems International Committee Meeting](#) (part of Common Ground Alliance), New York, NY
- 20-23 [APGA Annual Conference](#), Olympic Valley, CA
- 21-24 [NAPSR Central Region Meeting](#), Kansas City, KS
- 28-30 Southern Gas Ass'n [Operating Conference & Exhibits](#), New Orleans, La

August 2014

- 5 [PHMSA/NAPSR Public Meeting](#) on Managing Pipeline Cracking Challenges, Chicago, IL
- 6-7 [PHMSA/NAPSR Government/Industry Pipeline R&D Forum](#), Chicago, IL

Webinar: "Pipeline Safety Enforcement and Compliance: Recent Trends and Developments"

June 12, 2014, 10:00 am (Pacific) / 1:00 pm (Eastern)

Speakers: [Keith J. Coyle](#), Van Ness Feldman LLP and [Brianna Kurdock](#), Interstate Natural Gas Association of America.

Rulemaking & Next Action	Estimated Date to OMB	DOT Estimated Publication Date	OIRA Estimated Publication Date
Excess Flow Valves; NPRM	April 30, 2014 (actual)	August 13, 2014	August 2014
Issues Related to Use of Plastic Pipe in the Gas Pipeline Industry; NPRM	N/A	N/A	June 2014
Safety of Gas Transmission Pipelines; NPRM	August 7, 2014	November 19, 2014	August 2014
Safety of On-Shore Hazardous Liquid Pipelines; NPRM	May 1, 2014 (actual)	August 13, 2014	July 2014
Valve Installation and Minimum Rupture Detection Standards; NPRM	December 21, 2014	May 1, 2015	N/A
Enforcement of State Excavation Damage Laws; Final Rule	June 9, 2014	September 19, 2014	August 2014
Miscellaneous Amendments to Pipeline Safety Regulations; Final Rule	April 25, 2014	August 6, 2014	August 2014
Periodic Updates of Regulatory References to Technical Standards and Miscellaneous Amendments; Final Rule	N/A	N/A	August 2014
Operator Qualification, Cost Recover, Incident Reporting, CO ₂ , Special Permit Renewal, and Other Issues; NPRM	January 1, 2015	April 30, 2015	N/A

Select Updates from the States

CALIFORNIA

[AB 1937 \(Gordon\)](#): This bill would amend the California Public Utilities Code to require gas corporations to provide at least three working days' notice before undertaking any non-emergency excavation or construction activity within 500 feet of a school or hospital. AB 1937 passed the Assembly by unanimous vote on May 23, 2014, and has been referred to the Senate for consideration.

[SB 1389 \(Hill\)](#): This bill would prohibit a gas corporation from using the "grandfather clause" in the federal gas pipeline safety regulations to determine the maximum allowable operating pressure (MAOP) for an intrastate gas transmission line segment. The federal pipeline safety regulations currently allow operators to determine the MAOP for a gas pipeline by using the highest actual operating pressure that a segment experienced during the 5-year period preceding July 1, 1970. SB 1389 would prohibit the use of that provision and require operators of intrastate gas transmission line to determine MAOP solely on the basis of the California Public Utilities Commission's rules or orders. The bill unanimously passed the Standing Committee on Energy, Utilities and Communications on May 5 and is pending before the Senate Committee on Appropriations.

CONNECTICUT

[Public Act 14-94](#): Governor Dannel Malloy signed new legislation that amends the state's damage prevention requirements effective October 1, 2015. Under the new law, the discharge of explosives and demolition activities are now subject to those requirements. The state's public utilities are also required to organize and operate a central clearinghouse for receiving and giving notice to public utilities of these and other excavation-related activities under the direction of the Public Utilities Regulatory Authority (PURA). The law removes the mandatory two-day timeframe for utilities to mark the locations of underground facilities, leaving any time restrictions up to regulations to be issued by PURA, and requires

**Regulations and Code
Compliance:
Upcoming PHMSA State
Seminars**

June 2014

9-13 Hawaii (Gas & Liquid)
24-27 Missouri (Gas)

July 2014

21-25 Louisiana (Gas)

PHMSA offers training on gas at hazardous liquid pipeline safety regulations. More information available [here](#).

**State-Specific Association
Meetings**

June 2014

4-6 [Kentucky Gas Ass'n Annual Meeting](#),
Owensboro, KY

23-25 [Alabama Damage Prevention Summit](#),
Montgomery, AL

July 2014

16-17 [Kentucky Oil & Gas Ass'n Annual Meeting](#),
Louisville, KY

21-25 [Louisiana Gas Ass'n Pipeline Safety Conference](#),
New Orleans, LA

August 2014

5 [Kentucky Gas Ass'n 2nd Annual Safety Summit](#),
Lexington, KY

the use of hand- or soft-digging techniques in the vicinity of any facility that contains combustible or hazardous fluids or gases.

LOUISIANA

[HB 868](#) (Ponti): Governor Bobby Jindal has signed new legislation that reduces the civil penalties that can be imposed for violations of the Underground Utilities and Facilities Damage Prevention Law and allows an excavator and operator to extend the 48-hour deadline for beginning excavation activity by mutual agreement.

[HCR 143](#) (Stokes): This concurrent resolution urges the Commissioner of Conversation and the Secretary of the Department of Natural Resources, in consultation with the Attorney General and Legislative Auditor, to perform a comprehensive assessment of the hazards posed by pipelines that are inadequately marked, covered, buried, or protected in coastal areas and to make recommendations for any statutory, regulatory, or policy changes necessary to address these concerns.

MASSACHUSETTS

[H. 3873](#) / [S. 2073](#) (House Ways and Means Committee): This bill proposes to incorporate into Massachusetts law the federal limitations on the amount of administrative civil penalties for pipeline safety violations. It would also establish new uniform leak classification standards for gas pipelines, require that consideration be given to creating new standards for performing winter surveillance and patrols of cast iron pipe, and authorize the implementation of a targeted infrastructure replacement program.

MICHIGAN

[HB 5556](#) (Townsend): This bill would increase the administrative civil penalties that can be imposed for pipeline safety violations to \$20,000 per day, per violation, not to exceed \$800,000 for any related series of violations. It would also require any person who engages in the transportation of gas or who owns or operates pipeline facilities to annually communicate with county and municipal emergency coordinators to review the public education and awareness programs. The bill was introduced on May 8 and was referred to the House Committee on Energy and Technology.

MISSOURI

[HB 1867](#) (Schatz): This bill proposes numerous changes to Missouri's damage prevention statute, including altering the definitions of "excavation" and a "pipeline facility" and adjusting the requirements for marking underground facilities. It also sets the failure to notify by an excavator and the failure to mark facilities by an owner or operator as a rebuttable presumption of negligence. The bill passed both Houses as of May 16 and is awaiting further action by the governor.

MINNESOTA

[HF 3272](#) (Carlson/Hausman/Cohen): Recently signed into law by Governor Mark Dayton, this legislation authorizes the state to collect \$2,500,000 in fees annually for the next three years from rail and oil pipeline operators to pay for the costs of conducting training and emergency preparedness programs.

NEW JERSEY

[A2711](#) (Handlin): This bill proposes to create the New Jersey Taskforce on Underground Utility Lines for the purpose of studying issues related to placing overhead utilities underground. The bill was referred to the Assembly Committee on Telecommunications and Utilities. Track the bill [here](#).

NEW YORK

[A 9336](#) / [S 7010](#): These companion bills would require operators of gas distribution facilities to accelerate the repair or replacement of pipe segments that are leaking, are at "high risk of leaking," or may no longer be fit for service due to inferior materials, poor construction methods, lack of maintenance, or



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age. The bills would also provide a cost recovery mechanism for the accelerated repair or replacement program. Both bills have been referred to the respective energy committees.

OHIO

[HB 483](#) (*Amstutz*): The Senate-passed version of this bill proposes to increase the maximum civil penalties for pipeline safety violations to \$200,000 per day, per violation, not to exceed \$2,000,000 for any related series violations (consistent with federal caps). It would also allow the Ohio Public Utilities Commission to waive the pipe design requirements in Subpart C of 49 C.F.R. Part 192 for operators of "gas gathering pipelines" or "processing plant gas stub pipelines." While including the latter provision, the House-passed version of this bill did not authorize an increase in the maximum civil penalties that can be imposed for pipeline safety violations. A conference committee will be convened to address these differences.

OKLAHOMA

[HB 2533](#) (*Watson*): This bill designates the Oklahoma Corporation Commission as the agency responsible for enforcing the Oklahoma Underground Facilities Damage Prevention Act. It also sets forth the requirements for a Notice of Inquiry process to evaluate the state's pipeline safety programs, including addressing any findings or recommendations contained in the final report of the Pipeline Safety Task Force convened by Gov. Mary Fallin. The bill has been passed by both houses of the Oklahoma State Legislature and was approved by the governor on May 9.

RHODE ISLAND

[H 7714 Sub A](#) / [S 2450 Sub A](#): These bills would require excavators to provide specific information regarding the location of a planned excavation, including the specific street address for nearby buildings and any other information to assist a utility in determining where the excavation is planned to occur. It would also require that any contact with underground facilities be reported to the affected utility immediately, and that any potential violation of the damage prevention law be reported to the Rhode Island Public Utilities Commission within 30 days. The Rhode Island Senate passed its bill on April 3. The House of Representatives passed its version on May 20 and referred the bill to the Senate Committee on Commerce for consideration two days later. The House bill was referred to the Senate Committee on Commerce on May 22.

VERMONT

[H 162](#): On May 20, Governor Peter Shumlin signed legislation that increased the civil penalty limit for violations of the Gas Pipeline Safety Program from \$100,000 to \$200,000 per violation per day, not to exceed \$2,000,000 for any related series of violations (consistent with federal caps). These amounts are identical to the federal limits imposed under the Pipeline Safety Act.

Updates from Canada

Canada Announces New Pipeline Safety Initiatives. On May 14, Canadian officials announced new pipeline safety measures as part of the country's broader Economic Action Plan. The new policies would:

- Increase the number of National Energy Board (NEB) safety inspections and audits.
- Impose strict liability of up to \$1 billion for incidents on NEB-regulated pipelines and maintain unlimited liability in cases of fault or negligence.
- Increase Aboriginal participation in pipeline safety issues and sector employment.
- Require pipeline operators to demonstrate financial capability to respond to incidents.

- Allow for NEB to order reimbursement of cleanup costs incurred by the government, and to assume control of incident response efforts in exceptional circumstances.
- Allow NEB to provide guidance on best available safety technologies.
- Provide for expanded pipeline safety regulation and public transparency measures.
- Encourage safety culture and management systems.

It is expected that these new policies will be included in a legislative proposal to Parliament. More information is [here](#).³

FOR MORE INFORMATION

Van Ness Feldman counsels clients on pipeline safety compliance, enforcement, and litigation under the Pipeline Safety Laws and Regulations and related statutes. If you are interested in additional information regarding pipeline safety matters or any PHMSA or pipeline related matter, please contact [Susan Olenchuk](#) at (202) 298-1896 or sam@vnf.com, [Jim Curry](#) at (202) 298-1831 or jbc@vnf.com, [Keith Coyle](#), at (202) 298-1811 or kjc@vnf.com, or any member of the firm's Pipeline & LNG practice group.

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¹ DOT April 2014 Significant Rulemaking Report:

<http://www.dot.gov/sites/dot.gov/files/docs/APRIL%202014%20INTERNET%20REPORT.docx>.

² OIRA DOT Rulemaking Status Page:

http://www.reginfo.gov/public/do/eAgendaMain?operation=OPERATION_GET_AGENCY_RULE_LIST¤tPub=true&agencyCd=2100&Image58.x=52&Image58.y=10.

³ Canada's Economic Action Plan, Enhancing Pipeline Safety:

<http://actionplan.gc.ca/en/backgrounder/r2d-dr2/enhancing-pipeline-safety>