



**Dates of Interest**

**June 2014**

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

**July 2014**

- 2 [PHMSA Public Workshop on Pipeline Safety Management Systems](#), Alexandria, VA
- 7-11 [NAPSR Southwest Region Meeting](#), Bentonville, AR
- 13-16 [NARUC Summer Meetings](#), Dallas, TX
- 17 [One Call Systems International Committee Meeting](#) (part of Common Ground Alliance), New York, NY
- 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
- 12-14 [AGA Best Practices Roundtable](#), Salt Lake City, UT

# Pipeline Safety Update

## ISSUE NO. 79 – JUNE 24, 2014

*Susan Olenchuk, James Curry, Keith Coyle, Tyson Kade, Barbara Deathe*

*PHMSA announces over \$1 million in one-call grants. PHMSA posts agenda for upcoming meetings and workshops. Follow state legislative and regulatory updates.*

### PHMSA Announces Over \$1 Million in One-Call Grants

On June 10, the Pipeline and Hazardous Materials Safety Administration (PHMSA) [announced](#) over \$1 million in One-Call grants to 27 states, the District of Columbia, and Puerto Rico to improve pipeline damage prevention efforts.

### PHMSA Activities

**PHMSA announces agenda for PSMS public workshop.** PHMSA has announced its agenda for the July 2, 2014 [public workshop](#) on Pipeline Safety Management Systems (PSMS). The workshop's purpose is to discuss an emerging PSMS national consensus standard and identify how concepts explored at PHMSA's [February 2014](#) PSMS workshop are addressed in that standard. Participants include representatives from PHMSA, the National Transportation Safety Board, pipeline operators, and state regulators. The workshop will be held in Alexandria, Virginia, and will be webcast.

**PHMSA/NAPSR announce agenda for public meeting on "Managing Pipeline Cracking Challenges."** PHMSA and the National Association of Pipeline Safety Representatives (NAPSR) have announced their agenda for the upcoming [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, Illinois, on August 5 and will be webcast.

**Agenda announced for R&D forum.** PHMSA and NAPSR have announced their agenda for the upcoming [Government/Industry R&D Forum](#). The Forum's purpose is to identify key pipeline technical challenges facing the pipeline industry and government authorities, to disseminate information on current research efforts, and to identify new research that can help to address known challenges. Topics to be addressed include damage prevention; leak detection and fugitive methane emissions; anomaly detection and characterization; improving risk models; and addressing legacy materials challenges. The Forum will be held in Chicago, Illinois, on August 6-7.

**Van Ness Feldman is seeking an associate attorney to join its highly respected FERC Pipeline & LNG Practice**

**For more information, go [here](#) and link to "Careers."**

**PHMSA Rulemakings.** The table below reflects information on the status of PHMSA rulemakings as reported in the Department of Transportation's (DOT) June Significant Rulemaking [Report](#). Additional information from the Office of Management and Budget's (OMB) Office of Information and Regulatory Affairs (OIRA) is [here](#). 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 consistency 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



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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.

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	<b>October 20, 2014</b>	August 2014
Miscellaneous Amendments to Pipeline Safety Regulations; Final Rule	April 25, 2014	<b>November 3, 2014</b>	August 2014
Periodic Updates of Regulatory References to Technical Standards and Miscellaneous Amendments; Final Rule	N/A	N/A	September 2014
Operator Qualification, Cost Recovery, Incident Reporting, CO <sub>2</sub> , Special Permit Renewal, and Other Issues; NPRM	January 1, 2015	April 30, 2015	N/A

### Select Updates from the States

(Updated information appears in italics; new items are marked with an "\*\*")

#### 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. The bill passed the Assembly by unanimous vote on May 23, and was referred to the Senate for consideration. *The Senate amended the bill on June 11 to include a 5-year recordkeeping requirement and provision requiring excavators or operators to comply with the state's one-call notification requirements.*

***SB 1389 (Hill)***: This bill would prohibit a gas corporation from using the "grandfather clause" in 49 C.F.R. Part 192 to determine the maximum allowable operating pressure (MAOP) for an intrastate gas transmission line. 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 lines to determine MAOP solely on the basis of the California Public Utilities Commission's (CPUC) 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.

***SB 1371 (Leno)***: This bill would require the CPUC to adopt rules and procedures governing natural gas leakage abatement for regulated intrastate transmission and distribution lines in order to reduce emissions of natural gas. The regulatory proceeding would commence by January 15, 2015, and the rules and procedures would be required to meet the following objectives: (a) provide for the maximum

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

June 2014

24-27 Missouri (Gas)

July 2014

21-25 Louisiana (Gas)

*PHMSA offers training on gas and hazardous liquid pipeline safety regulations.*

*More information is available [here](#).*

**State-Specific Association Meetings**

July 2014

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

23 Texas Railroad Commission, [HB 2982 Gathering Workshop](#), Rockport, TX

30 Texas Railroad Commission, [HB 2982 Gathering Workshop](#), Cotulla, TX

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

August 2014

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

technologically feasible and cost-effective avoidance, reduction, and repair of leaks and leaking components within a reasonable time after discovery; (b) provide for the ranking or recorded leaks and leaking components by volume or energy content; (c) evaluate natural gas leakage abatement practices to determine effectiveness; and (d) establish and require the use of best practices for leak surveys, patrols, leak survey technology, leak prevention, and leak reduction. The Senate passed the bill in late May and referred it to the Assembly for consideration. *The Assembly amended the bill on June 10 and 18, and it is pending before the Assembly Committee on Utilities and Commerce.*

**CONNECTICUT**

Public Act 14-94: Governor Dannel Malloy signed new legislation amending 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 clearing house 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 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 reducing the civil penalties that can be imposed for violations of the Underground Utilities and Facilities Damage Prevention Law and allowing 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 Conservation 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 4164: The bill would incorporate into Massachusetts law the federal limitations on the amount of administrative civil penalties for pipeline safety violations. The bill would also: (a) establish uniform natural gas leak classifications for all gas companies; (b) require written notification to a gas company of a significant project on a public way that will expose natural gas infrastructure; (c) require the gas company to ensure that any shut off valve in the project area has a gate box installed or a reasonable alternative that would ensure public safety and that any critical valve is operational and accessible; (d) prioritize pipeline repairs for gas leaks detected in a school zone; (e) require annual reporting of gas leaks and repairs; (f) authorize implementation of a targeted infrastructure replacement program; (g) require operators to give notice of "incidents" at the earliest practicable moment following discovery; and (h) require that consideration be given to creating new standards for performing winter surveillance and patrols of cast iron pipe. *The Massachusetts legislature enacted the bill on June 16, and it is awaiting final action by the Governor.*

**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 was delivered to the Governor on May 30.

### MINNESOTA

[HF 3172](#) (*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 HAMPSHIRE

[HB 1376](#) (*Hammon*): The bill would establish a committee to study the safe delivery of oil and gas, including natural gas and propane, throughout the state of New Hampshire. The committee would be required to report its findings and any recommendations for proposed legislation by May 1, 2015. The bill would also make a technical correction regarding the submission of oil pipeline facility spill response plans. On June 4, the Conference Committee Report was adopted. *The bill was enrolled on June 18 and will soon be delivered to the Governor.*

### NEW JERSEY

[A 2711](#) (*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.

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

[S 7430A](#) (*Maziarz*) / [A 9772-A](#) (*Paulin*): These bills would: (a) establish and implement a uniform system for classifying natural gas leaks; (b) require that each gas corporation annually report the location and classification of each reported leak, the date each such leak was classified, and the date each such leak is repaired; (c) require that such information be made available upon request to any municipal or state public safety official and to members of the legislature; and (d) require the investigation of the need for additional winter surveillance of cast iron or ductile iron pipelines and the effect of extended frost on such pipelines. The bills are currently in committee.

### OHIO

[HB 483](#) (*Amstutz*): *As recently enacted*, this bill allows 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." Note that an earlier version of the bill had proposed 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, but that this provision was removed prior to final passage.

## 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](#): Effective July 1, 2014, these bills 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. They 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 must be reported to the Rhode Island Public Utilities Commission within 30 days.

## TEXAS

*\*Texas Railroad Commission Proposes Rule Changes.* At a June 17 public meeting, the Texas Railroad Commission (TRRC) [proposed](#) to adopt by reference the latest versions of PHMSA's 49 C.F.R. Part 191, 192, 193, 195, and 199 pipeline safety and drug and alcohol regulations, as well as the Department of Transportation's 49 C.F.R. Part 40 drug and alcohol testing regulations. The adoption would incorporate changes made to PHMSA and DOT regulations since the prior TRRC adoption in October 2011. The TRRC has also proposed to clarify the requirements applicable to farm tap odorizers. Specifically, the TRRC seeks to clarify that farm tap odorizers are subject to odorization testing requirements, and further clarify that operators need not assign ID numbers to such odorizers nor must they prepare equipment reports for wick-type odorizers. The proposed amendments will be published in the July 4<sup>th</sup> Texas Register, and comments are due August 4<sup>th</sup>. More information is available [here](#).

*Texas Railroad Commission Hosting Gathering Line Workshops.* The Texas Railroad Commission (TRRC) is hosting a series of workshops to discuss the regulation of gas and hazardous liquid gathering lines. Last year, the Texas Legislature enacted a new law, HB 2982, which provides TRRC with the authority to establish safety standards for hazardous liquid gathering lines in rural areas and gas gathering lines in Class 1 locations. While the law includes a provision that limits the ability of the TRRC to exercise all of its new authority before September 1, 2015, the agency is allowed to collect information from pipeline operators before that date. The [gathering line workshops](#) are being held from May 21 to July 30, 2014, in San Antonio, Amarillo, Midland, Fort Worth, Rockport, and Cotulla, Texas. TRRC also announced that it will be hosting a [Pipeline Safety Seminar](#) with PHMSA staff in San Antonio from September 9 to 11, 2014.

## VERMONT

[Act No. 132](#): On May 20, Governor Peter Shumlin signed legislation increasing 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.

## WASHINGTON

*Washington Proposes Civil Penalty Cap Increase.* In May, the Washington Utilities and Transportation Commission (WUTC) proposed amending its gas pipeline safety rules for intrastate facilities to increase the maximum civil penalties for pipeline safety violations. The proposed amendment would increase the maximum per-violation penalty from \$100,000 to \$200,000 per violation, and the maximum penalty for a related series of violations from \$1,000,000 to \$2,000,000. The amendment would make the state

penalty caps consistent with federal limitations in the Pipeline Safety Act. The WUTC will convene a hearing on the proposed amendment on July 2 in Olympia. More information is [here](#).

### 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](mailto:sam@vnf.com), [Jim Curry](#) at (202) 298-1831 or [jbc@vnf.com](mailto:jbc@vnf.com), [Keith Coyle](#), at (202) 298-1811 or [kjc@vnf.com](mailto:kjc@vnf.com), or any member of the firm's Pipeline & LNG practice group.

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