

# Pipeline Safety Update



## Dates of Interest

### December 2014

- 15 North Dakota PSC [hearing](#) on Proposed Pipeline Safety Amendments
- 19 [Comments due](#) on PHMSA proposed Information Collection Request
- 20 [Comments due](#) on API RP1173
- 22 [Comments due](#) on Illinois Commerce Comm'n proposed regulations
- 29 [Comments due](#) on PHMSA proposed Information Collection Request

### January 2015

- 20-22 [AGA Gas Utility Operations Best Practices Program Kickoff Meeting](#), Scottsdale, AZ
- 22-23 [SGA Hazardous Liquids Pipeline Safety Regulations for Gas Operators](#), Houston, TX
- 26 [Deadline](#) for State Damage Prevention Grant Applications
- 26-29 [API Inspection Summit](#), Galveston, TX
- 27-29 [SGA Integrity Management for Gas Pipelines](#), Houston, TX
- 28-29 [API 2015 Exploration & Production Standards Meeting](#), New Orleans, LA
- 30 [Responses](#) to Texas RRC Gathering Survey due

## ISSUE NO. 88 – DECEMBER 3, 2014

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*OIRA and DOT modify projected PHMSA rulemaking dates. FERC proposes policy statement on cost recovery for modernizing interstate natural gas pipelines. PHMSA is accepting applications for State Damage Prevention program grants. DOT Office of Inspector General releases report on top management challenges. PHMSA maintains 25% random drug testing rate for 2015. Presentations from PHMSA's NPMS public meeting available. PHMSA announces new R&D initiatives. Updates from Industry. Updates from select states. Updates from Canada.*

### OIRA and DOT Modify Projected PHMSA Rulemaking Dates

In November, the Office of Management and Budget's Office of Information and Regulatory Affairs (OIRA) released its Fall 2014 [Unified Regulatory Agenda](#), reflecting revised projected publication dates for rulemaking initiatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA). The Department of Transportation's November Significant Rulemaking [Report](#) also reflects the revised dates for PHMSA's rulemakings.

The table below reflects the updated information. Revised dates appear in bold. Significantly, OIRA now projects that PHMSA's proposed rule on the safety of gas transmission lines will be published before the proposed rule addressing on-shore hazardous liquid lines.

Rulemaking & Next Action	DOT Estimated Date to OMB	DOT Estimated Publication Date	OIRA Estimated Publication Date
Excess Flow Valves; NPRM	April 30, 2014 (actual)	<b>January 6, 2015</b>	January 2015
Issues Related to Use of Plastic Pipe in the Gas Pipeline Industry; NPRM	Not listed by DOT	Not listed by DOT	<b>April 2015</b>
Safety of Gas Transmission Pipelines; NPRM	<b>January 26, 2015</b>	<b>May 7, 2015</b>	January 2015
Safety of On-Shore Hazardous Liquid Pipelines; NPRM	May 1, 2014 (actual)	<b>January 6, 2015</b>	<b>April 2015</b>
Valve Installation and Minimum Rupture Detection Standards; NPRM	December 21, 2014	May 1, 2015	<b>May 2015</b>
Enforcement of State Excavation Damage Laws; Final Rule	<b>November 24, 2014</b>	February 4, 2015	February 2015
Miscellaneous Amendments to Pipeline Safety Regulations; Final Rule	<b>December 9, 2014</b>	<b>March 19, 2015</b>	March 2015

**Dates of Interest Continued**

February 2015

- 15-18 [NARUC Winter Committee Meetings](#), Washington, DC
- 17-20 [SGA Pipeline Design Workshop](#), Atlanta, GA
- 24-26 [NACE Northern Area Western Conference](#), Calgary, AB, Canada

**Federal Funding Resource Center**

Van Ness Feldman continually identifies and provides updates on federal funding opportunities related to energy, environment, natural resources, and public lands, including PHMSA grants.

[www.vnf.com/Funding](http://www.vnf.com/Funding)

To sign up for the weekly updates, e-mail [vnf@vnf.com](mailto:vnf@vnf.com) with "FFO Subscribe" in the subject line.



**Know what's below.  
Call before you dig.**

Periodic Updates of Regulatory References to Technical Standards and Miscellaneous Amendments; Final Rule	Not listed by DOT	Not listed by DOT	<b>December 2014</b>
Operator Qualification, Cost Recovery, Incident Reporting, CO <sub>2</sub> , Special Permit Renewal, and Other Issues; NPRM	<b>December 19, 2014</b>	<b>March 30, 2015</b>	<b>April 2015</b>

**FERC Proposes Policy Statement on Cost Recovery for Modernizing Interstate Natural Gas Pipelines**

On November 20, the Federal Energy Regulatory Commission (FERC) issued a proposed [Policy Statement](#) regarding Cost Recovery Mechanisms for Modernization of Natural Gas Facilities. The proposed Policy Statement would permit interstate natural gas pipelines to establish a tracker or surcharge mechanism to recover facility upgrade costs related to anticipated pipeline safety, reliability, and environmental regulations, if certain standards are met. The proposal represents a modification of FERC policy, which previously rejected pipeline safety and environmental cost trackers that were not agreed to as part of a unanimous settlement with the pipeline's customers. For additional information on the proposed policy, see VNF's issue alert [here](#). Initial comments on the proposal are due December 26, 2014, and reply comments due January 15, 2015.

**Updates from PHMSA**

**PHMSA is accepting applications for State Damage Prevention program grants.** PHMSA is accepting applications for grants to support eligible State Damage Prevention programs. Applications are due January 26, 2015. Further details are available [here](#).

**DOT Office of Inspector General releases report on top management challenges.** On November 17, DOT's Office of Inspector General (OIG) issued a [report](#) identifying DOT's top management challenges for the 2015 fiscal year. The report highlights OIG's recent review of PHMSA's State Pipeline Safety Program, which found a lack of effective management and oversight. Challenges to PHMSA include providing guidance to states on how to consider risk factors when scheduling inspections; adequately assessing state inspection procedures and compliance with program evaluation requirements; and auditing grant funds. The report notes that PHMSA is implementing a new training program for PHMSA evaluators reviewing state safety programs.

**PHMSA maintains 25% random drug testing rate for 2015.** On November 17, PHMSA published a [notice](#) that it will continue to require operators to perform random drug and alcohol testing for a minimum of 25% of covered pipeline employees during 2015. The testing rate remains unchanged because the random drug test positive rate for the calendar year 2013 was less than one percent. PHMSA also stated that user names and passwords necessary to access the online Drug and Alcohol Management Information System (DAMIS) will be available to operators with access to the PHMSA Portal in late December 2014.

**Presentations from PHMSA's NPMS public meeting are available.** Presentations from PHMSA's November 17 public meeting on the proposed information collection relating to the National Pipeline Mapping System are available [here](#). Comments on the proposal, which were due December 1, are available [here](#).

**PHMSA announces new R&D initiatives.** PHMSA has announced several new research and development initiatives, including research aimed at improving pipeline coating and reducing and preventing corrosion. Projects are listed [here](#).

**Updates from Industry**

**Presentations from the Pipeline Safety Trust 2014 Annual Conference are available.** On November 20 and 21, the Pipeline Safety Trust convened its 2014 Annual Conference in New Orleans. Speakers included

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

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

**State-Specific Association  
Meetings**

January 2015

- 14 [Final Comments on OK Pipeline Safety Notice of Inquiry are due.](#)
- 21 [Deliberations on OK Pipeline Safety Notice of Inquiry](#)
- 28-29 [Louisiana Mid-Continent Oil & Gas Ass'n Annual Meeting, New Orleans, LA](#)

February 2015

- 9-11 [Texas Damage Prevention Summit, San Marcos, TX](#)
- 10-11 [Independent Oil & Gas Ass'n of West Virginia 2015 Winter Meeting, Charleston, WV](#)

officials from PHMSA and other federal, state, and local government agencies; industry representatives; and members of the public. Copies of presentations and webcast videos are available [here](#).

**Updates from Canada**

**NEB engagement initiative on pipeline safety.** On November 25, Canada's National Energy Board (NEB) announced a "cross-Canada engagement initiative" in which NEB will visit all provinces and northern territories to solicit input on how NEB can improve its pipeline safety program. The initiative will also include an online discussion forum, which can be accessed [here](#). The NEB intends to host a pipeline safety technical conference after visits are concluded in late spring 2015, and issue a public report in early 2016.

**Updates from Select States**

(New items are marked with an "\*\*")

**CALIFORNIA**

\***SB18** (Hill): This bill would authorize the California Public Utilities Commission (CPUC) to require that the \$1.4 billion fine proposed by CPUC administrative law judges against PG&E for violations relating to the 2010 San Bruno accident be held in a separate account and not deposited into the state's General Fund. Most of the funds would be used to offset investments in pipeline replacements in the company's service territory that otherwise would be recovered from rate payers. A portion of the funds also would be allocated for an independent monitor to oversee the company's pipeline operations and to provide seed money for a pipeline safety trust. The bill was referred to the Committee on Rules.

**ILLINOIS**

The Illinois Commerce Commission has [proposed](#) to amend its gas pipeline safety regulations to (1) incorporate by reference the federal pipeline safety rules in effect on October 1, 2014, and (2) require the electronic submission of plans, procedures, and programs that are submitted to the agency. Comments on the proposed amendments are due December 22, 2014.

**KANSAS**

The Kansas Corporation Commission held a hearing on November 4, on proposed amended [regulations](#) adopting the 2013 version of the federal gas safety standards set forth in 49 C.F.R. Part 192. In addition, the proposed amendments would remove the 5-day repair requirement for class 1 leaks; permit utility companies to supervise repairs of natural gas lines in residential areas by defining "yard line" to end at the outside wall of an individually metered residential premise; and simplify the fee collection schedule for safety inspections and supervision by removing outdated assessment information.

**MICHIGAN**

*Michigan Public Service Commission proposes to incorporate federal safety regulations.* On July 17, the Michigan Public Service Commission convened a public hearing on a proposed amendment to its rules to adopt by reference the latest federal gas pipeline safety standards. The proposed rules would also adopt updated technical standards and clarify the requirements related to the disconnection or abandonment of indoor gas facilities.

**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.

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## 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.

[S 2422](#) (Greenstein & Bateman): This bill would require natural gas pipeline utilities to repair or replace leaking natural gas pipelines within time frames to be established by the Dept. of Environmental Protection ("DEP"). DEP, in consultation with the Board of Public Utilities, would adopt implementing regulations to prioritize time frames for the repair and replacement of pipelines based on the severity of leaks, best practices and repair standards, and de minimis exceptions to the repair and replacement requirements. The penalties for noncompliance would be those set forth in the Air Pollution Control Act (1954). The bill was introduced on September 18 and referred to the Senate Economic Growth Committee.

[SR No. 91 \(Codey, Thompson & Greenstein\)](#): This Senate Resolution urges natural gas pipeline operators to adopt infrastructure, technology and management tools to prevent methane leaks in order to reduce greenhouse gas emissions, improve the efficient transmission and distribution of natural gas, and reduce the risk of methane gas-related emergencies.

## NEW MEXICO

*New Mexico Public Regulation Commission initiates rulemaking on excavation and One-Call Requirements.* On July 9, the New Mexico Public Regulation Commission [proposed](#) to amend its rules for excavation damage prevention and One-Call programs. The proposed amendments would require the establishment of a "positive response registry system," and update underground facility operators' (UFO) response requirements to excavation locate requests to include a "positive response" even if the UFO determines it has no facilities within the proposed excavation limits. The proposed amendments also would make failure to provide positive responses, pre-mark the intended site, or report damage a "willful" violation. A public hearing was held on September 24.

## NORTH DAKOTA

\*On November 10, the North Dakota Public Service Commission (PSC) issued a notice that it is proposing to amend its pipeline safety regulations to include PHMSA's regulatory requirements adopted through November 6, 2014. The PSC is also proposing PHMSA's Part 195 regulations applicable to hazardous liquid pipelines. The PSC will convene a public [hearing](#) on the proposed amendments on December 15, 2014.

## OHIO

[SB No. 378 \(Coley\)](#): The bill would, among other things, (1) provide the Ohio Public Utilities Commission (PUC) with authority to enforce the state's one-call utility protection requirements; (2) set forth complaint and enforcement procedures for alleged non-compliance with one-call requirements; and (3) create an Underground Technical Committee to coordinate with the PUC in administering one-call requirements, receive and review PUC reports on complaints of alleged non-compliance, and recommend remedial action.

## PENNSYLVANIA

[HB 1607](#) (Baker): The bill would amend Pennsylvania's Underground Utility Line Protection Law (One-Call Law) and extend the sunset date of the Act through 2021. In general, the bill would transfer enforcement authority from the Department of Labor and Industry to the Pennsylvania Public Utility Commission; create a Damage Prevention Committee; place additional obligations on facility owners, excavators, and project owners; and create an administrative process for the determination of violations and the assessment of penalties. On June 27, the House passed the bill, and it has been referred to the Senate Consumer Protection and Professional Licensure Committee.

[SB1459](#): This bill would amend Pennsylvania’s Underground Utility Protection Law to require the use of steel products made in the United States for any “construction, reconstruction alteration, repair, improvement or maintenance of gathering lines.” The bill was referred to the Senate Consumer Protection and Professional Licensure Committee on July 31.

[SB1458](#): This bill would require the use of steel products made in the United States for “casings or other safety devices” used in drilling oil or gas wells. The bill would apply only to devices added on or after the effective date. The bill was referred to the Senate Environmental Resources and Energy Committee on July 31.

[SB 1503](#): This bill would replace the Pennsylvania Public Utility Commission with the Department of Transportation of the Commonwealth. The bill would require the Department to apply for federal delegation to enforce federal hazardous liquids and gas pipeline safety standards in the Commonwealth, and for authority to adopt interstate hazardous liquids and gas pipeline rules. The bill would also require the Department to seek federal delegation to act as an interstate agent inspection authority. The bill was referred to the Consumer Protection and Professional Licensure Committee on October 14.

### TEXAS

\*The Railroad Commission of Texas is conducting a survey of pipeline operators of Class 1 and rural gathering pipelines to better understand the risk the lines pose to the public. The survey is part of the process of implementing House Bill 2982, which delegated authority to the Commission to regulate transportation and gathering facilities for gas in Class 1 locations and hazardous liquids and carbon dioxide in rural locations. Responses are due January 30, 2015. The survey is available [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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