

Pipeline Safety Update



Dates of Interest

December 2014

- 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

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

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Susan Olenchuk, James Curry, Keith Coyle, Tyson Kade, Frances Bishop, Barbara Deathe

PHMSA FY 2015 budget increase. PHMSA rulemaking updates. BOEM increases offshore oil spill liability limits. FERC extends deadlines for commenting on proposed Policy Statement on cost recovery for modernizing interstate natural gas pipelines. Proposed legislation in Canada addresses pipeline safety. Updates from select states, including New Mexico, Ohio, and Wisconsin.

PHMSA FY 2015 Budget Increase

On December 16, the President signed an [omnibus appropriations bill](#) that includes a significant funding increase for the Pipeline and Hazardous Materials Safety Administration's (PHMSA) pipeline safety oversight programs. The enacted Fiscal Year (FY) 2015 budget provides \$146 million for PHMSA's pipeline safety program. This amount is more than the \$118 million in the FY 2014 budget, but less than the Administration's \$159 million budget request. Given the priorities outlined in the Administration's [FY 2015 request](#), it appears that PHMSA will apply the increased funds to hire additional pipeline inspection and enforcement staff, as well as staff involved in pipeline data and analytics.

PHMSA Rulemaking Updates

The table below provides information on the status of PHMSA's rulemaking initiatives as reported by the Department of Transportation in its December Significant Rulemaking [Report](#) and by the Office of Management and Budget's Office of Information and Regulatory Affairs (OIRA) in the Fall 2014 [Unified Regulatory Agenda](#). Revised dates appear in **bold**. All of the estimated publication dates have been pushed back.

Rulemaking & Next Action	DOT Estimated Date to OMB	DOT Estimated Publication Date	OIRA Estimated Publication Date
Excess Flow Valves; NPRM	April 30, 2014 (actual)	January 20, 2015	January 2015
Issues Related to Use of Plastic Pipe in the Gas Pipeline Industry; NPRM	Not listed by DOT	Not listed by DOT	April 2015
Safety of Gas Transmission Pipelines; NPRM	February 27, 2015	June 10, 2015	January 2015
Safety of On-Shore Hazardous Liquid Pipelines; NPRM	May 1, 2014 (actual)	February 3, 2015	April 2015
Valve Installation and Minimum Rupture Detection Standards; NPRM	February 4, 2015	May 14, 2015	May 2015
Enforcement of State Excavation Damage Laws; Final Rule	January 2, 2015	April 14, 2015	February 2015
Miscellaneous Amendments to Pipeline Safety Regulations; Final Rule	January 13, 2015	April 23, 2015	March 2015

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.

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To sign up for the weekly updates, e-mail vnf@vnf.com with "FFO Subscribe" in the subject line.

Periodic Updates of Regulatory References to Technical Standards and Miscellaneous Amendments; Final Rule	Not listed by DOT	Not listed by DOT	December 2014
Operator Qualification, Cost Recovery, Incident Reporting, CO ₂ , Special Permit Renewal, and Other Issues; NPRM	January 13, 2015	April 23, 2015	April 2015

Updates from Other Federal Agencies

BOEM increases offshore oil spill liability limits. On December 12, the Bureau of Ocean Energy Management (BOEM) issued a [Final Rule](#) increasing the limit of liability for damages caused by responsible parties related to oil spills from offshore facilities, other than deepwater ports, under the Oil Spill Pollution Act of 1990. The liability limit will increase from \$75 million to \$133.65 million per incident to account for the increase in the Consumer Price Index (CPI). The rule also establishes procedures that BOEM will use to make future CPI adjustments to the limit of liability. The new limits become effective on January 12, 2015.

FERC extends deadlines for commenting on proposed Policy Statement on cost recovery for modernizing interstate natural gas pipelines. On December 10, the Federal Energy Regulatory Commission (FERC) extended the deadline for submitting comments on its proposed [Policy Statement](#) that 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. FERC extended the deadline in response to a joint motion filed by a number of gas industry trade associations. Initial comments now are due January 26, 2015; reply comments are due February 26, 2015.

Updates from Canada

Proposed legislation addresses pipeline safety. On December 8, Canada's Minister of Natural Resources introduced [legislation](#) in the House of Commons containing a number of provisions addressing, among other things, liability limits associated with releases of oil or gas and operators' responsibility for abandoned pipelines.

Updates from Select States

(Updated 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.



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**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

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.

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 adopts new rules on excavation and One-Call Requirements.* On November 18, the New Mexico Public Regulation Commission issued a [final order](#) amending its rules applicable to excavation damage prevention and One-Call programs. The new regulations require establishment of a "positive response registry system," and require that underground facility operators' (UFO) respond to excavation locate requests, even if the UFO determines it has no facilities within the proposed excavation limits. Failure to provide positive responses, pre-mark the intended site, or report damage is a "willful" violation. The final rule is effective immediately.

**[HB 33](#) (McCamley):* This bill proposes to increase the civil penalties for pipeline safety violations to match limits in the federal Pipeline Safety Act. The bill was introduced on December 15, 2014.

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 also is proposing PHMSA's Part 195 regulations applicable to hazardous liquid pipelines. The PSC convened a public [hearing](#) on the proposed amendments on December 15, 2014. Comments are due December 26.*

OHIO

**[SB No. 378](#) (Coley):* The Ohio General Assembly has passed legislation that, among other things, (1) provides the Ohio Public Utilities Commission (PUC) with authority to enforce the state's one-call utility protection requirements; (2) sets forth complaint and enforcement procedures for alleged non-compliance with one-call requirements; and (3) creates an Underground Technical Committee to coordinate with the PUC in administering one-call requirements, receive and review PUC reports on

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complaints of alleged non-compliance, and recommend remedial action. The legislation is pending the governor's signature.

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](#).

WISCONSIN

*The Wisconsin Public Service Commission has issued an [order](#) amending its pipeline safety regulations to include federal safety standards adopted since January 2013.

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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