



Dates of Interest

February 2015

- 17-20 [SGA Pipeline Design Workshop](#), Atlanta, GA
- 23 Comments on Proposed IC Renewals Due ([LNG and OQ](#); [Gas Recordkeeping and Customer Lines](#))
- 24-26 [NACE Northern Area Western Conference](#), Calgary, AB, Canada

March 2015

- 5 Comments on [BIS Proposed IC](#) Due
- 10-12 [Common Ground Alliance Excavation Safety Conference & Expo](#), Orlando, FL
- 15 Deadline for Submitting PHMSA Annual Report for Gas Transmission, Gathering, and LNG Systems
- 18-19 [AGA Transmission Pipeline Operators Workshop](#), San Diego, CA
- 23-25 [SGA Spring Gas Conference and Expo](#), Charlotte, NC
- 23-25 [SGA Everything DIMP Workshop](#), Charlotte, NC

April 2015

- 3 Comments on [Proposed IC Renewal](#) Due
- 6 Comments on [Proposed IC Renewal](#) Due
- 7-9 [SGA Advanced Pipeline Design Workshop](#), Dallas, TX
- 12-15 [GPA Annual Convention, San Antonio](#), TX
- 28-30 [API 2015 Pipeline Conference and Control Room Forum](#)

Pipeline Safety Update

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PHMSA Updates

PHMSA Rulemaking Update. The table below provides information on the status of the Pipeline and Hazardous Materials Safety Administration’s (PHMSA) rulemaking initiatives as reported in the Department of Transportation’s (DOT) February Significant Rulemaking [Report](#) and by the Office of Management and Budget’s (OMB) Office of Information and Regulatory Affairs (OIRA) in the Fall 2014 [Unified Regulatory Agenda](#). Revised dates appear in **bold**. Note that the DOT and OIRA timeframes often conflict, and the DOT report is updated more frequently than OIRA’s regulatory agenda. The Final Rule on Miscellaneous Amendments to the Pipeline Safety Regulations was recently designated “non-significant” by OMB and has been removed from DOT’s rulemaking report.

Rulemaking & Next Action	DOT Estimated Date to OMB	DOT Estimated Publication Date	OIRA Estimated Publication Date
Excess Flow Valves; NPRM	April 30, 2014 (actual)	April 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)	April 27, 2015	April 2015
Valve Installation and Minimum Rupture Detection Standards; NPRM	April 17, 2015	July 29, 2015	May 2015
Enforcement of State Excavation Damage Laws; Final Rule	February 20, 2015	June 1, 2015	February 2015
Miscellaneous Amendments to Pipeline Safety Regulations; Final Rule	OMB has designated as “non-significant”		March 2015
Periodic Updates of Regulatory References to Technical Standards and Miscellaneous Amendments; Final Rule	Final Rule Issued January 5, 2015		
Operator Qualification, Cost Recovery, Incident Reporting, CO ₂ , Special Permit Renewal, and Other Issues; NPRM	February 20, 2015	May 29, 2015	April 2015

PHMSA accepting TAG applications. On February 2, PHMSA announced that it is accepting applications for Technical Assistance Grants (TAG), which award funds to communities and individuals for engineering

**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**

March 2015

30-4/1 [Louisiana Damage Prevention Summit](#), Baton Rouge, LA

April 2015

6-9 [Georgia Municipal Ass'n, Gas Section Pipeline Safety Seminar](#), Macon, GA

13-16 Minnesota Office of Pipeline Safety, [2015 Pipeline Safety Educational Conference](#), Breezy Point, MN



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and scientific analysis of pipeline safety issues and to help promote public participation in official proceedings. The application package is available through [Grants.gov](#), and the Funding Opportunity Number is DTPH5615SN0002. The closing date for applications is April 22.

PHMSA R&D program focuses on remaining strength of corroded pipe. Phase I of a new PHMSA-funded research and development program, entitled "[A Novel Approach to Establishing Remaining Strength of Line Pipe and Fittings with Corrosion Type Defects](#)," aims to determine whether current methods of assessing remaining strength of corroded pipeline should be modified to accommodate higher grade, modern steel. Phase I began on January 29 and ends on July 28.

PHMSA FAQ addresses siting requirements for small LNG facilities. A new [FAQ](#) addresses the siting requirements for small LNG facilities with an aggregate onsite storage capacity of 70,000 gallons or less, which are only subject to minimum spacing requirements under the 2001 edition of the National Fire Protection Association's Standard 59A. The FAQ states that, unless these small-capacity LNG facilities are mobile and temporary, compliance with the exclusion zone requirements in 49 C.F.R. Part 193 is required.

Updates from Other Federal Agencies

NTSB releases full safety study on gas transmission integrity management. The National Transportation Safety Board (NTSB) has released its full [Safety Study on Integrity Management of Gas Transmission Pipelines in High Consequence Areas](#). Adopted on January 27, the study found that gas transmission integrity management requirements have kept the rate of corrosion and material failures of pipes and welds low, but that "there is no evidence that the overall occurrence of gas transmission pipeline incidents in HCA pipelines has declined." The study contains 28 recommendations to PHMSA and industry groups, including improving guidance and resources for state inspectors and programs, revising data submitted to the National Pipeline Mapping System, and updating guidance on threat identification and risk assessment.

Industry Updates

API and AOPL release 2015 Liquids Pipeline Safety Performance Report & Strategic Plan. The American Petroleum Institute (API) and the Association of Oil Pipelines (AOPL) released their second [Annual Liquids Pipeline Safety Performance Report & Strategic Plan](#), which details industry-wide pipeline safety performance results, provides an update on the results of the Pipeline Safety Excellence Initiative, and details strategic initiatives for 2015. Strategic initiatives for 2015 include improving in-line inspection technology for detecting cracks, issuing guidance and recommended practices on threat identification and response, expanding safety culture and management, and improving emergency response capabilities. The report notes that in 2013 operators invested over \$2.1 billion in integrity management, and that over 99.999% of crude oil and petroleum product barrels were delivered safely by pipeline.

Select Regulatory and Legislative Updates from the States

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

ARIZONA

[HB 2259](#) (Gray): This bill would increase the civil penalties for pipeline safety violations to match the federal limits of \$200,000 for each violation, not to exceed two million dollars for any related series of violations. The bill was referred to the Transportation and Infrastructure Committee on January 22 and to the Rules Committee on January 26. *The House passed the bill and transmitted it to the Senate on February 12.*

CALIFORNIA

[SB 18](#) (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

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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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 ratepayers. A portion of the funds also would be allocated for an independent monitor to oversee the company's pipeline operations and provide seed money for a pipeline safety trust. The bill was referred to the Committee on Energy, Utilities and Communication on January 15. *On February 4, the bill was amended to also apply to electric utilities, and to establish the California Underground Facilities Safe Excavation Authority, to be funded by the proposed Safe Energy Infrastructure and Excavation Fund.*

CPUC ALJ issues proposed decision recommending adoption of revised safety rules for gas transmission and distribution pipelines. On January 23, California Public Utilities Commission (CPUC) Administrative Law Judge Bushey issued a [proposed decision](#) recommending that the CPUC adopt revised [General Order 112-F](#), expanding and clarifying safety requirements applicable to gas transmission and distribution lines regulated by the CPUC. If adopted, gas pipeline operators would be required to comply no later than January 1, 2016. The proposed decision also would replace general rate case financial audits previously ordered under [D.12-04.010](#) with Risk Spending Accountability Reports. The CPUC may consider the proposed decision at its February 26 Business Meeting. *Comments were due February 12.*

CONNECTICUT

[SB No. 369](#) (Frantz): This bill would require the Department of Energy and Environmental Protection to conduct a study on property damage, environmental impacts, and public safety issues related to above-ground pipelines. The bill was introduced and referred to the Joint Committee on the Environment on January 22.

IDAHO

*[HB 118](#): This bill would establish the Damage Prevention Board to be funded by a fee imposed on owners of underground facilities per notification through the one-call system. The Board would be authorized to investigate alleged violations and impose civil penalties. The bill was introduced on February 12.

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 that owners and operators of gas pipeline facilities submit to the ICC plans, procedures, and programs required or necessary to implement the gas pipeline safety standards. Comments on the proposed amendments were filed December 22, 2014.

KANSAS

In December 2014, the Kansas Corporation Commission adopted numerous [amendments](#) to its pipeline safety regulations. The new regulations became effective January 9.

KENTUCKY

*[HB 272](#) (Floyd): The bill would require the Kentucky Public Service Commission to seek certification from PHMSA to regulate intrastate hazardous liquid lines and act as an interstate agent on behalf of PHMSA. This bill also would create a pipeline safety fund using money generated from an annual pipeline safety assessment on pipeline operators transporting natural gas or hazardous liquids through Kentucky. Beginning on July 1, 2016, and ending on July 1, 2022, the assessment would impose a \$120 fee per mile of active pipeline in Kentucky. The funds would be used to oversee the proposed spill response program, which would require operators of intrastate and interstate pipelines to submit detailed spill response plans to the Kentucky Department of Environmental Protection, and to establish a grant program to assist local governments with pipeline safety program costs. The bill would also impose new reporting requirements, and would authorize the state to require pipelines to post security

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deposits with the state. The bill was referred to the House Tourism Development and Energy Committee on February 5.

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 on February 24, 2014.

[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 referred to the Senate Economic Growth Committee on September 18, 2014.

NEW MEXICO

New Mexico Public Regulation Commission adopts new rules on excavation and One-Call Requirements. On November 18, 2014, 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](#) became effective December 30, 2014.

[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. *The bill was referred to the House Energy, Environmental, and Natural Resources Committee on February 3.*

NEW YORK

*[AB 5083](#) (Paulin): This bill would amend the Public Service Law to require (1) the Department of Public Service to establish a uniform system for classifying gas leaks; (2) gas companies to annually report the location, classification, date, and date of repair of each leak; and (3) the Department to promulgate regulations to implement the classification system and oversee annual reporting. The bill also would require the New York Public Service Commission to determine whether New York should require winter surveillance of cast or ductile iron pipelines. The bill was referred to the Corporations, Authorities, and Commissions Committee on February 12.

[AB 730](#) (Lentol): This bill would require that the Department of Environmental Conservation, prior to the issuance or renewal of a major facility license, require applicants to demonstrate implementation of state and federal regulations for prompt detection of petroleum discharges from tanks and connecting pipelines, including installation of proper detection equipment. The bill was introduced and referred to the Standing Committee on Environmental Conservation on January 7.

[AB 2547](#) (Rodriguez): This bill would require operators of gas distribution and gas utility facilities to accelerate the repair, rehabilitation, and replacement of pipeline or equipment that is leaking, may pose a high risk of leaks, or may no longer be fit for service. The bill also would require the New York Public Service Commission to adopt a cost recovery program, develop timelines prioritizing the repair of all leaks based on severity, require the use of best available technologies to detect gas leaks, adopt standard methodology for calculating and reporting lost and unaccounted for (LAUF) gas, and adopt limits on cost recovery for LAUF gas. The bill was referred to the Energy Committee on January 16.

[AB 2648](#) (Pretlow): This bill would amend the Public Service Law to define “excavation” as including the use of hand tools, and would require excavators to request mark outs for excavation using hand tools

through the One-Call notification system. Tilling soil for agricultural purposes, routine residential or right-of-way maintenance, and landscaping activities are exempt provided the activity is performed with non-powered equipment. The bill also would amend the definition of “underground facilities” to include all facilities that an operator uses to provide services or materials, regardless of whether the operator installed the facility. The bill was referred to the Corporations, Authorities, and Commissions Committee on January 20.

[AB 2777](#) (Brennan): This bill would require gas corporations to file an annual gas safety report with the Department of Public Service. The report would include a description of the strategic planning and decision-making methodology employed in prioritizing pipeline replacement projects, the corporation’s operations and maintenance activities relating to gas safety, the corporation’s intrastate inspections policies, and a list of pipeline replacement projects. The Department must report deficiencies in the gas corporation’s project prioritization or administration of pipeline infrastructure to the Public Service Commission, which could order reasonable improvements. This bill was referred to the Corporations, Authorities, and Commissions Committee on January 20.

NORTH DAKOTA

On November 10, 2014, the North Dakota Public Service Commission (PSC) issued a notice that it is proposing to amend its pipeline safety regulations to include PHMSA’s gas and hazardous liquid safety regulatory requirements adopted through November 6, 2014. The PSC convened a public [hearing](#) on the proposed amendments on December 15, 2014. On January 7, the PSC issued an [Order](#) submitting the [proposed rules](#) to the Attorney General. The Order notes that, although the PSC has the authority to regulate the safety of the state’s hazardous liquid pipelines, it currently does not have a certified hazardous liquid safety program with PHMSA.

[SB 2374](#) (Wardner): This bill would require operators of gas and liquid gathering lines (including salt water pipelines) to secure a permit from the North Dakota PSC prior to installing a pipeline. The bill would direct the PSC to require the installation of flow meters, automatic shutoff valves, and pressure cutoff switches on all new gas or liquid gathering pipelines, and to require operators to post a reasonable bond. The bill also would require legislative management (a group of legislators that meet between legislative sessions) to study technology that may be used to detect or prevent pipeline leaks and present findings and recommendation so the legislative assembly. The bill was introduced on January 26, and a hearing is scheduled for February 5 with the Senate Energy and Natural Resources Committee. *On February 6, the proposed bill was [amended](#) to require underground crude oil or produced water gathering pipelines to secure a permit, file engineering design drawings and independent inspection certifications, and to allow the PSC to perform inspections and review records.*

OHIO

[SB 378](#) (Coley): The Ohio General Assembly 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 complaints of alleged non-compliance, and recommend remedial action. The legislation was signed by the Governor on December 19, 2014.

PENNSYLVANIA

*[HB 445](#) (Baker): This bill would amend the Underground Utility Line Protection Law to impose additional duties on facility owners, including submitting reports of alleged excavation damage violations, to establish an annual fee for excavators requesting information from the One Call System, and to create a Damage Prevention Committee to review reports of alleged violations and issue informal determinations imposing administrative penalties. The bill was referred to the Consumer Affairs Committee on February 11.

*[SB 418](#): This bill would amend the Underground Utility Protection Law to require the exclusive use of steel products produced in the United States for the construction, alteration, repair, improvement, and maintenance of gathering lines. The bill was referred to the Consumer Protection and Professional Licensure Committee on February 12.

[SB 367](#) (White): This bill would amend the definition of “line” and “facility” in the Underground Utility Protection Law to include gathering lines used to gather natural gas from unconventional gas wells. The effect of this legislation is to make these lines in Pennsylvania subject to the state’s One-Call system. This bill was referred to the Consumer Protection and Professional Licensure Committee on January 30.

TEXAS

The Railroad Commission of Texas is conducting a [survey](#) of operators of gas and hazardous liquid gathering pipelines in rural areas (for gas, rural means Class 1 areas) 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 gas and hazardous liquid gathering pipelines rural locations. Responses were due January 30.

WISCONSIN

The Wisconsin Public Service Commission issued a proposed [order](#) that would amend its pipeline safety regulations to incorporate the federal safety standards in 49 C.F.R. Parts 192, 193, and 199 in effect at the time the state regulations become effective. The proposed order was submitted to the both Houses of the Wisconsin legislature on December 14, 2014, and referred to the Senate Committee on Workforce Development, Public Works, and Military Affairs on January 8. *The proposed order was referred to the Joint Committee for Review of Administrative Rules on February 9.*

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.