



**Dates of Interest**

March 2015

- 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
- 16-20 [NAPSR Southern Region Meeting](#), Chattanooga, TN
- 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
- 20 Comments on [Proposed IC Renewal](#) Due
- 22-23 [Pipe Tech Americas Summit](#), San Antonio, TX
- 27-5/1 [NAPSR Western Region Meeting](#), Portland, OR
- 28-30 [API 2015 Pipeline Conference and Control Room Forum](#)

# Pipeline Safety Update

## ISSUE NO. 93 – MARCH 6, 2015

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### PHMSA Chief Counsel to be Nominated as Chair of Chemical Safety Board

On March 3, President Obama [announced](#) his intention to nominate Vanessa Allen Sutherland to be Chair of the Chemical Safety Board (CSB). Ms. Sutherland has served as Chief Counsel to the Pipeline and Hazardous Materials Safety Administration (PHMSA) since 2011. Prior to her tenure at PHMSA, she served as Senior Counsel to Altria Client Services, the parent company of Phillip Morris USA. Ms. Sutherland would replace current CSB Chairperson Rafael Moure-Eraso, whose term expires in June. Ms. Sutherland’s replacement at PHMSA has not yet been publically named.

### PHMSA Updates

**PHMSA Rulemaking Update.** The table below provides information on the status of PHMSA’s 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](#). Note that the DOT and OIRA timeframes often are inconsistent, 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. We expect PHMSA will issue the final rule in the near future.

<b>Rulemaking &amp; Next Action</b>	<b>DOT Estimated Date to OMB</b>	<b>DOT Estimated Publication Date</b>	<b>OIRA Estimated Publication Date</b>
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”		

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

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

**March 2015**

23-27 Nebraska (gas)

**April 2015**

6-10 Florida (gas)

7-8 Georgia (gas)

13-17 Minnesota (gas & liquids)

13-17 South Dakota (gas)

**May 2015**

12-15 Washington (gas)



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

**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

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 <sub>2</sub> , Special Permit Renewal, and Other Issues; NPRM	February 20, 2015	May 29, 2015	April 2015

**PHMSA establishes a Hazardous Liquid IVP initiative.** PHMSA has established a new [proceeding](#) to consider an Integrity Verification Process (IVP) for hazardous liquid pipelines. According to a PHMSA [industry briefing](#) and a [chart](#) placed into the public docket, Hazardous Liquid IVP would apply to certain pipelines, including lines that could affect high consequence areas (HCA) or a right of way of a principal roadway, rural gathering lines that could affect HCAs, pipelines carrying highly volatile liquids (HVL), and non-HCA pipelines with maximum operating pressures (MOP) greater than 20% of specified minimum yield strength (SMYS).

Operators of such lines may be required to, among other things, verify that records validate MOP and pipe materials; perform pressure tests and verify pipe materials for lines lacking records; re-evaluate pipe where MOP is established based on the risk-based alternative to pressure testing (49 C.F.R. § 195.303); and perform fatigue analysis to determine reassessment intervals to assess cracking issues.

Like gas transmission IVP initiated in 2013, PHMSA states that Hazardous Liquid IVP is intended to respond to Section 23 of the Pipeline Safety, Regulatory Certainty and Job Creation Act of 2011 (2011 Act). The 2011 Act contained provisions requiring that operators of certain gas transmission lines confirm maximum allowable operating pressure (MAOP), ensure that records accurately reflect physical and operational pipe characteristics, and test the material strength of previously untested lines. These provisions of the 2011 Act do not apply to hazardous liquids pipelines. Hazardous Liquid IVP also responds to National Transportation Safety Board (NTSB) recommendations addressing pressure testing of certain gas transmission pipelines.

While PHMSA has opened a docket for Hazardous Liquid IVP, the agency has not issued public notice of this initiative in the Federal Register. The timing of next steps for Hazardous Liquid IVP is unclear.

**PHMSA seeks comments on the renewal of annual reports for hazardous liquid pipelines.** On February 19, PHMSA issued a [notice](#) that it intends to request that OMB renew for three years, without change, form PHMSA F 7000-1.1—Annual Report for Hazardous Liquid Pipeline Systems. The current information collection expires in December 2015. Comments must be submitted to PHMSA no later than April 20.

**Industry Updates**

**Pipeline Association for Public Awareness releases 2015 Excavation Safety Guide.** The Pipeline Association for Public Awareness has released its [2015 Excavation Safety Guide and Directory—Pipeline Edition](#). The report addresses numerous topics, including best practices; guidelines for locating and marking; risk management; and hazard identification. The report also provides an overview of state one-call laws, including recent changes. A hard-copy edition will be available at the end of March.

**Select Regulatory and Legislative Updates from the States**

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

**ALABAMA**

\*[HB 61](#) (Greer): This bill would increase the civil penalties for pipeline safety violations to conform with 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 Committee on Public Safety and Homeland Security on March 3.

## 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.

### 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

*\*CPUC announces new safety and enforcement director.* On February 20, the California Public Utilities Commission (CPUC) [announced](#) the appointment of Elizaveta Malashenko as the new Director of the Safety and Enforcement Division. Since 2013, Ms. Malashenko has served as a Deputy Director in the division. Prior to joining the CPUC, Ms. Malashenko was an executive management consultant with IBM Corporation.

[SB 18](#) (Hill): This bill would authorize the 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 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 that would advocate on behalf of utility consumers. The bill was referred to the Committee on Energy, Utilities and Communication on January 15. On February 4, the bill was [amended](#) to require that moneys collected as a result of citations issued to gas and electric corporations be deposited in the Safe Energy Infrastructure and Excavation Fund, which would be used to fund the California Underground Facilities Safe Excavation Authority.

### 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 a Damage Prevention Board to be funded by a fee imposed on owners of underground facilities that would be assessed each time an owner receives 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.

### 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,

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

### MINNESOTA

\*[SF 1100](#) (Jensen): This bill would expand existing oil and hazardous substance discharge preparedness requirements, currently applicable to railroads, to also apply to hazardous liquid pipeline facilities that transport more than 100,000 gallons of hazardous liquid per month. Covered pipelines would be required to communicate annually with emergency responders; conduct at least one containment, recovery, and sensitive area protection drill every three years; submit initial prevention and response plans to the Pollution Control Agency by June 30, 2016; and update them every three years. This bill was referred to the Transportation and Public Safety Committee on February 23.

### 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.

\*[A 4260](#) (Eustace): This bill is the Assembly version of S 2422, currently pending in the Senate. The Assembly bill was introduced and referred to the Telecommunications and Utilities Committee on March 2.

### NEW MEXICO

[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 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. *On February 19, the Senate passed the bill, and on February 25, the bill was introduced in the House and referred to the Energy and Natural Resources Committee. A hearing is scheduled for March 6.*

## **OKLAHOMA**

*\*Oklahoma Corporation Commission issues proposed rules relating to damage prevention and enforcement.* On January 22, the Oklahoma Corporation Commission (OCC) issued [proposed rules](#), as [revised](#), that would provide the OCC with authority to enforce violations of the Oklahoma Underground Facilities Damage Prevention Act with respect to pipelines. The proposed rules also would require excavators to immediately notify local emergency responders in the event of an uncontrolled or unintentional release of flammable, toxic or corrosive gas or liquid from a pipeline or pipeline system. The Commission will

consider the permanent adoption of the proposed rules at a public hearing on March 10. If adopted, the rules will be submitted to the Governor and the Oklahoma Legislature for approval.

## OREGON

\*[HB 3410](#) (Helm): This bill would establish a nine-member Task Force on Secure Pipelines, which would study and report on state and federal safety standards, new technologies for safer pipeline transportation of petroleum, natural gas, and other flammable substances, costs related to such technologies, and incentives to encourage the use of such technologies to construct or retrofit pipelines and related facilities. The Task Force would be required to report its findings by September 15, 2016. The bill was introduced on February 27 and is awaiting committee referral.

## 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.

## WEST VIRGINIA

\*[HB 3010](#) (Fleischauer): This bill would reenact and amend the state's one-call legislation to modify the definition of excavate to include routine road maintenance by state, county, and municipal employees, modify the definition of underground facility to include those regulated gas gathering lines subject to federal damage prevention requirements in 49 C.F.R. § 192.614, and to exclude nonproducing, pre-1990 gas and oil wells for which location records do not exist. The bill also would allow owners and operators of underground facilities not subject to the one-call requirements to voluntarily opt in to the one-call system. The bill was referred to the Committee on the Judiciary on February 24.

## 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](mailto:Susan.Olenchuk@vnf.com) at (202) 298-1896 or [sam@vnf.com](mailto:sam@vnf.com), [Jim Curry](mailto:Jim.Curry@vnf.com) at (202) 298-1831 or [jbc@vnf.com](mailto:jbc@vnf.com), [Keith Coyle](mailto:Keith.Coyle@vnf.com), 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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