



VanNess
Feldman

Pipeline Safety Update Issue No. 67 – November 14, 2013

PHMSA awards \$940,000 in Technical Assistance Grants. Congressman Dingell requests update on status of PHMSA regulatory initiatives. PHMSA releases revised hazardous liquid annual report form, issues a safety order and notice of probable violation in response to recent pipeline accidents, and responds to allegations of PEER. DOT seeks further comments on drug testing Information Collection Request. Selected updates from California, Ohio, and Washington.

PHMSA Awards \$940,000 in Technical Assistance Grants

On October 24, the Pipeline and Hazardous Materials Safety Administration (PHMSA) announced that it has awarded almost \$940,000 in Technical Assistant Grants to 21 local governments and pipeline safety groups. The grants help communities and non-profit organizations develop customized pipeline safety and education programs and will be used to fund programs such as first responder training, purchasing safety equipment, and data gathering initiatives. More information is [here](#).¹

Congressman Dingell Requests Update on Status of PHMSA Regulatory Initiatives

On October 30, Congressman John Dingell (D-MI) requested that Secretary of Transportation Anthony Foxx provide an update on regulatory initiatives and the implementation of several mandates contained in the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011. Specifically, Congressman Dingell seeks an update on the status of PHMSA's ongoing review of existing gas (Part 192) and hazardous liquid (Part 195) pipeline safety regulations and certain recommendations of the National Transportation Safety Board. He also seeks an update on (1) regulations for material strength testing of certain previously untested gas transmission lines, (2) maximum allowable operating pressure verification requirements, (3) regulations addressing automatic or remote-controlled shut-off valves and leak detection; (4) PHMSA's evaluation of whether to expand integrity management requirements, and (5) revisions to the National Pipeline Mapping System to include identification of high consequence areas. The letter is [here](#).²

Dates of Interest

November 2013

- 17-20 [NARUC Annual Meeting](#), Orlando, FL
- 19-20 [AGA Odorization Workshop](#), Denver, CO
- 21-22 [2013 Pipeline Safety Trust Conference](#), New Orleans, LA
- 27 [Comments due](#) on DOT Drug and Alcohol Information Collection Request

December 2013

- 31 [Comments due](#) on OFR's Incorporation by Reference NPRM

January 2014

- 14-16 [AGA Best Practices Kickoff Meeting](#), Amelia Island, FL
- 14-17 [Southern Gas Assn. Transmission Pipeline Design Workshop](#), Houston, TX

PHMSA Activities

PHMSA releases revised hazardous liquid annual report form. PHMSA has released the revised Form PHMSA F 7000-1.1 Annual Report form and instructions for hazardous liquid line operators. The revised report form is [here](#)³ and the revised instructions are [here](#)⁴. Redlined versions of the form and instructions are [here](#)⁵ and [here](#)⁶.

PHMSA issues safety order following North Dakota accident. On October 31, PHMSA issued a safety order to Tesoro High Plains Pipeline Co., LLC (Tesoro), following a September 2013 accident involving the Tesoro system in North Dakota. The safety order is [here](#).⁷

PHMSA issues notice of proposed probable violation following Pegasus Pipeline accident. On November 6, PHMSA issued a Notice of Probable Violation (NOPV) to ExxonMobil Pipeline, proposing a \$2.6 million civil penalty and a proposed Compliance Order for the March 2013 accident on the Pegasus Pipeline near Mayflower, Arkansas. The NOPV is [here](#).⁸

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

December 2013
2-6 Alabama (Gas)

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

DOT seeks further comments on drug testing Information Collection Request. On October 28, the Department of Transportation (DOT) issued a notice announcing that it is forwarding to the Office of Management and Budget (OMB) a request to renew an Information Collection Request under DOT's drug and alcohol testing program. DOT's notice responds to comments received following issuance of the same information collection request in July 2013. Further comments on the request are due by November 27. The notice is [here](#).⁹

PHMSA responds to PEER allegations. On October 30, PHMSA Associate Administrator for Pipeline Safety, Jeff Weise, publically responded to recent allegations made by the Public Employees for Environmental Responsibility (PEER) group regarding PHMSA's safety program. The letter also requests a meeting with PEER representatives. The letter is [here](#).¹⁰

Status of PHMSA Rulemakings. The table below reflects the most current publicly available information on the status of PHMSA rulemakings. Because of the federal government shutdown, DOT did not publish a report on significant rulemakings in October. The most recent information from DOT is [here](#).¹¹ Information from OMB's Office of Information and Regulatory Affairs is [here](#).¹²

Rulemaking	Next Action	Estimated Date of Next Action
Miscellaneous Rule on Construction Inspections, Leak Surveys, etc.	Publication of Final Rule	January 22, 2014
Enforcement of State Excavation Damage Laws	Publication of Final Rule	February 2014
Safety of On-Shore Hazardous Liquid Pipelines	Publication of NPRM	January 14, 2014
Excess Flow Valves	Publication of NPRM	January 22, 2014
Miscellaneous Rule on Special Permit Renewals, Cost Recovery for Design Reviews, and Incident Reporting	Publication of NPRM	January 2014
Periodic Updates of Regulatory References to Technical Standards and Miscellaneous Amendments	Publication of NPRM	August 16, 2013 (issued)
Safety of Gas Transmission Pipelines	Publication of NPRM	February 17, 2014
Issues Related to Use of Plastic Pipe in the Gas Pipeline Industry	Publication of NPRM	April 2014

Select Activities from the States

CPUC staff issues \$8.1 million Citation to PG&E. On November 5, the safety staff of the California Public Utilities Commission (CPUC) issued an \$8.1 million Citation to Pacific Gas & Electric for permitting a contractor to conduct radiographic pipeline tests that did not meet federal requirements. The Citation also directs PG&E to take several corrective actions. The Citation is [here](#).¹³

State-Specific Association Meetings

December 2013

3-5 [Alabama Natural Gas Ass'n - APSC/PHMSA December Pipeline Safety Meeting / 2nd ANGA Board Meeting](#)

California legislators issue report on CPUC safety efforts. The Subcommittee on Gas and Electric Infrastructure Safety of the California Senate Committee on Energy, Utilities, and Communication issued a report, "Slow Progress Toward Safety: Improving Performance and Priorities in the Safety Plans of the California Public Utilities Commission." The report states that systemic problems and weaknesses prevent the CPUC from integrating safety into its decision-making and policy development functions and offers recommendations to enable the CPUC to carry out effective safety oversight. The report is [here](#).¹⁴

PUCO revises Ohio gas pipeline safety regulations. On October 30, the Public Utilities Commission of Ohio (PUCO) issued revised gas pipeline safety regulations to provide for state regulation and oversight of gas gathering and processing plant operators. The revised rules implement state Senate Bill 315, adopted in 2012, which requires that newly constructed gathering lines comply with federal design, damage prevention, public education, maximum allowable operating pressure, line marking, and leak survey requirements. The revised regulations are [here](#).¹⁵

Washington UTC Approves Pipe Replacement Plans. The Washington Utilities and Transportation Commission recently approved plans by [Avista Corp.](#)¹⁶, [Cascade Natural Gas Corp.](#)¹⁷, [Puget Sound Energy, Inc.](#)¹⁸, and [Northwest Natural Gas Co](#)¹⁹ to update and modernize their pipeline delivery systems. The approved plans outline the steps each operator will take to replace pipe presenting "elevated risk" of failure.

For Additional 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, please contact [Susan Olenchuk](#) at (202) 298-1896 or sam@vnf.com, [Jim Curry](#) at (202) 298-1831 or jbc@vnf.com, or any member of the firm's [Natural Gas](#) or [Oil & Products Pipelines](#) practice groups.



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- ¹ Press Release, PHMSA Awards \$940,000 to 21 Local Pipeline Safety Groups:
<http://phmsa.dot.gov/portal/site/PHMSA/menuitem.ebdc7a8a7e39f2e55cf2031050248a0c/?vgnextoid=f6bb19f124dd1410VgnVCM100000d2c97898RCRD&vgnnextchannel=485b143389d8c010VgnVCM1000008049a8c0RCRD&vgnnextfmt=print>.
- ² Letter from Rep. Dingell to Secretary Foxx (Oct. 30, 2013):
<http://remote.vnf.com/docs/DingellLtrtoSecFoxx.pdf>.
- ³ Revised Form PHMSA F 700-1.1 Annual Report:
<http://remote.vnf.com/docs/AnnualReportFormHLClean.pdf>.
- ⁴ Revised Instructions for Form PHMSA F 700-1.1 Annual Report:
<http://remote.vnf.com/docs/AnnualReportFormInstructionsHLClean.pdf>.
- ⁵ Redline of Revised Form PHMSA F 700-1.1 Annual Report:
<http://remote.vnf.com/docs/AnnualReportFormHLRedline.pdf>.
- ⁶ Redline of Revised Instructions for Form PHMSA F 700-1.1 Annual Report:
<http://remote.vnf.com/docs/AnnualReportFormInstructionsHLRedline.pdf>.
- ⁷ *In the Matter of Tesoro High Plains Pipelines Co., LLC*, CPF No. 3-2013-5032S (Oct. 31, 2013):
<http://www.phmsa.dot.gov/staticfiles/PHMSA/DownloadableFiles/Press%20Releases/Tesoro%20High%20Plains%20Pipeline%20Company.pdf>.
- ⁸ *In the Matter of ExxonMobil Pipeline Co., LP*, CPF No. 4-2013-5027 (Nov. 6, 2013):
http://phmsa.dot.gov/staticfiles/PHMSA/DownloadableFiles/Enforcement%20Notices/420135027_NOPV%20&%20PCO_11062013.pdf.
- ⁹ Procedures for Transportation Drug and Alcohol Testing Programs, 78 Fed. Reg. 64,262 (Oct. 28, 2013):
<http://www.gpo.gov/fdsys/pkg/FR-2013-10-28/pdf/2013-25272.pdf>.
- ¹⁰ Letter from Jeffrey Wiese, Associate Administrator for Pipeline Safety, PHMSA to PEER (Oct. 30, 2013).
<http://remote.vnf.com/docs/PHMSALettertoPEER.pdf>.
- ¹¹ DOT Significant Rulemaking Report for September 2013:
<http://www.dot.gov/sites/dot.dev/files/docs/SEP%20FINAL%20091013.docx>
- ¹² OIRA DOT Rulemaking Status Page:
http://www.reginfo.gov/public/do/eAgendaMain?operation=OPERATION_GET_AGENCY_RULE_LIST¤tPub=true&agencyCd=2100&Image58.x=52&Image58.y=10
- ¹³ *In the Matter of Pacific Gas & Electric Co.*, Citation No. 13-003 (Nov. 5, 2013):
<http://www.cpuc.ca.gov/NR/rdonlyres/3BDE82E8-8484-48CE-8DFB-1FEAA8449C9E/0/Citation13003PGE.pdf>.
- ¹⁴ Calif. Sen. Comm. On Energy, Utilities, and Commc'n Subcomm. on Gas and Electric Infrastructure Safety, "Slow Progress Toward Safety: Improving Performance and Priorities in the Safety Plans of the California Public Utilities Commission" (Oct. 23, 2013):
http://sd13.senate.ca.gov/sites/sd13.senate.ca.gov/files/SlowProgressCPUC_v1_10-23-13.pdf.
- ¹⁵ *In the Matter of the Amendment of Chapter 4901:1-16, Ohio Administrative Code, Regarding Gas Pipeline Safety, to Implement Am. Sub. S.B. 315*, Case No. 12-2040-GA-ORD (Oct. 30, 2013):
<http://dis.puc.state.oh.us/TiffToPdf/A1001001A13J30B35905G60854.pdf>.
- ¹⁶ *In the Matter of Avista Corp.'s Pipe Replacement Program Plan*, Docket No. PG-131837 (Oct. 30, 2013):
<http://www.wutc.wa.gov/rms2.nsf/177d98baa5918c7388256a550064a61e/93c69716e3c9c37b88257c140076687f!OpenDocument>.
- ¹⁷ *In the Matter of Cascade Natural Gas Corp.'s Pipe Replacement Program Plan*, Docket No. PG-131838 (Oct. 30, 2013):
<http://www.wutc.wa.gov/rms2.nsf/177d98baa5918c7388256a550064a61e/69928926a09a08ad88257c1400766b3d!OpenDocument>.
- ¹⁸ *In the Matter of Puget Sound Energy, Inc.'s Pipe Replacement Program Plan*, Docket No. PG-131839 (Oct. 30, 2013):
<http://www.wutc.wa.gov/rms2.nsf/177d98baa5918c7388256a550064a61e/9d9dc7932a3ffe1d88257c1400766eba!OpenDocument>.
- ¹⁹ *In the Matter of Northwest Natural Gas Company's Pipe Replacement Program Plan Renewable Energy Target Progress Report*, Docket No. PG-131840 (Oct. 30, 2013):
<http://www.wutc.wa.gov/rms2.nsf/177d98baa5918c7388256a550064a61e/e3cd5db567340b0988257c000067a02e!OpenDocument>.