



Pipeline Safety Update Issue No. 61 – July 24, 2013

House and Senate Committees approve DOT appropriations bills. House bill would address intellectual property issues associated with incorporating industry standards by reference into PHMSA's regulations. PHMSA to audit CPUC safety program. FERC issues letter concerning LNG facility spill modeling. PHMSA posts materials regarding Integrity Verification Process and will hold technical advisory committee meetings. PHMSA issues advisory bulletin on LPG safety requirements. Status of pending rulemakings updated. PHMSA announces opportunity for base grants. CPUC staff modify San Bruno civil penalty recommendation.

Appropriations Bills

On June 25 the Senate Appropriations Subcommittee on Transportation, Housing, and Urban Development, and Related Agencies approved Appropriations Bill [S. 1243](#)¹ for FY 2014, which would increase funding for the Pipeline and Hazardous Materials Safety Administration (PHMSA) by 12 percent over FY 2013 levels. The increase would fund PHMSA's efforts to implement new initiatives under the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 (2011 Act), improve inspection and enforcement oversight, standardize state programs, increase public awareness, improve integrity management, among other initiatives. More information on the Senate bill is [here](#).²

The House Appropriations Committee passed its version of the appropriations bill, [H.R. 2610](#),³ on June 27. The House bill provides for more than \$40 million less pipeline safety program funding than the Senate version. It remains to be seen how the differences between the Senate and House bills will be resolved, and whether agreement can be reached by the October 1 start of fiscal year 2014.

House Bill to Address Incorporation by Reference Issue

On June 28, Reps. Jeff Denham (R-CA), Nick Rahall (D-WV), Corrine Brown (D-FL), and Bill Shuster (R-PA)

Dates of Interest

August 2013

- 7 [PHMSA Public Workshop on Integrity Verification Process](#), Arlington, VA
- 8-9 [PHMSA Advisory Committee Meetings](#), Arlington, VA
- 12 [Comments due on Revision to Hazardous Liquid Annual Report Form](#)
- 13 [Comments due on NPMS Information Collection Renewal](#)
- 26 [Comments due on PHMSA Report Form Changes](#)

September 2013

- 9 [Comments due](#) following PHMSA Public Workshop on Integrity Verification Process
- 9-11 [Texas RRC/PHMSA Training](#)
- 9-13 [NAPSR National Meeting](#), Meredith, NH
- 17-20 [AOPL Annual Business Conference](#), Newport Beach, CA
- 25-27 [Southern Gas Assn DOT Compliance Workshop - Transmission & Midstream Pipelines](#), Houston, TX

November 2013

- 21-22 [2013 Pipeline Safety Trust Conference](#), New Orleans, LA

introduced [H.R. 2576](#),⁴ a bill to amend the 2011 Act to modify the requirements relating to the free, online availability of industry standards that are referenced in PHMSA regulations and guidance. The bill was introduced in response to concerns regarding the intellectual property rights of organizations that develop these standards. H.R. 2576 would extend the deadline for PHMSA to make industry standards publicly available, eliminate the publication requirement for standards referenced only in guidance documents, and eliminate the requirement that PHMSA post referenced standards online. The bill has been passed by the House and referred to the Senate.

PHMSA to Audit CPUC Safety Program

In response to letters from the Mayor of San Bruno, California, and Congresswoman Jackie Speier (D-CA), PHMSA has scheduled an audit of the California Public Utilities Commission's (CPUC) intrastate gas pipeline safety program. The Mayor asserted that various ethical and political conflicts exist within the CPUC that hinder the agency from carrying out its pipeline safety mandates, and requested that PHMSA decertify the CPUC safety program. Congresswoman Speier raised similar concerns. Congresswoman Speier's letter is [here](#).⁵ PHMSA indicated that it will review the CPUC's enforcement of safety standards and take action, as appropriate, to achieve adequate performance. PHMSA's response is [here](#).⁶ More information is [here](#).⁷

FERC Issues Letter Concerning LNG Facility Spill Modeling

On July 17, the Federal Energy Regulatory Commission (FERC) issued a letter to Downeast LNG, the applicant for a proposed LNG import terminal in Maine, regarding PHMSA LNG facility siting requirements. FERC informed Downeast LNG that PHMSA has recently determined that LNG project applicants should seek PHMSA verification of the design spill calculations under 49 CFR Part 193. FERC also indicated that its review of the project would not proceed until PHMSA determines the appropriate design spill information to be used. FERC's letter raises questions about both agencies' processes and expectations for facility siting and design spill calculations and modeling under Part 193, and introduces the potential for project delays. FERC's letter is [here](#).⁸

Regulations and Code Compliance: Upcoming PHMSA State Seminars

August 2013

5-9 South Carolina (Gas)

September 2013

9-11 Texas (Gas & Liquid)

October 2013

21-25 Vermont (Gas)

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

PHMSA and DOT Activities

PHMSA Integrity Verification Process Workshop. PHMSA has posted documents to the docket for its August 7 workshop to discuss a proposed Integrity Verification Process (IVP). Among the documents is a flow chart describing the IVP, detailing potential pressure testing, materials testing, pipe replacement and other measures to address grandfathered pipe and certain records and manufacturing issues. This and other documents are available in the docket, [here](#).⁹

PHMSA Technical Advisory Committee meetings. On August 8 and 9, PHMSA will hold meetings of its Technical Advisory Committees for gas and hazardous liquid pipelines. The meetings will be held in Arlington, Virginia. Information and registration details are [here](#).¹⁰

PHMSA Advisory Bulletin on LPG Safety. On July 18, PHMSA issued an advisory bulletin to remind liquefied petroleum gas (LPG) and utility LPG operators that they must comply with certain Part 192 safety requirements. Under the primacy provision in Part 192, National Fire Protection Association (NFPA) 58 and 59 standards control if they conflict with Part 192. PHMSA reminds operators that Part 192 requirements apply where NFPA 58 or 59 standards do not address a specific safety topic, and identifies several applicable Part 192 provisions. The advisory is [here](#).¹¹

Federal Funding Resource Center

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

www.vnf.com/funding

The site is updated daily and a weekly email highlights new and expiring opportunities. To sign up for the weekly updates, e-mail vnf@vnf.com with "FFO Subscribe" in the subject line.

Status of PHMSA Rulemakings. The following chart reflects publicly available information on the status of PHMSA rulemakings. More information from DOT is available [here](#).¹² Information from OMB's Office of Information and Regulatory Affairs (OIRA) has recently been updated and is [here](#).¹³ Recently modified information is indicated in bold.

Rulemaking	Next Action	Estimated Date of Next Action
Miscellaneous Rule on Construction Inspections, Leak Surveys, etc.	Publication of Final Rule	December 6, 2013
Part 190 Enforcement and Regulatory Procedures Update	Publication of Final Rule	December 17, 2013
Enforcement of State Excavation Damage Laws	Publication of Final Rule	February 6, 2014
Standards for Conducting Condition Assessments of In-Service Pipelines	Publication of NPRM	March, 2013
Safety of On-Shore Hazardous Liquid Pipelines	Publication of NPRM	November 7, 2013
Excess Flow Valves	Publication of NPRM	December 6, 2013
Changes to NPMS Data Collection and Standards	Publication of NPRM	June, 2013
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	December 6, 2013
Safety of Gas Transmission Pipelines	Publication of NPRM	January 17, 2014
Issues related to Use of Plastic Pipe in the Gas Pipeline Industry	Publication of NPRM	April 2014

PHMSA announces opportunity for base grants. PHMSA has announced that it is accepting applications for 2014 Natural Gas and Hazardous Liquid base grants which reimburse state agencies up to 80% of costs for carrying out their pipeline safety programs. Only states with a certification or an agreement with PHMSA to perform pipeline safety inspections are eligible. Grant applications are due September 30, 2013. More information is [here](#).¹⁴

Select Activities from the States

California

Modified San Bruno penalty. On July 16, the CPUC Consumer Protection and Safety Division (CPSD) filed an amended reply brief in the CPUC's proceedings against Pacific Gas and Electric (PG&E) related to the 2010 San Bruno pipeline rupture. CPSD staff left unchanged the total recommended penalty figure of \$2.25 billion, but recommended that at least \$300 million of that amount be paid as a fine. Previously, the CPSD had recommended the entire proposed penalty figure could be used for infrastructure improvements. PG&E responded with a July 17 motion to reopen the evidentiary record on the penalty phase of the CPUC proceedings. The CPSD brief is [here](#)¹⁵ and PG&E's response motion is [here](#).¹⁶

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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State-Specific Association Meetings	
August 2013	
4	Independent Oil and Gas Assn of WV Summer Meeting
6-8	2013 South Carolina Pipeline Safety Seminar and SIF Conference , Columbia, SC
20-21	Kentucky Gas Assn Safety Summit , Lexington, KY
September 2013	
9-12	Alabama Natural Gas Assn - 2013 Natural Gas Fall Workshop
22-24	Arkansas Gas Assn 2013 Conference , Fayetteville



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¹ Senate DOT Appropriations Bill

<http://www.gpo.gov/fdsys/pkg/BILLS-113s1243pcs/pdf/BILLS-113s1243pcs.pdf>

² Senate DOT Appropriations Bill press release.

<http://www.appropriations.senate.gov/news.cfm?method=news.view&id=2094c257-e850-4bbe-a15f-cadff65a51e3>

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- ³ House DOT Appropriations Bill.
<http://www.gpo.gov/fdsys/pkg/BILLS-113hr2610rh/pdf/BILLS-113hr2610rh.pdf>
 - ⁴ House Bill on Incorporation by Reference
<http://www.gpo.gov/fdsys/pkg/BILLS-113hr2576rfs/pdf/BILLS-113hr2576rfs.pdf>
 - ⁵ Congresswoman Speier Letter
<http://sitepilot03.firmseek.com/client/vanness/www/assets/attachments/Jackie%20Speier%20Letter%20to%20PHMSA%20June%2025%202013.pdf>
 - ⁶ PHMSA's response to San Bruno Mayor
<http://sitepilot03.firmseek.com/client/vanness/www/assets/attachments/PHMSA%20Letter%20to%20San%20Bruno%20re%20CPUC%20de-cert.pdf>
 - ⁷ San Bruno Press Release
<http://sitepilot03.firmseek.com/client/vanness/www/assets/attachments/San%20Bruno%20Press%20Release%20on%20CPUC.pdf>
 - ⁸ FERC Downeast LNG Letter
<http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=13307509>
 - ⁹ PHMSA IVP Workshop Docket.
<http://www.regulations.gov/#!docketDetail;D=PHMSA-2013-0119>
 - ¹⁰ PHMSA Technical Advisory Committee Meetings
<http://primis.phmsa.dot.gov/meetings/MtgHome.mtg?mtg=92>
 - ¹¹ PHMSA LPG Safety Advisory Bulletin
<http://www.gpo.gov/fdsys/pkg/FR-2013-07-18/pdf/2013-17229.pdf>
 - ¹² DOT Significant Rulemaking Report for June 2013.
<http://www.dot.gov/sites/dot.dev/files/docs/JUNE%202013%20Internet%20Report.docx>
 - ¹³ OIRA DOT Rulemakings 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
 - ¹⁴ Grant Information.
www.grants.gov
 - ¹⁵ CPSP Amended Reply Brief
<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M071/K159/71159733.PDF>
 - ¹⁶ Pacific Gas and Electric Motion
<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M071/K162/71162741.PDF>