



Pipeline Safety Update Issue No. 25 – January 25, 2012

National Pipeline Operator Registry requirements became effective January 1. Legislative resources are available from Van Ness Feldman. The CPUC initiates new formal investigation of PG&E. Deadlines for filing comments on PHMSA’s “Miscellaneous Changes” notice of proposed rulemaking and Excess Flow Valve advance notice of proposed rulemaking may be extended by 30 days. PHMSA announces random drug testing rate for 2012. Pipeline safety bills proceed in California. PA PUC issues Tentative Implementation Order to begin implementing new pipeline safety legislation in Pennsylvania.

National Pipeline Operator Registry Requirements Became Effective January 1

On January 13, the Pipeline and Hazardous Materials Safety Administration (PHMSA) issued an advisory bulletin reminding pipeline operators that the National Pipeline Operator Registry requirements became effective on January 1. Established as part of PHMSA’s 2010 “One-Rule,” operators must use the national registry to electronically submit incident and annual reports, and to notify PHMSA of certain construction activities, acquisitions, company name changes and other events. The advisory bulletin clarifies submission requirements in response to comments PHMSA received. The advisory is [here](#); ¹ more information about filing is [here](#). ²

Legislative Resources Available

Van Ness Feldman has prepared a redline of the Pipeline Safety Laws showing how the newly enacted Pipeline Safety, Regulatory Certainty and Job Creation Act of 2011 amends existing statutory text. Please contact [Susan Olenchuk](#) at 202-298-1896 or sam@vnf.com or [Jim Curry](#) at 202-298-1831 or jbc@vnf.com for a copy.

A chart describing the 2011 Act’s implementation deadlines is [here](#). ³
The 2011 Act (H.R. 2845, Public Law 112-90, 125 Stat. 1904) is [here](#). ⁴

PHMSA May Extend Comment Periods

We understand that PHMSA may extend the comment periods for the “Miscellaneous Changes” Notice of Proposed Rulemaking (NPRM) and the Excess Flow Valve (EFV) Advance Notice of Proposed Rulemaking (ANPRM) by 30 days.

Dates of Interest

January 2012

- 26 PA PUC Teleconference on Operator Registry and Annual Assessment
- 30-31 AGA Workshop on Corrosion Issues Affecting Transmission & Distribution Integrity Management, Cincinnati, OH
- 31 – 2/2 Distribution Best Practices Roundtable: External Corrosion Prevention, Cincinnati, OH

February 2012

- 16 AGA Public Awareness Webinar
- 23 AGA Plastic Pipe Data Committee Overview Webinar
- 29-3/1 AGA Reauthorization and Transmission Pipeline Design, Construction & Operations Workshop, New Orleans, LA

March 2012

- 5-7 AGA/EEI Spring Security Meetings, Phoenix, AZ
- 15 **Annual reports due for gas pipelines**
- 15 **MIS Reports containing drug and alcohol testing data due**
- 28-29 AGA Operations Safety Regulatory Action Committee Spring Meeting, Las Vegas, NV
- 27-28 PHMSA Workshop on Leak Detection and Remote-Controlled and Automatic Valves
- 28-29 AGA/SPE Underground Storage Operators Workshop, Champaign, IL

Van Ness Feldman's redline showing how the "Miscellaneous Changes" NPRM would modify the regulatory text is [here](#).⁵

CPUC Initiates New Investigation of PG&E

On January 12, the California Public Utilities Commission (CPUC) instituted its third formal investigation of Pacific Gas & Electric Company (PG&E) relating to the September 2010 San Bruno pipeline incident. The CPUC's action was prompted by a report by the CPUC's Consumer Protection and Safety Division (CPSD) alleging that PG&E violated federal and state pipeline safety requirements related to integrity management, record keeping, procedures and other activities. The CPUC's order instituting investigation is [here](#)⁶ and the CPSD's report is [here](#).⁷

PHMSA Activities and Updates

Random Drug Testing Rate for 2012. On January 18, PHMSA issued its annual drug testing rate notice for 2012. This year the rate remains unchanged and pipeline facility operators must continue to select and test 25% of covered employees for random drug testing. In addition, PHMSA reminds operators that pursuant to a 2010 Advisory Bulletin, operators that submit drug and alcohol testing data via Management Information System (MIS) reports are required to also submit the MIS data for contractor employees who performed covered functions. MIS reports are due March 15. The January 18 notice is [here](#);⁸ the 2010 Advisory Bulletin is [here](#).⁹

Regulations and Code Compliance: Upcoming PHMSA State Seminars

February 2012

6-10 Montana (gas)
6-10 Florida (gas)
7-9 Iowa (gas)

March 2012

13-14 Colorado (gas)

April 2012

3-4 North Dakota (gas)
9-12 Georgia (gas)
18-20 Minnesota (gas)
18-20 Minnesota (hazardous liquids)
18-20 Minnesota (LNG)

PHMSA offers training on gas and hazardous liquid pipeline safety

About Van Ness Feldman

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Select Activities from the States

California

AB1456, AB578 and AB1197 (Hill-D). AB1456 would require the CPUC to consider a gas utility's safety performance when determining the utility's rates. The bill has been referred to the Committee on Utilities and Commerce. AB578 would require the CPUC and pipeline operators to implement "in a timely manner" any gas-safety recommendations issued by the National Transportation Safety Board (NTSB). The bill was passed out of the Committee on Appropriations on January 19. AB1197 would require that the CPUC establish a safety issues whistleblower protection program for utility employees. This bill is awaiting a "suspension" hearing vote by the Appropriations Committee. The Committee may choose not to conduct a hearing, and proceed directly to a vote.

Massachusetts

H. 3051, H. 3052 and H. 3053 (Ehrlich-D). H. 3051 would establish natural gas leak classification standards and repair requirements. H. 3052 would require heightened patrolling of cast iron pipelines during certain cold weather conditions associated with increased leaks. H. 3053 would require the Department of Public Utilities to post to its website certain data and information related to pipeline safety oversight and enforcement. The bills were referred to

the Joint Committee on Telecommunications, Utilities and Energy where a hearing was held on June 8. **No action since last Update.**

Pennsylvania

Pennsylvania Commission Creates Pipeline Registry. On January 12, the Pennsylvania Public Utility Commission (PA PUC) issued a Tentative Implementation Order to begin implementing Pennsylvania's newly enacted Gas and Hazardous Liquids Pipelines Act. When finalized, the order will require that pipeline operators register with the PA PUC and provide mileage information and identify the country of manufacture for pipe installed in the prior calendar year. The PA PUC also will assess pipeline operators annual fees based on miles of pipeline operated in Pennsylvania. On January 26, the PA PUC is hosting two teleconferences to answer questions about the implementation plan. Comments on the plan are due February 1. The order is [here](#).¹⁰

For Additional Information

Van Ness Feldman regularly counsels clients on issues related to pipeline construction, permitting, safety, and operation, and has in-depth experience on issues involving compliance with the Pipeline Safety Act. If you are interested in additional information regarding PHMSA's regulatory program, or any other energy-related federal activity, 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.

In early 2012, Van Ness Feldman will combine its practice with the Seattle land use, real estate, and natural resources law firm GordonDerr LLP. The combined firm will continue to be known as Van Ness Feldman, A Professional Corporation, and the firm's Seattle office will use the name Van Ness Feldman GordonDerr for a transition period. For more information, please visit www.vnf.com/gordonderr.

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¹ PHMSA Advisory Bulletin

<http://www.gpo.gov/fdsys/pkg/FR-2012-01-13/pdf/2012-618.pdf>

² PHMSA National Operator Registry Website

https://opsweb.phmsa.dot.gov/cfdocs/opsapps/pipes/nr_construction.cfm

³ Van Ness Feldman Summary Chart of Pipeline Safety, Regulatory Certainty and Job Creation Act of 2012

<http://sitepilot03.firmseek.com/client/vanness/www/assets/attachments/HR%202845%20Pipeline%20Safety%20Legislative%20Chart.pdf>

⁴ Pipeline Safety, Regulatory Certainty and Job Creation Act of 2012 (H.R. 2845, Public Law 112-90, 125 Stat. 1904).

<http://www.gpo.gov/fdsys/pkg/BILLS-112hr2845enr/pdf/BILLS-112hr2845enr.pdf>

⁵ Redline of Miscellaneous Changes to Pipeline Safety Regulations

<http://sitepilot03.firmseek.com/client/vanness/www/assets/attachments/Redline%20of%20Miscellaneous%20Changes%20to%20Pipeline%20Safety%20Regulations.pdf>

⁶ California Public Utility Commission Order on San Bruno

http://docs.cpuc.ca.gov/word_pdf/FINAL_DECISION/157321.pdf

⁷ California Public Utilities Commission, Consumer Products and Safety Division report on San Bruno

<http://docs.cpuc.ca.gov/published/Graphics/157326.PDF>

⁸ PHMSA Notice of Drug Testing Rate

<http://www.gpo.gov/fdsys/pkg/FR-2012-01-18/pdf/2012-740.pdf>

⁹ PHMSA 2010 Advisory Bulletin on Drug Testing

<http://www.gpo.gov/fdsys/pkg/FR-2010-01-19/pdf/2010-867.pdf>

¹⁰ Order Creating Pennsylvania Public Utilities Commission Pipeline Registry

<http://www.puc.state.pa.us/general/ConsolidatedCaseView.aspx?Docket=M-2012-2282031>