



**Dates of Interest**

**August 2015**

- 3-7 [NAPSR Southwest Region Meeting](#), Fort Worth, TX
- 11-13 [Midwest Energy Association Gas Operations Technical & Leadership Summit](#), Rochester, MN
- 25-26 [PHMSA Technical Advisory Committee Meetings](#), Crystal City, Virginia
- 25-26 [Western Regional Gas Conference](#), Tempe, AZ
- 27 [PHMSA Workshop on HL IVP](#), Crystal City, Virginia
- 31-9/1 [NAPSR National Meeting](#), Tempe, AZ

**September 2015**

- 8 Comments Due on Operator Qualification [NPRM](#)
- 9-10 PHMSA Risk Modeling [Public Workshop](#)
- 14 Comments Due on Excess Flow Valves [NPRM](#)



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

# Pipeline Safety Update

## ISSUE NO. 100 – AUGUST 4, 2015

*[Susan Olenchuk](#), [James Curry](#), [Keith Coyle](#), [Tyson Kade](#), [Frances Bishop](#), [Barbara Deathe](#)*

*PHMSA issues two notices of proposed rulemakings addressing operator qualification, special permits, incident and accident notification, farm taps, flow reversals and product changes, excess flow valves for non-single family residences, and other issues. PHMSA issues final rule on enforcement of state damage prevention programs. PHMSA schedules Advisory Committee meetings. PHMSA schedules public meeting on hazardous liquid integrity verification process. PHMSA announces public workshop on risk modeling methodologies. Senators Daines and Fischer request field hearing on pipeline safety. Senate Committee holds confirmation hearing for PHMSA Administrator nominee. House Committee holds PHMSA oversight hearing. National Wildlife Federation announces intent to sue DOT. Lawsuit against PHMSA is dismissed. Department of Justice requests approval of consent decree relating to 2013 Pegasus Pipeline spill. API releases recommended practice on Safety Management Systems. Pipeline Association for Public Awareness releases summer 2015 newsletter. Select state updates.*

### PHMSA Issues Two Notices of Proposed Rulemakings and a Final Rule

In July, the Pipeline and Hazardous Materials Safety Administration (PHMSA) issued two notices of proposed rulemakings (NPRM) and a final rule affecting operators of gas and hazardous liquid pipelines. The NPRMs address a broad range of issues, including operator qualification (OQ), special permit renewals, incident and accident notification, farm taps, flow reversals, product changes, and excess flow valves (EFV) for non-single family residences. The Final Rule addresses the federal enforcement of state damage prevention programs. These rulemaking activities are summarized below.

PHMSA also is expected to propose significant new regulations for gas transmission and hazardous liquid pipelines. According to the Department of Transportation's (DOT) July Significant Rulemaking [Report](#) and the Office of Management and Budget's (OMB) Office of Information and Regulatory Affairs (OIRA) Spring 2015 [Unified Regulatory Agenda](#), those proposals are anticipated in August 2015.

### NPRM Addressing OQ, Special Permits, Incident and Accident Notification, Farm Taps, Flow Reversals, Product Changes, and Other Issues

On July 10, PHMSA published an [NPRM](#) proposing numerous regulatory changes affecting operators of gas distribution, transmission and gathering pipelines and hazardous liquid pipelines. Comments on the NPRM are due September 8. Among other things, the NPRM proposes to:

- *Expanded Operator Qualification (OQ) Requirements.* Expand the definition of a "covered task" to include any operations, maintenance, construction, or emergency response activity. Extend OQ requirements to Type B onshore gas gathering pipelines, Type A gas gathering lines in Class 2 locations, and regulated rural hazardous liquid gathering lines. Require training for individuals who may affect controllers' ability to safely monitor and control a pipeline.
- *New Incident and Accident Notification Requirement.* Require notification of an accident or incident to the National Response Center at the earliest practicable moment, but no later than one hour, after "confirmed discovery," which is a proposed new term. The initial notification must provide an

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

PHMSA offers training on gas and hazardous liquid pipeline safety regulations.

More information is available [here](#).

**August 2015**

3-7 South Carolina (gas)

**September 2015**

8-9 Nevada (gas)

14-18 New Mexico (gas & liquids)

14-18 Texas (gas & liquids)

21-25 Mississippi (gas)

**State-Specific Association  
Meetings**

**September 2015**

9-10 [Pennsylvania Public Utility Commission Gas Safety Seminar](#), State College PA

9-10 [PHMSA Risk Modeling Workshop](#), Crystal City, VA

14-17 [ANGA 2015 Natural Gas Fall Workshop](#), Athens, AL

15 [Texas RRC Pipeline Safety Seminar](#), San Antonio, TX

15-18 [AOPL Annual Business Conference](#), Atlanta, GA

28-10/1 [2015 AGA Fall Committee Meetings](#), Amelia Island, FL.

estimate of product lost and be revised or confirmed within 48 hours. Proposed revised incident and accident notification forms are available [here](#).

- *Notification of Pipeline Flow Reversals and Product Changes.* Require 60-day advance notice to PHMSA of product changes and of certain flow reversals in a mainline pipeline, unless the system is designed for bi-directional flow, or the reversal would last for no more than 30 days.
- *New Special Permit Renewal Procedures.* Add procedures for renewing expiring special permits to allow assessment of whether permit conditions require updating to maintain safety or protect the environment.
- *Modify Farm Tap Requirements.* Exempt farm taps from Gas Distribution Integrity Management requirements, but require inspection of pressure regulating/limiting devices, relief devices, and automatic shutoff devices every three years.
- *New Design Review Cost Recovery Fee.* Prescribe a fee structure and assessment methodology under which PHMSA would recover costs incurred in performing design reviews of proposed pipelines where design and construction costs are at least \$2.5 billion, or if new or novel technologies or designs are employed. PHMSA has developed a sample [master cost recovery agreement](#).
- *Standards for Hazardous Liquid Pipeline Assessment Tools.* Incorporate by reference industry consensus standards addressing the assessment of in-service hazardous liquid pipelines using inline inspection (ILI) and stress corrosion cracking direct assessment (SCCDA) tools.
- *Modified Drug and Alcohol Testing Requirements.* Narrow the exceptions to post-accident drug and alcohol testing requirements for covered employees and require documentation of decisions not to perform a test.
- *New Confidentiality Procedures.* Establish procedures for requesting confidential treatment of information submitted to PHMSA.
- *In-Service Welding.* Incorporate by reference Appendix B of the American Petroleum Institute's (API) Standard 1104, *Welding of Pipelines and Related Facilities*, which addresses in-service welding procedures and welder qualifications.

**NPRM on Excess Flow Valves for Non-Single Family Residences**

On July 15, PHMSA issued an [NPRM](#) that would require the installation of EFVs on new or replaced service lines for single family residences with branched lines and multi-family buildings and small commercial customers with known loads of 1,000 SCFH or less. For new or replaced service lines operating at loads exceeding 1,000 SCFH, the NPRM would require manual service line shut-off valves (*i.e.*, curb valves).

EFVs would not be required for end uses, such as large apartment buildings, industrial or commercial users, where EFVs may be impractical because of design complexity, continuous supply demands, and/or contamination issues. Finally, operators would be required to notify customers of their right to request installation of an EFV on a service line that is not new or replaced. Comments on the NPRM are due September 14.

**Final Rule on Enforcement of State Excavation Damage Programs**

On July 23, PHMSA issued a [Final Rule](#) on the enforcement of state excavation damage programs. The Final Rule responded to a mandate in the Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006. That mandate provided PHMSA with the authority to exercise federal enforcement authority over excavators for damage prevention purposes, but only if PHMSA determines that a state authority is not adequately enforcing its own damage prevention requirements on the basis of criteria established in a rulemaking proceeding. The new regulations become effective January 1, 2016.

**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.

The Final Rule sets forth: (1) criteria and a process for determining the adequacy of state pipeline damage prevention enforcement; (2) an administrative process for states to contest notices of inadequacy; (3) federal requirements that PHMSA will enforce in states with inadequate programs; and (4) an adjudication process for federal administrative enforcement against excavators.

Criteria that PHMSA will apply in evaluating the effectiveness of a state damage prevention enforcement program include: (1) whether the state has authority to impose civil penalties and "other appropriate sanctions" for violations and whether the state uses that authority; (2) whether the state has designated an entity with enforcement responsibilities; (3) whether the state has a reliable mechanism (such as reporting requirements) for learning about excavation damage to underground utilities; (4) whether the state has adequate investigation practices to determine responsible parties when excavation damage occurs; (5) whether the state's damage prevention statute includes certain one-call notification, locating, and reporting procedures; and (6) whether the state limits exemptions from its damage prevention laws.

**Overview of PHMSA Rulemakings.** The tables below summarize the status of PHMSA's rulemakings.

**Recently Published Rulemakings**

<b>Rulemaking</b>	<b>Date Published</b>	<b>Comment Date</b>
NPRM: Plastic Pipe Rule	May 21, 2015	July 31, 2015
NPRM: Operator Qualification, Cost Recovery, Accident and Incident Notification, and Other Pipeline Safety Proposed Changes	July 10, 2015	September 8, 2015
NPRM: Expanding the Use of Excess Flow Valves in Gas Distribution Systems to Applications Other than Single-Family Residences	July 15, 2015	September 14, 2015
Final Rule: Pipeline Damage Prevention Programs	July 23, 2015	N/A

**Pending Notices of Proposed Rulemaking**

<b>Rulemaking</b>	<b>Submitted to OMB</b>	<b>DOT Estimated Publication Date</b>	<b>OIRA Estimated Publication Date*</b>
Safety of On-Shore Hazardous Liquid Pipelines	May 1, 2014	August 12, 2015	August 2015
Safety of Gas Transmission Pipelines	April 27, 2015	August 6, 2015	August 2015
Valve Installation and Minimum Rupture Detection Standards	September 4, 2015 (estimated)	December 16, 2015	September 2015

\*Under Executive Order (EO) 12866, OMB reviews proposed significant rules to ensure they are consistent with applicable law, the President's priorities, and the principles set forth in the EO, and to ensure the proposals do not conflict with another agency's policies or actions. OMB also analyzes the cost-benefit analyses in support of the proposals. While the EO sets out deadlines for OMB evaluation, review periods are often extended.

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[www.vnf.com/knowledgecenter.aspx](http://www.vnf.com/knowledgecenter.aspx)

**Additional Van Ness Feldman  
Publications**

[Electric Reliability Update – July  
24, 2015](#)

[Hydro Newsletter – Vol. 2, Issue  
8 – July 31, 2015](#)

[Northwest Land Matters  
Update – July 2015](#)

Van Ness Feldman has prepared redlines of PHMSA's Part 191, Part 192, and Part 195 regulations reflecting changes adopted in final rules issued on January 5 and March 11.

Please contact [Susan Olenchuk](#), [Jim Curry](#), or [Keith Coyle](#) for complimentary copies.

## Other PHMSA Updates

**PHMSA schedules Advisory Committee meetings.** On August 25-26, PHMSA will convene [joint meetings](#) of the Gas Pipeline Advisory Committee and the Liquid Pipeline Advisory Committee. To date, no agenda has been released. The meetings will be held in Crystal City, Virginia, and will not be webcast. Advance registration is required.

**PHMSA schedules public meeting on hazardous liquid integrity verification process (HL IVP).** On August 27, PHMSA will convene a public [workshop](#) on HL IVP, which PHMSA describes as a process for confirming maximum operating pressure when pipeline records are not traceable, verifiable, or complete. Presenters include PHMSA, pipeline operators, state regulatory partners, and the public. Additional information is available in the [HL IVP docket](#). The workshop will be held in Crystal City, Virginia, and will be webcast. Advance registration is required.

**PHMSA announces public workshop on risk modeling methodologies.** On July 2, PHMSA issued a [preliminary notice](#) that it will partner with the National Association of Pipeline Safety Representatives to hold a [public workshop](#) on September 9-10 to address risk modeling methodologies of gas transmission and hazardous liquid pipelines and non-pipeline systems. The workshop will assemble stakeholders to share knowledge and experience on risk modelling within the pipeline industry and other fields, and to discuss how to advance pipeline risk models and practical ways operators can apply them. The workshop will be held in Crystal City, Virginia, and will be webcast. PHMSA's [Risk Modeling Methodologies docket](#) contains additional information.

## Updates from Congress

**Senators Daines and Fischer request field hearing on pipeline safety.** On July 29, 2015, Senators Steve Daines (R-MT) and Deb Fischer (R-NE) [asked](#) Senators John Thune (R-SD) and Bill Nelson (D-FL), the Chairman and Ranking Member, respectively, of the Senate Committee on Commerce, Science and Transportation, to convene a field hearing on pipeline safety issues in Billings, Montana, on September 18, 2015. The hearing would address reauthorization of the Pipeline Safety Act and PHMSA's oversight and enforcement of federal regulations.

**Senate Committee holds confirmation hearing for PHMSA administrator nominee.** On July 22, the Senate Commerce, Science and Transportation Committee held a confirmation hearing for Marie Therese Dominguez, President Obama's nominee to serve as the next PHMSA Administrator. Ms. Dominguez's prepared testimony is [here](#). Senator John Thune (R-SD) stated that the Committee will vote on her nomination in the near future. Ms. Dominguez has been acting as PHMSA Deputy Administrator since June.

**House Energy & Commerce Committee holds PHMSA oversight hearing.** On July 14, the House Energy & Commerce Subcommittee on Energy and Power held a hearing regarding the status of pipeline safety rulemaking proceedings and reauthorization of the Pipeline Safety Act, which expires in September. PHMSA's Interim Executive Director, Stacy Cummings, [testified](#) for PHMSA and fielded numerous questions on the status of pending rulemakings. Without providing specific dates, Ms. Cummings indicated that long-awaited significant proposed rules affecting both gas and hazardous liquid pipelines are expected to issue before the end of the year.

## Updates from Other Federal Agencies

**National Wildlife Federation announces intent to sue DOT.** On July 28, the National Wildlife Federation (NWF) provided [notification](#) of its intent to sue DOT for allegedly violating section 311(j) of the Clean

Water Act (enacted as part of the Oil Pollution Act of 1990) and a related presidential executive order. The notice indicates that the basis for the suit is DOT's failure to issue regulations requiring owners or operators of offshore oil pipelines located landward of the coast line to prepare facility response plans (FRP) describing how the owner or operator will respond to a worst case discharge of oil or a hazardous substance. According to the NWF, because of the lack of regulations, pipelines may be operated in navigable waters of the United States landward of the coastline without DOT approval of an FRP and without complying with an FRP. If the DOT does not issue regulations within 60 days, NWF states that it will file a lawsuit in federal court.

## Litigation Updates

**U.S. Court of Appeals upholds dismissal of lawsuit against PHMSA.** On July 30, the United States Court of Appeals for the Ninth Circuit [upheld](#) a district court decision dismissing a lawsuit that the City and County of San Francisco (San Francisco) filed against PHMSA for failing to oversee the California Public Utilities Commission's (CPUC) administration of the state gas pipeline safety program in California. San Francisco sought to compel PHMSA to comply with those duties. The Court of Appeals held that San Francisco could not advance its claims under either the citizens suit provision of the Pipeline Safety Act or the judicial review provision of the Administrative Procedure Act.

**Department of Justice requests approval of consent decree relating to 2013 Pegasus Pipeline spill.** The United States Department of Justice (DOJ) has requested that the United States District Court for the Eastern District of Arkansas approve a [Consent Decree](#) relating to the March 2013 rupture of the Pegasus Pipeline in Mayflower, Arkansas, which discharged approximately 3,190 barrels of crude oil. Under the Consent Decree, originally filed April 22, the pipeline operator would pay nearly \$3.2 million in federal civil penalties to the Oil Spill Liability Trust Fund for violations of the CWA; \$1 million to the State of Arkansas; \$600,000 for a water quality improvement project at Lake Conway; and \$280,000 for Arkansas' litigation costs. The Consent Decree also would require that the operator treat a portion of the pipeline as "susceptible to longitudinal seam failure" for pipeline safety purposes, provide spill response training to first responders, comply with PHMSA's April 2, 2013 Corrective Action Order, and conduct a spike hydrotest and analyze previous ILI summaries for anomalies indicating long-seam failure prior to restarting the ruptured segment.

## Updates from Industry

**API releases recommended practice on Safety Management Systems.** On July 8, API released Recommended Practice (RP) 1173, providing operators a framework for implementing pipeline safety management systems (PSMS). API RP 1173 addresses the necessary elements of a PSMS to identify and manage risks, foster a learning environment, and continuously improve safety. API RP 1173 is available for purchase [here](#).

**Pipeline Association for Public Awareness releases summer 2015 newsletter.** The Pipeline Association for Public Awareness issued its [Summer 2015 Newsletter](#), which features, among other items, information on pipelines located near schools; risk-informed land use planning for pipeline safety; and pipeline emergency preparedness.

## Select Regulatory and Legislative Updates from the States

(New items are marked with an "\*"; updated information appears in italics)

### ALABAMA

[HB 61](#) (Greer): This bill would increase the civil penalties for pipeline safety violations to conform with federal limits of \$200,000 per violation, not to exceed two million dollars for any related series of violations. The bill passed the House on May 19 and the Senate on June 4. The bill was sent to the Governor on June 4.

## CALIFORNIA

\*[CPUC adopts revised natural gas pipeline safety regulations](#). On July 1, the CPUC issued an [Order](#) adopting Revised General Order 112-F, setting forth revised safety and reliability regulations applicable to gas transmission, distribution and gathering pipelines. The mandatory effective date of the new regulations is January 1, 2017.

\*[SB 295](#) (Jackson): Originally introduced to amend the California Revenue and Taxation Code, this bill was amended on June 24 to address pipeline safety. The bill would authorize the State Fire Marshal to enter into an agreement with PHMSA to exercise safety regulation over interstate hazardous liquid pipelines located in California. The bill also sets forth inspection and testing requirements for intrastate pipelines and interstate pipelines subject to the State Fire Marshal's jurisdiction. The bill was re-referred to the Assembly Committees on Government Organization and Environmental Safety and Toxic Materials on July 6.

\*[AB 1420](#) (Salas): This bill, as amended, would require the Division of Oil, Gas and Geothermal Resources (Division) to: (1) require a mechanical integrity test every 2 years for all active gas pipelines within sensitive areas; (2) require a local health officer that has been notified of a leak in an active gas pipeline within a sensitive area to take certain actions related to the leak, including directing the operator to notify residents affected by the leak; and (3) require pipeline subject to the Division's jurisdiction to notify the Division and appropriate local health officer after discovering a leak. The Senate re-referred the bill to the Senate Committee on Environmental Quality on July 6.

\*[SB 681](#) (Hill): This bill would amend the Revenue and Taxation Code to prevent Pacific Gas & Electric Co. from claiming a tax deduction for safety expenditures and investigation reimbursement costs ordered by the CPUC as part of the \$1.6 billion penalty relating to the 2010 San Bruno pipeline explosion. On July 16, this bill was passed by the Committee on Governance and Finance and re-referred to the Committee on Appropriations.

[AB 864](#) (Williams and Burke): This bill would require that operators of pipelines located in environmentally and ecologically sensitive areas in state waters or on the coasts to use the best achievable technologies, including leak detection technology, automatic shutoff valves, or remote-controlled sectionalizing block valves, to reduce the amount of oil spilled during an event. Operators of such pipelines also would be required to submit for approval oil spill contingency plans. *On July 2, the bill was amended and on July 15 the Senate Natural Resources and Water Committee passed it and re-referred it to the Committee on Appropriations. A hearing will be held on Aug. 17.*

[SB 119](#) (Hill): This bill proposes numerous modifications to California's One-Call laws. Of note, the proposed legislation would: (1) create the California Underground Facilities Safe Excavation Advisory Committee to coordinate education and outreach, develop standards, and conduct compliance audits, to be funded by the Safe Energy Infrastructure and Excavation Fund; (2) modify the one-call exemption for owners of real property to exempt only owners of residential real property using hand tools not requiring a permit; and (3) authorize the CPUC and the Office of the State Fire Marshal to enforce certain requirements against operators of natural gas and hazardous liquid pipelines. The bill would impose a duty of reasonable care to prevent excavation damage when hand tools and certain other activities are permitted. *On July 14, the Committee on the Judiciary passed the bill and referred it to the Committee on Appropriations.*

## ILLINOIS

The Illinois Commerce Commission (ICC) 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. The proposed amendments were reviewed at the Joint Committee on Administrative Rules' May 12 meeting.

## LOUISIANA

[HB 400](#) (Schexnayder): This bill would authorize the Commissioner of Conservation to regulate the location, construction, operation, and maintenance of intrastate LNG facilities, and intrastate pipeline facilities and persons engaged in the intrastate transportation of gas. This bill also would require the Office of Conservation to adopt pipeline safety regulations that are consistent with federal law. *The bill was signed by the Governor on June 29 and became effective August 1.*

## MAINE

On March 31, the Maine Public Utilities Commission (MPUC) [proposed](#) to amend its gas pipeline safety regulations, in pertinent part, to: (1) require gas utilities installing natural gas facilities with trenchless technology to implement, as part of their public awareness programs, a stakeholder outreach campaign specific to the use of this technology; (2) require operators to include new construction tasks as covered tasks in their operator qualification programs; (3) include a utility accommodation policy that requires gas utilities to make appropriate accommodations, including temporary removal or relocation of facilities, to ensure safety when another utility performs excavation in proximity to a gas line in order to access an adjacent utility facility; (4) require tracking of components and materials used in the installation and maintenance of mains and service lines; and (5) require documents filed with the MPUC pertaining to pipeline integrity to be signed by a Maine-licensed professional engineer. Comments were filed May 20.

## MICHIGAN

\*On July 15, the Michigan Petroleum Task Force, a multiple agency task force formed to make recommendations regarding pipeline transportation of petroleum in the state, issued a [report](#) offering specific recommendations pertaining to the two oil pipelines that are located under the Straits of Mackinac (Straits Pipelines) and statewide recommendations. The Task Force's recommendations include preventing the transportation of heavy crude oil through Straits Pipelines, requiring an independent risk analysis and adequate financial assurance for the Straits Pipelines, and requiring an independent analysis of alternatives to the existing Straits Pipelines.

[HB 4540](#) (Heise): This bill would amend Michigan's Freedom of Information Act to exempt from disclosure critical energy infrastructure information, such as specific engineering, vulnerability, or detailed design information, that: (1) relates details about the production, generation, transportation, transmission, or distribution of fuel or energy; (2) could be useful to a person in planning an attack; and (3) provides more than the general location of critical infrastructure. The bill would exempt information regarding both existing and proposed infrastructure. The bill was introduced and referred to the Committee on Oversight and Ethics on May 5.

## MISSOURI

On June 3, the Missouri Public Service Commission issued an [Order](#) opening a proceeding to revise the state's gas pipeline safety rules to make them consistent with federal rules. The Commission staff will solicit input from interested stakeholders and the public is invited to submit comments.

## NEW JERSEY

\*[AR 258](#) (Dancer): This Assembly Resolution affirms the importance of modernizing and replacing aging cast iron and unprotected steel natural gas pipelines in New Jersey to ensure public safety, improve reliability, and foster economic growth and job creation. The resolution was introduced and referred to the Assembly Committee on Telecommunications and Utilities on June 29.

\*[A 4658](#) (Muio): This bill would require that public utility employees immediately call 911 to report emergencies resulting from work they perform. This bill also would require public utilities to implement a training program to ensure that employees are knowledgeable with regard to roles and responsibilities, locating natural gas pipelines and identifying leaks, and the importance of local emergency response

assistance. Violations could result in fines of up to \$20,000. This bill was introduced and referred to the Assembly Committee on Telecommunications and Utilities on June 29.

[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 Department of Environmental Protection (DEP). In consultation with the Board of Public Utilities, the DEP would adopt regulations to prioritize time frames for repair and replacement of pipelines based on the severity of leaks, best practices and repair standards, and de minimis exceptions to repair and replacement requirements. The penalties for noncompliance would be those set forth in the Air Pollution Control Act. 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 YORK

[AB 7965](#) (Rodriguez): This bill would amend the Public Service Law to require gas corporations to file with the New York Public Service Commission (NYPSC) a plan addressing aging and leak-prone pipelines. Plans must: (1) prioritize the replacement of cast and wrought iron pipeline; (2) include completion timelines; and (3) establish workforce development plans to train and increase the number of laborers qualified to repair and replace leak-prone pipe. Gas corporations also would be required to file an annual summary documenting projects completed within the previous year. If approved by the NYPSC, gas corporations would be able to recover infrastructure replacement costs up to 1.5 percent of annual revenue. The bill was introduced and referred to the Committee on Appropriations, Authorities, and Commissions on June 2.

[AB 5083](#) (Paulin): This bill would amend the Public Service Law to require that the Department of Public Service establish a uniform system for classifying gas leaks and develop implementing regulations. Gas Companies would be required to annually report the location, classification, date, and date of repair of leaks. The NYPSC would be required 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. The Assembly amended the bill on June 12, and passed and sent the bill to the Senate on June 19. The Senate referred the bill to the Rules Committee.

[SB 5206](#) (Griffo): This bill is the Senate version of AB 5083. The bill would establish reporting requirements for various classifications of gas leaks by utility corporations. *The bill was amended on June 14 and re-referred to the same committee.*

[AB 730](#) (Lentol): This bill would require that the Department of Environmental Conservation would require applicants for issuance or renewal of a major facility license to demonstrate they have implemented 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 NYPSC 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. Agricultural tilling, 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. On March 24, the bill was passed by the Assembly and referred to the Senate Committee on Corporations, Authorities, and Commissions.

[SB 5811](#) (Perkins): This bill is the Senate version of AB 2777, and would require gas corporations to file an annual gas safety report with the Department of Public Service. On June 4, the bill was referred to the Senate Committee on Energy and Telecommunications.

## **NORTH DAKOTA**

On November 10, 2014, the North Dakota Public Service Commission (NDPSC) 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, and on January 7, issued an [Order](#) submitting the [proposed rules](#) to the Attorney General. The Order notes that, although the NDPSC 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. The proposed rules were published in the April 2015 North Dakota Administrative Code Supplement 356.

## **OREGON**

[HB 3410](#) (Helm): This bill would establish a nine-member Task Force on Secure Pipelines to 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 referred to the Committee on Energy and Environment on March 6, with a subsequent referral to the Joint Committee on Ways and Means.

## **PENNSYLVANIA**

*\*Governor Wolf announces members of Pipeline Infrastructure Task Force.* On July 7, Governor Wolf announced the appointment of 48 members to the state’s newly-formed [Pipeline Infrastructure Task Force](#), which will recommend policies, guidelines, and best practices to aid Pennsylvania with the growing amount pipeline infrastructure anticipated to be built in coming years. The Task Force will be chaired by the Secretary of the Department of the Environment, John Quigley. An additional 101 people will serve on twelve working groups that will inform the Task Force on a variety of issues, including environmental protection, local government, and pipeline safety and integrity. Keith Coyle, a member of Van Ness Feldman’s pipeline safety practice group, is the Governor’s appointed member for Pipeline Safety and Integrity issues.

[SB 561](#) (Rafferty): This bill would amend the Gas and Hazardous Liquids Act to replace the Pennsylvania Public Utility Commission with the Department of Transportation of the Commonwealth as the entity with safety jurisdiction over pipelines. The bill also would require the newly created Department to seek certification from PHMSA to enforce pipeline safety requirements for intrastate gas and hazardous liquid pipelines, and to act as an interstate inspection agent on behalf of PHMSA. The bill was referred to the Consumer Protection and Professional Licensure Committee on March 6.

[HB 445](#) (Baker): This bill would amend the Underground Utility Line Protection Law to (1) impose additional duties on facility owners, including submitting reports of alleged excavation damage violations, (2) establish an annual fee for excavators requesting information from the One Call System, and (3) 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.

## WASHINGTON

*\*Washington UTC announces new director of pipeline safety.* On July 6, the Washington Utilities and Transportation Committee (UTC) [announced](#) that Alan Rathburn is the new director of pipeline safety. Rathburn previously served as the UTC’s pipeline safety director from 2003 to 2007, and returned to the UTC in 2014 as a project manager.

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