



Oil & Products Pipelines

PIPELINE SAFETY

As an outgrowth of Van Ness Feldman's long-standing representation of gas and oil pipelines the firm advises natural gas, oil, and hazardous liquid pipeline owners and operators on pipeline safety matters including compliance with regulatory requirements, enforcement, and litigation issues, the effectiveness of pipeline safety compliance, risk management, and obtaining Special Permits authorizing use of new materials and technologies. In addition, we expect that the growth in the use and demand for biofuels and the need for safe distribution systems for these products will present new opportunities and challenges for companies engaged in the transportation of these fuels.

An Experienced Team to Manage Complex, Expanding Regulations

Charged with ensuring the safe operation of the nation's extensive network of pipelines that transport gas and hazardous liquids (including crude oil, petroleum products, and CO₂), the Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA) has adopted minimum pipeline safety standards that apply to interstate and intrastate gas pipelines, gas distribution systems, and many hazardous liquid pipelines.

PHMSA's regulations are comprehensive. They address the design, construction, operation, maintenance, and inspection of pipeline facilities and specify requirements for, among other things, corrosion control, integrity management, public awareness and damage prevention programs, and recordkeeping.

Regulatory agencies in most states apply these requirements to intrastate gas pipelines and gas distribution companies and also can require operators of these facilities to comply with additional pipeline safety requirements. Some states also regulate intrastate hazardous liquids pipelines.

The Scope of PHMSA's Regulations Continues to Expand.

As directed by Congress in the Pipeline Inspection, Protection, Enforcement, and Safety (PIPES) Act of 2006, PHMSA has adopted significant new regulations:

- Operators of gas distribution lines must develop and implement written integrity management programs for their systems by August 2, 2011. These programs must demonstrate the operator's knowledge of its gas distribution system, identify existing and potential threats, evaluate and rank the risks associated with those threats, and implement measures to address those risks.

- Operators of gas and hazardous liquid pipelines that have a controller in a control room who monitors and controls all or part of a pipeline through a SCADA system must develop control room management procedures designed to reduce risks associated with human factors and ensure that management of control room activities contributes to safe pipeline operations. Currently, operators must develop these procedures by August 1, 2011, and implement them by February 12, 2013. PHMSA has proposed, however, to expedite most of the implementation deadlines under this rule to August 1, 2011.

PHMSA has also undertaken numerous other regulatory initiatives:

- A notice seeking public comments on whether and how the agency should amend the regulations for onshore hazardous liquid pipelines. The notice considers wide-ranging changes that could eliminate or modify existing regulatory exemptions, broaden the scope of the Integrity Management regulations, impose leak detection requirements for all regulated pipelines, change valve spacing requirements and require the installation of emergency flow restricting devices, specify repair timeframes for pipeline segments not subject to the Integrity Management requirements and impose requirements for stress corrosion cracking.
- A proposal to require that all low-stress hazardous liquid pipelines comply with federal pipeline safety requirements.
- An examination of how its regulatory programs need to be modified to address safety risks posed by pipelines that may transport biofuels, including unblended ethanol, and fuel blends containing high concentrations of ethanol.

Compliance Requirements are Extensive and Vigorously Enforced

PHMSA's regulations require that pipelines develop and implement detailed written programs and procedures for integrity management, operations and maintenance, public education and awareness, operator qualification, damage prevention, and other activities. Owners and operators of pipelines must demonstrate compliance by documenting program implementation and the technical bases for their decisions and actions. Pipelines also must comply with reporting requirements.

Implementing safety compliance programs can be time-consuming and costly, but non-compliance can expose a pipeline company to enforcement actions and potentially civil and criminal litigation.

New Technology has Created Opportunities

PHMSA recognizes that dramatic technological improvements in materials, metallurgy, controls, operations, and maintenance over the last 20 years present opportunities for using new types of materials in the design and construction of pipelines. Through the periodic incorporation of updated industry standards and via the special permit process, PHMSA has allowed the use of more cost-effective materials and techniques without compromising public safety.

Pipeline Safety Services

Ensuring Compliance

We partner with clients and their expert consultants in developing and reviewing written compliance programs for all aspects of the regulations and implementing procedures to ensure thorough documentation of program compliance.

We provide guidance in interpreting rules and other regulatory requirements, and in the preparation and review of documents to be submitted to state and federal agencies. We also monitor the issuance of new regulations and notify pipeline clients of developments affecting their operations.

Enforcement and Litigation Matters

We represent and advise pipeline owners in responding to PHMSA enforcement actions, including notices of probable violation, notices of amendment, and notices of proposed safety order. We team up with our clients' technical and field personnel to develop effective case strategies and responses to enforcement actions. We also represent and advise in civil litigation matters involving pipeline safety issues.

Special Permits

We counsel owners and operators of pipelines in developing and prosecuting petitions for special permits on many topics, including enabling the use of new technology and improved materials in the design and construction of new pipelines. We also advise pipelines with compliance issues related to existing special permits.

Post-Incident Counseling

We provide assistance and strategic counseling involving environmental compliance and enforcement matters that may arise in connection with pipeline incidents, including corrective action orders and investigations.