



Pipeline Safety Update Issue No. 65 – October 9, 2013

PHMSA curtails operations during partial government shut-down. PHMSA awards \$46 million in pipeline safety base grants. Office of the Federal Register issues proposed rules addressing incorporation by reference. Common Ground Alliance issues 2012 DIRT Report.

PHMSA Curtails Operations During Partial Government Shut-Down

As a result of the lapse in appropriations for Federal government operations in fiscal year 2014, PHMSA has curtailed its operations. The Department of Transportation's contingency plan for operations during the funding lapse states that investigations and enforcement functions will continue. Other activities, such as legal services, regulatory analysis and planning, and training, are suspended. DOT's contingency plan is [here](#).¹

PHMSA Awards \$46 Million in Pipeline Safety Base Grants

On September 30, PHMSA announced that it has awarded a total of \$46 million in base grants to 46 states, the District of Columbia, and Puerto Rico. These grants fund up to 80% of the program costs in states with certified safety programs for intrastate pipelines. PHMSA's press release announcing the awards is [here](#).²

Office of Federal Register Issues Proposed Rules Addressing Incorporation by Reference

On October 2, the Office of the Federal Register (OFR), issued a Notice of Proposed Rulemaking (NPRM) proposing to require that agencies seeking the OFR Director's approval to incorporate materials by reference into their regulations describe in the preamble the steps taken to either make the incorporated material "reasonably available" to interested parties or to summarize the contents of the materials the agency wishes to incorporate. The NPRM references the Pipeline Safety Act requirement that prohibits PHMSA from

Dates of Interest

October 2013

- 11 [Comments due](#) on PHMSA's OMB Information Collection on Revised Liquid Operator's Accident Report form
- 15 [Comments due](#) on PHMSA's Notice of Periodic Updates of Regulatory References to Technical Standards and Miscellaneous Amendments
- 15 [Comments due](#) on TSA Renewal of OMB Information Collection on pipeline security
- 18 [Comments due](#) on PHMSA's NPMS Information Collection Request
- 30-31 [AGA Meter Set Protection Workshop](#), Washington, DC

November 2013

- 1 [Comments due](#) on PHMSA's Notice on Class Location Requirements
- 4-5 [AGA Executive Safety Leadership Summit](#), Washington, DC
- 11-13 [AGA Public Awareness Best Practices Roundtable](#), Washington, DC
- 17-20 [NARUC Annual Meeting](#), Orlando, FL
- 19-20 [AGA Odorization Workshop](#), Denver, CO
- 21-22 [2013 Pipeline Safety Trust Conference](#), New Orleans, LA

December 2013

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

incorporating industry consensus standards by reference unless they are publically available for free, but notes that this requirement does not extend to all materials incorporated by reference. Comments are due December 31, 2013. The NPRM is [here](#).³

Other PHMSA Updates

PHMSA's issues new procedural rules. On September 25, PHMSA issued a final rule amending its Part 190 procedural rules, including the agency's enforcement rules. See the September 27, 2013 [Pipeline Safety Update](#)⁴ for a synopsis. The final rule is [here](#)⁵. For a redline showing how the final rule amends existing regulatory text, please contact Susan Olenchuk (202-298-1896 or sam@vnf.com) or Jim Curry (202-298-1831 or jbc@vnf.com).

Status of PHMSA rulemakings. The chart below reflects publicly available information on the status of PHMSA rulemakings. More information from DOT is [here](#).⁶ Information from OMB's Office of Information and Regulatory Affairs (OIRA) is [here](#).⁷

Rulemaking	Next Action	Estimated Date of Next Action
Miscellaneous Rule on Construction Inspections, Leak Surveys, etc.	Publication of Final Rule	December 6, 2013
Enforcement of State Excavation Damage Laws	Publication of Final Rule	January 16, 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	January 14, 2014
Excess Flow Valves	Publication of NPRM	January 22, 2014
Changes to NPMS Data Collection and Standards	Publication of NPRM	October 18, 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	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

Industry Updates

Common Ground Alliance issues 2012 DIRT Report. On September 10, the Common Ground Alliance (CGA) issued its 2012 Damage Information Reporting Tool (DIRT) Report, which provides a summary analysis of underground facility damage events during 2012. CGA states that the DIRT Report shows that when a locate request precedes an excavation, damage is avoided 99% of the time. The DIRT report also notes that the total number of events was higher in in 2012, but attributes the increase to an higher level of

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

October 2013

- 7-11 Virginia (Gas & Liquids)
- 9-11 Mississippi (Gas)
- 15-18 New Jersey (Gas)
- 21-25 Vermont (Gas)
- 21-25 Kansas (Gas)
- 21-25 New England (Gas)

December 2013

- 2-6 Alabama (Gas)

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



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

construction activity. CGA's 2012 DIRT Report is [here](#),⁸ CGA's September newsletter is [here](#).⁹

AGA to hold workshop on meter set protection. On October 30-31, the American Gas Association (AGA) will host a workshop on leading practices for protecting meter sets from damage caused by outside forces. PHMSA Administrator, Cynthia Quarterman is scheduled to provide opening remarks on how industry and PHMSA can work together on this initiative. The workshop will be held in Washington, D.C. More information is [here](#).¹⁰

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.

In February 2012, Van Ness Feldman expanded its capabilities by combining practices with the Seattle law firm of GordonDerr LLP, a preeminent real estate, land use, water law, and civil litigation firm in the Pacific Northwest. Learn more at www.vnf.com.

State-Specific Association Meetings

October 2013

16-17 [Pennsylvania PUC Gas Safety Seminar](#), State College, PA

19-22 [Oklahoma Independent Petroleum Assn Fall Conference](#), Ridgedale, MO

22-23 [Kansas Pipeline Safety Seminar](#), Salina, KS

28-30 [Mississippi Damage Prevention Summit](#), Tunica MS

December 2013

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

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¹ U.S. Department of Transportation Contingency Plan.

<http://www.dot.gov/mission/budget/dot-2014-plan-appropriation-lapse>.

² PHMSA Press Release.

<http://www.phmsa.dot.gov/portal/site/PHMSA/menuitem.ebdc7a8a7e39f2e55cf2031050248a0c/?vgnextoid=b99a59c635861410VgnVCM100000d2c97898RCRD&vgnnextchannel=d248724dd7d6c010VgnVCM10000080e8a8c0RCRD&vgnnextfmt=print>.

³ Office of the Federal Register Notice of Proposed Rulemaking.

<http://www.gpo.gov/fdsys/pkg/FR-2013-10-02/pdf/2013-24217.pdf>.

⁴ September 27 Pipeline Safety Update.

<http://www.vnf.com/assets/attachments/1082.pdf>

⁵ PHMSA Final Rule Amending Part 190 Procedural Regulations.

<http://www.gpo.gov/fdsys/pkg/FR-2013-09-25/pdf/2013-23047.pdf>

⁶ DOT Significant Rulemaking Report for September 2013.

<http://www.dot.gov/sites/dot.dev/files/docs/AUG%202013%20Internet%20Report.docx>

⁷ 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

⁸ Common Ground Alliance 2012 DIRT Report.

http://www.commongroundalliance.com/Template.cfm?Section=DIRT_Overview&CONTENTID=7918&TEMPLATE=/ContentManagement/ContentDisplay.cfm

⁹ Common Ground Alliance September 2013 Newsletter.

<http://www.commongroundalliance.com/Template.cfm?Section=Home&Template=/ContentManagement/ContentDisplay.cfm&ContentID=7962>

¹⁰ AGA Meter Set Protection Workshop.

<http://www.cvent.com/events/meter-set-protection-workshop/event-summary-96a8f1291fef4bfaba53952fb7bb9388.aspx>