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PHMSA convenes technical advisory committee meeting. PHMSA is accepting applications for State Damage Prevention Program Grants. DOT OIG releases report on top management challenges. PHMSA enforcement activity and rulemaking update. Senators seek testing and other safety details regarding Enbridge line. Selected updates from North Dakota and California.

PHMSA Convenes Meeting of Technical Advisory Committees

On December 17, the Pipeline and Hazardous Materials Safety Administration (PHMSA) convened a joint meeting of its Technical Pipeline Safety Standards Committee (GPAC) and Technical Hazardous Liquid Pipeline Safety Standards Committee (LPAC). PHMSA provided an [update](#)¹ on pending rulemaking proceedings. The chart below provides current status information. PHMSA also stated that, in response to the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, the agency will initiate a new rulemaking on rupture detection and valves that will address automatic shutoff valves and remote control valve placement, and establish rupture detection and response time metrics.

The Committees approved the incorporation by reference of new standard API RP5LT – 2012 (Truck Transportation of Line Pipe) and approved the partial incorporation of new standard ASTM D2513-09a-PE gas pressure pipe, tubing & fitting (except section 4.2 pertaining to rework materials). The Committees also approved the incorporation by reference of 20 updated standards currently referenced in Parts 192, 193, and 195 of PHMSA's regulations. More information is [here](#).² The GPAC discussed whether to prohibit re-worked plastic pipe in gas lines, and PHMSA indicated that further consideration of this issue will take place at a future meeting of the Committee. More information is [here](#).³

Other PHMSA and DOT Updates

*PHMSA is accepting applications for State Damage Prevention Program Grants. PHMSA is accepting applications for grants to support State Damage Prevention programs. Applications are due by January 6, 2014. Further details are [here](#).*⁴

Dates of Interest

January 2014

- 14-16 [AGA Best Practices Kickoff Meeting](#), Amelia Island, FL
- 14-17 [Southern Gas Assn. Transmission Pipeline Design Workshop](#), Houston, TX
- 26-29 [APGA Board and Committee Meetings and 2014 APGA Gas Supply Conference](#), Tempe, AZ
- 31 [Comments due](#) on OFR's Incorporation by Reference NPRM

February 2014

- 9-12 [NARUC Winter Committee Meetings](#), Washington, DC

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

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DOT Office of Inspector General releases report on top management challenges. On December 16, The Department of Transportation's Office of Inspector General (OIG) issued a report identifying the department's top management challenges for fiscal year 2014. The report notes that OIG is finalizing its review of PHMSA's State Pipeline Safety Program and states that PHMSA faces critical challenges, including accurately assessing state's compliance with performance safety factors; lack of program guidance for identifying all safety weaknesses in state programs and scheduling state inspections; and the need to strengthen oversight of grants awarded to states fiscally unable to maintain or expand their pipeline safety programs. The report is [here](#).⁵

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

February 2014

3-7	Montana (Gas)
10-14	Colorado (LPG and Gas)
25-27	Iowa (Gas)

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

PHMSA Enforcement Activity. In November, PHMSA issued five final orders assessing approximately \$103,700 in civil penalties. PHMSA issued eight notices of probable violation, ten notices of amendment, and eight warning letters. Case documents and more information are [here](#)⁶ and [here](#).⁷

Status of PHMSA Rulemakings. The table below reflects the most current publicly available information on the status of PHMSA rulemakings as reported in the Department of Transportation's Significant Rulemaking Report for December, available [here](#).⁸ Additional information from OMB's Office of Information and Regulatory Affairs (OIRA) is [here](#).⁹

Rulemaking	Estimated Date to OMB	DOT Estimated Publication Date	OIRA Estimated Publication Date
Enforcement of State Excavation Damage Laws	December 18, 2013	Final Rule: March 28, 2014	Final Rule: March 2014
Excess Flow Valves	January 6, 2014	NPRM: April 16, 2014	NPRM: May 2014
Miscellaneous Amendments to Pipeline Safety Regulations	January 16, 2014	Final Rule: April 25, 2014	Final Rule: August 2014
Periodic Updates of Regulatory References to Technical Standards and Miscellaneous Amendments	N/A	Final Rule: TBD	Final Rule: TBD
Safety of Gas Transmission Pipelines	November 7, 2013	NPRM: February 17, 2014	NPRM: July 2014
Safety of On-Shore Hazardous Liquid Pipelines	December 27, 2013	NPRM: April 9, 2014	NPRM: April 2014
Issues Related to Use of Plastic Pipe in the Gas Pipeline Industry	Unknown	NPRM: April 2014	NPRM: April 2014

Updates from Capitol Hill

Senators seek testing and other safety details regarding Enbridge line. On December 11, Senators Debbie Stabenow (D-MI), Carl Levin (D-MI), and Dick Durbin (D-IL) sent a letter to PHMSA Administrator Cynthia Quarterman expressing concern that Enbridge has increased the amount of oil transported through Line 5, which ruptured in 2010 near Marshall, Michigan. The Senators request that PHMSA provide information regarding tests that were performed to verify the pipeline's integrity, methods used to verify the line's maximum operating pressure;



leak detection measures deployed on the line; and Enbridge's emergency response plan. The letter is [here](#).¹⁰

Select Activities from the States

North Dakota providing guidance on spill reporting. The North Dakota Health Department has established a website providing guidance on reporting spills or discharges of waste that may pollute state waters. The website was implemented following a September 2013 pipeline release of crude oil. The website is [here](#).¹¹

State-Specific Association Meetings

February 2014

- 4-5 [Independent Oil and Gas Ass'n of WV Winter Meeting](#), Charleston, WV
- 18-19 [Louisiana Mid-Continent Oil & Gas Ass'n Annual Meeting](#), New Orleans, LA

CPUC fines PG&E on records discrepancies. On December 19, the California Public Utilities Commission (CPUC) issued an order assessing Pacific Gas & Electric Co. (PG&E) a \$14.35 million fine for submitting inaccurate information to support lifting operating pressure restrictions on certain lines, for failing to promptly notify the CPUC of the inaccuracies, and for providing notification a manner the CPUC found to be misleading. The proposed decision is [here](#).¹²

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.

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¹ John Gale, Pipeline Standards and Rulemaking Division: Current Rulemakings in Progress (Dec. 17, 2013): <http://www.regulations.gov/#!documentDetail;D=PHMSA-2013-0156-0019>.

² Mike Israni and Max Kieba, Pipeline Safety: Periodic Updates of Regulatory References to Technical Standards and Miscellaneous Amendments (Dec. 17, 2013): <http://www.regulations.gov/#!documentDetail;D=PHMSA-2013-0156-0020>.

³ Agenda, Joint Meetings of the Gas & Liquid Pipeline Advisory Committees (Dec. 17, 2013): <http://www.regulations.gov/#!documentDetail;D=PHMSA-2013-0156-0018>.

⁴ PHMSA State Damage Prevention Program Grant Opportunity: <http://www.grants.gov/web/grants/view-opportunity.html?oppId=248294>.

⁵ DOT Office of the Inspector General, FY 2014 Top Management Challenges: <http://www.oig.dot.gov/sites/dot/files/DOT%20OIG%20Top%20Mngt%20Challeges%20for%20FY%202014.pdf>.

⁶ PHMSA Enforcement Cases: <http://www.phmsa.dot.gov/public/enforcement>.

⁷ PHMSA Enforcement Information: <http://primis.phmsa.dot.gov/comm/reports/enforce/Enforcement.html?nocache=781>.

⁸ DOT Significant Rulemaking Report for November 2013: <http://www.dot.gov/sites/dot.dev/files/docs/NOV%202013%20Internet%20Report.docx>.

⁹ 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.

¹⁰ Letter from Sens. Stabenow, Levin, and Durbin (Dec. 11, 2013):

http://www.stabenow.senate.gov/?p=press_release&id=1216.

¹¹ North Dakota Health Department General Environmental Incidents Website:

<http://www.ndhealth.gov/ehs/foia/spills/>.

¹² Alternate Proposed Decision of Commissioner Ferron, Order Instituting Rulemaking on the Commission's Own Motion to Adopt New Safety and Reliability Regulations for Natural Gas Transmission and Distribution Pipelines and Related Ratemaking Mechanisms (Dec. 19, 2013):

http://remote.vnf.com/docs/12192013_CPUC_Order.pdf.