



## Pipeline Safety Update

### Issue No. 68 – December 2, 2013

*Senator Markey introduces pipeline safety bills. PHMSA's Technical Advisory Committees to meet December 17. PHMSA updates DIMP Performance Measures, requests comments on revised gas and LNG report forms, and maintains the 25% random drug and alcohol testing rate for 2014. Status of PHMSA rulemakings. Selected updates from North Dakota and Canada. Materials available from Pipeline Safety Trust annual conference.*

### Senator Markey Introduces Pipeline Safety Bills

On November 20, Sen. Edward Markey (D-MA) introduced two bills addressing pipeline safety. The [Pipeline Modernization and Consumer Protection Act](#) (S.1767)<sup>1</sup> would require various measures to accelerate the repair, rehabilitation, and replacement of gas piping or equipment that are leaking, may pose high risk of leaking, or may no longer be fit for service. The [Pipeline Revolving Fund and Job Creation Act](#) (S. 1768)<sup>2</sup> would require the Pipeline and Hazardous Materials Safety Administration (PHMSA) to make capitalization grants available to eligible states to fund the repair or replacement of natural gas distribution pipelines. The bills have been referred to the Senate Committee on Commerce, Science, and Transportation.

### PHMSA Activities

*PHMSA's Technical Advisory Committees to meet December 17.* PHMSA announced that the Technical Pipeline Safety Standards Committee, and the Technical Hazardous Liquid Pipeline Safety Standards Committee will convene a joint session on December 17 via telephonic conference call to consider a proposed rule to incorporate by reference two new standards and 21 updated editions of currently referenced standards in PHMSA's Parts 192, 193, and 195. PHMSA's notice is [here](#).<sup>3</sup>

*PHMSA updates DIMP Performance Measures.* PHMSA has updated the Performance Measures webpage for the Gas Distribution Integrity Management Program (DIMP). The webpage provides updated statistics for Leaks/Incidents, Mechanical Fitting Failures, and Gas Distribution Pipeline Materials. The webpage is [here](#).<sup>4</sup>

#### Dates of Interest

##### **December 2013**

- 17 [Meeting](#) of GPAC and LPAC regarding proposed incorporation by reference rule
- 27 [Comments due](#) on PHMSA Proposed Report Forms

##### **January 2014**

- 14-16 [AGA Best Practices Kickoff Meeting](#), Amelia Island, FL
- 14-17 [Southern Gas Assn. Transmission Pipeline Design Workshop](#), Houston, TX
- 31 [Comments due](#) on OFR's Incorporation by Reference NPRM

*PHMSA requests comments on revised gas and LNG report forms.* On November 27, PHMSA issued a notice requesting additional comments regarding the following gas and Liquefied Natural Gas (LNG) report forms and announcing that the proposed forms will be submitted to the Office of Management and Budget (OMB) for approval:

- (1) Incident Report – Gas Distribution System (PHMSA F 7100.1)
- (2) Mechanical Fitting Failure Report Form for Distribution Operators (PHMSA F 7100.1-2)
- (3) Incident Report – Natural and Other Gas Transmission and Gathering Pipeline Systems (PHMSA F 7100.2)
- (4) Annual Report for Natural and Other Gas Transmission and Gathering Pipeline Systems (PHMSA F 7100.2-1)
- (5) Incident Report – Liquefied Natural Gas Facilities (PHMSA F 7100.3)
- (6) Annual Report for Liquefied Natural Gas Facilities (PHMSA F 7100.3-1).

The notice also responds to comments submitted by Norton McMurray Manufacturing Co., the Interstate Natural Gas Association of America, and the Pipeline Safety Trust regarding versions of the forms proposed in June 2013. Additional comments are due on December 27, 2013. PHMSA's notice is [here](#).<sup>5</sup>

*PHMSA maintains 25% random drug and alcohol testing rate for 2014.* On November 27, PHMSA announced that it will continue to require that operators perform random drug and alcohol testing for a minimum of 25% of covered pipeline employees during 2014. The minimum random testing rate will be remain at 25% because the random drug test positive rate was less than 1% during 2012. PHMSA also announced that it will no longer mail the "user name" and password for the Drug and Alcohol Management Information System to operators, instead providing the log-in credentials via the online PHMSA Portal. PHMSA's notice is [here](#).<sup>6</sup>

*PHMSA Enforcement Activity.* In September and October, PHMSA issued six final orders assessing approximately \$40,000 in civil penalties. PHMSA also issued one corrective action order, two orders directing amendment, two decisions on petition for reconsideration, one safety order, one corrective action order, eleven notices of probable violation, thirteen notices of amendment, fourteen warning letters, and one notice of proposed safety order. Case documents and more information are [here](#)<sup>7</sup> and [here](#).<sup>8</sup>

**Federal Funding Resource Center**

During the week of November 19, opportunities totaling over \$87 million in federal financial assistance were released, soliciting proposals in major program areas, including transportation and infrastructure and oil and gas.

[www.vnf.com/funding](http://www.vnf.com/funding)

Van Ness Feldman continually identifies and provides updates on federal funding opportunities related to energy, environment, natural resources, and public lands, including PHMSA grants.

To sign up for the weekly updates, e-mail [vnf@vnf.com](mailto:vnf@vnf.com) with "FFO Subscribe" in the subject line.



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

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

**December 2013**

2-6 Alabama (Gas)

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

*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 November, available [here](#).<sup>9</sup> Additional information from OMB’s Office of Information and Regulatory Affairs is [here](#).<sup>10</sup>

<b>Rulemaking</b>	<b>Estimated Date to OMB</b>	<b>DOT Estimated Publication Date</b>	<b>OIRA Estimated Publication Date</b>
Enforcement of State Excavation Damage Laws	December 4, 2013	Final Rule: March 14, 2014	Final Rule: March 2014
Excess Flow Valves	December 19, 2013	NPRM: February 28, 2014	NPRM: May 2014
Miscellaneous Amendments to Pipeline Safety Regulations	December 27, 2013	Final Rule: April 7, 2014	Final Rule: August 2014
Periodic Updates of Regulatory References to Technical Standards and Miscellaneous Amendments	N/A	NPRM was issued on August 16, 2013	NPRM was issued on August 16, 2013
Safety of Gas Transmission Pipelines	November 7, 2013	NPRM: February 17, 2014	NPRM: July 2014
Safety of On-Shore Hazardous Liquid Pipelines	December 4, 2013	NPRM: March 14, 2014	NPRM: April 2014
Issues Related to Use of Plastic Pipe in the Gas Pipeline Industry	Unknown	NPRM: April 2014	NPRM: April 2014

**Select Activities from the States**

*North Dakota Governor to create panel of pipeline safety advisors.* In the wake of a recent oil pipeline spill and a meeting with PHMSA officials, Gov. Jack Dalrymple has announced that he will form an advisory panel consisting of independent engineers, pipeline industry representatives, and state officials to research technological solutions and provide recommendations that could be implemented to improve monitoring and control of pipelines. More information is [here](#).<sup>11</sup>

**State-Specific Association Meetings**

**December 2013**  
 3-5 [Alabama Natural Gas Ass’n - APSC/PHMSA December Pipeline Safety Meeting / 2nd ANGA Board Meeting](#)

**Other Activities**

*Canadian Energy Pipeline Association (CEPA) announces Mutual Emergency Assistance Agreement.* On November 20, CEPA announced that its member companies have agreed to abide by a Mutual Emergency Assistance Agreement to enable members to call upon each other to assist in emergency response situations during major incidents. More information is [here](#).<sup>12</sup> and CEPA’s press release is [here](#).<sup>13</sup>

*Pipeline Safety Trust 2013 Annual Conference.* On November 21 and 22, the Pipeline Safety Trust convened its 2013 Annual Conference in New Orleans. Speakers included PHMSA officials, industry representatives, and members of the public. A webcast of the conference and copies of presentations are available [here](#).<sup>14</sup>

## 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](mailto:Susan.Olenchuk@vnf.com) at (202) 298-1896 or [sam@vnf.com](mailto:sam@vnf.com), [Jim Curry](mailto:Jim.Curry@vnf.com) at (202) 298-1831 or [jbc@vnf.com](mailto: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](http://www.vnf.com).*

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<sup>1</sup> Pipeline Modernization and Consumer Protection Act:

<http://www.markey.senate.gov/documents/2013-11-21-PipelineConsumerProtectionBill.pdf>.

<sup>2</sup> Pipeline Revolving Fund and Job Creation Act:

[http://www.markey.senate.gov/documents/2013-11-21\\_PipelineJobsBill.pdf](http://www.markey.senate.gov/documents/2013-11-21_PipelineJobsBill.pdf).

<sup>3</sup> Meeting of the Technical Pipeline Safety Standards Committee and the Technical Hazardous Liquid Pipeline Advisory Committee:

<http://www.gpo.gov/fdsys/pkg/FR-2013-11-26/pdf/2013-28249.pdf>.

<sup>4</sup> PHMSA Gas Distribution Integrity Management Program: Performance Measure Reporting:

<http://primis.phmsa.dot.gov/dimp/perfmeasures.htm>.

<sup>5</sup> Pipeline Safety: Information Collection Activities, Revisions to Incident and Annual Reports for Gas Pipeline Operators:

<http://www.gpo.gov/fdsys/pkg/FR-2013-11-27/pdf/2013-28450.pdf>.

<sup>6</sup> Pipeline Safety: Random Drug Testing Rate:

<http://www.gpo.gov/fdsys/pkg/FR-2013-11-27/pdf/2013-28384.pdf>.

<sup>7</sup> PHMSA Enforcement Cases:

<http://www.phmsa.dot.gov/public/enforcement>.

<sup>8</sup> PHMSA Enforcement Information:

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

<sup>9</sup> DOT Significant Rulemaking Report for November 2013:

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

<sup>10</sup> OIRA DOT Rulemaking Status Page:

[http://www.reginfo.gov/public/do/eAgendaMain?operation=OPERATION\\_GET\\_AGENCY\\_RULE\\_LIST&currentPub=true&agencyCd=2100&Image58.x=52&Image58.y=10](http://www.reginfo.gov/public/do/eAgendaMain?operation=OPERATION_GET_AGENCY_RULE_LIST&currentPub=true&agencyCd=2100&Image58.x=52&Image58.y=10).

<sup>11</sup> Press Release:

<http://governor.nd.gov/media-center/news/dalrymple-meets-phmsa-officials-advance-pipeline-safety>.

<sup>12</sup> CEPA Mutual Emergency Assistance Agreement:

<http://www.cepa.com/about-pipelines/maintaining-safe-pipelines/in-an-emergency/mutual-emergency-assistance-agreement-meaa>.

<sup>13</sup> CEPA Press Release:

<http://www.cepa.com/new-mutual-emergency-assistance-agreement-for-canadian-pipeline-industry>.

<sup>14</sup> The Pipeline Safety Trust 2013 Conference:

<http://pstrust.org/trust-initiatives-programs/pipeline-safety-trust-annual-conferences/2013-pipeline-safety-trust-conference/2013-conference-webcast>.