



Pipeline Safety Update Issue No. 62 – August 15, 2013

PHMSA holds public workshop on integrity verification process, convenes technical advisory committee meeting, and issues request for comments on class location requirements. Amendment to Pipeline Safety Act addresses incorporation by reference issue. Other updates from Capitol Hill. Select activities from states and industry.

PHMSA Holds Public Workshop on Integrity Verification Process

On August 7, the Pipeline and Hazardous Materials Safety Administration (PHMSA) convened a public workshop to discuss its proposed integrity verification process (IVP), described by PHMSA as a multi-disciplinary engineering approach under which operators would verify the integrity of certain steel gas transmission pipelines for future operations. The focus of the discussion was a flow [chart](#)¹ depicting the proposed IVP. Generally, the focus of IVP is gas transmission lines that are located near populations and which lack documented maximum allowable operating pressure (MAOP) or pipe material information, or which were constructed using problematic construction techniques or materials. PHMSA indicated that it plans to apply the broad strategies of IVP to hazardous liquid pipelines in the future.

Comments on the proposed IVP are due **September 9, 2013**. Based on comments and its own further analyses, PHMSA plans to add detail to the IVP and incorporate it into its proposed rulemaking regarding the safety of gas transmission lines, currently expected in February 2014.

Four Key IVP principles:

1. *A focus on higher risk locations.* In addition to high consequence areas (HCA) under existing integrity management regulations, PHMSA proposes a new concept called “moderate consequence areas (MCA)” to capture more pipeline located near populations.

2. *A focus on pipe with certain issues.* Issues of concern include pipe that has been grandfathered, lacks records substantiating MAOP or adequate pressure test, operates at pressures higher than 72% of SMYS (specified minimum yield strength), or with a history of failures attributable to manufacturing and construction defects.

Dates of Interest

August 2013

26 [Comments due on PHMSA Gas Report Form Changes](#)

September 2013

9 [Comments due](#) following PHMSA Public Workshop on Integrity Verification Process

9-13 [NAPSR National Meeting](#), Meredith, NH

17-20 [AOPL Annual Business Conference](#), Newport Beach, CA

25-27 [Southern Gas Assn DOT Compliance Workshop - Transmission & Midstream Pipelines](#), Houston, TX

30 [Comments due](#) on PHMSA's Notice on Class Location Requirements

November 2013

4-5 [American Gas Assn Executive Safety Leadership Summit](#), Washington, DC

21-22 [2013 Pipeline Safety Trust Conference](#), New Orleans, LA

3. *A focus on adequate documentation of pipe material.* Operators without adequate “validated traceable” material documentation may be required to take certain actions, including cutting out and testing pipe samples.

4. *Requiring assessments to establish MAOP.* Methods could include a Subpart J pressure test (with a spike test), de-rating the pipe, pipeline replacement, or a yet-to-be defined engineering critical analysis (ECA).

Response to Congressional Mandates and NTSB Recommendations:

The IVP process is PHMSA’s response to Section 23 of the Pipeline Safety, Regulatory Certainty and Job Creation Act of 2011 (2011 Act), recommendations of the National Transportation Safety Board following the San Bruno incident in September 2010, and data provided by operators in recent gas transmission annual reports. Section 23 of the 2011 Act requires that:

- Operators verify records for interstate and intrastate gas transmission in Class 3 & 4 locations and Class 1 & 2 HCAs to (1) confirm established MAOP and (2) ensure records accurately reflect physical and operational characteristics of the pipe.
- For lines with insufficient records, PHMSA must require that operators reconfirm MAOP and determine appropriate actions to be taken until MAOP is confirmed. In determining interim actions, PHMSA must consider public safety and the environment, pipeline system reliability and deliverability.
- PHMSA issue regulations for testing the material strength of previously untested gas transmission lines located in HCAs and that operate above 30% of SMYS. In issuing regulations, PHMSA must consider pressure testing and other alternatives, including in-line inspection (ILI), determined to be of equal or greater effectiveness and consult with FERC to establish timeframes for completing tests that consider impacts on public safety & environment and that minimize costs and service disruptions.

The IVP process also responds to NTSB recommendations that PHMSA eliminate the grandfather clause and require that all pre-1970 pipe be hydrostatically tested with a spike test; allow manufacturing and construction defects to be considered “stable” for integrity purposes only if pipe has been hydrostatically pressure tested to at least 125% of MAOP; and require that all gas transmission lines be configured to accommodate ILI, with priority given to older lines.

Finally, the IVP process responds to initial data provided by gas transmission operators in their 2012 annual reports. According to PHMSA, only about 6% of gas transmission lines (about 19,678 of 301,540 miles) are located in HCAs and between 55,000 and 94,000 miles are either grandfathered or pressure tested to less than 110% of MAOP, or both. Finally, almost 119,000 miles of transmission pipe cannot accommodate ILI (smart pigs). The IVP is intended to increase the amount of pipe that requires integrity verification.

PHMSA Convenes Meeting of Technical Advisory Committees

On August 8-9, PHMSA held a joint meeting of its Technical Pipeline Safety Standards Committee (Gas Committee or GPAC) and Technical Hazardous Liquid Pipeline Safety Standards Committee (Liquids Committee or LPAC). In her remarks, PHMSA Administrator Cynthia Quarterman emphasized the importance of proceeding with IVP without delay; addressing high pressure, large

diameter gas gathering lines; and low frequency electric flash welded pipe. She also emphasized the need to provide the public with more geographic information system (GIS) data regarding pipelines. No votes were scheduled, so the Committee meeting served as a forum to discuss policy issues, including:

- **Proposed IVP:** PHMSA provided a [recap](#)² of the August 7 workshop on the proposed IVP and a [review](#)³ of data provided by gas transmission operators in their 2012 annual reports.

- **Pending Rulemakings:** PHMSA provided an [overview](#)⁴ of pending rulemaking proceedings. The chart below (p.4) provides current status information. In addition, PHMSA indicated that rulemakings are underway to address remote-controlled and automatic shut-off valves and leak detection standards.

- **National Pipeline Mapping System (NPMS):** PHMSA is preparing a new information collection [request](#)⁵ to expand the data that operators submit to the NPMS to include, among other things, pipe attribute information. PHMSA expects to require expanded submissions starting in 2015.

- **Performance Metrics:** PHMSA [briefed](#)⁶ the Committees on the newly established Gas Data Quality and Analysis Team (GDQAT), which will be chaired by PHMSA and the American Gas Association and include representatives of government, industry, and public entities. The GDQAT will review and assess data currently collected from gas pipeline operators, seek to improve it, and understand the risks demonstrated by the data. The GDQAT will publically report its findings.

- **Safety Management Systems:** Industry representatives provided an [update](#)⁷ on the ongoing development of a new American Petroleum Institute (API) Recommended Practice 1173, a comprehensive framework of recommended practices for pipeline safety management procedures. API RP 1173 could be published as early as mid-2014.

- **Facility Response Plans and Emergency Response:**

PHMSA provided an [overview](#)⁸ of pending NTSB recommendations regarding liquid pipeline facility response plans and indicated that the agency intends to issue an advisory bulletin in 2013 regarding the need to update plans consistent with recommended guidelines. In addition, industry representatives provided a [presentation](#)⁹ on improving emergency response efforts, particularly by improving communications with the public and first responders.

- **Public Awareness:** PHMSA provided an [update](#)¹⁰ of its Public Awareness activities. Based on the results of inspections, PHMSA is considering regulatory changes and/or recommended revisions to API RP 1162.

PHMSA Issues Request for Comments on Class Location Requirements

On August 1, PHMSA issued a [notice](#)¹¹ and request for comments on whether applying gas integrity management (IM) requirements to areas beyond current HCAs would mitigate the need for

Regulations and Code Compliance: Upcoming PHMSA State Seminars

[September 2013](#)

9-11 Texas (Gas & Liquid)

[October 2013](#)

21-25 Vermont (Gas)

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

Federal Funding Resource Center

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

www.vnf.com/funding

The site is updated daily and a weekly email highlights new and expiring opportunities. To sign up for the weekly updates, e-mail vnf@vnf.com with "FFO Subscribe" in the subject line.

class location requirements. Comments are due **September 30, 2013**. PHMSA issued the notice in response to a 2011 Act mandate that PHMSA study whether to expand IM and reduce or eliminate class location-based requirements. PHMSA poses several questions on topics including design factors; MAOP; IM integrity testing and repair measures; the integrity role of pipe seam, welding, cathodic protection, burial depth, marking, patrol, coating, defect and other issues; records; pressure testing; root cause analysis of leaks and failures; pipe manufacturing, construction operation qualification; valve spacing and remote or automatic valve actuation; overpressure protection; and other issues.

Notably, PHMSA does not indicate in the notice how its consideration of these IM and class location issues will interface with its IVP efforts, nor does the agency indicate whether or how changes in class location requirements might affect gathering or distribution pipelines.

Other PHMSA and DOT Activities

PHMSA modifies the definition of Alarm. On July 31, PHMSA issued a [notice](#)¹² that modified the definition of “alarm” applicable to the Liquid Control Room Management Rule by adding “related parameters” to the end of the definition in 49 C.F.R. § 195.2.

Status of PHMSA rulemakings. The chart below reflects publicly available information on the status of PHMSA rulemakings. More information from DOT is available [here](#).¹³ Information from OMB’s Office of Information and Regulatory Affairs (OIRA) is [here](#).¹⁴ Recently updated information appears in bold.

Rulemaking	Next Action	Estimated Date of Next Action
Miscellaneous Rule on Construction Inspections, Leak Surveys, etc.	Publication of Final Rule	December 6, 2013
Part 190 Enforcement and Regulatory Procedures Update	Publication of Final Rule	December 31, 2013
Enforcement of State Excavation Damage Laws	Publication of Final Rule	March 6, 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	November 25, 2013
Excess Flow Valves	Publication of NPRM	December 6, 2013
Changes to NPMS Data Collection and Standards	Publication of NPRM	June, 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	December 6, 2013
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

Updates from Capitol Hill

House Democratic committee staff issues report on gas leaks. On August 1, the Democratic Staff of the House Natural Resources Committee released a [report](#)¹⁵ stating that natural gas leaks from distribution pipelines are costing consumers billions of dollars, contributing to climate change, and putting public safety at risk. The report found that gas distribution companies in 2011 reported releasing 69 billion cubic feet of natural gas into the atmosphere and that consumers across the nation paid at least \$20 billion from 2000-2011 for lost gas. The report also notes that leaky gas distribution pipelines have contributed to numerous explosions and other safety-related hazards over the last ten years. The report notes that Sen. Edward Markey (D-MA)—who requested the report when he served on the House Natural Resources Committee—is drafting legislation that would push states and non-regulated utilities to accelerate replacement of high-risk, leaky pipelines and curtail the practice of passing along the costs of lost gas to consumers. The report also suggests that states and non-regulated utilities should establish timeframes for repairing non-hazardous gas leaks and should create financial incentives to minimize lost gas by limiting the ability of gas companies to recover costs for unaccounted for gas.

New law addresses incorporation by reference issue. On August 9, President Obama signed into law [H.R. 2576](#)¹⁶, a bill that amends the 2011 Act's provision prohibiting PHMSA from issuing guidance or regulations that incorporate documents by reference into regulations or guidance unless they are available to the public for free on the internet. The legislation responds to concerns regarding the intellectual property rights of organizations that develop standards often incorporated by reference. The law extends the deadline from January 3, 2013, to January 3, 2015 for PHMSA to make incorporated documents publically available, eliminates the publication requirement for documents referenced only in guidance documents, and eliminates the requirement that PHMSA post referenced documents online.

Appropriation update. On July 30, the House passed by voice vote [Amendment 417](#)¹⁷ to [H.R. 2610](#),¹⁸ the DOT FY 2014 appropriations bill. The Amendment was introduced on July 30 by Rep. Tim Griffin (R-AR), and reduces funding for DOT salaries and expenses by \$500,000 and increases funds for the PHMSA's operational expenses by that amount. The House did not reach a final consensus on H.R. 2610 before it recessed for the month of August. Debate on the bill will resume when Congress returns in September.

Select Activities from the States

CPUC ALJs seek information on financing issues related to potential penalties or disallowances. On July 30, 2013, the administrative law judges overseeing the California Public Utilities Commission's (CPUC) investigation proceedings related to the 2010 San Bruno pipeline rupture gave Pacific Gas and Electric Company (PG&E) until August 14 to provide additional information on financing issues associated with any potential penalties or disallowances. The ALJs directed PG&E to respond to a series of questions regarding PG&E's financing of any fines and disallowances and the impact on PG&E's ability to raise capital, including the tax treatment of amounts disallowed. Similarly, the ALJs requested that all parties submit comments by September 13, 2013, on the impact that fines and disallowances would have on PG&E's ability to raise capital, remain financially viable and make necessary tax adjustments. The ALJs' order is [here](#).¹⁹

Other Industry Updates

NARUC adopts resolution on replacing natural gas infrastructure. On July 24, the National Association of Regulatory Utility Commissioners (NARUC) adopted a resolution to encourage state regulators and industry to consider alternative rate mechanisms to accelerate the modernization and replacement of natural gas distribution lines. The resolution asserts that alternative rate recovery mechanisms may help eliminate near-term financial barriers of traditional ratemaking policies and will promote access to lower-cost capital needed to expedite the replacement and expansion of pipeline systems. The resolution encourages state regulators and industry to consider adopting programs aimed at replacing the most vulnerable pipelines as quickly as possible and to implement rate recovery mechanisms that reflect the financial realities of each utility. NARUC said distribution companies should work collaboratively with state regulators to prioritize asset replacement based upon asset risk, available technology, public safety risk, and rate impact. The NARUC resolution can be found [here](#).²⁰

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.



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¹ Link to July 9 flow chart

<http://www.vnf.com/assets/attachments/Chart%20PHMSA%20Material%20Strength%20Decision%20July%2009%202013.pdf>

² Link to Steve Nanney's August 9 presentation

<http://www.vnf.com/assets/attachments/Integrity%20Verification%20Process%20IVP%20Meeting%20Update%20-%20Nanney.pdf>

³ Link to Blaine Keener's August 9 presentation

<http://www.vnf.com/assets/attachments/Gas%20Transmission%20Annual%20Report%20Data%202012%20-%20Keener.pdf>

⁴ Link to John Gale's presentation

<http://www.vnf.com/assets/attachments/Regulatory%20Update%20-%20Gale.pdf>

⁵ Link to both of Amy Nelson's presentations

<http://www.vnf.com/assets/attachments/National%20Pipeline%20Mapping%20System%20NPMS%20Update%20-%20Nelson.pdf>

<http://www.vnf.com/assets/attachments/NPMS%20-%20Nelson.pdf>

⁶ Link to Performance Metrics Briefing

<http://www.vnf.com/assets/attachments/Performance%20Metrics%20-%20Mayberry%20Daugherty.pdf>

⁷ Link to Ron McClain's presentation

<http://www.vnf.com/assets/attachments/Safety%20Management%20Systems%20-%20McClain.pdf>

⁸ Link to Alan Mayberry's presentation on facility response plans

<http://www.vnf.com/assets/attachments/Facility%20Response%20Plans%20-%20Mayberry.pdf>

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- ⁹ Link to API/AOPL presentation on emergency response
<http://www.vnf.com/assets/attachments/Emergency%20Response%20Plan%20-%20API-AOPL.pdf>
- ¹⁰ Link to Christie Murray's Presentation
<http://www.vnf.com/assets/attachments/Public%20Awareness%20Update%20-%20Murray.pdf>
- ¹¹ Class Location Notice
<http://www.gpo.gov/fdsys/pkg/FR-2013-08-01/pdf/2013-18286.pdf>
- ¹² PHMSA Notice of Change to CRM Alarm Definition.
<http://www.gpo.gov/fdsys/pkg/FR-2013-07-31/pdf/2013-18546.pdf>
- ¹³ DOT Significant Rulemaking Report for August 2013.
<http://www.dot.gov/sites/dot.dev/files/docs/AUG%202013%20Internet%20Report.docx>
- ¹⁴ 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
- ¹⁵ Link to Report
<http://www.vnf.com/assets/attachments/MarkeyLostGasReport.pdf>
- ¹⁶ Bill to Amend Incorporation By Reference Provision of 2011 Act
<http://www.gpo.gov/fdsys/pkg/BILLS-113hr2576enr/pdf/BILLS-113hr2576enr.pdf>
- ¹⁷ Amendment to House DOT Appropriations Bill
<http://thomas.loc.gov/cgi-bin/bdquery/z?d113:HZ00417:/home/LegislativeData.php?n=BSS;c=113>
- ¹⁸ House DOT Appropriations Bill
<http://www.gpo.gov/fdsys/pkg/BILLS-113hr2610rh/pdf/BILLS-113hr2610rh.pdf>
- ¹⁹ CPUC Ruling Requesting Additional Comment
<http://www.vnf.com/assets/attachments/CPUC%20ALJ%20Order%20July%202013.pdf>
- ²⁰ NARUC Resolution on Replacement of Distribution Lines
<http://www.naruc.org/Resolutions/130724-Resolutions-Packet-as-passed-by-the-board.pdf>