



Dates of Interest

August 2014

25-27 NACE Central Area Conference, Tulsa, OK

September 2014

4 PHMSA DIMP Webinar

8-11 Natural Gas Fall Workshop, Leak City, Athens, AL

15-19 NAPS National Meeting, Springfield, IL

15 Comments due on PHMSA Revisions to Gas Distribution Annual Report

16-19 AOPL Annual Business Conference*, Coeur d'Alene, Idaho

17 Comments due on TSA's Critical Pipeline Information Collection Request

18-19 AGA Executive Safety Leadership Summit, Las Vegas, NV

24 API/AOPL Damage Prevention Online Workshop

29 -10/3 International Pipeline Conference, Calgary, Alberta

29 Comments due on PHMSA Proposed NPMS Information Collection Request

October 2014

2-3 LSI Energy Exports in the Mid-Atlantic*, Baltimore, MD

6-8 NACE Eastern Area Conference, Myrtle Beach, SC

* Van Ness attorneys attending.

Pipeline Safety Update

ISSUE NO. 82 – AUGUST 20, 2014

Susan Olenchuk, James Curry, Keith Coyle, Tyson Kade, Frances Bishop, Barbara Deathe

PHMSA seeks comments on additional proposed revisions to Gas Distribution Annual Report. New content on PHMSA's YouTube channel. Update on status of PHMSA rulemakings-key NPRMs pushed back. TSA renews information collection request for Top 100 Most Critical Pipelines. NTSB proposes mode-specific investigation procedures. The U.S. Coast Guard proposes to increase liability limits under Oil Pollution Act. Pacific Gas & Electric Company pleads not guilty to new charges. API and AOPI will host damage prevention online workshop. Update on state legislative and regulatory initiatives.

PHMSA Activities

PHMSA seeks comments on additional proposed revisions to Gas Distribution Annual Report. On August 14, the Pipeline and Hazardous Materials Safety Administration (PHMSA) issued a notice requesting comments on additional proposed revisions to the gas distribution annual report form (PHMSA F7100.1-1), and indicating that the agency will submit a revised information collection request to the Office of Management and Budget (OMB) for approval. PHMSA's notice responds to comments received from the American Gas Association (AGA) regarding revisions proposed in April 2014. The proposed report form would revise the definition of "Reconditioned Cast Iron," change the "Material or Weld" leak category to "Pipe, Weld Or Joint Failure," and revise the report's instructions to include damage to tracer wire as excavation damage. Comments on the notice and revised forms are due September 15, 2014.

Updates on status of PHMSA Rulemakings-key NPRMs pushed back. The table below reflects information on the status of PHMSA rulemakings as reported in the Department of Transportation's (DOT) August Significant Rulemaking [Report](#). Additional information from the OMB Office of Information and Regulatory Affairs (OIRA) is [here](#). New information in the table is reflected in bold.

OIRA has received PHMSA's draft notices of proposed rulemakings (NPRM) for excess flow valves and the safety of onshore hazardous liquid pipelines. Under Executive Order (EO) 12866, OIRA reviews these proposals to ensure consistency with applicable law, the President's priorities, and the principles set forth in the EO. OIRA will also ensure the proposals do not conflict with another agency's policies or actions. Under the EO, OIRA is to provide PHMSA the results of the review within 90 days, unless that period is extended for an additional 30 days.

Note that DOT has moved back estimated publication dates for several rulemakings, including the anticipated proposed rules for onshore hazardous liquid pipelines and gas transmission pipelines. DOT has accelerated by several months the anticipated publication date of a new NPRM that will address operator qualification, cost recovery, incident reporting, CO₂, special permit renewal, and other issues.

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

To sign up for the weekly updates, e-mail vnf@vnf.com with "FFO Subscribe" in the subject line.

Dates Continued ...

October 2014

- 13-16 [API Tank, Valves, and Pipeline Conference & Expo](#), Las Vegas, NV
- 14 [Comments due](#) on NTSB proposed investigation procedures
- 14-16 [AGA Leak Management Best Practices Roundtable](#), Detroit, MI
- 19-21 [NACE Northern Area Eastern Conference](#), St. Johns, Newfoundland, Canada
- 19-21 [Interstate Oil & Gas Compact Commission Annual Meeting](#), Columbus, OH
- 20 [Comments due](#) on Coast Guard's proposal to increase OPA 90 liability limits.
- 27-28 [AGA DIMP Workshop](#), Ft. Worth, TX
- 29-30 [AGA DIMP Best Practices Roundtable](#), Ft. Worth, TX



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

Rulemaking & Next Action	Estimated Date to OMB	DOT Estimated Publication Date	OIRA Estimated Publication Date
Excess Flow Valves; NPRM	April 30, 2014 (actual)	September 3, 2014	August 2014
Issues Related to Use of Plastic Pipe in the Gas Pipeline Industry; NPRM	N/A	N/A	June 2014
Safety of Gas Transmission Pipelines; NPRM	September 26, 2014	January 8, 2015	August 2014
Safety of On-Shore Hazardous Liquid Pipelines; NPRM	May 1, 2014 (actual)	October 20, 2014	July 2014
Valve Installation and Minimum Rupture Detection Standards; NPRM	December 21, 2014	May 1, 2015	N/A
Enforcement of State Excavation Damage Laws; Final Rule	September 5, 2014	December 17, 2014	August 2014
Miscellaneous Amendments to Pipeline Safety Regulations; Final Rule	September 19, 2014	December 30, 2014	August 2014
Periodic Updates of Regulatory References to Technical Standards and Miscellaneous Amendments; Final Rule	N/A	N/A	September 2014
Operator Qualification, Cost Recovery, Incident Reporting, CO ₂ , Special Permit Renewal, and Other Issues; NPRM	September 12, 2014	December 23, 2014	N/A

New content on PHMSA's YouTube channel. PHMSA has posted a variety of new content on its [YouTube channel](#). Topics include pipeline inspections and detailed coverage of PHMSA's July 2, Pipeline Safety Management Systems Workshop and August 5, Workshop on Managing Pipeline Cracking Challenges.

Other Federal Agency Developments

TSA renews information collection request for Top 100 Most Critical Pipelines. On August 18, the Transportation Security Administration (TSA) published a [30-day notice](#) seeking a second round of comments on a proposed renewal of an information collection request, under which TSA will collect, on a voluntary basis, site-specific information from pipeline operators on facility security, policies, procedures, and physical security measures. TSA previously published a proposed information collection request in [May 2014](#), in which the agency indicated it will continue site visits, but will collect site-specific, rather than corporate or company-wide, security management plans. Comments are due directly to OMB by September 17.

NTSB proposes mode-specific investigation procedures. On August 12, the National Transportation Safety Board (NTSB) issued a [notice](#) of proposed rulemaking that would amend the agency's investigation procedures by reorganizing them into distinct, mode-specific subparts, including a new subpart entitled "Railroad, Pipeline, and Hazardous Materials Investigations." Comments are due October 14.

The U.S. Coast Guard proposes to increase liability limits under Oil Pollution Act. On August 19, the U.S. Coast Guard published a [notice](#) of proposed rulemaking that would increase liability limits for vessels, deepwater ports, and onshore facilities, including pipelines, under the Oil Pollution Act of 1990 (OPA 90) to reflect increases in the Consumer Price Index (CPI). For onshore facilities, the Coast Guard proposes to increase the OPA 90 liability limit from \$350 million to \$404.6 million. The Coast Guard also proposes simplified procedures for making future CPI adjustments to OPA 90 liability limits. Comments are due October 20.

State-Specific Association Meetings

August 2014

26-27 Montana Petroleum Ass'n
Annual Meeting, Billings,
MT

September 2014

8-10 Oklahoma Gas Ass'n
Annual Conference,
Norman, OK

9-11 RRC of Texas Pipeline
Safety Seminar, San
Antonio, TX

14-16 Arkansas Gas Ass'n Annual
Conference, Fayetteville,
AR

29 –
10/2 Virginia Pipeline Safety
Conference, Virginia
Beach, VA

October 2014

7-8 Pennsylvania PUC Safety
Seminar, State College, PA

21-22 Illinois Commerce
Commission Pipeline
Safety Conference,
Effingham, IL

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

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

September 2014

8-12 Texas (gas)

8-12 Michigan (gas)

8-12 Ohio (gas)

29-10/2 Virginia (gas)

Industry Developments

Pacific Gas & Electric Company pleads not guilty to new charges. On August 18, Pacific Gas & Electric Company pleaded not guilty to new criminal charges that were contained in a [superseding indictment](#) filed by the United States on July 30 relating to the September 2010 natural gas transmission line incident in San Bruno, California.

API and AOPI will host damage prevention online workshop. On September 24, 2014, the American Petroleum Institute (API) and Association of Oil Pipe Lines (AOPL) damage prevention team will host its 2014 Damage Prevention Workshop. Registration information is available [here](#).

Select Updates from the States

(Updated information appears in italics; new items are marked with an "")*

CALIFORNIA

AB 1937 (Gordon): This bill would amend the California Public Utilities Code to require gas corporations to provide at least three working days' notice before undertaking any non-emergency excavation or construction activity within 500 feet of a school or hospital. The bill passed the Assembly by unanimous vote on May 23, and was referred to the Senate for consideration. The Senate amended the bill on June 11 to include a 5-year recordkeeping requirement and a provision requiring excavators or operators to comply with the state's one-call notification requirements. On June 30, the Senate amended the bill to delete a recently added provision regarding excavator or operator compliance with the one-call requirements. *The bill, as amended, was passed by both the Assembly and Senate and was enrolled on Aug. 13.*

SB 1389 (Hill): This bill would prohibit a gas corporation from using the "grandfather clause" in 49 C.F.R. Part 192 to determine the MAOP for an intrastate gas transmission line. The federal pipeline safety regulations currently allow operators to determine the MAOP for a gas pipeline by using the highest actual operating pressure that a segment experienced during the 5-year period preceding July 1, 1970. SB 1389 would prohibit the use of that provision and require operators of intrastate gas transmission lines to determine MAOP solely on the basis of the CPUC's rules or orders. The bill unanimously passed the Standing Committee on Energy, Utilities and Communications on May 5 and is pending before the Senate Committee on Appropriations.

SB 1371 (Leno): This bill would require the CPUC to adopt rules and procedures governing natural gas leakage abatement for regulated intrastate transmission and distribution lines in order to reduce emissions of natural gas. The regulatory proceeding would commence by January 15, 2015, and the rules and procedures would be required to meet the following objectives: (a) provide for the maximum technologically feasible and cost-effective avoidance, reduction, and repair of leaks and leaking components within a reasonable time after discovery; (b) provide for the ranking or recorded leaks and leaking components by volume or energy content; (c) evaluate natural gas leakage abatement practices to determine effectiveness; and (d) establish and require the use of best practices for leak surveys, patrols, leak survey technology, leak prevention, and leak reduction. The Senate passed the bill in late May and referred it to the Assembly for consideration. On July 1, 2014, the Assembly amended the bill, in part, to clarify that the CPUC's rulemaking is to give priority to safety, reliability, and affordability of service and to clarify that, unless expressly stated, the bill does not alter the CPUC's jurisdiction over greenhouse gas emission regulation. *On Aug. 14. The Committee on Appropriations recommended passage.*

MICHIGAN

The Michigan Public Service Commission proposes to incorporate federal safety regulations. On July 17, the Michigan Public Service Commission convened a public hearing on a proposed amendment to its rules to adopt by reference the latest federal gas pipeline safety standards. The proposed rules would also adopt updated technical standards and clarify the requirements related to the disconnection or abandonment of indoor gas facilities.

[HB 5556](#) (Townsend): This bill would increase the administrative civil penalties that can be imposed for pipeline safety violations to \$20,000 per day, per violation, not to exceed \$800,000 for any related series of violations. It would also require any person who engages in the transportation of gas or who owns or operates pipeline facilities to annually communicate with county and municipal emergency coordinators to review the public education and awareness programs. The bill was introduced on May 8 and was referred to the House Committee on Energy and Technology.

NEBRASKA

Proposed Regulation Incorporating Federal Requirements. Pursuant to a proposal by the Nebraska State Fire Marshal, Nebraska has updated its regulations to reflect the current federal pipeline safety standards and add requirements for a statewide One-Call Notification Center. The proposed [revisions](#) were approved by the Governor on July 28 and became effective August 2.

NEW HAMPSHIRE

[HB 1376](#) (Hammon): The bill establishes a committee to study the safe delivery of oil and gas, including natural gas and propane, throughout the state. The committee must report its findings and any legislative recommendations by May 1, 2015. The bill also makes a technical correction regarding the submission of oil pipeline facility spill response plans. *The bill was signed into law by the Governor on August 1.*

NEW JERSEY

[A2711](#) (Handlin): This bill proposes to create the New Jersey Taskforce on Underground Utility Lines for the purpose of studying issues related to placing overhead utilities underground. The bill was referred to the Assembly Committee on Telecommunications and Utilities.

NEW MEXICO

***New Mexico Public Regulation Commission initiates proposed rulemaking on excavation and One Call Requirements.** On July 9, the New Mexico Public Regulation Commission issued an [Order Initiating Proposed Rulemaking](#) to amend certain rules regarding "Pipeline Safety Excavation Damage Prevention" and "One Call Notification Systems Requirements for 811 Services." In pertinent part, the proposed amendments would require the establishment of a "positive response registry system," and update underground facility operators' (UFO) response requirements to excavation locate requests to include a "positive response" even if the UFO determines it has no facilities within the proposed excavation limits. The proposed amendments would also make failure to provide positive responses, pre-mark the intended site, or report damage a willful violation. Initial comments were due August 15. Response comments are due by September 10, and a public hearing is scheduled for September 24.

NEW YORK

[A 9336](#) (Rodriguez)/ [S 7010](#) (Espaillat): These companion bills would require operators of gas distribution facilities to accelerate the repair or replacement of pipe segments that are leaking, are at "high risk of leaking," or may no longer be fit for service due to inferior materials, poor construction methods, lack of maintenance, or age. The bills also would provide a cost recovery mechanism for the accelerated repair or replacement program. Both bills have been referred to the respective energy committees.

[S 7430A](#) (Maziarz) / [A 9772-A](#) (Paulin): These bills would: (a) establish and implement a uniform system for classifying natural gas leaks; (b) require that each gas corporation annually report the location and classification of each reported leak, the date each such leak was classified, and the date each such leak is repaired; (c) require that such information be made available upon request to any municipal or state public safety official and to members of the legislature; and (d) require the investigation of the need for additional winter surveillance of cast iron or ductile iron pipelines and the effect of extended frost on such pipelines. The bills are currently in committee.

OHIO

*[Public Utilities Commission of Ohio amends Gas Pipeline Safety Requirements](#). On July 30, the Public Utilities Commission of Ohio (OPUC) issued a [Finding and Order](#) amending its intrastate gas pipeline safety regulations. The OPUC amendments (1) define leak detection equipment; (2) require evaluation of repaired or reclassified grade one leaks within 30 days; (3) increase the monetary threshold for submitting construction reports for additions to intrastate gas pipeline facilities; and (4) require distribution operators to incorporate new construction, including riser installation, into their operator qualification programs.

[HB 483](#) (Amstutz): As recently enacted, this bill allows the Ohio Public Utilities Commission to waive the pipe design requirements in Subpart C of 49 C.F.R. Part 192 for operators of “gas gathering pipelines” and “processing plant gas stub pipelines.” Note that an earlier version of the bill had proposed to increase the maximum civil penalties for pipeline safety violations to \$200,000 per day, per violation, not to exceed \$2,000,000 for any related series violations, but that this provision was removed prior to final passage.

PENNSYLVANIA

[HB 1607](#) (Baker): The bill would amend Pennsylvania’s Underground Utility Line Protection Law (One-Call Law) and extend the sunset date of the Act through 2021. In general, the bill would transfer enforcement authority from the Department of Labor and Industry to the Pennsylvania Public Utility Commission; create a Damage Prevention Committee; place additional obligations on facility owners, excavators and project owners; and create an administrative process for the determination of violations and the assessment of penalties. On June 27, the House passed the bill, and it has been referred to the Senate Consumer Protection and Professional Licensure Committee.

*[SB1459](#): This bill would amend Pennsylvania’s Underground Utility Protection Law to require the use of steel products made in the United States for any “construction, reconstruction alteration, repair, improvement or maintenance of gathering lines.” The bill was referred to the Senate Consumer Protection and Professional Licensure Committee on July 31.

*[SB1458](#): This bill would require the use of steel products made in the United States for “casings or other safety devices” used in drilling oil or gas wells. The bill would apply only to devices added on or after the effective date. The bill was referred to the Senate Environmental Resources and Energy Committee on July 31.

WASHINGTON

[Washington proposes civil penalty cap increase](#). In May, the Washington Utilities and Transportation Commission (WUTC) proposed amendments to its intrastate gas pipeline safety regulations to increase the maximum civil penalties for pipeline safety violations. The proposed amendment would increase the maximum per-violation penalty from \$100,000 to \$200,000 per violation, and the maximum penalty for a related series of violations from \$1,000,000 to \$2,000,000, consistent with federal limitations in the Pipeline Safety Act. The WUTC convened a hearing on the proposed amendment on July 2 in Olympia. More information is [here](#).

FOR MORE 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 or any PHMSA or pipeline related matter, please contact [Susan Olenchuk](#) at (202) 298-1896 or sam@vnf.com, [Jim Curry](#) at (202) 298-1831 or jbc@vnf.com, [Keith Coyle](#), at (202) 298-1811 or kjc@vnf.com, or any member of the firm’s Pipeline & LNG practice group.