



Dates of Interest

September 2014

- 29-10/3 [International Pipeline Conference](#), Calgary, Alberta
- 29 [Comments due](#) on PHMSA Proposed NPMS Information Collection Request

October 2014

- 6-8 [NACE Eastern Area Conference](#), Myrtle Beach, SC
- 6-11/17 [SGA Operations and Engineering Fall Web Conference Series](#) (Information Integration to Enhance Pipeline Safety)
- 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
- 15-17 [SGA Fall Leadership Conference](#), Fort Worth, TX
- 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 go liability limits.
- 21-22 [Meeting of the Technical Pipeline Safety Standards Committee and the Technical Hazardous Liquid Pipeline Safety Standards Committee](#), Washington, DC

* Van Ness attorneys attending.

Pipeline Safety Update

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

PHMSA Administrator Cynthia Quarterman to leave agency. PHMSA issues Advisory Bulletin and Guidance for Flow Reversals, Conversions of Service, and Product Changes. PHMSA issues Advisory Bulletin on construction notifications. GAO releases Congressional Report on oil and gas transportation. PHMSA forwards Public Awareness Program information collection request to OMB. Technical Advisory Committee meetings set for October 21-22. Regulatory updates from PHMSA and the states.

PHMSA Administrator Cynthia Quarterman to Leave Agency

Administrator Quarterman has announced her departure from the Pipeline and Hazardous Materials Safety Administration (PHMSA), effective October 3. She will join Atlantic Council, a Washington, DC think tank focused on international affairs, where she will serve as an expert on responsible energy development. Ms. Quarterman has served as Administrator since her nomination by President Obama in 2009. No replacement has yet been identified.

PHMSA Issues Advisory Bulletin and Guidance for Flow Reversals, Conversions of Service, and Product Changes

On September 18, PHMSA issued an [advisory bulletin](#) addressing the regulatory and safety impacts of flow reversals, product changes, and conversions of service for gas and hazardous liquid pipelines. In conjunction with the advisory bulletin, PHMSA issued a new [guidance document](#) that provides additional information and recommendations for operators to consider before undertaking these activities. Together, the advisory bulletin and guidance document address on the notification, operation and maintenance, and integrity management implications of flow reversals, product changes, and conversions of service. Notably, the guidance suggests that pipelines with certain design and operational characteristics should not be considered for these changes. While not directly enforceable, these documents reflect current PHMSA policy on the regulatory requirements implicated by these events and warrant careful consideration.

PHMSA Issues Advisory Bulletin for Construction Notification

On September 12, PHMSA issued an [advisory bulletin](#) to clarify the application of its pre-construction notification requirements. Operators are required to notify PHMSA through the National Registry of Pipeline and LNG Operators at least 60 days prior to construction of: (i) a facility, other than a section of line pipe, that costs \$10 million or more; (ii) 10 or more miles of new pipeline; and (iii) a new LNG plant or facility, or a new pipeline facility. The advisory bulletin seeks to clarify what qualifies as “construction” for purposes of the notification provision and states that operators are “strongly encouraged” to contact PHMSA no later than 60 days prior to engaging in any of the following construction-related activities (whichever occurs first):

- Material purchasing and manufacturing;
- Right-of-way acquisition;
- Construction equipment move-in activities;
- Onsite or offsite fabrications; or
- Right-of-way clearing, grading, and ditching.

The guidance indicates that PHMSA now seeks notification of project activities far earlier than previously indicated. PHMSA also states that the notification requirements for “10 or more miles of new pipeline” apply to both new construction and replacement of 10 or more miles of existing pipe.

Dates Continued ...

October 2014

- 23 [Comments due](#) on PHMSA's Public Awareness ICR
- 27-28 [AGA DIMP Workshop](#), Ft. Worth, TX
- 29-30 [AGA DIMP Best Practices Roundtable](#), Ft. Worth, TX

November 2014

- 2-5 [APGA 2014 Utility Management Conference](#), San Destin, FL
- 4-6 [SGA Advanced Pipeline Design Workshop](#), Houston, TX
- 5-7 [NACE Western Area Conference](#), Seattle, WA
- 11 [Common Ground Alliance Best Practices Meeting](#), Las Vegas, NV
- 16-19 [NARUC Annual Meeting](#), San Francisco, CA
- 20-22 [Pipeline Safety Trust Conference](#), New Orleans, LA



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GAO Releases Congressional Report on Oil and Gas Transportation

On September 22, GAO released an August 2014 [congressional report](#) examining the impact of increased domestic oil and gas production on pipeline and rail transportation infrastructure and safety. The report concludes that pipeline infrastructure development and expansion have not kept pace with the increasing rate of oil and gas production. GAO also expresses concern over PHMSA's delay in establishing new safety standards for unregulated gas gathering pipelines, particularly large-diameter, high-pressure lines, which have been constructed to serve growing development in gas shale plays. GAO recommends that PHMSA move forward with a notice of proposed rulemaking addressing the safety risks associated with these lines.

PHMSA Developments

PHMSA forwards Public Awareness Program information collection request to OMB. On September 23, PHMSA issued a [notice](#) that it is forwarding an information collection request relating to written Public Awareness programs to the Office of Management and Budget (OMB). PHMSA previously issued a [notice](#) regarding this information collection request on June 24 and received no comments. The notice provides an additional opportunity for comments, and directs that they be submitted to OMB by October 23, 2014.

PHMSA schedules Advisory Committee meetings. On September 18, PHMSA announced a joint [public meeting](#) of the Gas Pipeline Advisory Committee and the Liquid Pipeline Advisory Committee on October 21-22. The committees will discuss performance metrics for pipeline operations, safety management systems in other industries, and agency, state, and stakeholder priorities. The meeting will be held in Washington, D.C.

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

Rulemaking & Next Action	Estimated Date to OMB	DOT Estimated Publication Date	OIRA Estimated Publication Date
Excess Flow Valves; NPRM	April 30, 2014 (actual)	November 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	October 16, 2014	January 28, 2015	August 2014
Safety of On-Shore Hazardous Liquid Pipelines; NPRM	May 1, 2014 (actual)	November 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 19, 2014	December 31, 2014	August 2014
Miscellaneous Amendments to Pipeline Safety Regulations; Final Rule	October 23, 2014	February 4, 2015	August 2014

**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

29-10/2 Virginia (gas)

October 2014

- 6-10 Pennsylvania (gas)
- 6-10 California (gas)
- 14-17 Mississippi (gas & liquids)
- 20-24 Illinois (gas)
- 20-24 New Hampshire (gas)

**State-Specific Association
Meetings**

September 2014

29 – 10/2 [Virginia Pipeline Safety Conference](#), Virginia Beach, VA

October 2014

- 7 Kentucky Gas Ass'n [Fall Workshop](#), Elizabethtown, KY
- 7-8 [Pennsylvania PUC Safety Seminar](#), State College, PA
- 28-29 [Kansas Pipeline Safety Seminar](#), Manhattan, KS
- 21-22 Illinois Commerce Commission [Pipeline Safety Conference](#), Effingham, IL

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	October 16, 2014	January 28, 2015	N/A

Select Updates from the States

CALIFORNIA

[AB 1937](#) (Gordon) (now Chapter 287, Statutes of 2014): This bill amended 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. A Senate amendment that would have required excavators or operators to comply with the state's one-call notification requirements was removed from the bill before enactment. The Governor signed the bill on August 25.

[SB 1371](#) (Leno) (now Chapter 525, Statutes of 2014): This bill requires the CPUC to adopt rules and procedures, while giving priority to safety, reliability, and affordability of service, to minimize natural leaks from CPUC-regulated gas pipeline facilities, with the goal of reducing greenhouse gas emissions. The regulatory proceeding will 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. CPUC also must require gas corporations to file reports detailing their leak management practices, new methane leaks by grade, existing methane leaks, and a best estimate of gas loss due to such leaks. The bill was signed by the Governor on September 21.

KANSAS

On August 21, 2014, the Kansas State Corporation Commission [announced](#) a public hearing on proposed amended [regulations](#) adopting the 2013 version of the federal gas safety standards set forth in 49 C.F.R. Part 192. In addition, the proposed amendments would remove the 5-day repair requirement for class 1 leaks; permit utility companies to supervise repairs of natural gas lines in residential areas by defining "yard line" to end at the outside wall of an individually metered residential premise; and simplify the fee collection schedule for safety inspections and supervision by removing outdated assessment information.

MICHIGAN

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.

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.

[S 2422](#) (Greenstein & Bateman): This bill would require natural gas pipeline utilities to repair or replace leaking natural gas pipelines within time frames to be established by the Dept. of Environmental Protection ("DEP"). DEP, in consultation with the Board of Public Utilities, would adopt implementing regulations to prioritize time frames for the repair and replacement of pipelines based on the severity of leaks, best practices and repair standards, and de minimis exceptions to the repair and replacement requirements. The penalties for noncompliance would be those set forth in the Air Pollution Control Act (1954). The bill was introduced on September 18 and referred to the Senate Economic Growth Committee.

[SR No. 91](#) (Codey, Thompson & Greenstein): This Senate Resolution urges natural gas pipeline operators to adopt infrastructure, technology and management tools to prevent methane leaks in order to reduce greenhouse gas emissions, improve the efficient transmission and distribution of natural gas, and reduce the risk of methane gas-related emergencies.

NEW MEXICO

New Mexico Public Regulation Commission initiates rulemaking on excavation and One-Call Requirements. On July 9, the New Mexico Public Regulation Commission [proposed](#) to amend its rules for excavation damage prevention and One-Call programs. 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 also would make failure to provide positive responses, pre-mark the intended site, or report damage a "willful" violation. A public hearing was 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.

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.

TEXAS

Adoption of regulations regarding federal requirements and farm tap odorizers. On September 16, the Railroad Commission of Texas (Commission) [adopted](#) regulations that update the minimum safety standards by incorporating certain federal pipeline safety regulations that are effective on the date of the amended rule. The Commission also revised its regulations to clarify that wick-type farm tap odorizers are exempt from certain equipment reporting requirements, but must continue to comply with gas odorization requirements. The adopted regulations are expected to become effective on October 6.

WASHINGTON

Washington adopts civil penalty cap increase. Effective on October 4, the Washington Utilities and Transportation Commission (WUTC) will have the authority to impose increased civil penalties for violations of its intrastate gas pipeline safety regulations. As a result of an amendment adopted on September 3, the maximum per-violation penalty will be increased from \$100,000 to \$200,000 per violation, and the maximum penalty for a related series of violations will be increased from \$1,000,000 to \$2,000,000. These penalty caps are consistent with the limitations in the federal Pipeline Safety Act. More information is [here](#).

WEST VIRGINIA

Public Service Commission of West Virginia Appoints Director of Pipeline Safety. On September 2, the Public Service Commission of West Virginia [announced](#) the appointment of Mary S. Friend as Director of the Gas Pipeline Safety Division. Mrs. Friend previously worked in PHMSA's Office of Pipeline Safety Inspector Training and Qualification, where she developed and taught training courses for federal and state inspectors.

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.