



**Dates of Interest**

**October 2014**

- 29-30 [AGA DIMP Best Practices Roundtable](#), Ft. Worth, TX
- 31 [Comments due](#) on NTSB Notice of Proposed Rulemaking

**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
- 17 [PHMSA Public Meeting](#) on NPMS Information Collection, Arlington, VA
- 20-22 [Pipeline Safety Trust Conference](#), New Orleans, LA
- 24 [Canadian Energy Pipeline Foundation Canadian Pipeline Industry Quality Summit](#), Calgary, AB



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

# Pipeline Safety Update

## ISSUE NO. 86 – OCTOBER 29, 2014

*[Susan Olenchuk](#), [James Curry](#), [Keith Coyle](#), [Tyson Kade](#), [Frances Bishop](#), [Barbara Deathe](#)*

*PHMSA holds Technical Advisory Committee meetings. PHMSA issues Advisory Bulletin and guidance document on meaningful integrity management performance metrics. PHMSA to hold public meeting on National Pipeline Mapping System proposed information collection. PHMSA issues notices of extensions expiring information collections and updates stakeholder communications website to include data on state program performance metrics. Updates on status of PHMSA Rulemakings. Federal agency developments and industry updates. Select updates from the states.*

### Advisory Committee Roundup

On October 21-22, the Pipeline and Hazardous Materials Safety Administration (PHMSA) held joint meetings of its Gas Pipeline Advisory Committee (GPAC) and the Liquid Pipeline Advisory Committee (LPAC). Select highlights from the meetings are listed below:

- **Comments of Acting Administrator Tim Butters:** Mr. Butters pledged to carry forward former Administrator Quarterman's high priority on the issuance of two notices of proposed rulemaking to significantly update and revise PHMSA's gas and hazardous liquid pipeline rules.
- **Top PHMSA Priorities:** Mr. Butters also stressed other key priorities, including the promotion of Safety Management Systems, integrity management improvements, methane emissions, emergency response, and broadening the collection of information for the National Pipeline Mapping System (NPMS).
- **Regulatory Update:** Most of the 9 rulemaking proceedings underway at PHMSA are past their initial development stages and have been under review at the DOT Secretary's Office (OST) or the Office of Management and Budget (OMB). Some on the Committee expressed concern that rules do not appear to be moving past OST or OMB review.
- **Increased Use of Guidance:** PHMSA has issued numerous and detailed guidance documents on integrity management, service conversions, flow reversals and other topics. Some advisory committee members asked whether PHMSA could allow committee or public review of guidance before it is issued.
- **New Advisory Committee Members:** Linda Breathitt (Current Commissioner on Kentucky Public Service Commission and former Commissioner at the Federal Energy Regulatory Commission (FERC)); Mark Brownstein (Chief Counsel of US Energy and Climate Program at Environmental Defense Fund); John Quackenbush (Chairman of Michigan Public Service Commission), Vice Admiral Brian Salerno (Director of the Department of Interior's Bureau of Safety and Environmental Enforcement).
- **Emergency Response:** PHMSA detailed a new peer-to-peer emergency responder training approach being tested in Georgia. Also, National Fire Protection Association (NFPA) 472, an industry standard for first responders to hazardous materials incidents will be updated to include pipelines for the first time.
- **Safety Management Systems:** API RP 1173 will be posted for a second round of balloting and comments. A final version is expected in January 2015.

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

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

**November 2014**

- 17-21 Alabama (Gas)
- 17-21 Tennessee (Gas)
- 17-21 Oklahoma (Gas & Liquids)

**State-Specific Association  
Meetings**

**November 2014**

- 5-7 [Mississippi Damage Prevention Summit](#), Philadelphia, MS
- 18-21 [Oklahoma Pipeline Safety Conference](#), Tulsa, OK
- 26 [Comments due](#) on Oklahoma Corp. Comm'n Pipeline Safety Notice of Inquiry

**December 2014**

- 2 [Alabama Public Service Comm'n 27<sup>th</sup> Annual Pipeline Safety Seminar](#), Montgomery, AL
- 3 [Second Technical Conference](#) on Oklahoma Corp. Comm'n Pipeline Safety Notice of Inquiry

- **National Pipeline Mapping System:** In one of the more controversial discussions of the meeting, PHMSA detailed the additional or more detailed information it is seeking to require that operators provide. Some committee members expressed concern with the practical challenges of obtaining 5-foot positional GIS accuracy for certain difficult-to-access portions of their systems. Others expressed concern about data security. PHMSA has scheduled an NPMS workshop for November 17 in Virginia, and has requested that interested parties file comments in the docket for the NPMS Information Collection Request proceeding.
- **Liquefied Natural Gas:** PHMSA indicated that portions of its Part 193 LNG safety regulations need to be updated to account for advances in technology and to address facility siting issues. PHMSA has created a team (FERC is a member) to prepare draft revisions to the regulations. The impetus for change is the significant growth in export facility projects and small scale liquefaction. PHMSA did not indicate the timing for issuance of a proposed rule.
- **Methane Emissions:** Paula Gant, Deputy Assistant Secretary for Oil and Natural Gas at the Department of Energy (DOE) detailed the Administration's methane emissions reduction efforts for the pipeline sector. DOE is working to develop data and quantify how existing distribution infrastructure replacement programs are reducing methane emissions. DOE is poised to provide increased funding for research and development aimed at methane emission reductions in the pipeline sector. Committee representatives from the gas transmission sector indicated that guidance on emissions reductions (largely focused on compressor stations and blowdowns for maintenance and repair) is forthcoming. Committee representatives from the public discussed how leak mapping efforts can help identify the most fruitful investments in emissions reductions.
- **Performance Metrics:** PHMSA continues to develop 6-12 metrics to help quantify overall operator safety performance and expects to finalize the metrics by the end of 2014. Metrics will go beyond the historical accident and incident lagging indicators of success.
- **Spill Response Plans:** PHMSA has completed a review of 97% of the 400 oil spill response plans in need of agency review, and has posted approximately 180 redacted plans online. PHMSA has begun linking spill plan data to NPMS data to identify gaps. The agency has developed an internal operating procedure that its staff uses when reviewing and redacting plans.
- **Flow Reversals and Conversions:** Invoking its recently issued guidance, PHMSA expressed continued concern about the management of issues associated with reversals in flow, conversions from gas to liquids service (and vice-a-versa) and significant changes in product transported. PHMSA leadership also expressed the need for quality assurance and control during construction, and indicated that PHMSA would begin to rely on 3<sup>rd</sup> party contractors to assist with construction reviews.
- **Midstream Regulatory Jurisdiction:** At the last Advisory Committee meetings, PHMSA created a subcommittee of the Advisory Committees to study the jurisdiction of PHMSA and the Occupational Safety and Health Administration (OSHA) at certain midstream facilities. The subcommittee indicated that it continues to work to identify the points of demarcation between the two agencies at processing, fractionation and other midstream facilities. The subcommittee reported that it plans to present a document clarifying the issues at the next meeting of the Advisory Committees.
- **Class Location Study:** PHMSA reports that it has completed the Congressionally-mandated study of whether some or all

To subscribe to the Pipeline Safety Update visit:  
[www.vnf.com/knowledgecenter.aspx](http://www.vnf.com/knowledgecenter.aspx)

[Click here to view Van Ness  
Feldman's Federal Funding  
Opportunities Update.](#)

class location requirements could be replaced with integrity management principles. The study is under review at the OST. The agency indicated that there is little support for a wholesale elimination

of the class location requirements, but broad support for regulatory changes that would avoid class location change-driven pipe replacements.

Meeting presentations and other materials are available on regulations.gov by searching on [Docket # PHMSA-2014-0124](#).

## PHMSA Developments

**PHMSA issues Advisory Bulletin and guidance document on integrity management performance metrics.** On October 15, PHMSA published an [advisory bulletin](#) on employing meaningful performance metrics to evaluate integrity management (IM) programs. The advisory bulletin and a referenced [guidance document](#), entitled "Guidance for Strengthening Pipeline Safety Through Rigorous Program Evaluation and Meaningful Metrics," build on a [December 5, 2012](#), advisory bulletin issued in response to a National Transportation Safety Board (NTSB) recommendation following the San Bruno incident.

The guidance document describes elements and characteristics of a mature IM program evaluation, identifies metrics specifically required by IM regulations, and encourages operators to incorporate additional metrics. The additional metrics identified include: IM program element implementation; operational implementation; system specific metrics; and threat specific metrics. Importantly, the guidance document states that PHMSA inspectors will rely on the document when evaluating the effectiveness of operators' IM program evaluation processes and indicates that the guidance "clarifies and expands" PHMSA's expectations.

**PHMSA to hold public meeting on NPMS proposed information collection.** On November 17, PHMSA will hold a [public meeting](#) to discuss the proposed information collection for the NPMS. During the meeting, PHMSA intends to discuss: (1) the proposed new data collection requirements in the NPMS information collection; (2) the state of operators' GIS systems and ability to submit the requested data; (3) the security sensitivity of the new data requests; and (4) ways to minimize the submission burden on operators. Interested participants can register [here](#). The meeting will be held in Arlington, Virginia, and will not be webcast.

**PHMSA issues notices of extensions of expiring information collections.** On October 20, PHMSA issued a [notice](#) that it is requesting an extension of two information collections that are scheduled to expire in 2015. The first collection relates to recordkeeping requirements for LNG facilities. The second collection relates to records required to demonstrate compliance with PHMSA's mandatory operator qualification criteria. PHMSA states that the information being collected will not change. Comments must be submitted to PHMSA by December 19.

On October 28, PHMSA issued a [notice](#) that it is requesting the extension, without change, of two information collections scheduled to expire in 2015. The first collection pertains to recordkeeping and reporting requirements for natural gas pipeline operators. The second collection relates to information collected about gas customers, so that operators understand how their customers' buried piping is being maintained. The deadline for submitting comments to PHMSA is December 29.

**PHMSA updates stakeholder communications website to include data on state program performance metrics.** PHMSA has updated its [stakeholder communications page](#) to include links to new state program performance metrics. The update responds to one of a number of safety recommendations issued by the NTSB as a result of its investigation into the 2010 San Bruno, California, pipeline incident. The metrics are a product of data submitted by pipeline operators' annual reports to PHMSA, and state pipeline safety regulators' annual certification data. The new metrics encompass six areas of state program performance: (1) damage prevention; (2) inspection activity; (3) inspector qualification; (4) leak management; (5) enforcement; and (6) incident investigation.

**Updates on status of PHMSA Rulemakings.** The table below reflects information on the status of PHMSA rulemakings as reported in DOT's October Significant Rulemaking [Report](#). Additional information from the OMB's Office of Information and Regulatory Affairs (OIRA) is [here](#). Note that OIRA has not updated this information in several months.

<b>Rulemaking &amp; Next Action</b>	<b>Estimated Date to OMB</b>	<b>DOT Estimated Publication Date</b>	<b>OIRA Estimated Publication Date</b>
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	October 23, 2014	February 4, 2015	August 2014
Miscellaneous Amendments to Pipeline Safety Regulations; Final Rule	November 20, 2014	March 10, 2015	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 <sub>2</sub> , Special Permit Renewal, and Other Issues; NPRM	October 16, 2014	January 28, 2015	N/A

### Other Federal Agency Developments

**NTSB extends deadline for comments on proposed rulemaking to amend its investigation procedures.** On [October 10](#), the NTSB extended from October 14 to October 31 the period for commenting on its [notice](#) of proposed rulemaking to amend its regulations governing its investigation procedures. The proposed rule would reorganize them into distinct, mode-specific subparts, including a new subpart entitled "Railroad, Pipeline, and Hazardous Materials Investigations." The NTSB noted the extension is in response to requests from other federal agencies for additional time to submit comments.

### Industry Updates

**AGA establishes Peer Review Program.** On October 15, the American Gas Association (AGA) announced the creation of a voluntary, national [Peer Review Program](#) that will allow natural gas utilities to share safety and operational initiatives and identify leading practices and performance enhancing opportunities. This initiative builds upon a pilot program recently conducted by ten AGA-member companies. The Peer Review Program is scheduled to begin in January 2015.

## Select Updates from the States

### CALIFORNIA

[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, to be held on November 4, 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 held on September 24.

### 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.

[SB 1503](#): This bill would replace the Pennsylvania Public Utility Commission with the Department of Transportation of the Commonwealth. The bill would require the Department to apply for federal delegation to enforce federal hazardous liquids and gas pipeline safety standards in the Commonwealth, and for authority to adopt interstate hazardous liquids and gas pipeline rules. The bill would also require the Department to seek federal delegation to act as an interstate agent inspection authority. The bill was referred to the Consumer Protection and Professional Licensure Committee on October 14.

### 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 were published in the [Texas Register](#) on October 3 and became effective on October 6.

### 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](mailto:sam@vnf.com), [Jim Curry](#) at (202) 298-1831 or [jbc@vnf.com](mailto:jbc@vnf.com), [Keith Coyle](#), at (202) 298-1811 or [kjc@vnf.com](mailto:kjc@vnf.com), or any member of the firm's Pipeline & LNG practice group.

© 2014 Van Ness Feldman, LLP. All Rights Reserved. This document has been prepared by Van Ness Feldman for informational purposes only and is not a legal opinion, does not provide legal advice for any purpose, and neither creates nor constitutes evidence of an attorney-client relationship.