



Dates of Interest

February 2015

- 15-18 [NARUC Winter Committee Meetings](#), Washington, DC
- 17-20 [SGA Pipeline Design Workshop](#), Atlanta, GA
- 23 Comments on Proposed IC Renewals Due ([LNG and OQ](#); [Gas Recordkeeping and Customer Lines](#))
- 24-26 [NACE Northern Area Western Conference](#), Calgary, AB, Canada

March 2015

- 5 Comments on [BIS Proposed IC](#) Due
- 10-12 [Common Ground Alliance Excavation Safety Conference & Expo](#), Orlando, FL
- 15 Deadline for Submitting PHMSA Annual Report for Gas Transmission, Gathering, and LNG Systems
- 18-19 [AGA Transmission Pipeline Operators Workshop](#), San Diego, CA
- 23-25 [SGA Spring Gas Conference and Expo](#), Charlotte, NC
- 23-25 [SGA Everything DIMP Workshop](#), Charlotte, NC

April 2015

- 3 Comments on [Proposed IC Renewal](#) Due
- 6 Comments on [Proposed IC Renewal](#) Due
- 7-9 [SGA Advanced Pipeline Design Workshop](#), Dallas, TX
- 12-15 [GPA Annual Convention, San Antonio](#), TX
- 28-30 [API 2015 Pipeline Conference and Control Room Forum](#)

Pipeline Safety Update

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President Obama's Proposed FY 2016 Budget Includes Funding Increase for PHMSA

On February 2, the Obama Administration released its proposed [FY 2016 budget](#), which includes a total request of \$289 million for the [Pipeline and Hazardous Materials Safety Administration](#) (PHMSA), a more than \$44 million increase from 2015 enacted funding levels. Approximately \$175 million and \$64 million would be allocated to PHMSA's pipeline safety and hazardous materials programs, respectively, and the agency would be authorized to hire an additional 53 full time employees for the pipeline safety program. With respect to pipeline safety funding, the proposed budget requests \$12 million to support the National Pipeline Information Exchange (NPIX) initiative, which would integrate federal and state inspection data to facilitate improvements in pipeline material integrity and identify vulnerabilities and trends. The proposed budget also requests \$2 million for a Design Review Fund, as an offset for discretionary spending to review pipeline projects that either have design and construction costs of \$2.5 billion or more, or that use new or novel technologies or design.

NTSB Safety Study Recommends Changes to Gas Transmission Integrity Management

On January 27, the National Transportation Safety Board (NTSB) released a [synopsis](#) of an upcoming Safety Study on Integrity Management of Gas Transmission Pipelines in High Consequence Areas. The study found that: (1) PHMSA's gas transmission integrity management (IM) requirements have kept the rate of corrosion and material failures of pipe or welds low, but overall, pipeline incidents in high consequence areas (HCAs) have not declined; (2) operators and inspectors need expanded and improved guidance from PHMSA on IM implementation and evaluation; (3) operator processes for identifying threats and assessing risks need improvement; and (4) the in-line inspection (ILI) method of integrity assessment results in the highest per mile discovery of anomalies.

The study contains a total of 28 recommendations directed to PHMSA, the American Gas Association, the Interstate National Gas Association of America, the National Association of Pipeline Safety Representatives, and the Federal Geographic Data Committee. Generally, the recommendations address improving guidance and resources for inspectors and state programs, including improving governmental coordination; revising data submitted to the National Pipeline Mapping System (NPMS) to improve positional accuracy of pipeline centerlines, details of pipeline attributes, and location of HCAs; improving geospatial data resources; and updating guidance on threat identification and risk assessment.

Of note, the NTSB recommends that all natural gas transmission pipelines be capable of ILI, either through reconfiguration or by using new technology that can inspect previously unpiggable lines. Priority should be given to the highest risk transmission lines, based on age, internal pressure, pipe diameter, and class location. This recommendation supersedes a previous recommendation addressing ILI capability of gas transmission pipelines.

The NTSB intends to release the full study in the near future.

Rep. DeFazio Notifies DOT Secretary Anthony Foxx of Intent to Request Audit of PHMSA

On January 22, Rep. Peter DeFazio (D-OR), ranking member of the House Transportation and Infrastructure Committee, [notified](#) Secretary of Transportation Anthony Foxx of the Congressman's intent to request that the Department of Transportation Inspector General (IG) commence an audit of PHMSA. The audit would focus on the delay in finalizing pipeline safety measures, such as automatic

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

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

**State-Specific Association
Meetings**

February 2015

- 9-11 [Texas Damage Prevention Summit](#), San Marcos, TX
- 10-11 [Independent Oil & Gas Ass'n of West Virginia 2015 Winter Meeting](#), Charleston, WV

March 2015

- 30-4/1 [Louisiana Damage Prevention Summit](#), Baton Rouge, LA

April 2015

- 6-9 [Georgia Municipal Ass'n, Gas Section Pipeline Safety Seminar](#), Macon, GA
- 13-16 Minnesota Office of Pipeline Safety, [2015 Pipeline Safety Educational Conference](#), Breezy Point, MN



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shutoff valves and inspection beyond HCAs, addressed in the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, and recommendations of the NTSB and IG. Rep. DeFazio also expressed concern regarding the delay in issuing a final rule addressing rail tank cars.

PHMSA Updates

PHMSA Rulemaking Update. The table below provides information on the status of PHMSA's rulemaking initiatives as reported in the Department of Transportation's (DOT) January Significant Rulemaking Report and by the Office of Management and Budget's (OMB) Office of Information and Regulatory Affairs (OIRA) in the Fall 2014 [Unified Regulatory Agenda](#). Note that the DOT and OIRA timeframes often conflict, and the DOT report is updated more frequently than OIRA's regulatory agenda. According to [AGA](#), the Final Rule on Miscellaneous Amendments to the Pipeline Safety Regulations and the Proposed Rule on the Use of Plastic Pipe in the Gas Pipeline Industry have been deemed "non-significant" by OMB, meaning that both rules can bypass review and proceed to publication.

Rulemaking & Next Action	DOT Estimated Date to OMB	DOT Estimated Publication Date	OIRA Estimated Publication Date
Excess Flow Valves; NPRM	April 30, 2014 (actual)	February 11, 2015	January 2015
Issues Related to Use of Plastic Pipe in the Gas Pipeline Industry; NPRM	Not listed by DOT	Not listed by DOT	April 2015
Safety of Gas Transmission Pipelines; NPRM	February 27, 2015	June 10, 2015	January 2015
Safety of On-Shore Hazardous Liquid Pipelines; NPRM	May 1, 2014 (actual)	February 3, 2015	April 2015
Valve Installation and Minimum Rupture Detection Standards; NPRM	April 17, 2015	July 29, 2015	May 2015
Enforcement of State Excavation Damage Laws; Final Rule	February 5, 2015	May 15, 2015	February 2015
Miscellaneous Amendments to Pipeline Safety Regulations; Final Rule	February 6, 2015	May 18, 2015	March 2015
Periodic Updates of Regulatory References to Technical Standards and Miscellaneous Amendments; Final Rule	Final Rule Issued January 5, 2015		
Operator Qualification, Cost Recovery, Incident Reporting, CO ₂ , Special Permit Renewal, and Other Issues; NPRM	February 20, 2015	May 29, 2015	April 2015

PHMSA seeks comments on the renewal of information collection requests. PHMSA has issued notices requesting comments on proposals to renew for three years several information collections (IC) that are scheduled to expire in 2015.

- On January 23, PHMSA issued two notices requesting additional comments on the renewal without change of the following ICs: [\(1\) "Recordkeeping Requirements for Liquefied Natural Gas \(LNG\)](#)

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.

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[Facilities;](#) (2) "[Qualification of Pipeline Safety Training,](#)" addressing records required to demonstrate compliance with PHMSA's mandatory operator qualification criteria; (3) "[Recordkeeping Requirements for Gas Pipeline Operators;](#)" and (4) "[Customer-Owned Service Lines,](#)" under which operators collect information from gas customers in order to understand how customers' buried piping is maintained. The initial notices requesting comments on the proposed renewals were issued on [October 20, 2014](#), and [October 28, 2014](#), respectively. Comments on both notices are due February 23.

- On February 2, PHMSA issued a notice requesting comments on the proposed renewal, without change, of an IC for "[Periodic Underwater Inspection and Notification of Abandoned Underwater Pipelines](#)" in the Gulf of Mexico and its inlets. Comments are due April 3.
- On February 4, PHMSA issued a notice requesting comments on the proposed renewal of an IC entitled "[Transportation of Hazardous Liquids by Pipeline: Recordkeeping and Accident Reporting.](#)" The renewal proposes to revise the instructions for this report form with respect to reporting the volume of commodity unintentionally released and the volume of commodity recovered after accidents. Comments are due April 6.

PHMSA and FEMA release guidance on hazard mitigation planning for land use and development near pipelines.

On January 27, PHMSA and the Federal Emergency Management Agency (FEMA) issued a guidance document entitled "[Hazard Mitigation Planning: Practices for Land Use Planning and Development Near Pipelines.](#)" The document provides a framework and information for governmental entities to use in their planning processes to identify policies, practices, and actions that can reduce risks associated with pipeline failures. The guidance notes that local governments can use their land use authorities to influence the location and type of development near existing pipelines to minimize the likelihood of damage, maintain access for maintenance and emergency response, and implement hazard mitigation strategies.

Updates from Other Federal Agencies

Bureau of Transportation Statistics seeks additional comments on information collection request relating to near misses on the OCS. On February 3, the Bureau of Transportation Statistics issued a [notice](#) responding to public comments and seeking additional comments relating to its proposed IC entitled "Voluntary Near Miss Reporting in Oil and Gas Operations on the Outer Continental Shelf," which was originally issued [July 2, 2014](#). The proposed IC would collect and publish aggregate information that can be used to improve the safety of oil and gas operations on the outer continental shelf (OCS). Additional comments are due March 5.

Industry Updates

Transportation Research Board releases guide for communicating emergency response information. The Transportation Research Board (TRB) recently released a [Guide for Communicating Emergency Response Information for Natural Gas and Hazardous Liquids Pipelines](#). Intended to be a pre-incident planning tool, the report provides operators with guidance on how to effectively plan for emergencies by sharing appropriate information with emergency personnel in advance of a pipeline emergency. The guidance touches on the role of communications during a pipeline incident, decision-making roles, and developing and implementing communications plans.

Select Regulatory and Legislative Updates from the States

(New items are marked with an "**")

ARIZONA

*[HB2259](#) (Gray): This bill would increase the civil penalties for pipeline safety violations to match the federal limits of \$200,000 for each violation, not to exceed two million dollars for any related series of

violations. The bill was referred to the Transportation and Infrastructure Committee on January 22, and to the Rules Committee on January 26.

CALIFORNIA

[SB18](#) (Hill): This bill would authorize the California Public Utilities Commission (CPUC) to require that the \$1.4 billion fine proposed by CPUC administrative law judges against PG&E for violations relating to the 2010 San Bruno accident be held in a separate account and not deposited into the state's General Fund. Most of the funds would be used to offset investments in pipeline replacements in the company's service territory that otherwise would be recovered from ratepayers. A portion of the funds also would be allocated for an independent monitor to oversee the company's pipeline operations and to provide seed money for a pipeline safety trust. The bill was referred to the Committee on Energy, Utilities and Communication on January 15.

**CPUC ALJ issues proposed decision recommending adoption of revised safety rules for gas transmission and distribution pipelines.* On January 23, California Public Utilities Commission (CPUC) Administrative Law Judge Bushey issued a [proposed decision](#) recommending that the CPUC adopt revised [General Order 112-F](#), expanding and clarifying safety requirements applicable to gas transmission and distribution lines regulated by the CPUC. If adopted, gas pipeline operators would be required to comply no later than January 1, 2016. The proposed decision also would replace general rate case financial audits previously ordered under [D.12-04.010](#) with Risk Spending Accountability Reports. The CPUC may consider the proposed decision at its February 26 Business Meeting. Comments from parties of record must be filed by February 12.

CONNECTICUT

**[SB No. 369](#) (Frantz):* This bill would require the Department of Energy and Environmental Protection to conduct a study on property damage, environmental impacts, and public safety issues related to above-ground pipelines. The bill was introduced and referred to the Joint Committee on the Environment on January 22.

ILLINOIS

The Illinois Commerce Commission has [proposed](#) to amend its gas pipeline safety regulations to (1) incorporate by reference the federal pipeline safety rules in effect on October 1, 2014, and (2) require that owners and operators of gas pipeline facilities submit to the ICC plans, procedures, and programs required or necessary to implement the gas pipeline safety standards. Comments on the proposed amendments were filed December 22, 2014.

KANSAS

In December, 2014, the Kansas Corporation Commission adopted numerous [amendments](#) to its pipeline safety regulations. The new regulations became effective January 9.

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 on February 24, 2014.

[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 referred to the Senate Economic Growth Committee on September 18, 2014.

NEW MEXICO

New Mexico Public Regulation Commission adopts new rules on excavation and One-Call Requirements. On November 18, 2014 the New Mexico Public Regulation Commission issued a [final order](#) amending its rules applicable to excavation damage prevention and One-Call programs. The new regulations require establishment of a “positive response registry system,” and require that underground facility operators’ (UFO) respond to excavation locate requests, even if the UFO determines it has no facilities within the proposed excavation limits. Failure to provide positive responses, pre-mark the intended site, or report damage is a “willful” violation. The [final rule](#) became effective December 30, 2014.

[HB 33](#) (McCamley): This bill proposes to increase the civil penalties for pipeline safety violations to match limits in the federal Pipeline Safety Act. The bill was introduced on December 15, 2014.

NEW YORK

[AB 730](#) (Lentol): This bill would require that the Department of Environmental Conservation, prior to the issuance or renewal of a major facility license, require applicants to demonstrate implementation of state and federal regulations for prompt detection of petroleum discharges from tanks and connecting pipelines, including installation of proper detection equipment. The bill was introduced and referred to the Standing Committee on Environmental Conservation on January 7.

*[AB 2547](#) (Rodriguez): This bill would require operators of gas distribution and gas utility facilities to accelerate the repair, rehabilitation, and replacement of pipeline or equipment that is leaking, may pose a high risk of leaks, or may no longer be fit for service. The bill also would require the New York Public Service Commission to adopt a cost recovery program, develop timelines prioritizing the repair of all leaks based on severity, require the use of best available technologies to detect gas leaks, adopt standard methodology for calculating and reporting lost and unaccounted for (LAUF) gas, and adopt limits on cost recovery for LAUF gas. The bill was referred to the Energy Committee on January 16.

*[AB 2648](#) (Pretlow): This bill would amend the Public Service Law to define “excavation” as including the use of hand tools, and would require excavators to request mark outs for excavation using hand tools through the One-Call notification system. Tilling soil for agricultural purposes, routine residential or right-of-way maintenance, and landscaping activities are exempt provided the activity is performed with non-powered equipment. The bill also would amend the definition of “underground facilities” to include all facilities that an operator uses to provide services or materials, regardless of whether the operator installed the facility. The bill was referred to the Corporations, Authorities, and Commissions Committee on January 20.

*[AB 2777](#) (Brennan): This bill would require gas corporations to file an annual gas safety report with the Department of Public Service. The report would include a description of the strategic planning and decision-making methodology employed in prioritizing pipeline replacement projects, the corporation’s operations and maintenance activities relating to gas safety, the corporation’s intrastate inspections policies, and a list of pipeline replacement projects. The Department must report deficiencies in the gas corporation’s project prioritization or administration of pipeline infrastructure to the Public Service Commission, which could order reasonable improvements. This bill was referred to the Corporations, Authorities, and Commissions Committee on January 20.

NORTH DAKOTA

On November 10, 2014, the North Dakota Public Service Commission (PSC) issued a notice that it is proposing to amend its pipeline safety regulations to include PHMSA’s gas and hazardous liquid safety regulatory requirements adopted through November 6, 2014. The PSC convened a public [hearing](#) on the proposed amendments on December 15, 2014. On January 7, the PSC issued an [Order](#) submitting the [proposed rules](#) to the Attorney General. The Order notes that, although the PSC has the authority to regulate the safety of the state’s hazardous liquid pipelines, it currently does not have a certified hazardous liquid safety program with PHMSA.

*[SB No. 2374](#) (Wardner): This bill would require operators of gas and liquid gathering lines (including salt water pipelines) to secure a permit from the North Dakota PSC prior to installing a pipeline. The bill would direct the PSC to require the installation of flow meters, automatic shutoff valves, and pressure cutoff switches on all new gas or liquid gathering pipelines, and to require operators to post a reasonable bond. The bill also would require legislative management (a group of legislators that meet between legislative sessions) to study technology that may be used to detect or prevent pipeline leaks and present findings and recommendation so the legislative assembly. The bill was introduced on January 26, and a hearing is scheduled for February 5 with the Senate Energy and Natural Resources Committee.

OHIO

[SB No. 378](#) (Coley): The Ohio General Assembly passed legislation that, among other things, (1) provides the Ohio Public Utilities Commission (PUC) with authority to enforce the state's one-call utility protection requirements; (2) sets forth complaint and enforcement procedures for alleged non-compliance with one-call requirements; and (3) creates an Underground Technical Committee to coordinate with the PUC in administering one-call requirements, receive and review PUC reports on complaints of alleged non-compliance, and recommend remedial action. The legislation was signed by the Governor on December 19, 2014.

PENNSYLVANIA

*[SB 367](#) (White): This bill would amend the definition of "line" and "facility" in the Underground Utility Protection Law to include gathering lines used to gather natural gas from unconventional gas wells. The effect of this legislation is to make these lines in the Marcellus subject to the state's One-Call system. This bill was referred to the Consumer Protection and Professional Licensure Committee on January 30.

TEXAS

The Railroad Commission of Texas is conducting a [survey](#) of operators of gas and hazardous liquid gathering pipelines in rural areas (for gas, rural means Class 1 areas) to better understand the risk the lines pose to the public. The survey is part of the process of implementing House Bill 2982, which delegated authority to the Commission to regulate gas and hazardous liquid gathering pipelines rural locations. Responses were submitted January 30.

WISCONSIN

The Wisconsin Public Service Commission issued a proposed [order](#) that would amend its pipeline safety regulations to incorporate the federal safety standards in 49 C.F.R. Parts 192, 193, and 199 amended since January 2013. The proposed order was submitted to the both Houses of the Wisconsin legislature on December 14, 2014, and referred to the Senate Committee on Workforce Development, Public Works, and Military Affairs on January 8.

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.