



Dates of Interest

April 2015

- 22 Application Due for [2015 PHMSA TAG Grants](#)
- 22 PHMSA [Public Workshop](#) on API RP 1173, Houston, TX
- 22-23 [Pipe Tech Americas Summit](#), San Antonio, TX
- 27-5/1 [NAPSR Western Region Meeting](#), Portland, OR
- 28-30 [API 2015 Pipeline Conference and Control Room Forum](#)

May 2015

- 5-7 [SGA Practical In-Line Inspection](#), Tulsa, OK
- 11-12 CPUC [Workshop](#) on Calculating MAOP, San Francisco, CA
- 18 Comments Due on NTSB's [Notice of Proposed Rulemaking](#)
- 18 Application Due for [PHMSA's CAAP Grants](#)
- 18-21 [NAPSR Eastern Region Meeting](#), South Portland, ME
- 19-21 [SGA Advanced In-Line Inspection](#), Dublin, OH

June 2015

- 8 Comments Due on [PHMSA Public Workshop](#) on API RP 1173
- 9-11 [SGA Integrity Management for Gas Pipelines](#), Houston, TX
- 22-26 [NAPSR Central Region Meeting](#), Bismarck, ND

Pipeline Safety Update

ISSUE NO. 96 – APRIL 22, 2015

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

House Subcommittee holds oversight hearing on PHMSA rulemakings. Obama Administration releases QER report. CPUC adopts modified decisions and \$1.6 billion penalty in PG&E investigations. PHMSA rulemaking update. PHMSA issues updated advisory bulletin on potential damage from severe flooding. PHMSA submits Information Collection to OMB for approval. PHMSA accepting applications for 2015 TAG grants. PHMSA offers grants to universities for pipeline safety research. FERC approves proposed policy statement on cost recovery. Select updates from the states.

House Subcommittee Holds Oversight Hearing on PHMSA Rulemakings.

On April 14, the House Transportation and Infrastructure Committee's Subcommittee on Railroads, Pipelines, and Hazardous Materials held a hearing on the status of numerous pipeline safety, rail, and hazardous materials rulemaking proceedings pending before the Pipeline and Hazardous Materials Safety Administration (PHMSA) and the Federal Railroad Administration (FRA). Acting PHMSA Administrator Timothy Butters received many questions on the status of the gas, hazardous liquid, and other pending rules. Numerous members focused their questions on the delays in these rules. Chairman Denham (R-CA) directed PHMSA to respond to members' follow-up questions in writing, and noted that further hearings will be held in the coming months. The Acting Administrator's written statement is [here](#).

Obama Administration Releases QER Report.

On April 21, the Obama Administration released the first [report](#) of the Quadrennial Energy Review, which is an effort to assess the resilience, reliability, safety, and security of the nation's energy transmission, distribution, and storage infrastructure. In the report, the Administration details energy infrastructure challenges and opportunities, and makes policy recommendations. The Administration recommends that the Department of Energy (DOE) create a program to accelerate pipe replacement and improve maintenance programs for natural gas distribution systems. The proposed DOE program would include competitive financial assistance that states could deploy to provide incentives for system improvements. The estimated cost of the proposed program is between \$2.5 and \$3.5 billion over ten years.

CPUC Adopts Modified Decisions and \$1.6 Billion Penalty in PG&E Investigations.

On April 9, the California Public Utilities Commission (CPUC) partially [adopted](#) the Administrative Law Judges' (ALJ) March 13 modified proposed decisions and President Picker's proposed \$1.6 billion penalty against Pacific Gas & Electric (PG&E) related to the September 2010 San Bruno incident and other safety issues; CPUC's largest ever fine and by far the largest pipeline safety-related penalty ever issued. The CPUC's decision is [here](#).

- **Records (Investigation 11-02-16).** The CPUC adopted the ALJ's [Modified Decision](#) which rejected PG&E's arguments on appeal and reaffirmed previous findings related to PG&E's (1) recordkeeping for its gas transmission pipeline; and (2) violations of the CPUC's procedural rules related to PG&E's responses to the CPUC's requests for information.

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

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

May 2015

12-15 Washington (gas)

June 2015

2-4 Indiana (gas)

24-26 Missouri (gas)

- **Class Location (Investigation 11-11-009).** The CPUC adopted the ALJ's [Modified Decision](#) which rejected PG&E's arguments on appeal, but reduced the total number of violations from 3,643 to 2,360 to account for an arithmetic error in the September 2, 2014 decision.
- **Construction, Operation and Maintenance (Investigation 12-01-007).** The CPUC adopted the ALJ's [Modified Decision](#) which rejected PG&E's appeal and reiterated previous findings related to compliance with industry consensus standards and federal and state requirements applicable to the construction, operation, and maintenance of the ruptured gas transmission line.
- **Fines and Remedies.** The CPUC did not adopt the ALJs' [Modified Decision](#) with regard to fines and remedies to be imposed with respect to the alleged violation. Instead, the CPUC adopted President Picker's "[Decision Different](#)," which: (1) increases the total amount of fines and other remedies from \$1.4 billion to \$1.6 billion; (2) increases from \$0 to \$850 million the amount PG&E shareholders must pay toward future gas infrastructure safety improvements; (3) reduces the amount PG&E must pay to the state's General Fund from \$950 million to \$300 million; (4) requires that \$400 million in expenses associated with PG&E's Pipeline Modernization Program be refunded to ratepayers via a one-time bill credit, rather than recorded as a reduction in the company's revenue requirement; and (5) requires \$50 million toward other pipeline safety enhancements. Combined with disallowances previously adopted by the CPUC, the impact on PG&E of the aggregate penalties and other CPUC-imposed remedies exceeds \$2.2 billion.

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) April 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 are inconsistent. The DOT report is updated monthly while OIRA's regulatory agenda is updated semi-annually. After many delays in prior months, it is notable that none of the dates have been pushed back in the April DOT report.

| Rulemaking & Next Action | DOT Estimated Date to OMB | DOT Estimated Publication Date | OIRA Estimated Publication Date |
|--|----------------------------------|---------------------------------------|--|
| Excess Flow Valves; NPRM | April 30, 2014 (actual) | May 29, 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 | April 13, 2015 | July 31, 2015 | January 2015 |
| Safety of On-Shore Hazardous Liquid Pipelines; NPRM | May 1, 2014 (actual) | June 30, 2015 | April 2015 |
| Valve Installation and Minimum Rupture Detection Standards; NPRM | June 10, 2015 | September 22, 2015 | May 2015 |
| Enforcement of State Excavation Damage Laws; Final Rule | May 20, 2015 | August 31, 2015 | February 2015 |

State-Specific Association Meetings

June 2015

7-10 [Alabama Natural Gas Association Annual Conference](#), Pensacola Beach, FL

7-10 [Texas Gas Association 2015 Operations and Management Conference](#), Galveston, TX

11-14 [California Independent Petroleum Association's 2015 Annual Meeting](#), Coronado, CA

Additional Van Ness Feldman Publications

[Electric Reliability Update – April 9, 2015](#)

[Hydro Newsletter – Vol. 2, Issue 4 – April 1, 2015](#)

[Northwest Land Matters Update – April 2015](#)

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.

| | | | |
|---|-----------------------------------|-----------------|------------|
| Miscellaneous Amendments to Pipeline Safety Regulations; Final Rule | Final Rule Issued March 11, 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 | May 19, 2015 | August 31, 2015 | April 2015 |

Van Ness Feldman has prepared redlines of PHMSA's Part 191, Part 192, and Part 195 regulations reflecting changes adopted in PHMSA's Periodic Updates final rule, issued January 5, and Miscellaneous Amendments final rule, issued March 11. Please contact [Susan Olenchuk](#), [Jim Curry](#), or [Keith Coyle](#) for complimentary copies.

PHMSA issues updated advisory bulletin on potential damage from severe flooding. On April 9, PHMSA issued an [updated advisory bulletin](#) alerting operators of the potential damage that severe flooding, river scour, and river channel migration may cause to pipeline facilities. The advisory bulletin encourages operators to take certain additional preventive and mitigative action to minimize the effects of potential flooding, including: (1) utilizing experts in river flow to evaluate the potential for scour or channel migration at each pipeline river crossing; (2) determining the installation method of each pipeline crossing a river to evaluate whether it is sufficient to withstand flooding risks, and considering installing future pipelines using horizontal directional drilling; (3) and determining the maximum flow at rivers where pipeline integrity is at risk and implementing contingency plans to shut down and isolate those pipelines when flooding conditions occur. PHMSA recommends 9 additional actions in the advisory bulletin.

PHMSA submits Information Collection to OMB for approval. On April 21, PHMSA issued a [notice](#) announcing that it is submitting its February 2 proposed renewal, without change, of an information collection for "[Periodic Underwater Inspection and Notification of Abandoned Underwater Pipelines](#)" in the Gulf of Mexico and its inlets. Comments are due to the Office of Management and Budget by May 21.

PHMSA accepting applications for 2015 TAG grants. PHMSA is [requesting applications](#) from local communities and groups to obtain funding for technical assistance on pipeline safety issues affecting local communities or to help promote public participation in official proceedings pertaining to pipeline safety issues. Applications are due April 22, and more information is available on grants.gov under Funding Opportunity Number DTPH56-15-SN-0002.

PHMSA offers grants to universities for pipeline safety research. On April 3, PHMSA [announced](#) that it is accepting applications for its Competitive Academic Agreement Program. Colleges and universities may apply for grants to fund research into innovative solutions to pipeline corrosion, intrinsically locatable plastic materials, and development of inspection tools to quantify pipe strength and toughness. PHMSA expects to award up to 7 agreements each awarding up to \$300,000, with a mandatory 20% cost-sharing requirement. Applications are due May 18, and must be submitted through both Grants.gov and PHMSA's Pipeline Safety R&D Management Information System.

Updates from Other Federal Agencies

FERC approves proposed policy statement on cost recovery. On April 16, The Federal Energy Regulatory Commission (FERC) [approved](#) a new [Policy Statement](#) on Cost Recovery Mechanisms for Modernization of Natural Gas Facilities which allows interstate natural gas pipelines to establish a tracker or surcharge mechanism to recover capital costs related to pipeline safety or environmental regulations or, notably,

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other costs shown necessary to improve pipeline safety, reliability or efficiency. Beginning October 1, FERC will evaluate proposals on a case-by-case basis in light of 5 criteria:

- 1) The pipeline's base rates are just and reasonable and reflect the pipeline's current costs and revenue;
- 2) Eligible costs must be generally limited to one-time capital costs incurred to comply with safety or environmental regulations or other costs necessary for the safe, reliable, and efficient operation of the pipeline;
- 3) Captive customers must be protected from cost shifts if the pipeline loses shippers or increases discounts to retain business;
- 4) The pipeline must include a method to allow a periodic FERC review to ensure rates remain just and reasonable; and
- 5) The pipeline must work collaboratively with shippers to seek their support for any surcharge proposal.

For more information on FERC's Policy Statement, please see Van Ness Feldman's [April 21 alert](#).

Select Regulatory and Legislative Updates from the States

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

ALABAMA

[HB 61](#) (Greer): This bill would increase the civil penalties for pipeline safety violations to conform with 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 Committee on Public Safety and Homeland Security on March 3.

ARIZONA

[HB 2259](#) (Gray): On March 17, Governor Ducey signed legislation increasing 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.

CALIFORNIA

CPUC's Safety and Enforcement Division (SED) issues pipeline safety citation to PG&E. On March 20, the CPUC's SED issued a \$200,000 [citation](#) to PG&E for failing to timely file a safety-related condition report for a condition that PG&E had determined existed four months earlier.

CPUC ALJ schedules workshop on MAOP. On March 13, CPUC ALJ Bushey scheduled a [workshop](#) to be convened on May 11-12 to address the calculation of Maximum Allowable Operating Pressure (MAOP) of natural gas transmission systems in California under section 192.619 of PHMSA's regulations. Topics include calculating MAOP for pipe constructed before and after 1970, after uprating a pipeline, and after a class location change.

CPUC releases independent assessment of gas safety and reliability programs. On March 12, the CPUC released an [assessment](#) of the CPUC's gas safety and reliability programs that had been prepared by consulting firm Crowe Horwath. The CPUC requested the assessment in response to an Independent Review Panel recommendation following the 2010 San Bruno pipeline rupture. The assessment identifies areas for improvement and provides 33 recommendations to address these and other challenges.

CPUC's SED releases report and initiates proceeding to consider approaches to reducing methane leaks. On March 18, the CPUC's SED released a report entitled [Survey of Natural Gas Leakage Abatement Best Practices](#) that identifies best practices and new technologies in natural gas leak detection to reduce

methane emissions. The report finds that, for purposes of reducing greenhouse gas emissions, all methane leaks may be considered hazardous. The report coincides with a new [rulemaking proceeding](#) established to consider comments on the report and to fulfill the requirement of [S.B. 1371](#) (Leno 2014, now Chapter 525) to establish rules to reduce gas leaks from natural gas facilities. Comments were due April 1 and reply comments are due April 22.

CPUC names new General Counsel. On March 12, the CPUC [announced](#) that it has named Arocles Aguilar as its new General Counsel. Ms. Aguilar previously served as the CPUC's Assistant General Counsel from 1998 to 2012, and after a brief retirement, returned to CPUC as a Special Advisory Counsel in June 2013.

**[SB 119](#) (Hill):* This bill was amended by the Senate on April 6 and the Senate Committee on Governmental Organization passed the bill on April 14 and re-referred it to the Committee on the Judiciary. As amended, this bill would amend the Public Utilities Code relating to excavation and protection of subsurface installations to do the following:

- Require the Contractors' State License Board to adopt a program to require contractor training and enforce violations of excavation provisions;
- Create the California Underground Facilities Safe Excavation Authority (Authority) to enforce excavation laws by hearing stakeholder complaints and assessing civil penalties;
- Remove the Department of Transportation exemption relating to participation in the state one-call program;
- Modify the one-call exemption for owners of real property to exempt only owners of residential real property using hand tools not requiring a permit;
- Require an excavator to delineate the area to be excavated before requesting marking of subsurface facilities;
- Prevent operators who inaccurately mark underground facilities from collecting damages;
- Authorize the CPUC and the Office of the State Fire Marshal to enforce the requirement to locate and mark subsurface installations;
- Require California's Occupational Safety and Health Standards Board to revise its regulations to clarify excavation best practices;
- Create the Safe Energy Infrastructure and Excavation Fund to cover the administrative costs of the Authority, to be funded by money collected as a result of excavation citations.

[SB 18](#) (Hill): This bill would authorize the 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 provide seed money for a pipeline safety trust that would advocate on behalf of utility consumers. The bill was referred to the Committee on Energy, Utilities and Communication on January 15. On February 4, the bill was [amended](#) to require that moneys collected as a result of citations issued to gas and electric corporations be deposited in the Safe Energy Infrastructure and Excavation Fund, which would be used to fund the California Underground Facilities Safe Excavation Authority. *On March 26, the bill was substantially [amended](#) by replacing the above proposals with an amendment to the Public Utilities Act (Act) that would allow the CPUC to appoint an attorney to represent the people and the CPUC in all matters involving questions under the Act, an order, or other action of the CPUC; to commence, prosecute, and expedite the final determinations of actions and proceedings directed or authorized by the President; and to advise the CPUC with regard to its powers and duties. The bill is set for a hearing with the Committee on Energy, Utilities, and Communication on April 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.

KENTUCKY

[HB 272](#) (Floyd): On March 3, it was [reported](#) that Representative Floyd will not pursue a proposed bill that would have required the Kentucky Public Service Commission (KPSC) to seek certification from PHMSA to regulate intrastate hazardous liquid lines and act as an interstate agent on behalf of PHMSA. The bill will be tabled for the remainder of this session of the Kentucky General Assembly, because of concerns about impacts on utilities. Rep. Floyd plans to amend the bill on the House floor and discuss the amended version before the legislature convenes in 2016. In addition to requiring the KPSC to seek certification from PHMSA, the proposed legislation would have created a pipeline safety fund using money generated from an annual pipeline safety assessment on pipeline operators transporting natural gas or hazardous liquids through Kentucky. The funds would have been used to oversee a proposed spill response program, which would have required operators of intrastate and interstate pipelines to submit detailed spill response plans to the Kentucky Department of Environmental Protection and to establish a grant program to assist local governments with pipeline safety program costs. The bill also would have imposed new reporting requirements, and would have authorized the state to require pipelines to post security deposits with the state.

MAINE

*On March 31, the Maine Public Utilities Commission [proposed](#) to amend its gas pipeline safety regulations, in pertinent part, to: (1) require gas utilities installing natural gas facilities with trenchless technology to implement, as part of their public awareness programs, a stakeholder outreach campaign specific to the use of this technology; (2) require operators to include new construction tasks as covered tasks in their operator qualification programs; (3) include a utility accommodation policy that requires gas utilities to make appropriate accommodations, including temporary removal or relocation of facilities, to ensure safety when another utility performs excavation in proximity to a gas line in order to access an adjacent utility facility; (4) require tracking of components and materials used in the installation and maintenance of mains and service lines; and (5) require documents filed with the MPUC pertaining to pipeline integrity to be signed by a Maine-licensed professional engineer. A public hearing is scheduled for April 29, and comments are due May 20.

MINNESOTA

[SF 1100](#) (Jensen): This bill would expand existing oil and hazardous substance discharge preparedness requirements, currently applicable to railroads, to also apply to hazardous liquid pipeline facilities that transport more than 100,000 gallons of hazardous liquid per month. Covered pipelines would be required to communicate annually with emergency responders; conduct at least one containment, recovery, and sensitive area protection drill every three years; submit initial prevention and response plans to the Pollution Control Agency by June 30, 2016; and update them every three years. This bill was referred to the Transportation and Public Safety Committee on February 23.

NEVADA

*[SB 18](#): This bill would increase the civil penalties for pipeline safety violations to conform with federal limits of \$200,000 for each violation, not to exceed two million dollars for any related series of violations. This bill would also increase the maximum civil penalty for violations of provisions relating to excavation damage to \$2,500 per day, not to exceed \$250,000 for any related series of violations within a calendar year, and removes the distinction between negligent, willful, and repeated violations. For any excavation damage violation that occurs less than 24 inches from a high consequence subsurface

installation, this bill would allow the Public Utilities Commission of Nevada to triple the maximum penalty upon consideration of certain factors. A high consequence subsurface installation would be defined as: a natural gas pipeline operating at greater than 100 psig; a petroleum pipeline; a pressurized sewage pipeline or force main; certain high-voltage electric supply lines, high-capacity water and telecommunications lines; a hazardous materials pipeline; or any other subsurface installation that if damaged would interrupt an essential public service. The Senate passed the bill on April 8, and it was referred to the Assembly Committee on Commerce and Labor on April 10.

NEW JERSEY

[A 2711](#) (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.

[A 4260](#) (Eustace): This bill is the Assembly version of S 2422, currently pending in the Senate. The Assembly bill was introduced and referred to the Telecommunications and Utilities Committee on March 2.

NEW YORK

**New York Public Service Commission adopts amendments to gas safety regulations.* On March 25, the New York Public Service Commission (PSC) [adopted](#) amendments to its gas safety regulations that: (1) expand the definition of service line to include inside gas piping up to an inside meter, making the regulations consistent with the federal definition; (2) apply corrosion inspection and leakage survey requirements to the expanded service line area; (3) eliminate the option of solely soap testing small sections of gas pipe at line pressure prior to placing pipe into service; (4) eliminate the option to throttle gas pressure in delivery lines every five years to maintain MAOP; and (5) remove the exception from odorization requirements and require that gas in route to storage be odorized. The amended gas safety regulations became effective April 2, but compliance with the new definition of service line and associated inspection and survey requirements is stayed until the PSC establishes a proceeding to develop a State implementation framework at a later date.

[AB 5083](#) (Paulin): This bill would amend the Public Service Law to require (1) the Department of Public Service to establish a uniform system for classifying gas leaks; (2) gas companies to annually report the location, classification, date, and date of repair of each leak; and (3) the Department to promulgate regulations to implement the classification system and oversee annual reporting. The bill also would require the New York Public Service Commission to determine whether New York should require winter surveillance of cast or ductile iron pipelines. The bill was referred to the Corporations, Authorities, and Commissions Committee on February 12.

[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. *On March 24, the bill was passed by the Assembly and referred to the Senate Committee on Corporations, Authorities, and Commissions.*

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. The proposed rules were published in the April 2015 North Dakota Administrative Code Supplement 356.

*[HB 1358](#) (Anderson): On April 10, the North Dakota Senate passed House Bill 1358, which would: (1) require operators of underground crude oil and produced water gathering pipelines placed into service after August 1, 2015 to provide the PSC upon request with engineering construction design drawings and specifications, a list of independent inspectors, and a leak protection and monitoring plan, and to file with the PSC an independent inspector’s certificate of hydrostatic or pneumatic testing within 60 days of the pipeline being placed into service; (2) allow money from the Abandoned Oil and Gas Well Plugging and Site Reclamation Fund to be used for reclamation and restoration of land and water resources impacted by oil and gas development; (3) require operators of underground crude oil or produced water gathering pipelines to post a reasonable bond; (4) allow surface owners to request a status review of wells temporarily abandoned for at least seven years; and (5) allow the PSC to release volumes injected into a saltwater injection well, and information from a spill report where more than ten barrels of fluid was released on a well site and an oilfield environmental incident report is required by law, despite a request for confidentiality of well data. The Senate returned the bill to the House on April 10. The House passed the bill on April 14 and it was sent to the Governor on April 16.

[SB 2374](#) (Wardner): This bill would (1) 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; (2) 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; (3) require operators to post a reasonable bond; and (4) 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 on February 6, the proposed bill was [amended](#) to require underground crude oil or produced water gathering pipelines to secure a permit, file engineering design drawings and independent inspection certifications, and to allow the PSC to perform inspections and review records. On February 19, the Senate passed the bill, and on February 25, the bill was introduced in the House and referred to the Energy and Natural Resources Committee. A hearing was held on March 6. *On March 31, the House voted down this bill, [reportedly](#) in lieu of HB 1358.*

OKLAHOMA

Oklahoma Corporation Commission adopts rules relating to damage prevention and enforcement. On March 15, the Oklahoma Corporation Commission (OCC) [adopted proposed rules](#) that provide the OCC with authority to enforce violations of the Oklahoma Underground Facilities Damage Prevention Act with respect to pipelines. The rules also require excavators to immediately notify local emergency responders in the event of an uncontrolled or unintentional release of flammable, toxic or corrosive gas or liquid from a pipeline or pipeline system. The rules were submitted to the Governor and the Oklahoma Legislature for approval.

OREGON

[HB 3410](#) (Helm): This bill would establish a nine-member Task Force on Secure Pipelines, which would study and report on state and federal safety standards, new technologies for safer pipeline transportation of petroleum, natural gas, and other flammable substances, costs related to such technologies, and incentives to encourage the use of such technologies to construct or retrofit pipelines and related facilities. The Task Force would be required to report its findings by September 15, 2016. The bill was referred to the Committee on Energy and Environment on March 6, with a subsequent referral to the Joint Committee on Ways and Means.

PENNSYLVANIA

[SB 561](#) (Rafferty): This bill would amend the Gas and Hazardous Liquids Act to replace the Pennsylvania Public Utility Commission with the Department of Transportation of the Commonwealth as the entity with safety jurisdiction over pipelines. The bill also would require the newly created Department to seek certification from PHMSA to enforce pipeline safety requirements for intrastate gas and hazardous liquid pipelines, and to act as an interstate inspection agent on behalf of PHMSA. The bill was referred to the Consumer Protection and Professional Licensure Committee on March 6.

[HB 445](#) (Baker): This bill would amend the Underground Utility Line Protection Law to impose additional duties on facility owners, including submitting reports of alleged excavation damage violations, to establish an annual fee for excavators requesting information from the One Call System, and to create a Damage Prevention Committee to review reports of alleged violations and issue informal determinations imposing administrative penalties. The bill was referred to the Consumer Affairs Committee on February 11.

[SB 418](#): This bill would amend the Underground Utility Protection Law to require the exclusive use of steel products produced in the United States for the construction, alteration, repair, improvement, and maintenance of gathering lines. The bill was referred to the Consumer Protection and Professional Licensure Committee on February 12.

[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 Pennsylvania subject to the state's One-Call system. This bill was referred to the Consumer Protection and Professional Licensure Committee on January 30.

RHODE ISLAND

[HB 5959](#) (Azzinaro): This bill would expand the authority of the Division of Public Utilities and Carriers to adopt federal pipeline safety standards. The bill was referred to the House Corporations Committee on March 20. *On April 8, the Committee recommended that the bill be held for further study.*

UTAH

[HB 31](#) (Handy): On March 24, Utah enacted legislation increasing civil penalties for violations of Utah's Public Utilities Code governing intrastate pipeline transportation to \$100,000 per violation for each day the violation occurs, not to exceed \$1 million for any related series of violations. This bill also requires operators to maintain an inspection and maintenance plan for each pipeline facility and to make it available to the Utah Public Service Commission upon request.

WISCONSIN

The Wisconsin Public Service Commission issued a proposed [order](#) that would amend its pipeline safety regulations to incorporate the latest federal safety standards in 49 C.F.R. Parts 192, 193, and 199. The proposed order was [submitted](#) to the both Houses of the Wisconsin legislature on December 14, 2014. It was referred to the Senate Committee on Workforce Development, Public Works, and Military Affairs on January 8, and to the Assembly Committee on Energy and Utilities on January 20. The [final regulations](#) were published in the Wisconsin Administrative Register on April 13, 2015.

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.

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