

Pennsylvania Public Utilities Commission Asks for Public Comments on Amending Hazardous Liquid Pipeline Safety Regulations

On June 13, 2019, the Pennsylvania Public Utilities Commission (PAPUC) voted 5-0 to issue an [Advance Notice of Proposed Rulemaking](#) (ANOPR) soliciting public comment on whether to amend the pipeline safety requirements for public utilities that transport hazardous liquids. PAPUC is seeking input on the following topics within 60 days of the date the ANOPR is published, or by no later than August 28, 2019:

- **Construction:** Bare steel and vintage pipe, material and specification requirements for new and used pipe, depth of cover, underground clearance, valve location and spacing, and prior notification for construction activities.
- **Operations and Maintenance:** Pressure test requirements and frequency, line markers, right-of-way inspections, leak detection, odorant, emergency response, and public awareness.
- **Corrosion Control:** External and internal corrosion control measures, adequacy of cathodic protection, in-line inspections, and hydrostatic testing and pigging for assessing corrosion or cathodic protection.
- **Other topics:**
 - o Conversion of Service
 - o Emergency Flow Restricting Devices
 - o Operator Qualification
 - o Accident Notification
 - o Transparency and Protection for Security Information
 - o Horizontal Directional Drilling
 - o Geophysical Testing and Baselineing
 - o Protecting Public and Private Water Wells and Supplies
 - o Eminent Domain

In issuing the ANOPR, PAPUC is taking an approach that is similar to the Pipeline and Hazardous Materials Safety Administration (PHMSA), which issued an [Advance Notice of Proposed Rulemaking](#) (ANPRM) in 2010 asking for public comment on whether to amend the federal safety standards for hazardous liquid pipelines. After reviewing the comments submitted in response to the ANPRM, PHMSA



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issued a [Notice of Proposed Rulemaking](#) (NPRM) in 2015 containing new safety standards addressing a number of topics. The Liquid Pipeline Advisory Committee, the federal advisory committee that reviews PHMSA's proposed changes to the hazardous liquid pipeline safety regulations, reviewed the NPRM in 2016, and PHMSA expects to issue a final rule this year.

Although PAPUC has the authority to issue additional or more stringent safety standards for hazardous liquid pipelines operated by public utilities, the significant progress that PHMSA has already made in addressing the topics raised in the ANOPR, and the impending release of a final rule with new federal safety standards for hazardous liquid pipelines, raises some interesting considerations in this proceeding. PAPUC will need to consider the prior decisions that PHMSA has rendered in addressing many of these topics, including whether new regulations are justified. PAPUC will also need to consider whether any new safety standards are consistent with the preemption provision in the Pipeline Safety Act, which requires additional or more stringent state regulations to be consistent with PHMSA's federal requirements.



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Led by three former Pipeline and Hazardous Materials Safety Administration (PHMSA) attorneys, our Pipeline and Hazardous Materials Safety practice group counsels pipeline and midstream companies, gas utilities, terminal operators, investors, trade associations, and other stakeholders, throughout the United States. James Curry, Keith Coyle and Brianne Kurdock together have more than 25 years of experience with a multitude of pipeline safety issues. They partner with client engineering and legal personnel to address day-to-day compliance questions and develop business and regulatory strategies.