



**Marcellus Shale Natural Gas Extraction Study  
2011 Addendum**

**Pipeline  
Regulation**

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Leagues of Women Voters of Southeastern Pennsylvania  
and  
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**League of Women Voters of Southeastern Pennsylvania  
 Extracting Natural Gas from Marcellus Shale Addendum Study  
 2011  
 Study Guide II**

**PIPELINES  
 Regulation**

The position statement of the League of Women Voters of Pennsylvania on Marcellus Natural Gas Extraction supports legislation and regulation that provide for transparency and public input in decision-making regarding the location of facilities and related pipelines. The position further supports the maximum protection of public health and the environment in all aspects of Marcellus Shale natural gas production, site restoration, and delivery to the customer by requiring the use of best practices and promoting comprehensive regulation, communication, and adequate staffing across government agencies. To advocate for this position, it is essential to understand the existing processes.

Regulation involves federal, state, and local agencies that have their own alphabet soup of acronyms. (See Appendix 1.) Each regulatory agency has specific roles that are delineated by legislative action and can vary from state to state. To further complicate matters, regulations are also dependent on the nature of the regulation and the type of pipelines involved. The following chart indicates the connection between pipeline types and the regulatory agencies involved in siting and placement in the Commonwealth.

**PIPELINES AND THEIR REGULATORY AGENCIES IN PENNSYLVANIA**

<b>PIPELINE</b>	<b>SITING REGULATION</b>	<b>SAFETY REGULATION</b>
<b>Gathering</b>	Independent Companies; PA Department of Environmental Protection (DEP) through NPDES Permit	Independent Companies for Class 1 Locations; US DOT/PHMSA/OPS for Class 2, 3, and 4 Locations
<b>Transmission Lines Interstate</b>	DEP through NPDES Permit; Federal Energy Regulatory Commission (FERC); PA Public Utility Commission (PUC) for approval only	U.S. Department of Transportation (US DOT)/ Pipeline Hazardous Safety Materials Agency (PHMSA)/ Office of Pipeline Safety (OPS)
<b>Transmission Lines Intrastate</b>	PA Department of Environmental Protection (DEP) through NPDES Permit	OPS has jurisdiction; PUC authorized by Legislature for some lines through 60105/60106 certificates
<b>Distribution Lines</b>	Local ordinances/zoning; DEP through NPDES Permit	PUC except those such as Co-ops/Master Meter, and Public Utility Districts under OPS jurisdiction

## Siting Regulation

### Gathering, Intrastate Lines, and Distribution Lines

When the need for pipelines arises, companies propose routes. In the case of intrastate pipelines, distribution lines, and gathering lines, the pipeline company basically decides where it wants to put the pipeline. Once easements or rights of ways are procured, it receives necessary permits from Department of Environmental Protection (DEP) and constructs the line. Depending on the situation, local jurisdictions may become involved in a variety of matters, including siting and emergency response in the event of an incident.

DEP deals predominately with oversight of erosion and sedimentation issues. Before pipelines of any type are constructed, the company must complete an Erosion and Sediment Control and Stormwater Management for Oil and Gas Exploration, Production, Processing, Treatment Operations or Transmission Facilities General Permit (ESCGP-1) for approval. A plan is needed to show how land and water resources are to be protected against accelerated erosion through the use of Best Management Practices (BMPs). A DEP fact sheet<sup>1</sup> outlines the process that is in compliance with 25 PA Code Chapters 102 and 105. In addition to permitting, DEP is also responsible for the administration and enforcement of the Clean Streams Law (35P.S. § 691.9 *et seq.*). In cases where construction involves a Special Protection Watershed, additional safeguards must be taken as set forth in DEP's Water Quality Antidegradation Implementation Guidance.<sup>2</sup>

National Pollutant Discharge Elimination System (NPDES) permits regulate discharges to protect of public health and aquatic life and to assure that every facility treats wastewater. These are required by the Federal Clean Water Act and the Pennsylvania Clean Streams law and require pollution limits for dischargers and further specify monitoring and reporting requirements.<sup>3</sup>

DEP assumed full control of oil and gas permits on March 18, 2009. However, county conservation districts are still authorized to review ESCGP-1 permits for transmission pipelines. This is particularly important given their special knowledge of the area and their on-the-ground presence at the specific, involved locations.

### Interstate Pipelines

Companies wishing to expand existing interstate pipelines or construct new ones send their plans to the Federal Energy Regulatory Commission (FERC). Under Section 7 of the Natural Gas Act, 15 U.S.C. § 717f (c), this commission has the power to issue a "certificate of public necessity and convenience" for the construction and operation of interstate natural gas pipelines. This independent agency approves both the siting and abandonment of interstate natural gas pipelines, as well as fuel storage and liquefied natural gas facilities and pipelines under Sections 3 and 7 respectively. FERC also oversees environmental matters related to natural gas projects. Sample documents and guides for citizens are located on the FERC website.<sup>4</sup>

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<sup>1</sup> <http://www.elibrary.dep.state.pa.us/dsweb/Get/Document-72023/5500-FS-DEP4216.pdf>

<sup>2</sup> <http://www.elibrary.dep.state.pa.us/dsweb/Get/Document-47704/391-0300-002.pdf>

<sup>3</sup> <http://www.dep.state.pa.us/dep/deputate/waterops/redesign/Subpages/npdes.htm>

<sup>4</sup> <http://www.ferc.gov/for-citizens/citizen-guides.asp>

Siting carries important implications for safety since pipeline accidents are often caused by damage from third parties such as excavators or construction workers. Therefore, FERC has recently asked the Office of Pipeline Safety<sup>5</sup> (OPS), an agency that administers the Pipeline and Hazardous Material Safety Administration (PHMSA) regulatory program, to help in evaluating the location of proposed pipelines.

Without notifying landowners, state or local agencies, a pipeline company applicant submits a pre-filing application to FERC. This applicant, not FERC, identifies the stakeholders. The company then gives notice to state and county agencies as well as all “affected” landowners. Such notification consists of publication in the *Federal Register* and the local newspaper as well as good faith efforts to deliver necessary information by hand or mail to landowners. These include those whose land will be used by the “proposed activity,” those whose land abuts the pipeline, and those within 50 feet of the proposed construction work area. If a landowner, county and/or township fail to submit a motion to intervene by the assigned date, that potential intervener loses the right to have FERC consider comments, get copies of filings, and appeal decisions. The company holds an “open house” to discuss the project at which time all landowners, even those in proximity of alternate routes, should intervene. Pipeline plans change and alternate routes can become reality. Once a certificate is issued, the pipeline companies can purchase needed land or, *most often*, exercise the power of eminent domain. Interveners have the right to appeal FERC actions. A useful guide, *Knowing and Protecting Your Rights When an Interstate Gas Pipeline Comes to Your Community*,<sup>6</sup> was prepared to help local governments and citizens understand the process by which a “certificate of public necessity and convenience” is issued. See Appendix II and Appendix III for tables showing the role of stakeholders and the potentially applicable federal, state, and local laws with their preemption status respectively.

Some residents of Chester County, Pennsylvania, known as the Brandywine Five, were involved in the FERC process regarding the expansion of an interstate pipeline. Because the pipeline company, Transcontinental Gas Pipeline Company, LLC, was unsuccessful in securing required permits from PA DEP pursuant to 42 U.S.C. § 4654(a)(2), the easement was not obtained and court costs were awarded to the residents.<sup>7</sup> This may be a landmark decision for interveners.

### Rights of Way (ROW)

Landowners who have pipelines on or near their properties need to understand their rights and responsibilities.<sup>8</sup> When pipelines are to be constructed, companies negotiate with property owners for an easement or right-of-way (ROW) in which to build and maintain their lines. In some cases of interstate and distribution lines, if negotiations fail, pipeline companies can use eminent domain to force the landowners to allow the pipeline on their property.

Because of the unique conditions of each site and the variability of pipeline requirements, right-of-way agreements vary from location to location. To protect the public, the line itself, and other customers from loss of service, the pipeline company is responsible for maintaining the ROW that usually ranges from 25 to 100 feet wide. A ROW is important because it enables workers to gain access for inspection,

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<sup>5</sup> <http://phmsa.dot.gov/pipeline>

<sup>6</sup> <http://www.scribd.com/doc/33801163/Knowing-and-Protecting-Your-Rights-When-an-Interstate-Gas-Pipeline-Comes-to-Your-Community>

<sup>7</sup> [http://law.psu.edu/file/aglaw/Natural\\_Gas/TranscontinentalGas\\_v\\_PermanentEasement\\_Aug\\_19\\_2010.pdf](http://law.psu.edu/file/aglaw/Natural_Gas/TranscontinentalGas_v_PermanentEasement_Aug_19_2010.pdf)

<sup>8</sup> <http://www.pipeline101.com/PipelinesYou/landowner.html>

maintenance, testing or emergencies; maintains an unobstructed view for frequent aerial surveillance; and identifies an area that restricts certain activities to protect the landowner, the community through which the pipeline passes, and the pipeline itself.<sup>9</sup>

In examining environmental concerns related to pipeline siting in the Delaware River Watershed, Aaron M. Lien and William J. Manner suggest that companies collocate and simultaneously install their infrastructure. In this way, the land will be minimally disrupted as water lines, gas pipelines, and/or other conduits are placed in the same right-of-way simultaneously and then covered with a roadbed.<sup>10</sup> In preventing forest fragmentation, ROW agreements can specify that a tree canopy remain intact. In this way, invasive species are less likely to move into open pathways that are needed for safety inspections by plane or helicopter. In such instances, inspectors walking on foot rather than flying from above the ground can monitor pipeline status.

In addition to the pipelines themselves, compressor stations are related facilities that need to be sited with the ROW. Compressor stations along natural gas pipelines have been a particular source of many environmental issues. Noise pollution is a serious concern as the powerful engines need to produce tens of thousands of horsepower and operate 24/7. *Arkansas in Balance: Managing the Risks of Shale Gas* notes that noise levels have been measured at 70 decibels (about the same as a vacuum cleaner) on a porch of a home near a station. Such unrelenting noise can cause problems with fetal development and medical conditions including hypertension and heart disease, hearing impairment, digestive problems, and sleep disturbance.<sup>11</sup> Natural gas compressor stations have also been connected with water pollution, air pollution, and soil contamination. Since 2009, DEP has received at least four reports of equipment malfunction in Bedford County at Spectra Energy's Steckman Ridge Gas Compressor Station. One report of an "emergency shutdown" on August 23, 2010, resulted in 1,629 pounds of used "lubricating oil" being sprayed onto fertile farmland and residential property.<sup>12</sup>

Air quality is also a significant concern. When small leaks exist or valves are periodically vented at stations, storage facilities and along pipelines, fugitive emissions are released. These include not only methane but also volatile organic compounds (VOCs) and other contaminants such as hydrogen sulfide. The process of dehydration can also result in the release of airborne chemicals that are dependent on the nature of the gas and may include benzene and toluene<sup>13</sup>. Many residents of Dish, Texas, continue to suffer from air quality issues believe to be related to the town's eleven compressor engines, piping, metering, and valves.<sup>14</sup>

The importance of proper siting within a right-of-way was underscored by an article in the February 6, 2011, *Dallas Post*. According to the local paper, residents of Dallas Township, Pennsylvania, filled the supervisors' meeting to voice concerns and seek answers about a planned natural gas compressor station

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<sup>9</sup> <http://www.pipeline101.com/PipelinesYou/landowner.html>

<sup>10</sup> [www.pinshot.org/gp/Marcellus\\_Shale](http://www.pinshot.org/gp/Marcellus_Shale).

<sup>11</sup> <http://arpanel.org/content/index.php/Environment/Arkansas-in-the-Balance-Managing-the-Risks-of-Shale-Gas-Development-in-the-Natural-State.html>

<sup>12</sup> <http://www.archive.org/details/Spectra-Energy-Steckman-Rige-Natural-Gas-Compressor-Station-files>

<sup>13</sup> <http://www.earthworksaction.org/airpollutionsources.cfm> - VENTING

<sup>14</sup> <http://www.npr.org/templates/story/story.php?storyId=120043996>

1345 feet from one of the Dallas public schools.<sup>15</sup>

### Role of Local Government

Although lacking most regulatory authority for siting and safety, local governments have to respond to pipeline emergencies. Residents often go to local government agencies to seek answers about pipeline issues. Pipeline safety is often dependent on zoning and rulings involving land use. Over time, rural lands where class one pipelines once existed are now developed into areas where high consequence catastrophes would result in the event of pipeline failure. (See upcoming table Pipeline Classification.) Because of lack of knowledge regarding pipeline locations, schools and hospitals can be built over pipelines where potential risks increase. Development can also infringe on right-of- ways. To help local governments protect both the citizens and pipelines, the Pipeline Safety Trust has useful strategies and suggestions on their website.<sup>16</sup> Further, the Pipelines and Informed Planning Alliance (PIPA) has issued a list of recommended practices and published a report entitled *Partnering to Further Enhance Pipeline Safety In Communities Through Risk-Informed Land Use Planning: Final Report of Recommended Practices*.<sup>17</sup>

### **Safety Regulation**

#### Federal or National Level

The Pipeline and Hazardous Materials Safety Administration (PHMSA)<sup>18</sup>, operating under the auspices of the U.S. Department of Transportation (US DOT), is the federal regulatory agency that oversees the development and implementation of regulations concerning pipeline construction, maintenance, and operation. PHMSA works in partnership with states to ensure that pipelines are safe, reliable, and environmentally sound. Although states may adopt additional or more stringent rules, the federal regulations governing pipeline safety are included in Chapter 49 of the Code of Federal Regulations (CFR), parts 190-199.<sup>19</sup>

Within FERC, the Office of Pipeline Safety (OPS) is the primary agency responsible for ensuring the safe, reliable, and environmentally sound operation of the pipeline system. However, other federal agencies, such as the Environmental Protection Agency (EPA) and Minerals Management Service (MMS) also play important roles. The OPS has its headquarters in Washington, D.C., and has five regional offices in Denver, Houston, Kansas City, Atlanta, and West Trenton. Each site has a regional director, inspectors, state liaisons, and community assistance and technical service (CATS) managers.

For purposes of safety relative to the number of people in close proximity of a pipeline, pipelines are divided into four classes. Under 49 CFR 192 natural gas pipelines are classified prior to construction and periodically reclassified based on changes in population and land use. According to Karen Gentile, CATS/General Engineer of the OPS Eastern Region Office in West Trenton, classes are based on locations extending 220 yards in each direction from the middle of the pipeline in any

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<sup>15</sup>[http://www.timesleader.com/TheDallasPost/news/Proposed\\_natural\\_gas\\_compressor\\_station\\_is\\_all\\_the\\_buzz\\_02-06-2011.html](http://www.timesleader.com/TheDallasPost/news/Proposed_natural_gas_compressor_station_is_all_the_buzz_02-06-2011.html)

<sup>16</sup><http://www.pstrust.org/pipeinfo/localgov.htm>

<sup>17</sup><http://primis.phmsa.dot.gov/comm/pipa/landuseplanning.htm>

<sup>18</sup><http://www.phmsa.dot.gov/>

<sup>19</sup><http://primis.phmsa.dot.gov/comm/SafetyStandards.htm?nocache=4384>

continuous one mile length.<sup>20</sup> Each building is considered to be a “dwelling unit” so that an apartment house, multi-family homes, and the like are considered to be multiple buildings.<sup>21</sup>

The pipelines class determines design criteria for pipelines that must have sufficient wall thickness and composition to withstand anticipated pressure and loads. The higher the class, the thicker the wall of the pipes and the stronger the pipeline material must be. Because areas frequently undergo development over time, many companies “over build” to meet specifications of locations in higher classes. In this way companies anticipate growth and prevent additional costs related to upgrading the infrastructure at a later date. The American Petroleum Institute (API)<sup>22</sup> controls these standards. This trade group, representing more than 400 corporations in the oil and gas industry, is also involved in advocacy, education, certification, research and statistics.<sup>23</sup>

### **PIPELINE CLASSIFICATION**

Class Locations	Description
One	Offshore or has 10 or fewer buildings (dwelling places) intended for human occupancy.
Two	Has greater than 10 but less than 46 buildings intended for human occupancy.
Three	Has greater than 46 buildings or is within 100 yards of an area occupied by 20 or more persons on at least 5 days per week for 10 weeks in any 12 month period.
Four	Has buildings of four or more stories above ground

According to Ms. Gentile, PHMSA regulates onshore gas gathering lines in class 2, 3, and 4 locations.<sup>24</sup> However, PHMSA does not extend its regulatory authority to gathering lines in class 1 locations that are remote and sparsely populated. (These areas are the potential locations of thousands of wells planned to extract natural gas from Marcellus Shale.) Further, the class location of pipelines also impacts their odorization. For example, pipelines with combustible gases in class 3 and 4 locations need to be odorized.<sup>25</sup>

Steel pipes that meet given standards are coated to prevent rusting and corrosion. For many years, coal tar epoxy coatings were standard. Today, Fusion Bond Epoxy (FBE) is used.<sup>26</sup> Older pipes, such as those made from cast iron or bare steel pipes, are more vulnerable to safety problems due to age, rusting, and/or corrosion. Public utility companies are gradually replacing such pipes with plastic in their older distribution systems.<sup>27</sup>

<sup>20</sup> Telephone conversation of March 17, 2010 between Roberta Winters and Karen Gentile with follow-up e-mail communication on 3/18/11 regarding OPS jurisdiction and related questions.

<sup>21</sup> [http://edocket.access.gpo.gov/cfr\\_2004/octqtr/pdf/49cfr192.5.pdf](http://edocket.access.gpo.gov/cfr_2004/octqtr/pdf/49cfr192.5.pdf)

<sup>22</sup> <http://www.api.org/Standards/>

<sup>23</sup> <http://www.api.org/aboutapi/>

<sup>24</sup> Telephone conversation as cited on March 17, 2010 in reference to 49 CFR 192.5

<sup>25</sup> [http://edocket.access.gpo.gov/cfr\\_2010/octqtr/pdf/49cfr192.629.pdf](http://edocket.access.gpo.gov/cfr_2010/octqtr/pdf/49cfr192.629.pdf)

<sup>26</sup> <http://www.ingaa.org/File.aspx?id=10751>

<sup>27</sup> <http://www.lehighvalleylive.com/news/index.ssf?/base/news-1/1297832779297570.xml&coll=3>

## State Level

Through certification by OPS, Pennsylvania regulates and inspects the intrastate gas pipeline operators in the Commonwealth. According to testimony provide by PUC Commissioner Chair Robert Powelson, the PUC does not have jurisdiction over the safety of all gathering and intrastate transmission lines in the state. The PUC only inspects certain pipelines under USDOT's program that is administered by PHMSA. The federal government pays PUC to assume inspection and enforcement responsibility for the intrastate pipelines it has jurisdiction over based on Pennsylvania law<sup>28</sup>. Through legislative authority, the Gas Safety Division of the Bureau of Transportation and Safety within the Public Utility Commission conducts this work. The Public Utility Commission of Pennsylvania (PUC) is an independent agency funded through federal allocations and assessments on utility companies under their jurisdiction.<sup>29</sup> Its role is to balance the needs of consumers and utilities to ensure safe and reliable service at reasonable rates; protect the public interest; educate consumers to make independent and informed choices; further economic development; and foster new technologies and competitive markets in an environmentally sound manner.<sup>30</sup> They are responsible for approving the permits of the DEP for interstate pipelines and are regulated under Title 52 of the PA Code.

The Bureau of Gas Safety regulates thirty-six (36) public utilities of varying sizes but does not have jurisdiction over bottled propane or most gas companies operated by cities, boroughs, or townships. A public utility is defined as persons or corporations owning or operating in this Commonwealth equipment or facilities for producing, generating, transmitting, distributing or furnishing gas for the production of light, heat or power to or for the public for compensation. The term does not include a producer or manufacturer of gas not engaged in distributing the gas directly to the public for compensation.<sup>31</sup> The PUC also has jurisdiction over nine intrastate pipelines, nine hazardous liquid lines, four Liquid Natural Gas facilities, 47,000 miles of gas distribution lines, and 10,300 miles of gas transmission lines with shared jurisdiction through US DOT.<sup>32</sup>

The PUC, as an agent of US DOT's Office of Pipeline Safety, enforces federal safety standards and may prescribe additional, non-conflicting ones. The areas of standards include the design, installation, operation, inspection, testing, construction, extension, replacement, and maintenance of the pipeline facilities. Testifying before the Consumer Affairs Committee of the Pennsylvania House of Representatives on March 8, 2011, PUC Commissioner Chair Robert Powelson noted, "Currently, there are approximately 11,000 miles of cast iron, steel, and even a small portion of wooden natural gas pipes in Pennsylvania that have reached or are reaching the end of their useful lives."<sup>33</sup> Further, Mr. Powelson noted that the process of recouping costs for making upgrades to the pipeline infrastructure is insufficient and results in delays. He suggested that the General Assembly adopt a funding system to encourage infrastructure replacement similar to the Distribution System Improvement Charge (DSIC) adopted in 1997 for water companies. With such a system, the costs are passed on to consumers through automatic adjustment fees assessed with quarterly surcharges.<sup>34</sup>

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<sup>28</sup> <http://wallaby.telicon.com/pa/library/2011/20110308tz.pdf>

<sup>29</sup> [http://www.puc.state.pa.us/general/pdf/Exec\\_Budget\\_Request2010-11.pdf](http://www.puc.state.pa.us/general/pdf/Exec_Budget_Request2010-11.pdf)

<sup>30</sup> <http://www.puc.state.pa.us/>

<sup>31</sup> [http://www.puc.state.pa.us/transport/gassafe/pdf/Presentation\\_SAVE2.pdf](http://www.puc.state.pa.us/transport/gassafe/pdf/Presentation_SAVE2.pdf)

<sup>32</sup> Data provided by Wayne E Gardner, Commissioner of PUC, at LWV Pipeline Forum held at the Radnor Township Municipal Building, Wayne, PA, October 9, 2010.

<sup>33</sup> <http://wallaby.telicon.com/pa/library/2011/20110308tz.pdf>

<sup>34</sup> <http://wallaby.telicon.com/pa/library/2011/20110308tz.pdf>



The PUC is also responsible to investigate all methods or practices of pipeline companies, including reports and records. Investigators can examine property, buildings, plants and offices as well as books, records, mail, e-mail and other relevant documents, as needed to enforce rules and regulations.

If a violation is found, the Gas Safety Division issues a written report delineating the results of the on-site evaluation and the specifying the regulations in apparent violation. The utility has 30 days in which to respond. Generally, the Gas Safety Division and the utility work together to agree on how to protect the violation. If they cannot agree, the matter is referred to the PUC that resolves the issue more formally by issuing a complaint, setting a penalty, or seeking enforcement through the courts.

### One Call Law<sup>35</sup>

The Pipeline Safety Act of 2006 was enacted at the federal level to reduce the hazards created when pipelines were damaged by powered digging equipment. It mandates that excavators or contractors who hit a pipeline and create an emergency such as a gas leak must call 911. It further requires that all owners or operators of pipeline facilities be subject to a civil action or assessment of a \$1 million penalty if they fail to respond to a location request in order to ensure accurate markings of the location of a pipeline facility. The legislation further created a One Call System – “811 Call before you Dig.” These federally mandated centers serve as informational clearinghouses organized and governed at the state level. They are not funded by tax dollars but by operators of underground facilities, including power lines, water and sewer pipes, telephone service, and energy pipelines.

The One Call system works as follows:

- The “digger” calls 8-1-1 three business days prior to beginning the excavation project and provides the location of the activity
- The One Call center notifies facility operators in the area who mark the site with designated colored flags or spray paint designating lines and pipes.
- The excavator uses the markings to avoid damaging systems and the project is safely completed.

The PA One Call System “Know What’s Below” is a resource for homeowners, excavators, facility operators, emergency responders, and project owners.<sup>36</sup> It predates the national system and was authorized by PA Act 287. It has been operating 24/7 since 1972 and is funded by notification service fees to its members, supplier dues, and excavator fees.<sup>37</sup> Gathering lines and some intrastate lines unregulated by the PUC are presently not included in the PA One Call System.

Executive Director of the Pipeline Safety Trust Carl Weimer, writing following the fatal pipeline explosion noted, “Pipeline safety is like a three-legged stool where one leg represents the pipeline operator, another leg represents the regulators, and the third leg represents local government and the public. If any one leg is weak, the whole system could collapse.”<sup>38</sup>

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<sup>35</sup><http://www.pipeline101.com/pipelinesyou/onecall.html>

<sup>36</sup><http://www.pa1call.org/PA811/Public/Default.aspx?>

<sup>37</sup>[http://www.pa1call.org/pa811/Public/About/History/Public/POCS\\_Content/About\\_Us/History.aspx?hk\\_ey=5cc3c2fc-394f-47a8-9cc7-aac867a6d997](http://www.pa1call.org/pa811/Public/About/History/Public/POCS_Content/About_Us/History.aspx?hk_ey=5cc3c2fc-394f-47a8-9cc7-aac867a6d997)

<sup>38</sup><http://www.papipelinesafety.org/news/detail/whats-needed-to-improve-safety-of-aging-gas-pipelines/>

## APPENDIX I

### ALPHABET SOUP OF PIPELINES

DEP – Department of Environmental Protection

EA – Environmental Assessment – this is required for existing pipeline expansion

EIS – Environmental Impact Study – this is required for new pipelines

EPA – Environmental Protection Agency

FERC – Federal Energy Regulatory Commission

PAONE CALL – system hotline used to find the location of buried lines before excavation

PHMSA – U.S. Pipeline and Hazardous Material Safety Administration

PUC – Public Utility Commission

NPDES - National Pollutant Discharge Elimination System (permits authorized by the Clean Water Act)

USDOT – United States Department of Transportation

#### **Pipeline Resources and Information:**

Pipeline 101 - [www.pipeline101.com](http://www.pipeline101.com)

Association of Oil Pipelines (AOPL) – [www.aopl.org](http://www.aopl.org)

American Petroleum Institute (API) [www.api.org](http://www.api.org)

*In the Pipe* – Newsletter from the Oil Pipeline Industry - [www.enewsbuilder.net/aopl](http://www.enewsbuilder.net/aopl)

Interstate Natural Gas Association of American (NGAA) – [www.ngas.org](http://www.ngas.org)

American Gas Association (AGA) [www.aga.org](http://www.aga.org)

Dig Safely – [www.digsafely.com](http://www.digsafely.com)

Common Ground Alliance (CGA) – [www.commongroundalliance.com](http://www.commongroundalliance.com)

Pipeline Safety Trust [www.pstrust.org](http://www.pstrust.org)

#### **Regulatory Agencies:**

Department of Transportation (USDOT)- [www.dot.gov](http://www.dot.gov)

DOT Research and Special Programs Administration (RSPA) – [www.dot.gov/affairs/rspalnd.htm](http://www.dot.gov/affairs/rspalnd.htm)

Office of Pipeline Safety (OPS) - [www.phmsa.dot.gov](http://www.phmsa.dot.gov)

National Transportation and Safety Board (NTSB – [www.nts.gov](http://www.nts.gov)

Occupational Safety & Health Administration (OSHA) – [www.osha.gov](http://www.osha.gov)

National Fire Protection Association (NFPA) – [www.nfpa.org](http://www.nfpa.org)

#### **Transmission Pipeline Mapping:**

The National Pipeline Mapping System (NPS) is a geographic information system (GIS) created by the U./S Department of Transportation Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (PS) in cooperation with other federal and state governmental agencies and the pipeline industry to provide information about pipeline operators and their pipelines. The NPMS Website is searchable by zip code or by county and state, and can display a county map that is printable.



Prepared by the League of Women Voters of Southeastern Pennsylvania

TABLE SHOWING ROLE OF STAKEHOLDERS

	Role	Intervention Required?	Waivable by FERC?	Preempted?
State agency carrying out federal program	Has authority under federal law to implement federal program (e.g., Clean Water Act Section 401, CZMA consistency)	Yes, to challenge FERC Order, no to act on permits.	No, unless state fails to act on permits within deadlines required by federal statute.	No.
State agency carrying out state program	Authority under state law to ensure compliance with state programs for environmental protection or safety.	Yes to challenge FERC order, no to act on permits	No, unless state law provides for waiver.	No if obtaining state permit is condition of FERC certificate; yes, if permit duplicates or conflicts w/ FERC process and requirements.
County or municipality	Empowered by state law or constitution to carry out county or municipal provisions to protect environment or safety.	Yes to challenge FERC order, no to act on permits	No, unless state or local law provides for waiver.	No if complying with local requirements are condition of FERC certificate; yes, if permit duplicates or conflicts with FERC process and requirements.
Non-governmental organization (NGO)	Protects special interests (environment, business, etc...) that are subject of its charter	Yes. But note – some NGOs may not have standing to seek judicial review because of indirect nature of interest.	Intervention and ability to file comments waived if untimely.	N/A
Landowner w/ lands directly affected	Protecting property.	Yes to preserve ability to seek rehearing and judicial review.	Intervention and ability to file comments waived if untimely.	State eminent domain preempted.

<sup>39</sup> <http://lawofficesofcarolynelefant.com/wp-content/uploads/2010/06/FINALTAGguide.pdf>

## Appendix III<sup>40</sup>

**Table of Potentially Applicable Federal, State & Local Laws and Preemption Status**

Permit/Approval	Agency	Preempted?
Section 106, National Historic Preservation Act (federal)	State Historic Preservation Offices (SHPOs) – must consult with FERC on impacts to historic structures.	No (though FERC may defer consultation until after issuance of permit but before construction can commence).
Section 7, Endangered Species Act (federal)	US Fish and Wildlife Service	No (though FERC may defer consultation until after issuance of permit but before construction can commence).
Essential Fish Habitat Clearance (federal)	National Marine Fisheries Service	No.
Water Quality Certificate, Section 401 Clean Water Act	State environmental or water quality agency	No, but if state fails to act in a year permit is deemed waived.
Section 404 Permit (dredge/fill) (federal)	U.S. Army Corps of Engineers	No.
Coastal Zone Management Act consistency determination (federal)	State office (likely a division of an environmental protection branch).	No, but adverse finding can be overturned by Secretary of Commerce.
Clean Air Act (emissions compliance – federal)	State environmental agency	No but may be deferred post-certificate
Pipeline Safety Act (federal)	Dept. of Transportation	No.
State endangered species statutes (state)	State environmental or game agencies	Preemption not likely since only consultation is required. Proposed mitigation subject to preemption (again, not likely)
Certificate of Necessity and Convenience (state)	State public utility commission	Preempted as duplicative
NPDES Discharge Permit (state)	State water quality	Issued under Section 402 of water quality act, not likely to be preempted (but may be deadlines for action to avoid waiver)
Soil erosion control plans (local)	Local agencies	FERC may require submission of plan but may preempt certain recommendations in the plan
Zoning laws (local)	State zoning board	Preempted as duplicative or obstructive

<sup>40</sup> <http://lawofficesofcarolynelefant.com/wp-content/uploads/2010/06/FINALTAGguide.pdf>

## Framing the Issues

### Pipeline Regulation in Pennsylvania

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		Siting		Safety	
		What's in place	What's missing	What's in place	What's missing
Issue #1	<b>Gathering Pipelines</b> Approx 6"– 16"	<ul style="list-style-type: none"> <li>• <b>Environmental regulation only</b>, by PA DEP through NPDES permit</li> </ul>	<ul style="list-style-type: none"> <li>• <b>PUC input to companies on public &amp; property risk</b></li> <li>• <b>Land use coordination with local/county government</b></li> </ul>	<ul style="list-style-type: none"> <li>• <b>Self-regulation only</b> in rural areas (class 1)</li> <li>• <b>Federal Office of Pipeline Safety (OPS)</b> regulates in class 2, 3, and 4 locations</li> </ul>	<ul style="list-style-type: none"> <li>• <b>PUC safety regulation for all Classes (1 -4 )</b></li> <li>• <b>PA One Call System</b> – Pipeline location maps</li> <li>• <b>More inspectors (only 8 in PUC currently)</b></li> </ul>
#3	<b>Interstate Transmission Pipelines</b> Approx 42" - 48" ≈7,500 miles in PA	<ul style="list-style-type: none"> <li>• <b>FERC approval process:</b> <ul style="list-style-type: none"> <li>– Upholds environmental laws</li> <li>– Pre-empt local zoning and land use plans</li> <li>– Accepts input from townships &amp; landowners if registered as "interveners"</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• <b>Regional compact or other avenue(s) designed to improve FERC process</b></li> <li>• <b>On-going input to FERC by OPS regarding safety</b></li> </ul>	<ul style="list-style-type: none"> <li>• <b>PHMSA</b> oversees construction, operation, and maintenance</li> <li>• <b>PA One Call System</b> funded by members, users, and fees</li> </ul>	<ul style="list-style-type: none"> <li>• <b>More inspectors (only 113 nationwide in OPS) (2009-2010)</b></li> <li>• <b>More robust inspection</b></li> <li>• <b>Larger fines for safety violations</b></li> </ul>
#2	<b>Intrastate Transmission Pipelines</b> ≈2,800 miles in PA May be odorized in high-density areas	<ul style="list-style-type: none"> <li>• <b>Environmental regulation only</b>, by PA DEP through NPDES permit</li> </ul>	<ul style="list-style-type: none"> <li>• <b>PUC input to companies on public &amp; property risk</b></li> <li>• <b>Land use coordination with local/county government (PIPA recommendation)</b></li> </ul>	<ul style="list-style-type: none"> <li>• <b>OPS certifies PA PUC to inspect and enforce</b>, but PA PUC lacks state authorization for smaller systems</li> <li>• <b>PA One Call System</b> except systems not covered by PUC</li> </ul>	<ul style="list-style-type: none"> <li>• <b>PUC safety regulation for all intrastate pipelines</b></li> <li>• <b>PA One Call System for all pipelines</b></li> <li>• <b>More robust inspection</b></li> <li>• <b>More PUC inspectors</b></li> </ul>
#4	<b>Distribution Pipelines</b> Approx 1/2" to 16" Odorized ≈47,000	<ul style="list-style-type: none"> <li>• <b>Environmental regulation only</b>, by PA DEP through NPDES permit</li> <li>• <b>Local zoning ordinances and regulations</b></li> </ul>	<ul style="list-style-type: none"> <li>• <b>State standards &amp; guidelines for regulation of public &amp; property risk</b></li> <li>• <b>Land use coordination with local/county government</b></li> </ul>	<ul style="list-style-type: none"> <li>• <b>PUC regulates all</b>, excepting smaller systems</li> <li>• <b>PA One Call System</b> except for systems not covered by PUC</li> </ul>	<ul style="list-style-type: none"> <li>• <b>PA One Call System for all pipelines</b></li> <li>• <b>More robust inspection</b></li> <li>• <b>Systematic plan for funding infrastructure renewal</b></li> </ul>

Federal agencies

**FERC:** Federal Energy Regulatory Commission  
**US DOT:** US Dept of Transportation

**PHMSA:** Pipeline & Hazardous Material Safety Administration (US DOT)  
**OPS:** Office of Pipeline Safety (US DOT/PHMSA)

Federal programs

**NPDES:** National Pollutant Discharge Elimination System

**PIPA -** Pipelines and Informed Planning Alliance (led by PHMSA)

PA state agencies

**DEP:** Dept of Environmental Protection  
**PUC:** Public Utility Commission

<sup>41</sup> Prepared by John Shaw and Roberta Winters for the consensus meeting of the League of Women Voters of Central Delaware County and shared with other locals to help focus discussion.

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