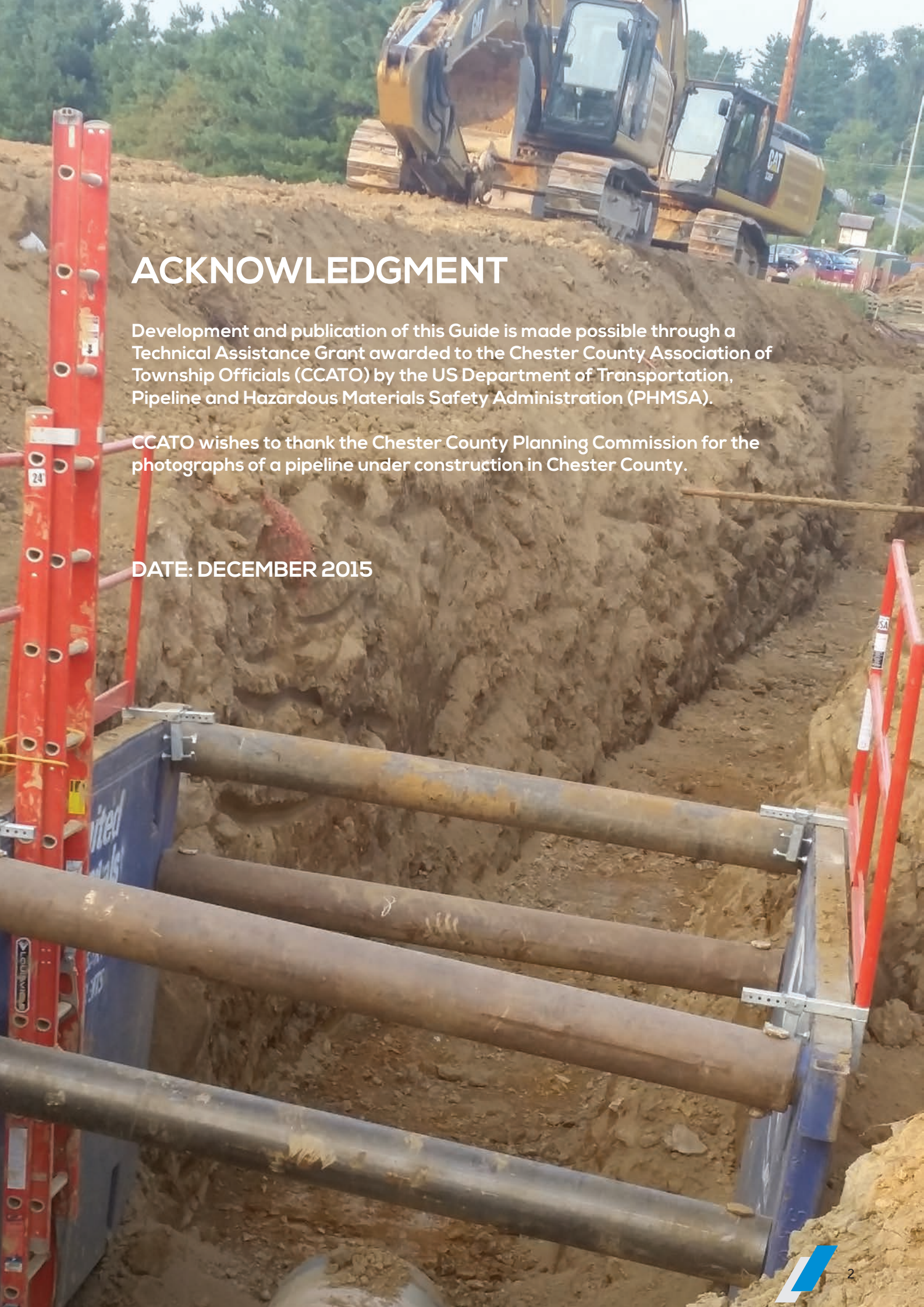
CHESTER COUNTY ASSOCIATION OF TOWNSHIP OFFICIALS

GUIDE TO PIPELINES FOR CHESTER COUNTY MUNICIPALITIES



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DATE: DECEMBER 2015

INTRODUCTION

CCATO, through this Guide, seeks to assist Chester County municipalities in gaining greater access to information about existing and proposed pipelines and greater public participation in the process of pipeline planning. These primary objectives of the grant project further the mission of CCATO to advocate, educate and facilitate communication for the betterment and quality of life of the citizens of Chester County.

There are nearly 600 linear miles of existing pipeline corridors that cross through the landscape of Chester County's 760 square miles.[1] This accounts for only the natural gas and hazardous liquid transmission pipeline corridors.

According to an article in the Pennsylvania State Association of Township Supervisors' (PSATS) Pennsylvania Township News magazine published in March 2007, townships are the oldest form of organized government in the United States dating back to the 17th century. In the Commonwealth of Pennsylvania today, there are 1,454 townships of the second class alone, and these townships represent 5,537,382 residents.[2]

In Chester County, through comprehensive plans, zoning and land development ordinances, municipalities plan development and strive to preserve the character and natural resources of their communities for the health and safety of their residents.

The purpose of this Guide is to offer to municipalities:

1. an outline of basic terms that describe the types of pipelines and the products they carry;
2. an overview of who regulates what in the areas of pipeline siting and safety;
3. tools for seeking a common approach among municipalities to gain information early in the planning of pipeline projects.

1 Chester County Pipeline Information Center website: www.landscapes2.org
2 Governor's Center for Local Government Services: http://community.newpa.com/local-government

PIPELINE TERMS

Pipelines

Transmission Pipeline:

"Transmission pipelines are used to transport crude oil and natural gas from their respective gathering systems to refining, processing, or storage facilities. Transmission pipelines also transport refined petroleum products and natural gas to customers, for use or for further distribution. With very few exceptions, transmission pipelines are dedicated to the transportation of crude oil, refined petroleum products, or natural gas."[3]

In Chester County, most of the pipelines that currently intersect our communities are transmission pipelines.

Gathering line:

A pipeline used to transport gases and liquids from the wellhead to a processing facility or to a transmission pipeline.

A more detailed explanation of gathering lines can be found at the PHMSA website: www.phmsa.dot.gov under the link, Frequently Asked Questions (FAQs).

Distribution line:

A pipeline that delivers natural gas to the consumer.

Surface Facilities

Compressor Station:

"Any combination of facilities which supplies the energy to move gas at increased pressure from production fields, in transmission lines, or into storage. Compressor stations are strategically placed along the pipeline to boost the pressure to maintain required pressures and flow rates. Typical components found at gas compressor stations include: piping manifolds, coolers, valves, reciprocating or centrifugal compressors, prime movers (electric motors, gas engines, gas turbines), local controls and instrumentation and may include liquid separation and collection facilities, as well as pigging facilities."[4]

Pump Station:

A facility that pushes hazardous liquid through a pipeline.[5]

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3 PHMSA Fact Sheet at: https://primis.phmsa.dot.gov/comm/FactSheets/FSTransmissionPipelines.htm.

4 http://www.phmsa.dot.gov/staticfiles/PHMSA/Pipeline/TQGlossary/Glossary.html

5 For a more detailed explanation of a pump station, see https://primis.phmsa.dot.gov/comm/FactSheets/FSPumpStations.htm

Product Definitions

Gas means natural gas, flammable gas, or gas which is toxic or corrosive. 49 CFR 192.3.

Hazardous liquid means petroleum, petroleum products, or anhydrous ammonia. 49 CFR 195.

Highly volatile liquid or HVL means a hazardous liquid which will form a vapor cloud when released to the atmosphere and which has a vapor pressure exceeding 276 kPa (40 psia) at 37.8 °C (100 °F). 49 CFR 195.2. Examples of highly volatile liquids are: propane, butane, ethylene condensates. 49 CFR 195.2.

Note: Not all hazardous liquids are highly volatile. Natural Gas Liquids (NGLs) typically fit within the category of highly volatile, if they meet the definition set forth in 49 CFR 195.2. For a description of Natural Gas Liquids (NGL), see information from the US Energy Information Administration (EIA) shown on the Chester County Pipeline Information Center website under Glossary: www.landscapes2.org or at US Energy Information Administration website: www.eia.gov.

Stakeholders Definition:

Stakeholders include, but may not be limited to: affected landowners, federal, state and local legislators, county and municipal officials, local emergency responders, community leaders, and non-governmental organizations.

PIPELINE OVERVIEW

Who Regulates What?

For the siting of transmission pipelines, ask these questions:

IS IT AN INTERSTATE OR INTRASTATE PIPELINE?

WHAT IS THE PRODUCT THAT THE LINE WILL CARRY?

SITING:

Interstate pipelines: The Federal Regulatory Energy Commission (FERC), through the Natural Gas Act, 15 U.S.C. Section 717f, has authority to regulate the siting of interstate natural gas transmission pipelines. [6]

No federal agency regulates the siting of interstate hazardous liquid pipelines.

Note: FERC has jurisdiction over interstate rates for transportation of natural gas and hazardous liquid pipelines. Rate-making authority is different from siting authority.

Siting of hazardous liquid pipelines is left to the states through which the line will operate.

Pennsylvania has no designated regulatory authority overseeing the siting of hazardous liquid pipelines.

For an overview of the FERC process as it relates to reviewing applications for issuing certificates of public convenience and necessity to pipeline companies for interstate natural gas pipeline projects, see the FERC publication, An Interstate Natural Gas Facility on My Land at http://www.ferc.gov/for-citizens/citizen-guides. This brochure is also available through a link on the Chester County Pipeline Information website.

Intrastate pipelines:

No federal agency has jurisdiction over siting of intrastate pipelines.

Pennsylvania has established no regulatory authority overseeing the siting of intrastate pipelines, whether they are transmission or gathering lines.

With pipelines intersecting municipalities throughout Chester County including pipelines now transporting hazardous liquids, some being highly volatile liquids, the cumulative impact of pipelines on communities needs to be addressed through regulatory procedures focused on planning and safety.

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6 Upon FERC's issuance of a certificate of public convenience and necessity to a natural gas company, the holder of the certificate may exercise its right of eminent domain to acquire the necessary right-of-way. 15 U.S.C. Section 717f.

SAFETY OF PIPELINES

The safety of pipelines is of primary concern to the public. They are concerned about their own well-being and the protection of environmental resources.

Communities are aware of the aging infrastructure of many of the pipelines in Chester County. With the addition of more pipelines, some carrying highly volatile liquids, the public wants to know:

1. what agency is responsible for overseeing the safe operations of pipelines;

2. what is being done to ensure the safety of existing infrastructure, and the construction and operation of new pipelines?

The public wants to know: what specific outreach pipeline companies are doing to train local emergency responders and to maintain a liaison to keep emergency personnel up to date, for example, on the difference between the characteristics of a gas line incident and a highly volatile liquid line incident.

The Federal regulatory requirements for pipeline safety are set forth In 49 CFR Parts 190-195.

Pipeline Hazardous Materials Safety Administration (PHMSA) is the primary regulatory authority "to ensure safe, reliable and environmentally sound operation of the Nation's pipeline transportation system". It is responsible for the development and implementation of federal pipeline safety regulations.

See the Directory of Resources at the end of this Guide for PHMSA websites. A link on the CCATO website: http://www.ccato.org under CCATO Tech. Assistance Grant provides access to a June 17, 2015 PHMSA Power Point presentation which includes resources for pipeline emergency preparedness and response.

PHMSA may share inspection and enforcement responsibilities with state regulators subject to a PHMSA certification or agreement.

WHO REGULATES SAFETY OF PIPELINES?

Look at the product that the pipeline carries to understand what agency is responsible for inspection and enforcement of Federal pipeline safety laws.

Natural gas pipelines

Interstate transmission pipelines – Federal (PHMSA)

Intrastate transmission pipelines – PA Public Utility Commission (PUC)

Gathering Lines – PA PUC.

Note: As of the date of publication of this Guide, PA PUC does not have the authority to regulate the safety of Class 1 intrastate natural gas gathering lines.

For a definition of classifications of gathering lines, See 49 CFR Part 192.5. The bulk of the gathering lines in Pennsylvania are in Class 1.

Distribution lines – PA PUC

Hazardous Liquid pipelines – Who regulates the safety of these pipelines?[7]

Interstate – Federal (PHMSA)

Intrastate - Federal (PHMSA)

Gathering – Federal (PHMSA)

Note: Although PA PUC does not share inspection of intrastate hazardous liquid pipelines with PHMSA, it does inspect hazardous liquid pipelines of public utilities in accordance with federal safety regulations set forth in 49 CFR Part 195 and the requirements set forth in 52 Pa Code Chapter 59.

7 Information regarding what agency has jurisdiction over regulating the safe operation of intrastate hazardous liquid pipelines in PA is current at the time of publication of this Guide.

DEVELOPING MEANINGFUL PUBLIC PARTICIPATION IN PIPELINE PLANNING AND SAFETY.

With no federal agency or regulatory agency in Pennsylvania overseeing the siting of interstate hazardous liquid pipelines, and no state agency regulating the siting of intrastate pipelines, it is critical that an inclusive process be developed to establish public participation in the planning of pipelines.

Municipalities in Pennsylvania have current and particular knowledge of local conditions: land use, streams, watersheds, conserved lands, historical and cultural areas. They represent the citizens of the Commonwealth at the local level. To achieve safe and environmentally sound planning of pipelines, municipalities must be included early in the planning of pipeline projects.

Often municipalities first become aware of a pipeline project when a municipal official receives a call from a distraught landowner who has just had a visit from a Right-of-Way (ROW) representative for a pipeline company. The ROW representative has informed the landowner that the pipeline company is planning to construct a pipeline across the property, and wants to discuss entering into an easement agreement with the landowners. The municipality has had no prior exchange of information with the pipeline company regarding the project, and cannot provide any information to the landowner. Thus begins the circulating of rumors and misinformation, the building of mistrust between the community and the pipeline company, and the public being left out of participating in any planning process.

To educate municipalities about the importance of having a proactive approach to pipeline safety and planning, CCATO has reached out to municipalities in Chester County to develop an Inventory of Ordinances addressing land planning and pipelines. This inventory is available as a resource for municipalities on the CCATO website at http://www.ccato.org.

CCATO has also posted on its website, under the Tech. Assistance Grant link, Pipeline Guidelines developed by John Gaadt, of Gaadt Perspectives, LLC, an environmental planner and consultant. These are ordinance guidelines that address: surface land uses affiliated with pipelines, street opening standards, standards for new development in proximity to pipelines, including an Exhibit on calculating the Potential Impact Radius (PIR) for natural gas pipelines, and suggested revisions to municipal comprehensive plans.[8]

Early notification of pipeline projects and the exchange of current and accurate information with pipeline companies are of primary importance.

In its booklet, Suggested Best Practices for Industry Outreach Programs to Stakeholders, published in July 2015, FERC speaks of the substantial benefits to pipeline companies in establishing a Stakeholder Outreach program. On Page 5 of the booklet, FERC provides the following definition of Outreach:

"Outreach" is generally defined as two-way communication between individuals and/or groups of individuals or organizations focused on information exchange, without expectation of immediate outcomes. The goal is to create and sustain mutually beneficial relationships.[9]

Included in the best practices outlined in the FERC booklet are initial project briefings of pipeline companies with key stakeholders. See Page 13 of the FERC booklet.

To assist municipalities in developing best practices for seeking information about pipeline planning and safety, CCATO offers the following tools:

8 The equation for PIR has been developed for High Consequence Areas (HCAs) pertaining to natural gas transmission pipelines. HCAs identify locales where an inadvertent release from pipelines could have the most significant adverse consequences. Highly volatile liquids become gaseous when exposed to the atmosphere and identification of HCAs for this product differs. See PHMSA Fact Sheet on criteria for defining HCAs at: https://primis.phmsa.dot.gov/comm./FactSheets/FSHCA.htm.

9 FERC Suggested Best Practices for Industry Outreach Programs to Stakeholders is available on the FERC website: http://www.ferc.gov/industries

TOOLS TO AID MUNICIPALITIES IN GAINING INFORMATION ABOUT PIPELINE PROJECTS

1. Reach out to State Association.

It would be worthwhile for township officials to discuss with the Pennsylvania State Association of Township Supervisors (PSATS) a common approach for municipalities to develop a dialogue with pipeline operators, including:

a. providing an initial briefing on a pipeline project to educate municipal officials in areas such as possible routing of pipeline, product being transported, timeline of project, and establishing a communication procedure for stakeholders to ask questions and track responses to questions.

b. conducting project briefings early with stakeholders including affected landowners, community leaders and local emergency responders to discuss routes being considered, information on surface infrastructures, role of right-of-way representatives, safety concerns, and project schedule.

2. Municipalities should consider establishing a liaison with their state representatives and state agencies such as the Pennsylvania Department of Environmental Protection (DEP) to discuss steps that can be taken through legislation and regulations for Pennsylvania to:

a. establish a siting authority over hazardous liquid interstate and intrastate pipelines, intrastate natural gas pipelines, and the related surface facilities for these pipelines.

b. provide procedures for early notification and public participation in the planning of pipelines that go beyond suggested best practices and include adequate time for public comment on proposed regulations.

3. Checklist for municipalities to use as a guide in seeking information about a pipeline project.

1. Identification of pipeline company and project with contact information for project manager.

2. Pipeline company's plan for notifying municipal officials and landowners of project, including updates. Names of consulting companies that will be contacting landowners regarding rights-of-way.

3. Pipeline company's plan for an initial meeting with municipal officials to introduce project and exchange information.

4. Is this an interstate or intrastate pipeline?

5. Identification of federal and state agencies involved in the approval process, and listing of necessary permits/approvals/certificates to be obtained.

6. Identification of product that pipeline will carry (natural gas, hazardous liquid, highly volatile liquid).

7. Size, pressure (maximum allowable operating pressure: MAOP), and potential impact radius (PIR) of proposed pipeline.

8. Proposed routing including general route and possible alternative routes.

9. Identification of areas of congregation such as schools, hospitals, retirement communities and closeness to proposed pipeline route. Identification of cultural and historical sites.

10. Proposed location of any surface facilities such as compressor stations or pump stations; any proposed modification or expansion of existing surface facilities.

11. Proposed width of permanent rights-of-way and temporary construction rights-of way (ROW).

12. How many pipelines will be allowed in the ROW?

13. Who inspects the construction activity?

14. What will be the responsibilities of third party contractors or sub-contractors during construction and restoration?

15. Contact information for municipal officials during construction of the project.

16. What type of road permits does company anticipate needing?

17. Timeline for project including construction activities and restoration.

18. What is company's plan to ensure safety of public for duration of project?

19. How does the company coordinate with local emergency responders?

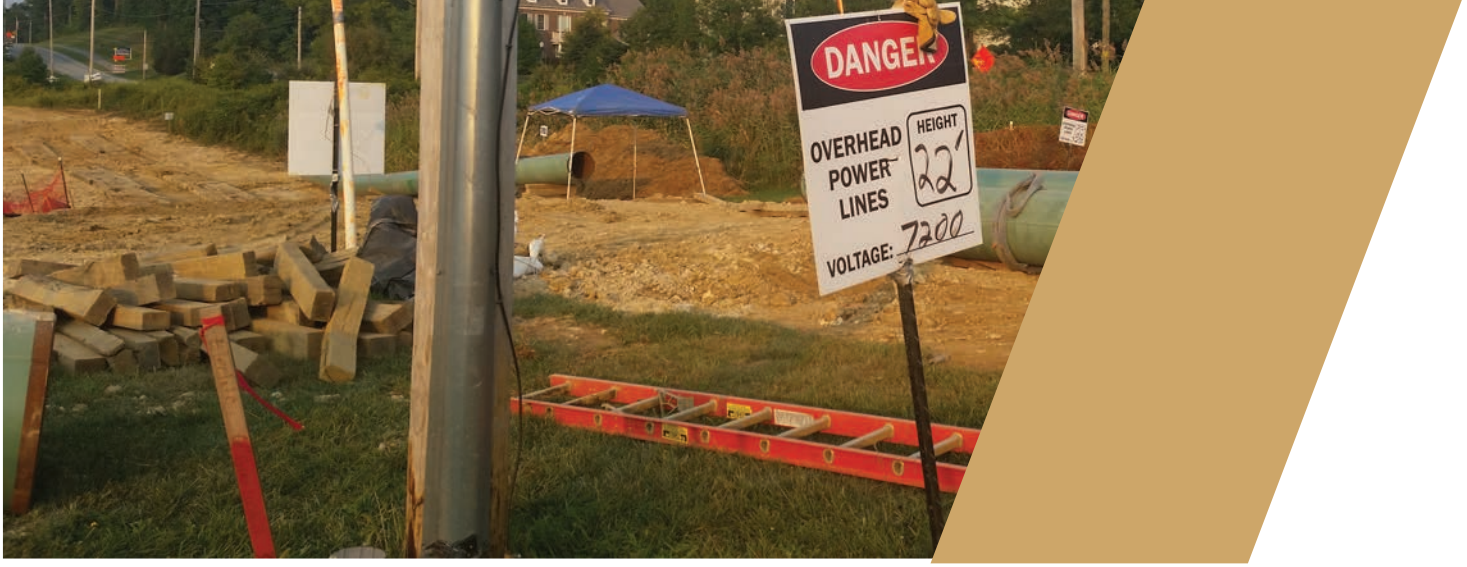
20. What, when, and how are there opportunities for public input throughout the project?

21. What information do pipeline companies share with local emergency responders regarding their Integrity Management Plans to: inspect lines; identify, evaluate and repair leaks; control corrosion of existing pipelines?

22. Provide pipeline companies with the Point of Contact in your municipality for communications regarding pipeline projects.

CCATO has available on its website a directory of Municipal Points of Contact.

The Chester County Pipeline Information Center website provides a list of contacts for pipeline companies that currently have pipelines in the County. The contacts are often community outreach, public awareness personnel, or a Right-of-Way representative. In seeking specific information about a pipeline, municipalities should also reach out to the project manager of the company project team.



A structured framework for the consistent, coordinated and transparent flow of Information among pipeline companies, state agencies, county and municipal officials and the public needs to be established.

Landowners whose property may be affected by a pipeline project need to be included in the coordination of planning procedures.

Early and continuous involvement of the public throughout pipeline projects is needed.

4. Increasing the flow of information from federal and state agencies to municipal officials.

CCATO, in its continuing effort to encourage the flow of information from federal and state agencies to municipalities, held a public forum on June 17, 2015 at the East Goshen Township Building. CCATO invited representatives from PHMSA, PA PUC and PA DEP to give presentations on the topic of Who Regulates the Safety and Planning of Natural Gas Liquid Transmission Pipelines? The Power Point presentations for this forum are available on the CCATO website under the link: CCATO Tech. Assistance Grant.

In order to increase the flow of information, the public has to understand the role of agencies and the opportunities for public comment and participation. The role of FERC in the siting of interstate natural gas transmission pipelines has been outlined, as have the roles of PHMSA and the PUC in the safety of pipelines.

A brief introduction to the DEP and its role in the permitting of gas transmission pipelines follows.

For additional information on permitting, see the DEP Power Point presentation of June 17, 2015 mentioned above. The DEP has six regional offices throughout the Commonwealth. The Southeastern Regional Office, which is located at 2 E. Main Street, Norristown, PA 19401, is the resource for Chester County.

Contact Information at DEP – Southeast Regional Office:

- Domenic Rocco, Regional Manager, Waterways and Wetlands Program, 484 250 5160.
- Sachin Shankar, Assistant Regional Director, 484 250 5940.

Overview of Basic Permits Issued by DEP for Construction, Operation and Maintenance of Pipelines:

1. Erosion and Sediment of Control Permit

Chapter 102 Erosion and Sediment Control General Permit for Earth Disturbance Associated with Oil and Gas Exploration, Production, Processing or Treatment Facilities (ESCGP-2) required for activities that involve 5 acres or more of earth disturbance over the life of a project.

If the earth disturbance will take place in an Exceptional Value (EV) or High Quality (HQ) watershed (except when regulated by FERC), an individual permit is required.

Individual permits do have the option for public participation in the form of a formal public comment period, including the opportunity to request a public meeting or hearing request. The decision to hold a public meeting or hearing is based on the discretion of the DEP.

Notice of receipt of an individual 102 application is published in the Pennsylvania Bulletin. Notice of issuance of an individual 102 permit is also placed in the PA Bulletin as is notice of authorization of a ESCGP-2 permit.

2. Water Obstruction and Encroachment Permits – This Chapter 105 permit is required in each county that the project traverses for the construction, operation and maintenance of all water obstructions and encroachment associated with the project. This permit application is coordinated through and jointly reviewed by the US Army Corps of Engineers for any necessary federal Section 404 Clean Water Act authorizations. The public can request a meeting or hearing on a joint permit.[10]

3. Discharge Permit – A National Pollutant Discharge Elimination System (NPDES) permit for the discharge of water from hydrostatic testing of a pipeline. Most often the PAG-10 is utilized. The PAG-10 General Permit is intended to provide NPDES permit coverage only for the discharge of water used for the hydrostatic testing of existing or proposed tanks or pipelines.[11]

4. Air Quality – An AQ GP-5 or AQ plan approval is required for compressor stations associated with pipelines.

Notification to Municipalities:

To satisfy Acts 14, 67, 68 and 127 in Pennsylvania, an applicant for the NPDES Construction Permit and Chapter 105 Joint Permit is required to submit to DEP a copy of its municipal notification letter and evidence that it was received at least 30 days before DEP issues or denies the permit. Such notice must be given to the municipalities and counties in which the permitted activity is located. A sample notification letter can be found on the last page, page 30, of the following DEP website: http://www.elibrary.dep.state.pa.us/dsweb/Get/Document-96036/3150-PM-BWEW0036%20Instructions.pdf.

10 The General Information Form (GIF) is required to be submitted with Individual Permit applications such as Joint Chapter 105 Permit or an Individual NPDES Permit. It is not required for general permits which would include the ESCGP-2.

11 Additional information about the PAG-10 General Permit, can be found on the DEP website at: http://www.elibrary.dep.state.pa.us/dsweb/Get/Document-107819/3800-PM-BPNPSM0173i%20Fact%20Sheet%20(Final).pdf

DEP website: www.dep.pa.gov provides data and tools to assist in finding information about pipelines, such as GIS mapping and eFACTS.

eNOTICE is the DEP Electronic Notification System where website users can specify email notices that they wish to receive, for example, for permits or regulatory updates. A link to the DEP Fact Sheet explaining the eNotice System can be found at: http://www.elibrary.dep.state.pa.us/dsweb/Get/Document-97839/1300-FS-DEP2654.pdf

File Review: To inquire about reviewing a file on a pipeline project: call DEP Southeastern Regional Office at: 484 250 5910.

PIPELINE INFRASTRUCTURE TASK FORCE (PITF)

In June 2015, Governor Tom Wolf appointed a 48 member Pipeline Infrastructure Task Force (PITF) to develop policies, guidelines and tools to assist in pipeline development, operation and maintenance. DEP Secretary, John Quigley, was appointed to serve as Chairman of the PITF. Twelve workgroups were created by the PITF and charged with addressing specific topics related to pipeline infrastructure. The workgroups met on a regular basis from July to November, with November 02, 2015 being the deadline for all workgroup recommendations to be submitted to DEP.

On November 14, 2015, notice of the draft report of the PITF was published in the Pennsylvania Bulletin. The 335-page draft report has been posted on the DEP website for public review and comment. The draft report includes 184 recommendations from the twelve workgroups. Closing date for the public comment period on the draft report is December 29, 2015.

The final meeting of the PITF to discuss the 184 recommendations in the draft report is scheduled for January 20, 2016. The PITF is scheduled to present its Final Report to the Governor in February 2016.

CCATO members have been encouraged to provide comments on the draft report to DEP so that the voice of municipalities can be heard, particularly in the areas of: establishing a regulatory entity to review and approve the siting and routing of intrastate transmission lines and interstate hazardous liquid pipelines; early notification of pipeline projects; exchange of information between pipeline companies and municipalities regarding pipeline planning and safety; and greater public participation in pipeline proceedings.

5. Reach out to DEP to Request a Listening Session in Chester County.

Due to the tight time frame that has been set for comments on the very lengthy PITF draft report, CCATO should consider reaching out to DEP to request that it hold a listening session in Chester County to discuss a collaborative approach to including local governments and landowners in the planning of pipelines.

CONCLUSION

Municipalities strengthen their ability to participate in pipeline planning by understanding who regulates what in the areas of pipeline siting and safety, and developing a collaborative approach to seeking information about pipeline projects.

With this Guide, CCATO offers resources to assist municipalities in understanding pipeline procedures. The Guide also suggests tools for developing communication practices that encourage the open and transparent exchange of information on pipeline projects. Additional resources such as Guidelines for Planning Near Pipelines and an Inventory of Ordinances can be found on the CCATO website.

A proactive approach to information sharing and greater public participation in pipeline proceedings can aid municipalities in facing the challenges that will continue to evolve in trying to balance the well-being of their communities and conserving of natural resources with the development of pipeline infrastructure.

DIRECTORY OF RESOURCES

FERC: http://ferc.gov

Federal Pipeline Safety Regulations: 49 CFR Parts 190 – 195, See also

www.law.cornell.edu/cfr/text/49/chapter-I/subchapter-D

EIA: US Energy Information Administration; www.eia.gov See: What are Natural Gas Liquids and How are They Used?

PHMSA, Office of Pipeline Safety: www.phmsa.dot.gov/pipeline

PHMSA Community Assistance and Technical Services (CATS): http://primis.phmsa.dot.gov/comm/CATS.htm

PHMSA CATS Eastern Region: Karen Gentile: Karen.gentile@dot.gov or Alex Dankanich at alex.dankanich@dot.gov.

National Pipeline Mapping System (NPMS): www.npms.phmsa.dot.gov

Federal Register: https://www.federalregister.gov

PA Department of Environmental Protection: www.dep.pa.gov

Pennsylvania Bulletin: http://www.pabulletin.com/index.asp

PA Public Utility Commission;

www.puc.state.pa.us/utility_industry/transportation/pipeline_safety

Paul Metro, Manager Gas Safety, PA PUC, email address: PMetro@pa.gov

Pennsylvania Code: 52 Pa Code Chapter 59

PA One Call: www.pa1call.org

Chester County Association of Township Officials: http://www.ccato.org/

Chester County Pipeline Information Center: www.landscapes2.org/pipeline/pipelinemain.cfm

Pipeline Safety Trust: http://pstrust.org. A nonprofit organization that promotes pipeline safety through educating the public and advocating for access to pipeline information. Has an About Pipelines resources link, including information for local governments.

Resources Available on CCATO Website:

Guidelines for Planning Near Pipelines

Inventory of Ordinances

Municipal Points of Contact

Power Points: CCATO TAG June 17, 2015 and West Pikeland TAG March 20, 2014