



Dates of Interest

February 2016

- 14-17 [NARUC Winter Committee Meeting](#), Washington, DC
- 16 [API Liquids Pipeline Safety Management System \(PSMS\) Workshop](#), Houston Texas
- 16 Comments due on PHMSA [Information collection request](#)

March 2016

- 1-2 [AGA Pipeline Safety Management Systems Workshop](#)
- 2 [Comments due on Missouri Public Service Commission Staff Draft Amendments to Gas Safety Rules](#)
- 7-10 [Common Ground Alliance 811 Excavation Safety Conference](#), Las Vegas, NS
- 14-16 [SGA Pipeline Safety Management Systems Workshop](#), Houston, TX
- 29-31 [APGA Security & Integrity Foundation Operations Conference](#), Savannah, GA
- 25-29 [NAPSR Southern Region Meeting](#), Biloxi, MS



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Pipeline Safety Update

ISSUE NO. 104 – FEBRUARY 8, 2016

[Susan Olenchuk](#), [Tyson Kade](#), [Frances Bishop](#), [Barbara Deathe](#)

PHMSA issues advisory bulletin on underground natural gas storage. Amendment to Senate Energy Bill would establish task force to study Aliso Canyon leak. PHMSA rulemakings update. PHMSA convenes Liquid Pipeline Advisory Committee meeting. PHMSA issues advisory bulletin on potential flood damage. PHMSA republishes notice of information collection activities. PHMSA maintains rate for random drug testing. PHMSA convenes Gas Pipeline Advisory Committee meeting. Senate committee approves bill to reauthorize the Pipeline Safety Act. NTSB revises rules of practice. NEB posts pipeline safety inspections online. Select state updates.

PHMSA Issues Advisory Bulletin on Underground Natural Gas Storage

On February 5, the Pipeline and Hazardous Materials Safety Administration (PHMSA) issued an [advisory bulletin](#) reminding operators of underground natural gas storage facilities of the actions they should take to ensure the integrity of those facilities. The advisory recommends that operators review operating, maintenance, and emergency response procedures and activities. In addition, the advisory specifies a number of actions that operators should take both to prevent and mitigate breaches of integrity, leaks, and failures, and to provide for the safety of the public and personnel and environmental protection. Finally, the advisory directs compliance with state regulations governing the permitting, completion, and operation of storage wells, and recommends the voluntary implementation of the following:

- American Petroleum Institute Recommended Practice 1170, "Design and Operation of Solution-mined Salt Caverns Used for Natural Gas Storage;"
- American Petroleum Institute Recommended Practice 1171, "Functional Integrity of Natural Gas Storage in Depleted Hydrocarbon Reservoirs and Aquifer Reservoirs;" and
- Interstate Oil and Gas Compact Commission, "Natural Gas Storage in Salt Caverns – A Guide for State Regulators."

According to published reports, PHMSA Administrator Marie Therese Dominguez indicated in an emailed statement accompanying the advisory bulletin that PHMSA intends to propose safety standards for natural gas storage facilities.

Amendment to Senate Energy Bill Would Establish Task Force to Study Aliso Canyon Leak

On February 2, the Senate approved an [amendment](#) (proposed by Senator Barbara Boxer (D-CA)) to the pending comprehensive energy bill that would establish a Task Force to analyze, among other things, the cause of the gas leak at the Aliso Canyon, California, underground storage facility and measures taken to stop the leak; the leak's impacts on health, safety, the environment, the economy, local property interests, and gas and electricity prices; the federal and state response and recommendations for improving response; and recommendations for preventing future leaks. On February 4, the Senate halted consideration of the energy bill after a vote to invoke cloture to end debate failed. The status of future action on the bill and the amendment is unclear.

**Dates of Interest
(continued)**

April 2016

- 4-6 [Midwest Energy Association Leak Detection Class](#), Fitchburg, WI
- 5-6 [AGA/SPE Underground Storage Operators Workshop](#), Evansville, IN
- 5-7 [API Pipeline Conference & Cybernetics Symposium](#), Carlsbad, CA
- 10-13 [Gas Processors Association Convention](#), New Orleans, LA
- 19-22 [AGA Operations Conference](#), Phoenix, AZ
- 24-28 [Compressed Gas Association Annual Meeting](#), Petersburg, FL
- 25-29 [NAPSR Southern Region Meeting](#), Biloxi, MS

State-Specific Association Meetings

February 2016

- 22-24 [Texas Damage Prevention Summit](#), San Marcos, TX

March 2016

- 16 [Louisiana Mid-Continent Oil and Gas Ass'n Annual Meeting](#), Baton Rouge, LA
- 21-23 [Louisiana Damage Prevention Summit](#), Baton Rouge, LA

April 2016

- 4-7 [Georgia Municipal Association Pipeline Safety Seminar](#), Macon, GA
- 11-14 [Minnesota Pipeline Safety Education Conference](#), Breezy Point, MN
- 12-14 [New Mexico Gas Association Pipeline Safety Seminar](#), Ruidoso, NM

PHMSA Rulemakings Update. The tables below summarize the status of PHMSA's rulemakings as reported in the Department of Transportation's (DOT) January [Significant Rulemaking Report](#) and by OMB's Office of Information and Regulatory Affairs (OIRA) in the Fall 2015 [Unified Regulatory Agenda](#).

Pending Notices of Proposed Rulemaking

Rulemaking	Submitted to OMB*	DOT Estimated Publication	OIRA Estimated Publication
Safety of Gas Transmission Pipelines	April 27, 2015	February 18, 2016	December 2015
Valve Installation and Minimum Rupture Detection Standards	March 1, 2016 (estimated)	June 10, 2016	October 2015
Periodic Updates of Regulatory References to Technical Standards and Miscellaneous Amendments	Not listed in report because deemed non-significant	Not listed by DOT	March 2016
State Pipeline Safety Program Certification	Not listed in report because deemed non-significant	Not listed by DOT	August 2016

Pending Final Rules

Rulemaking	Estimated Submission to OMB*	DOT Estimated Publication	OIRA Estimated Publication
Expanding the Use of Excess Flow Valves in Gas Distribution Systems to Applications Other than Single-Family Residences	September 30, 2016	January 17, 2017	N/A
Issues Related to the Use of Plastic Pipe in Gas Pipeline Industry	Not listed in report because deemed non-significant	Not listed by DOT	June 2016
Operator Qualification, Cost Recovery, Accident and Incident Notification, and Other Pipeline Safety Proposed Changes	Not listed in report because deemed non-significant	Not listed by DOT	June 2016

*Under Executive Order (EO) 12866, OMB reviews proposed significant rules to ensure they are consistent with applicable law, the President's priorities, and the principles set forth in the EO, and to ensure the proposals do not conflict with another agency's policies or actions. OMB also analyzes the cost-benefit analyses in support of the proposals. While the EO sets out deadlines for OMB evaluation, review periods are often extended.

OTHER PHMSA UPDATES

PHMSA convenes Liquid Pipeline Advisory Committee meeting. On February 1, PHMSA's Liquid Pipeline Advisory Committee met to consider changes PHMSA's [proposed](#) changes to the Part 195 regulations for on-shore hazardous liquid pipelines. The Committee discussed and approved a number of recommended modifications to PHMSA's October 13, 2015 proposed rule. Materials from the meeting are [here](#). Van Ness Feldman's synopsis of the proposed rule is [here](#).

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

PHMSA offers training on gas and hazardous liquid pipeline safety regulations.

More information is available [here](#).

February 2016

8-12 Nebraska (Gas)

22-26 Iowa (Gas)

April 2016

11-15 North Carolina (Gas)

11-15 North & South Dakota
(Gas)

18-22 Maryland (Gas)

**Recent Van Ness Feldman
Publications**

[Electric Reliability Update –
January 28, 2016](#)

[Hydro Newsletter – Vol. 3, Issue
2 – February 1, 2016](#)

[Northwest Land Matters
Update – January 2016](#)

[FERC Reaffirms Sanctity of
Committed Shipper Contracts
and Arm’s-Length Bargaining –
February 3, 2016](#)

[Supreme Court Upholds FERC
Rule on Pricing of Demand
Response in Organized
Electricity Markets – January
27, 2016](#)

[New Rule & Initiatives to Limit
Carbon Gaining Traction in
Washington State – January 11,
2016](#)

PHMSA issues advisory bulletin on potential flood damage. On January 19, PHMSA published an [advisory bulletin](#) warning pipeline operators of the damage that severe flooding can cause to pipelines and urging operators to take a number of actions to prevent and mitigate damage and protect the public and environment. Recommended actions include: using experts to evaluate a river’s potential for scour or channel migration; evaluating pipeline river crossings to assess ability to withstand risks of flood conditions; evaluating the facility accessibility; extending regulator vents and relief stacks; coordinating with emergency responders and other pipeline operators; deploying personnel who can take emergency action; determining the facilities that have become submerged and in danger from vessel or debris strikes; performing frequent patrols and depth of cover surveys; ensuring line markers are in place and notifying appropriate authorities of reduced depth of cover; and notifying PHMSA or the appropriate state regulator before restarting a flood damaged line or increasing pressure.

PHMSA republishes notice of information collection activities. On January 15, PHMSA [announced](#) that it is providing an additional 30 days to comment on the following three-year information collection renewals: (1) Pipeline Integrity Management in High Consequence Areas Gas Transmission Pipeline Operators; (2) Control Room Management/ Human Factors; (3) Integrity Management Program for Gas Distribution Pipelines; and (4) Response Plans for Onshore Oil Pipelines. Comments are due February 16.

PHMSA maintains rate for random drug testing. On December 24, PHMSA [announced](#) that the minimum random drug testing rate for covered employees will remain at 25 percent for the 2016 calendar year.

PHMSA convenes Gas Pipeline Advisory Committee meeting. On December 17, the Gas Pipeline Advisory Committee met to consider and vote on PHMSA’s July 15, 2015 [proposed rule](#) to expand the use of excess flow valves in gas distribution systems. Meeting presentations and other materials are available [here](#).

UPDATES FROM CAPITOL HILL

Senate committee approves bill to reauthorize the Pipeline Safety Act. On December 9, the Senate Committee on Commerce, Science and Transportation voted to approve [legislation](#) that would reauthorize the Pipeline Safety Act through fiscal year 2019. Van Ness Feldman’s overview of the SAFE PIPES Act (Securing America’s Future: Protecting Our Infrastructure of Pipelines and Enhancing Safety Act) is [here](#).

UPDATES FROM OTHER FEDERAL AGENCIES

NTSB revises rules of practice. On December 24, 2015 the National Transportation Safety Board issued a [final rule](#) amending its procedural regulations for holding investigative hearings, various types of meetings, issuing reports, and responding to petitions of reconsideration. The rule became effective January 25.

UPDATES FROM CANADA

NEB posts pipeline safety inspections online. On November 26, 2015, Canada’s National Energy Board (NEB) began [publishing](#) pipeline field inspection reports online for inspections occurring November 26 and beyond. Inspection reports that are now publically available include safety, environmental protection, integrity management, and damage prevention inspection reports. Companies will receive a draft report prior to publication and will have five days to review and provide feedback to the NEB. The NEB expects inspection reports to be available online within six weeks of the date of the inspection.

SELECT STATE UPDATES

ARIZONA

On December 11, 2015, the Arizona Corporation Commission issued a [supplemental notice of proposed rulemaking](#) to incorporate by reference federal pipeline safety standards and forms that have been adopted through October 1, 2015, and to make certain rules consistent with the federal pipeline safety

**Federal Funding Resource
Center**

Van Ness Feldman continually identifies and provides updates on federal funding opportunities related to energy, environment, natural resources, and public lands, including PHMSA grants.

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www.vnf.com/knowledgecenter.aspx

regulations. Staff responses to certain questions are due on February 22. Public comments are due by March 17.

CALIFORNIA

[SB886](#) (Pavley): The legislation would: (1) impose a moratorium on natural gas injections into any wells located within and serving the Aliso Canyon storage facility until certain conditions are met; (2) prohibit the production of natural gas from pre-1954 wells at the Aliso Canyon storage facility until integrity and risk have been evaluated; (3) require a feasibility determination for minimizing or eliminating the use of the Aliso Canyon natural gas storage facility while maintaining energy reliability. Introduced: January 20, 2016.

[SB887](#) (Pavley): The legislation would require: (1) compliance with new standards for natural gas storage wells; (2) the annual inspection of all natural gas storage wells serving or located in a natural gas storage facility; (3) the development of a continuous monitoring program for natural gas storage facilities; (4) natural gas storage wells certain distances from sensitive areas to not be permitted or to be abandoned; (5) the submittal of, and compliance with, maintenance, operating, monitoring, and leak prevention and response programs; (6) preparations for drilling a relief well to begin within 24 hours of discovery of a significant, uncontrolled natural gas leak; (7) immediate notice of any leak from a natural gas storage well; and (8) civil penalties and factors to consider when establishing the amount. Introduced: January 20, 2016.

[SB888](#) (Allen): The legislation would: (1) require that the Office of Emergency Services is the lead agency for responding to leaks from natural gas storage facilities; (2) direct penalties for a gas storage facility leak to be deposited in a Gas Storage Facility Leak Mitigation Account, to be expended solely for direct emissions reductions; and (3) prohibit gas corporations from recovering any fines, penalties, or damages in any rate proceeding. Introduced: January 20, 2016.

INDIANA

On January 13, the Indiana Utility Regulatory Commission issued a [notice of proposed rulemaking](#) to reflect recent changes to the federal pipeline safety standards. A [public hearing](#) will be held on March 14; comments are due March 21.

KENTUCKY

[HB240](#) (Floyd): The legislation would: (1) create a statewide pipeline safety fund to pay for pipeline safety measures, such as disaster response plans and training emergency crews; (2) impose an annual pipeline safety assessment applicable to intrastate and interstate pipelines, except for utilities; (3) require certain operators to submit a spill response plan to the Kentucky Department for Environmental Protection providing a level of protection equal to or greater than a federal facility response plan and subject to review every 5 years; and (4) direct the Kentucky Public Service Commission (KPSC) to seek a certification from PHMSA authorizing the KPSC to enforce pipeline safety regulations with respect to intrastate hazardous liquid pipelines and to enter into an interstate agent agreement with PHMSA authorizing the KPSC to monitor and inspect interstate natural gas and hazardous liquid pipelines. Introduced: January 13, 2016.

MICHIGAN

[HB5198](#) (Chatfield): The legislation would: (1) amend the state's Natural Resources and Environmental Protection Act to require immediate notice of any oil release and the submission of a written report within 10 days of the release; (2) require oil transportation pipelines to prepare and submit a spill prevention plan and a contingency plan (either separately or consolidated) for review and approval, along with a \$12,500 review fee for each plan area in each plan, and require review and resubmission of the plans every five years; and (3) impose additional penalties associated with an oil release. Introduced: December 17, 2015.

MISSOURI

On February 1, the Missouri Public Service Commission proposed [regulatory amendments](#) to incorporate into its regulations, with certain clarifications, the current federal pipeline safety standards.

NEW JERSEY

[AB436](#) (Eustace): The legislation would: (1) require natural gas pipeline utilities to repair or replace any leaking natural gas pipeline within timeframes established by the Department of Environmental Protection; (2) require the Department to adopt regulations establishing: inspection and reporting requirements, prioritized time frames for the repair and replacement of pipelines based on the severity of leaks, best practices and repair standards, and de minimus exceptions to the repair and replacement requirements; and (3) subject natural gas pipeline utilities violating these provisions to penalties under the state's Air Pollution Control Act. The bill was introduced on January 27 and reported out of committee on February 4.

[AB4902](#) (Dancer): The legislation would require: (1) the New Jersey Board of Public Utilities, following a grant of jurisdictional authority from PHMSA, to designate the portion of an intrastate natural gas transmission line located between an interstate transmission line and the first connection with a distribution line as an interstate natural gas transmission extension line; and (2) would exempt such lines from the state's Natural Gas Safety Act. Introduced: December 14, 2015.

NORTH DAKOTA

In December, 2015, University of North Dakota's Energy & Environmental Research Center released a study, "[Liquids Gathering Pipelines: A Comprehensive Analysis](#)," setting forth a number of observations, findings and recommendations regarding hazardous liquid and gas gathering pipelines in the Bakken Shale region of North Dakota. The 250-page report was prepared for the North Dakota Industrial Commission and North Dakota Energy Development and Transportation Committee.

OHIO

Effective January 1, the Ohio Public Utilities Commission (PUCO) will [enforce](#) Ohio's underground protection laws. Commercial excavators, utility operators, designers and developers failing to comply with safe digging practices may be subject to penalties and fines. A newly created Underground Technical Committee will review complaints of excavation violations, determine if a violation occurred, and make a recommendation to the PUCO.

OKLAHOMA

[HB2444](#) (O'Donnell) and [SB1319](#) (Smalley): The bills would increase civil penalties for pipeline safety-related violations from \$10,000 to \$100,000 for each day the violation continues to a maximum of \$1,000,000 (up from \$500,000) for any related series of violations. Introduced: February 1, 2016.

UTAH

On November 10, 2015, the Utah Public Service Commission issued a [Notice of Proposed Rule Amendment](#) to update its regulations to, among other things, adopt federal pipeline safety regulations effective through September 1, 2015. On January 19, in response to comments, the Commission made minor amendments to the proposed rule.

VIRGINIA

[HB1261](#) (Habib): The legislation would direct the State Corporation Commission (SCC) to seek an interstate agent agreement with PHMSA authorizing the SCC to inspect interstate gas pipelines located in the state of Virginia, and to collect inspection fees to be used to administer the program. Introduced: January 20, 2016.

WEST VIRGINIA

[HB3010](#) (Fleischauer): The legislation would revise the state's one-call system, including by excluding from the definition of underground facility nonproducing gas or oil wells established before 1990 and their associated production or gathering lines for which records do not exist indicating its location. Introduced: January 13, 2016.

[SB426](#) (Cole): The legislation would modify the state's One-Call System Act by expanding the definition of "underground facility." Introduced: January 29, 2016.

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, or any member of the firm's [Pipeline & LNG](#) practice group.

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