



Dates of Interest

May 2016

- 18 [2016 API/AFPM Spring Operating Practices Symposium](#), Chicago, IL
- 18-19 [PHMSA Public Workshop on LNG Regulations](#), Washington, DC
- 23-27 [NAPSR Eastern Region Meeting](#), Dover, DE
- 24-26 [SGA Advanced In-Line Inspection Workshop](#), Dublin, OH
- 25-27 [SGA DOT Compliance Workshop for Natural Gas Pipeline Operators](#), Dallas, TX

June 2016

- 1-3 [Meeting of the Gas Pipeline Safety Advisory Committee and the Liquid Pipeline Safety Advisory Committee](#), Washington, DC
- 8 [PHMSA Webinar on NPRM for Gas Transmission and Gathering Pipelines](#)
- 8-10 [SGA Integrity Management for Gas Pipelines Workshop](#), Houston, TX
- 9 [Application Deadline for PHMSA Competitive Academic Agreement Program Grant](#)
- 14-16 [AGA Gas Utility Best Practices Follow-Up Meeting](#), Denver, CO



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Pipeline Safety Update

ISSUE NO. 109 – MAY 11, 2016

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

House Energy and Commerce Committee reports pipeline safety reauthorization bill. PHMSA extends deadline for submitting comments on proposed gas rules. PHMSA will convene technical advisory committee meetings. PHMSA will hold public workshop on safety of underground natural gas storage. PHMSA awards one-call grants to states. PHMSA offers grants to universities for pipeline safety research. PHMSA rulemakings update. TSA seeks comments on the renewal of information collection and submits revised information collection to OMB. Industry groups argue NWF lawsuit against DOT belongs in D.C. Circuit, and NWF moves for summary judgment. Select updates from states.

House Energy and Commerce Committee Reports Pipeline Safety Reauthorization Bill.

On April 27, the House Energy and Commerce Committee reported [H.R. 5050](#), the Pipeline Safety Act of 2016, reauthorizing appropriations for the Pipeline and Hazardous Materials Safety Administration's (PHMSA) pipeline safety programs through FY 2021.

Similar to H.R. 4937, [reported](#) by the House Transportation and Infrastructure Committee on April 20, this bill would authorize PHMSA to issue industry-wide emergency orders to address "imminent hazards," require that PHMSA establish minimum safety standards for underground natural gas storage facilities, and provide periodic status updates to Congress on outstanding statutory mandates. The bill would not require that hazardous liquid pipelines submit unredacted oil spill response plans to Congress.

The two House Committees must now reconcile their reauthorization bills prior to consideration by the full House of Representatives. The Senate previously passed a reauthorization bill ([S. 2276](#)) on March 3.

Van Ness Feldman has created a side-by-side chart comparing the three pending reauthorization bills. Contact [Susan Olenchuk](#) for a copy.

PHMSA Extends Deadline for Submitting Comments on Proposed Gas Rules.

On May 5, PHMSA [extended](#) to July 7 the deadline for submitting public comments on the [Notice of Proposed Rulemaking](#) (NPRM) for Gas Transmission and Gathering Lines. On June 8, PHMSA will convene a [webinar](#) on the proposed rule and will discuss the proposed rule at its June 2016 technical advisory committee [meetings](#). The webinar previously scheduled for May 12 has been cancelled.

Van Ness Feldman has created a redline of PHMSA's Part 191 and Part 192 regulations showing how the notice of proposed rulemaking would affect the regulatory text. Contact [Susan Olenchuk](#) for a copy.

UPDATES FROM PHMSA

PHMSA will convene technical advisory committee meetings. On June 1-3, PHMSA will convene [meetings](#) of the Gas Pipeline Advisory Committee (GPAC) and the Liquid Pipeline Advisory Committee (LPAC). The

**Dates of Interest
(continued)**

July 2016

- 14 [PHMSA Public Workshop on Underground Natural Gas Storage Safety](#), Broomfield, CO
- 24-27 [APGA Annual Conference](#), Newport, RI
- 27-28 [SGA Pipeline Safety Management Systems "Deep Dive" Workshop & Roundtable](#), Houston, TX

State-Specific Association Meetings

May 2016

- 17-18 [California State Fire Marshall, Hazardous Liquid Pipeline Safety Seminar](#), Long Beach, CA

June 2016

- 12-15 [Alabama Natural Gas Association Annual Conference](#), Point Clear, AL
- 28-7/1 [Texas Gas Association Operations and Management Conference](#), San Marcos, TX

GPAC will discuss PHMSA's [NPRM](#) on the use of plastic pipe in gas systems, and both committees will discuss PHMSA's [NPRM](#) addressing operator qualification, cost recovery, and other issues. PHMSA also will brief the committees on the [NPRM](#) on gas transmission and gathering pipelines. The meetings will not be webcast.

PHMSA will hold public workshop on safety of underground natural gas storage. On July 14, PHMSA will hold a [public workshop](#) to discuss potential future safety regulations for underground natural gas storage. The workshop will take place in Broomfield, Colorado, and will be webcast.

PHMSA awards one-call grants to states. On April 26, PHMSA [announced](#) a grant package of more than \$1.2 million to state One-Call centers that respond to the national 8-1-1 hotline. One-Call grants are designed to provide funding to state agencies to promote damage prevention.

PHMSA offers grants to universities for pipeline safety research. On April 26, PHMSA [announced](#) that it is accepting applications for its Competitive Academic Agreement Program. Colleges and universities may apply for grants to fund research into (1) innovative solutions to prevent or mitigate pipeline corrosion and (2) the interaction of cured-in-place pipe (CIPP) liners with cast iron pipelines at bends, valves, and service taps. PHMSA expects to award up to five agreements of up to a maximum of \$300,000. Each project must be able to obtain 20% of its funding from a non-federal source. Applications are due June 9.

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

Pending Notices of Proposed Rulemaking

Rulemaking	Submitted to OMB*	DOT Estimated Publication	OIRA Estimated Publication
Safety of Gas Transmission Pipelines	Published April 8, 2016 Comments Due July 7, 2016		
Valve Installation and Minimum Rupture Detection Standards	May 26, 2016 (estimated)	September 7, 2016	October 2016
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
Safety of Hazardous Liquid Pipelines	June 21, 2016	October 3, 2016	N/A

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

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

More information is available [here](#).

May 2016

16-20 California State Fire Marshall (Hazardous Liquid)

June 2016

7-8 Wyoming (Gas)

20-24 Alaska (Hazardous Liquid)

July 2016

18-22 Arkansas (Gas)

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.

UPDATES FROM OTHER FEDERAL AGENCIES

TSA seeks comments on the renewal of information collection and submits revised information collection to OMB. On May 2, the Transportation Security Administration (TSA) issued a [notice](#) requesting comments on the proposed renewal of an information collection (IC) entitled "Pipeline Corporate Security Review Program," which was developed to assess the current security practices in the pipeline industry. Comments are due July 1.

On May 6, the TSA issued a [notice](#) announcing that it is submitting its February 25 [proposed renewal](#), with revisions, of an existing IC entitled "Pipeline System Operator Security Information" to OMB for approval. The proposed renewal will no longer collect pipeline operator security manager contact information, because this information is available from another source. Comments are due to OMB by June 6.

UPDATES ON LITIGATION

Industry groups argue NWF lawsuit against DOT belongs in D.C. Circuit, and NWF moves for summary judgment. On April 27, the American Petroleum Institute (API) and the Association of Oil Pipe Lines (AOPL) submitted a [joint amicus brief](#) arguing that the lawsuit brought by the National Wildlife Federation (NWF) against the DOT must be decided by the D.C. Circuit. NWF's complaint asserts that DOT failed to review pipeline operator response plans in accordance with the Oil Pollution Act (OPA) and a related presidential executive order. According to API and AOPL, the D.C. Circuit has exclusive jurisdiction over claims relating to regulations promulgated under the OPA. On May 4, NWF filed a [motion for summary judgment](#) to compel DOT to review and approve response plans as required by the OPA.

SELECT UPDATES FROM STATES

ARIZONA

On December 11, 2015, the Arizona Corporation Commission (ACC) [proposed](#) 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 regulations. On March 28, Spectrum LNG filed comments regarding the non-destructive testing of welds at liquefied natural gas (LNG) facilities and urged that the ACC defer revising LNG regulations until PHMSA completes its recently initiated [process](#) to examine and modify federal LNG safety regulations. ACC staff responded on April 15. On May 5 the ACC issued an [order](#) directing the Safety Division/Legal Division to file by May 6 with the Office of the Attorney General a request for renewal of the rule revisions including a Notice of

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2016

[Electric Reliability Update –
May 6, 2016](#)

[Hydro Newsletter – Vol. 3, Issue
5 – April 22, 2016](#)

[Supreme Court Addresses
Limits on State Authority to
Promote New Generation
Development](#) – April 21, 2016

[BSEE Releases Final Well
Control Rule; Implications Still a
Concern for Stakeholders](#) –
April 22, 2016

Emergency Rulemaking (renewal). More information, including status of the emergency NPRM currently in effect incorporating currently effective federal regulations, is available [here](#).

CALIFORNIA

[ACA11](#) (Gatto): This Assembly Constitutional Amendment would propose to the voters of California an amendment to the California Constitution which would authorize the Legislature to relocate or reassign all or a portion of the functions of the California Public Utilities Commission (CPUC) to other state agencies. The amendment would direct the Legislature to adopt structures to provide for greater accountability for state public utilities and to focus on safety, reliability, and ratesetting, and effective January 1, 2019, would repeal provisions of the California Constitution relating to the CPUC. The Committee on Utilities and Commerce passed and re-referred the amendment to the Committee on Appropriations on April 21.

NORTH DAKOTA

On February 29, the North Dakota Industrial Commission issued a [Full Notice of Intent to Adopt and Amend Administrative Rules](#). Public hearings were held in April regarding proposed regulatory changes that will affect, among other types of facilities, underground gathering pipelines capable of transporting crude oil, natural gas, carbon dioxide, or produced water and salt water handling facilities. For pipelines, the [proposed revised rules](#) address information reporting, access to records, bonding, and a wide range of safety requirements, including construction, notification, design, installation, inspections, pipeline rights of way, geographic information system locational data, operations, leak detection, spill response, corrosion control, pipeline integrity, repairs, and abandonment. The proposed rules also contain a number of provisions affecting saltwater handling facilities. Hearings were held on April 11-13 and comments were filed by April 25. The comments are available [here](#).

TEXAS

On April 29, the Sunset Advisory Commission, the state legislative body responsible for periodic agency review, published a [staff report](#) identifying issues and making recommendations to improve the function of the Texas Railroad Commission (TRC). The report recommends, among other things: (1) renaming the TRC as the Texas Energy Resources Commission to more accurately represent its current functions; (2) transferring authority over gas utility regulation, and contested gas utility cases, to the Public Utility Commission and the State Office of Administrative Hearings, respectively; (3) requiring the TRC to track and measure the effectiveness of its oil and gas monitoring and enforcement, and develop a process for issuing expedited penalties; (4) increasing the number of blanket bond tiers to better reflect risk and increase equitability; and (5) authorizing the TRC to enforce damage prevention requirements for interstate pipelines, and to create a pipeline permit fee. The Sunset Advisory Commission will next conduct a hearing to address comments on the staff report, before issuing a second version of the report.

WASHINGTON

On April 28, the Washington Utilities and Transportation Commission (WUTC) and PHMSA jointly published a [failure investigation report](#) determining that the primary cause of a March 2014 explosion at a liquefied natural gas (LNG) peak shaving facility in Plymouth, Washington, was inadequate purge procedures following routine maintenance. According to the report, the inadequate purge allowed oxygen to remain in the system and mix with gas, which ignited upon startup. In a separate [violation report](#), PHMSA and the WUTC allege a violation of regulations that require adequate purging procedures. In a [letter](#) to PHMSA dated April 15, the WUTC requested that PHMSA issue an advisory bulletin on gas purging guidelines, and initiate a rulemaking to update the Part 193 regulations governing LNG.

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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