



#### Dates of Interest

##### November 2016

- 13-16 [NARUC Annual Meeting](#), La Quinta, CA
- 16-17 [PHMSA Pipeline Safety Research & Development Forum](#), Cleveland, OH
- 16 [API/AFPM Fall Operating Practices Symposium](#), New Orleans, LA
- 28 Nominations Due for [Voluntary Information-Sharing System Working Group](#)

##### December 2016

- 13 Comments due on PHMSA's [Emergency Order Interim Final Rule](#)

##### January 2017

- 6 Comments due on [Proposed Underground Natural Gas Fee Structure](#)



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# Pipeline Safety Update

## ISSUE NO. 117 – NOVEMBER 10, 2016

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*PHMSA proposes user fee structure for underground gas storage facilities. PHMSA requests nominations for Voluntary Information-Sharing System Working Group. PHMSA Rulemakings Update. API launches website on pipeline safety management systems. Select Updates from states.*

### PHMSA Proposes User Fee Structure for Underground Gas Storage Facilities

On November 7, the Pipeline and Hazardous Materials Safety Administration (PHMSA) published a [notice](#) advising operators of underground natural gas storage facilities of a proposed user fee assessment and rate structure that PHMSA would adopt to recover the costs of inspecting and regulating interstate and intrastate natural gas storage facilities by PHMSA and state regulators. PHMSA is requesting public comments on the proposed user fee structure by January 6, 2017.

Section 12 of the Protecting Our Infrastructure of Pipelines and Enhancing Safety (PIPES) Act of 2016 requires that PHMSA issue federal safety standards for underground natural gas storage facilities. PHMSA expects to issue an interim final rule establishing minimum federal safety standards by the end of 2016. Section 12 also provides for the imposition of user fees on operators of these facilities and prescribe procedures for collecting the fee. Section 2 of the PIPES Act of 2016 authorizes \$8 million to be appropriated from user fees for each of the fiscal years 2017-2019. PHMSA cannot collect the user fee unless the expenditure of the fee is provided in advance in an appropriations act. If Congress appropriates funds to this account for fiscal years 2017-2019, PHMSA will collect the funds from facility operators.

The proposed user fee assessment would be tiered, based on each operator's amount of working gas storage capacity, with fees ranging from \$12,308 to \$142,857. For 2017, PHMSA would use 2015 data regarding the amount of working gas storage capacity compiled by the Energy Information Administration. Thereafter, PHMSA would use information regarding capacity and the number of wells per storage facility that is reported by operators in an annual report.

### PHMSA Requests Nominations for Voluntary Information-Sharing System Working Group

On November 8, PHMSA issued a [request](#) for nominations of individuals to serve on the new Voluntary Information-Sharing System Working Group, established under Section 10 of the PIPES Act of 2016. The group of up to 30 members will consider and make recommendations regarding the development of a voluntary information-sharing system to encourage collaborative efforts to exchange pipeline inspection information and advanced pipeline inspection technologies for the purpose of improving integrity risk analysis for both gas transmission and hazardous liquid pipelines. Working group members will serve 3-year terms, and will include individuals from PHMSA and state regulatory bodies and government entities, industry, safety advocacy groups, research institutions, and labor organizations. Nominations must be received by November 28.

**PHMSA Rulemakings Update.** The tables below summarize the status of PHMSA's rulemakings as reported in the Department of Transportation's (DOT) [October Significant Rulemaking Report](#), the Office of Management and Budget's (OMB) Office of Information and Regulatory Affairs (OIRA) in the Spring 2016 [Unified Regulatory Agenda](#), and OIRA's [List of Regulatory Actions Currently Under Review](#).

**State-Specific Association Meetings**

**November 2016**

28-12/1 [Alabama Natural Gas Association Pipeline Safety Meeting & Board Meeting](#), Montgomery, AL

**December 2016**

7-8 [Missouri CGA Damage Prevention & Excavation Safety Summit](#), Springfield, MO

**Recent Van Ness Feldman Publications**

[2016 Election Results: Impacts of the Presidential and Congressional Races](#) – November 9, 2016

[Obama Administration Seeks Tribal Input on Federal Infrastructure Decisions, Dakota Access Litigation Continues](#) – September 29, 2016

[Federal Intervention in Dakota Access Pipeline Project Focuses on Tribal Consultation Process](#) – September 13, 2016

[BSEE Director Urges Action on Offshore Well Cementing Safety Issues](#) – August 30, 2016

[BSEE Looks to Address Offshore Safety Component Failures at Upcoming Forum](#) – August 22, 2016

[Proposed BSEE Rule Continues Interior Department Focus on Decommissioning Costs and Obligations](#) – August 17, 2016

[Use of Drones for Monitoring and Inspection of Energy Infrastructure](#) – August 17, 2016

[Little-Noticed Provision in BSEE's Well Control Rule May Have a Major Impact on Risk Reduction](#) – August 8, 2016

**Pending Final Rules**

<b>Proceeding</b>	<b>DOT Estimated Submission to OMB*</b>	<b>DOT Estimated Publication</b>	<b>OIRA Estimated Publication</b>
Plastic Pipe Rule	Not listed by DOT	Not listed by DOT	October 2016
Operator Qualification, Cost Recovery, Accident and Incident Notification, and Other Pipeline Safety Proposed Changes	Not listed by DOT	Not listed by DOT	October 2016
Safety of Gas Transmission and Gathering Pipelines	No Estimate Available	No Estimate Available	No Estimate Available
Safety of Hazardous Liquid Pipelines	<b>Submitted October 18, 2016</b>	December 30, 2016	October 2016
Underground Storage Facilities (interim final rule)	<b>Submitted October 18, 2016</b>	February 14, 2017	August 2016

**Pending Notices of Proposed Rulemaking**

<b>Proceeding</b>	<b>DOT Estimated Submission to OMB*</b>	<b>DOT Estimated Publication</b>	<b>OIRA Estimated Publication</b>
Periodic Updates of Regulatory References to Technical Standards and Miscellaneous Amendments	Not listed by DOT	Not listed by DOT	July 2016
State Pipeline Safety Program Certification	Not listed by DOT	Not listed by DOT	August 2016
Valve Installation and Minimum Rupture Detection Standards	January 24, 2017	May 3, 2017	September 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 INDUSTRY**

**API launches website on pipeline safety management systems.** The American Petroleum Institute (API) has established a [website](#) to provide information on pipeline safety management systems. The website provides guidance on the use and implementation of API Recommended Practice 1173, Pipeline Safety Management Systems.

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[www.vnf.com/knowledgecenter.aspx](http://www.vnf.com/knowledgecenter.aspx)

## SELECT UPDATES FROM STATES

### NEW JERSEY

[S 2673](#) (Bateman). Introduced October 13, 2016, this bill would increase civil penalties for violations of the natural gas or hazardous liquid pipeline safety regulations, including New Jersey's one-call damage prevention rule. The civil penalties would increase from \$100,000 to \$200,000 per day for each violation, and the maximum penalty would increase from \$1,000,000 to \$2,000,000 for any related series of violations.

### 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](mailto:sam@vnf.com), [Bryn Karaus](#) at (202) 298-1821 or [bsk@vnf.com](mailto:bsk@vnf.com), or any member of the firm's [Pipeline & LNG](#) practice group.

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