



Dates of Interest

August 2017

- 8 Applications due for [proposals for Pipeline Safety R&D Program Research Awards](#)
- 8-9 [APGA Security and Integrity Foundation, South Carolina Pipeline Safety Seminar & Conference](#), Columbia, SC
- 19 Reply Comments due on [Draft Final Report regarding Alternatives to Enbridge's Straits Pipeline](#)
- 21-25 [NAPSR Eastern Region Meeting](#), Boston, MA
- 29-30 [Western Regional Gas Conference](#), San Diego, CA
- 29-31 [AGA Gas Utility Operations Best Practices Leak Survey/Leak Management Roundtable](#), Newark, NJ

September 2017

- 5 Comments due on [TSA Information Collection Request](#)
- 19-22 [AOPL Annual Business Conference](#), Seattle, WA
- 25 [SGA Webinar Leak Detection 1 – Gas Pipelines](#)
- 25-29 [NAPSR National Meeting](#), Columbus OH

October 2017

- 3 [API Pipeline Information Exchange](#), Houston, TX
- 23-26 [API Tanks, Valves, and Piping Conference & Expo](#), Seattle, WA
- 30 [SGA Webinar Leak Detection 2 – Gas Pipelines](#)

November 2017

- 2-3 Pipeline Safety Trust [Annual Conference](#) **1**

Pipeline Safety Update

ISSUE NO. 128 – AUGUST 7, 2017

[Susan Olenchuk](#), [Bryn Karaus](#), and [Barbara Deathe](#)

Drue Pearce named PHMSA Deputy Administrator. PHMSA Rulemakings Update. GAO releases report recommending modifications to PHMSA's use of data in establishing and validating inspection priorities. DOT OIG completes audit of PHMSA's Technical Assistance Grant program. Members of Congress request assessment of current security protections for pipelines. INGAA affirms commitment to responsible pipeline construction. PAPA releases Summer 2017 newsletter. Select updates from states.

Drue Pearce Named PHMSA Deputy Administrator

Ms. Drue Pearce was named the Deputy Administrator of the Pipeline and Hazardous Materials Safety Administration (PHMSA) effective August 7. Ms. Pearce joins PHMSA from private practice. She previously served for 17 years in the Alaska Legislature, including two terms as the Senate President. During the administration of George W. Bush, she served at the Senior Advisor to Department of Interior Secretaries Gale Norton and Dirk Kempthorne, advising primarily on Alaska Affairs. She was the first Federal Coordinator in the Office of the Federal Coordinator for Alaska Natural Gas Transportation System Projects. Ms. Pearce also served on PHMSA's Technical Hazardous Pipeline Safety Standards Committee, one of two technical committees that advise PHMSA on the development of pipeline safety standards. Most recently, Ms. Pearce was in private practice.

PHMSA Rulemakings Update. In July, the Office of Management & Budget's (OMB) Office of Information and Regulatory Affairs (OIRA) released an updated Unified Regulatory Agenda providing information on regulations under development by federal agencies. The agenda appears in two principal parts: "[Current Agenda Agency Regulatory Entries for Active Actions](#)" and "[Current Long Term Actions](#)," on which regulatory action within 12 months is not expected.

The tables below summarize the status of rulemakings pending before the Pipeline and Hazardous Materials Safety Administration (PHMSA) as reflected in the Unified Regulatory Agenda. The Department of Transportation (DOT) has not released a Significant Rulemaking Report since December 2016 as the agency evaluates rulemakings in accordance with Executive Orders [13771](#) and [13777](#). DOT's previous Significant Rulemaking Reports are available [here](#)

Pending Final Rules

Proceeding	OIRA Estimated Publication	Previous OIRA Estimated Publication
Enhanced Emergency Order Procedures (Interim Final Rule issued October 2016)	September 2017	No Estimate Provided
Plastic Pipe Rule (NPRM issued May 2015)	December 2017	December 2016
Safety of Gas Transmission and Gathering Pipelines (NPRM issued April 2016)	June 2018	Not listed
Safety of Hazardous Liquid Pipelines (NPRM issued October 2015)	December 2017	Advance copy released January 13; withdrawn from Federal Register publication January 24
Underground Natural Gas Storage Facilities (Interim Final Rule issued December 2016)	January 2018	Not listed

State-Specific Association Meetings

August 2017

- 15-16 [Louisiana Gas Ass'n Cathodic Protection Seminar](#), Westwego, LA
- 17-19 [Arkansas Gas Ass'n Annual Conference](#), Fort Smith, AR
- 20-21 [Texas Gas Ass'n PHMSA Pipeline Safety Training Seminar](#), San Antonio, TX

September 2017

- 6-7 [Pennsylvania Public Utility Commission Gas Safety Seminar](#), State College, PA
- 17-19 [Arkansas Gas Ass'n Annual Conference](#), Fort Smith, AR
- 19-22 [Texas Gas Ass'n PHMSA Pipeline Safety Training Seminar](#), San Antonio, TX

October 2017

- 12 [Indiana Oil & Gas Ass'n Annual Meeting](#), Evansville, IN
- 18-19 [Illinois Commerce Commission Pipeline Safety Conference](#), Effingham, IL
- 24-26 [Virginia State Corporation Commission Pipeline Safety Conference](#), Virginia Beach, VA



**Know what's below.
Call before you dig.**

Pending Notices of Proposed Rulemaking

Proceeding	OIRA Estimated Publication	Previous OIRA Estimated Publication
Standards Update Rule – 2015 and Beyond (formerly the “Periodic Updates of Regulatory References to Technical Standards and Miscellaneous Amendments”)	September 2017	November 2016
State Pipeline Safety Program Certification	Not listed	November 2016
Valve Installation and Minimum Rupture Detection Standards	September 2017	May 2017

Van Ness Feldman offers pipeline safety seminars tailored to your company, including for continuing legal education credit. Contact [Susan Olenchuk](#) or [Bryn Karaus](#) for more information.

UPDATES FROM OTHER AGENCIES

GAO releases report recommending modifications to PHMSA's use of data in establishing and validating inspection priorities. On August 3, the U.S. Government Accountability Office (GAO) published a [report](#), required by Section 21 of the Protecting Our Infrastructure of Pipelines and Enhancing Safety (PIPES) Act of 2016, describing how PHMSA uses pipeline and corrosion data in the agency's Risk Ranking Index Model which uses pipeline integrity threats to determine how often PHMSA inspects pipeline systems. GAO found that PHMSA did not document the rationale or justifications for key decisions regarding the threats selected for the model, how they are weighted, or thresholds for establishing risk tiers for inspected pipeline segments. GAO also found that PHMSA has not used data to assess the overall effectiveness of the model and cannot demonstrate the model's effectiveness.

GAO recommends that the Secretary of Transportation direct PHMSA to (1) document decisions and underlying assumptions for the model's design, including the data and information analyzed in determining the model's components and (2) implement a data-driven process to review and assess the model's effectiveness in prioritizing pipelines for inspection.

Finally, GAO noted that, while OMB did not approve PHMSA's June 2016 [proposal](#) to expand the amount of information gathered for the National Pipeline Mapping System (NPMS), PHMSA plans to propose a revision to the NPMS data collection before the current data collection authorization expires in 2020.

DOT OIG completes audit of PHMSA's Technical Assistance Grant program. On July 19, the DOT Office of Inspector General (OIG) issued an [audit report](#), required by the PIPES Act of 2016, regarding PHMSA's Technical Assistance Grant (TAG) program, which provides funds to improve the safety of communities located near pipeline facilities. The Pipeline Safety Act prohibits grant recipients from using the funding for lobbying, direct support for litigation, or direct advocacy for or against a pipeline construction project. OIG found that PHMSA has reasonable non-final internal controls for awarding and overseeing TAG funding, but does not implement them consistently to ensure that grant funds are not used for prohibited purposes. OIG offered several recommendations to improve PHMSA's award and oversight processes for the TAG program.

UPDATES FROM CONGRESS

Members of Congress request assessment of current security protections for pipelines. On July 18, Senator Maria Cantwell (D-WA), ranking member of the Senate Energy and Natural Resources Committee, and Congressman Frank Pallone, Jr. (D-NJ), ranking member of the House Energy and Commerce Committee requested that the [GAO](#) and [Transportation Security Administration](#) (TSA), which has

**Recent Van Ness Feldman
Publications**

[California Extends and Strengthens Cap-and Trade Program](#) – July 24, 2017

[EPA Proposed Rule to Rescind Definition of "Waters of the United States"](#) – July 17, 2017

[DC Circuit Hands Pipelines Roadmaps to Construct Projects over Delays by Local Permitting Agencies](#) – July 6, 2017

[BSEE Issues Rule Extending Development Time for Offshore Oil and Gas Leaseholders](#) – June 16, 2017

[D.C. Circuit Upholds Conditional Certificates for Natural Gas Pipelines](#) – May 24, 2017

[Trump Issues Executive Order Aimed at Expanding Development of Offshore Oil & Gas Resources](#) – May 1, 2017

[California's Cap-and Trade Program Wins in Court, Program's Future Still Unclear](#) – April 10, 2017

authority for pipeline security including cybersecurity, provide an assessment of current cyber and physical security protections for natural gas, oil, and hazardous liquid pipelines and associated infrastructure. Senator Cantwell and Congressman Pallone noted the increasing interdependence of electric and natural gas infrastructure and the evolving nature of cyber threats from criminal and foreign state actors.

UPDATES FROM INDUSTRY

INGAA affirms commitment to responsible pipeline construction. On July 26, the Board of Directors of the Interstate Natural Gas Association of America formally adopted INGAA's "[Commitment to Responsible Pipeline Construction](#)," endorsing the following core principles: 1) ensuring safe and reliable pipeline construction; 2) caring for communities and landowners; 3) preserving environmental resources; and 4) respecting regulations.

PAPA releases Summer 2017 newsletter. The [Pipeline Association for Public Awareness](#) (PAPA) released its Summer 2017 [newsletter](#) containing information about pipeline safety and awareness for public officials. PAPA is an organization that promotes communication and cooperation with local organizations to enhance public safety, improve emergency preparedness, protect the environment and prevent property and facility damage.

SELECT UPDATES FROM STATES

MISSISSIPPI

The [initial regulations](#) of Mississippi Underground Facilities Damage Prevention Board became effective on July 22, 2017. On July 26, 2017 the Mississippi Underground Facilities Damage Prevention Board [proposed regulations](#) to define "routine maintenance." Comments on the proposal are due August 22, and an oral proceeding is scheduled for August 23.

OKLAHOMA

On June 13, the Oklahoma Corporation Commission finalized [a rule](#) amending regulations pertaining to petroleum storage tanks. The rule becomes effective on September 11.

WASHINGTON

On July 13, the Washington Utilities and Transportation Commission issued permanent [rules](#) incorporating by reference, subject to certain exceptions, the latest versions of PHMSA's gas pipeline regulations that were in effect on March 6, 2015: 49 C.F.R. Parts 191, 192, 193, 195, 198, and 199. The regulatory text appears to contain an error regarding the date of the version of the federal regulations adopted for natural gas pipelines in one location, but the correct date appears to be March 6, 2015. The new rules become effective August 13, 2017.

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