



**Dates of Interest**

**March 2018**

- 19-22 [SGA Pipeline Design Workshop](#), Columbia, SC
- 26-28 [PHMSA Gas Pipeline Advisory Committee](#), Washington, DC

**April 2018**

- 5 [PHMSA Voluntary Information-Sharing System Working Group](#), Washington, DC
- 9-13 [NAPSR Southern Region Meeting](#), Montgomery, AL
- 13 [Comments due](#) on PHMSA renewal of information collection for gas pipeline recordkeeping
- 18 [API/APFM Spring Operating Practices Symposium](#), Seattle, WA
- 23-27 [NAPSR Western Region Meeting](#), Seattle, WA
- 24-26 [API Pipeline Conference and Cybernetics Symposium](#), St. Louis, MO

**May 2018**

- 1-3 [SGA Practical In-Line Inspection Workshop](#), Tulsa, OK
- 7 [Comments due](#) on PHMSA proposed renewal of information collection requests
- 7 [Comments due](#) on BSEE proposed renewal of information collection requests on [spill response plans](#) and [SEMS](#)
- 14-18 [NAPSR Eastern Region Meeting](#), Hershey, PA
- 22-24 [SGA Advanced In-Line Inspection](#), Dublin, OH

# Pipeline Safety Update

## ISSUE NO. 135 – MARCH 7, 2018

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

*Gas Pipeline Advisory Committee continues discussion of proposed gas rule. PHMSA Rulemakings Update. PHMSA seeks comments on renewal of two information collections. The Voluntary Information-Sharing Working Group will meet April 5. BSEE seeks comments on renewal of an information collection related to oil spill response plans for facilities located seaward of the coast line. BSEE seeks comments on renewal of an information collection related to Safety and Environmental Management Systems. Select Updates from States.*

### Gas Pipeline Advisory Committee Continues Discussion of Proposed Gas Rule

On March 2, the Gas Pipeline Advisory Committee (GPAC) convened a telephonic meeting to continue considering the Pipeline and Hazardous Materials Safety Administration’s (PHMSA) proposed rule to amend the federal pipeline safety regulations applicable to gas transmission and gathering pipelines. GPAC discussed and voted on provisions addressing strengthening assessment requirements; assessments outside of high consequence areas (HCA), *i.e.*, proposed moderate consequence areas; and records. The Committee discussed, but did not vote on, proposed revised repair criteria. Presentation slides and additional information [here](#). The GPAC is [scheduled](#) to resume its consideration of the proposed rule on [March 26-28](#) and June 12-14. These meetings will address the proposed integrity verification process, remaining integrity management assessments, repair criteria, records relating to maximum allowable operating pressure (MAOP) and gathering pipelines.

**PHMSA Rulemakings Update.** The tables below summarize the status of PHMSA’s pending pipeline safety rulemaking initiatives, as reflected in the Department of Transportation’s recently posted January [Significant Rulemaking Report](#) and the Fall Unified Regulatory Agenda, released by the Office of Management & Budget’s (OMB) Office of Information and Regulatory Affairs (OIRA). The Unified Regulatory Agenda appears in two principal parts: [Current Agenda Agency Regulatory Entries for Active Actions](#) and [Current Long Term Actions](#).

**Pending Final Rules**

Proceeding	DOT Estimated Submission to OMB	DOT Estimated Publication	OIRA Estimated Publication
Enhanced Emergency Order Procedures	Not Listed	Not Listed	January 2018
Plastic Pipe Rule	May 11, 2018	August 24, 2018	August 2018
Safety of Gas Transmission and Gathering Pipelines	May 10, 2018	August 22, 2018	August 2018
Safety of Hazardous Liquid Pipelines	May 4, 2018	August 17, 2018	April 2018
Underground Natural Gas Storage Facilities	Not Listed	Not Listed	January 2018

**Dates of Interest  
(continued)**

June 2018

25-29 [AGA Operations Conference](#), Washington, DC

July 2018

15-18 [NARUC Summer Policy Summit](#), Scottsdale, AZ

22-25 [APGA Annual Conference](#), Portland, OR

30-8/3 [NAPSR Southwest Region Meeting](#), Montgomery, AL

**Recent Van Ness Feldman Publications**

[GAO Reports Challenges and Successes in Cybersecurity Framework Adoption](#) – March 5, 2018

[Corps Issues Draft Guidance on Section 408 Permission Requests, Solicits Comments](#) – March 2, 2018

[FERC Acts to Support Storage Deployment](#) – February 21, 2018

[EPA and Corps Amend Effective Date of WOTUS Rule, Open Door to Legal Challenges](#) – February 12, 2018

[Supreme Court Rules that District Courts Retain Jurisdiction Over “Waters of the United States” \(WOTUS\) Rule](#) – January 29, 2018

[Critical Infrastructure: 2017 Cybersecurity Review and What to Expect in 2018](#) – January 24, 2018



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

**Pending Notices of Proposed Rulemaking (NPRM)  
& Advanced Notices of Proposed Rulemakings (ANPRM)**

<b>Proceeding</b>	<b>DOT Estimated Submission to OMB</b>	<b>DOT Estimated Publication</b>	<b>OIRA Estimated Publication</b>
ANPRM: Class Location Requirements	April 3, 2018	April 27, 2018	April 2018
NPRM: Standards Update Rule – 2015 and Beyond	Not Listed	Not Listed	June 2018
NPRM: Valve Installation and Minimum Rupture Detection Standards	Not Listed	Not Listed	April 2018

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. The EO sets out deadlines for OMB evaluation, but review periods are often extended.

**OTHER PHMSA UPDATES**

**PHMSA seeks comments on renewal of two information collections.** On March 6, PHMSA issued a [notice](#) requesting comments on the proposed renewal of two information collections expiring May 31. The first information collection involves the requirement that operators who do not operate buried gas lines located downstream of a customer’s service line send written notices to customers describing the proper maintenance of such lines and the potential hazards of not properly maintaining them. Operators must maintain a copy of the notice currently in use and evidence that notices were sent to customers within the previous three years. The second information collection relates to the requirement that operators develop and implement written continuing public education programs and submit them to either PHMSA or a State Authority. Comments must be submitted to PHMSA by May 7.

**The Voluntary Information-Sharing Working Group will meet April 5.** PHMSA has [announced](#) that the Voluntary Information-Sharing (VIS) Working Group will convene a public meeting on April 5 to continue discussing the need for and identification of a voluntary information-sharing system among operators. Topics addressed by the VIS Working Group include requirements of section 10 the Protecting Our Infrastructure of Pipelines and Enhancing Safety (PIPES) Act of 2016, integrity management, data types and tools, in-line inspection methods, geographic information system implementation, examples of existing information-sharing systems and safety management systems.

**UPDATES FROM OTHER FEDERAL AGENCIES**

**BSEE seeks comments on renewal of an information collection related to oil spill response plans for facilities located seaward of the coast line.** On March 6, the Bureau of Safety and Environmental Enforcement (BSEE) issued a [notice](#) requesting comments on the proposed renewal of an information collection related to spill-response plans for oil-handling facilities located seaward of the coast line, including associated pipelines. The information collection also covers any related Notices to Lessees and Operators (NLTs) issued by BSEE to clarify, supplement, or provide additional regulatory guidance. Comments on the information collection must be submitted to BSEE no later than May 7.

**BSEE seeks comments on renewal of an information collection related to Safety and Environmental Management Systems.** On March 6, BSEE issued a [notice](#) requesting comments on the proposed renewal of an information collection related to the Safety and Environmental Management Systems program which describes management commitment and policies and procedures to facilitate safety and

**State-Specific Association  
Meetings**

**March 2018**

- 7-9 [Ohio Oil & Gas Association's Winter Meeting](#), Columbus, OH
- 20-22 [Louisiana Damage Prevention Summit](#), Baton Rouge, LA
- 21 [Pennsylvania Independent Oil & Gas Ass'n Spring Meeting](#), Pittsburgh, PA

**April 2018**

- 2-5 [Georgia Municipal Ass'n Pipeline Safety Seminar](#), Macon, GA
- 24-26 [Virginia State Corporation Commission Damage Prevention Conference](#), Virginia Beach, VA
- 25-27 [Tennessee Damage Prevention Summit](#), Murfreesboro, TN

**May 2018**

- 16-18 [Arkansas Damage Prevention Summit](#), Little Rock, AK

**June 2018**

- 7-10 [California Independent Petroleum Ass'n Annual Meeting](#), San Diego, CA
- 13-15 [Kentucky Gas Ass'n Annual Meeting](#), French Lick, IN

**July 2018**

- 10-12 [Indiana Energy Ass'n Pipeline Safety Conference](#), French Lick, IN
- 30-8/3 [Louisiana Gas Ass'n Pipeline Safety Conference](#), New Orleans, LA

environmental protection during operations on the Outercontinental Shelf. The information collection also covers any related NTLs issued by BSEE to clarify, supplement, or provide additional regulatory guidance. Comments on the information collection must be submitted to BSEE no later than May 7.

**SELECT UPDATES FROM STATES**

**ILLINOIS**

Introduced on February 16, [Senate Resolution 1416](#) would require that the Illinois Department of Natural Resources prepare a report reviewing current regulations for oil and gas pipelines, oil and gas extraction, and underground gas storage in Illinois and recommend regulatory changes to improve public safety. The report is to be completed by December 31, 2018. The proposed resolution has been referred to the Committee on Assignments.

**IOWA**

Introduced on February 16, companion bills [HF2394](#) and [SF2235](#) would establish criminal and civil penalties for sabotaging critical infrastructure, which is defined to include pipelines, trucks and rail cars transporting and storing gas and petroleum products and related facilities. Sabotaging critical infrastructure would constitute a Class "B" felony and be punishable by fines up to \$100,000 and imprisonment for up to 25 years. HF2394 has been referred to the Committee on Public Safety. SF2235 was passed by the Iowa Senate on February 21. HF2394 has been placed on the calendar in the House of Representatives.

**LOUISIANA**

The Louisiana Office of Conservation—Pipeline Safety has issued a notice of intent to incorporate by reference as state regulations the federal pipeline safety regulations applicable to gas and hazardous liquid pipelines and LNG facilities. Comments are due April 4, 2018. The proposal is [here](#) and begins on page 354.

Introduced on February 21, [HB104](#) would increase the maximum civil penalties for violating pipeline safety regulations from \$10,000 per violation per day to \$200,000. The maximum civil penalty for any related series of violations could be increased from \$500,000 to \$2 million. The bill has been provisionally referred to the Committee on Natural Resources and Environment.

**WEST VIRGINIA**

Introduced on February 16, [SB631](#) would amend the state's one-call statute to, among other things, eliminate exemptions for state agencies and municipalities; create an Underground Facilities Damage Prevention Board (Board) with enforcement authority; require the West Virginia Public Service Commission to provide the Board with legal, administrative and investigative support; specify the duties and responsibilities of excavators; provide for civil penalties for violations; and require that all underground facilities installed on or after July 1, 2018 be locatable using a generally accepted locating method. The bill passed the West Virginia Senate on February 28 and has been referred to the West Virginia House of Representatives.

**WYOMING**

Introduced on February 14, [SF0074](#) would establish criminal sanctions for intentionally impeding the operation of a critical infrastructure facility, or damaging, destroying, defacing, tampering with or trespass on such facilities, which include oil, gas, hazardous liquid or chemical pipelines, storage facilities, and terminals. Criminal penalties include up to 10 years imprisonment and fines up to \$1 million. The bill has been referred to the Wyoming House of Representatives.

## 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](mailto: Susan Olenchuk) at (202) 298-1896 or [sam@vnf.com](mailto:sam@vnf.com), [Bryn Karaus](mailto: 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.

For questions on recent BSEE rulemakings, initiatives, and other regulatory activities, please contact [Michael Farber](#) at (202) 298-1803.

© 2018 Van Ness Feldman, LLP. All Rights Reserved. This document has been prepared by Van Ness Feldman for informational purposes only and is not a legal opinion, does not provide legal advice for any purpose, and neither creates nor constitutes evidence of an attorney-client relationship.