



Dates of Interest

October 2018

- 3 [PHMSA VIS Meeting](#), Washington, D.C.
- 9 Comments due on PHMSA [Proposed Changes to Forms](#)
- 9 [New England Pipeline Safety Seminar](#), Meredith, NH
- 10 [API Workshop on Pipeline SMS Industry Tools](#), Galveston, TX
- 17 Comments due on [PHMSA Risk Modeling Report](#)
- 18-19 [Pipeline Safety Trust 2018 Annual Conference](#), New Orleans, La
- 22-26 [AGA 2018 Fall Technical Committee Meetings](#), Fort Worth, TX
- 22-25 [AGA/EEI/INGAA Security Committees and Conference](#), Fort Worth, TX
- 30-11/1 [APGA Operations Conference](#), Chattanooga, TN

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- 9 [PHMSA VIS Meeting](#), Washington, D.C.



Pipeline Safety Update

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[Susan Olenchuk](#) and [Bryn Karaus](#)

PHMSA and FERC tout new MOU to improve agency coordination on the review of LNG facilities. PHMSA Rulemakings Update. PHMSA announces 2018 pipeline safety and hazardous materials grants. PHMSA announces CAAP grants to support pipeline safety technology. PHMSA submits report to Congress on OPS actual staffing and hiring plan. The Common Ground Alliance releases 2017 DIRT Report. Select Updates from States.

PHMSA and FERC Tout New MOU to Improve Agency Coordination on the Review of LNG Facilities

On September 20, at the open meeting of the Federal Energy Regulatory Commission (FERC), FERC’s General Counsel, James Danly, and Howard “Skip” Elliott, Administrator of the Pipeline and Hazardous Materials Safety Administration (PHMSA), [presented](#) the recent [Memorandum of Understanding](#) (MOU) between the two agencies to establish a framework for improving coordination and the exchange of information when performing the siting and safety review of FERC-jurisdictional proposed liquefied natural gas (LNG) facilities. According to Mr. Danly, the new MOU will enable the Commission to act on LNG applications more quickly, reduce the burden on applicants, and facilitate increased exports.

Mr. Danly explained that the number of applications for LNG export terminals has increased substantially in the last eight years, and FERC’s process of certifying that these projects meet federal safety standards has become increasingly complex and burdensome. Traditionally, under that process, FERC staff made a preliminary determination that the proposed LNG facility met PHMSA’s safety standards, but the process requires numerous queries to PHMSA and applicants before FERC staff has sufficient information to make its determination. According to Mr. Danly, the MOU will end this duplicative and iterative process and will allow PHMSA to make a preliminary determination on safety issues and certify it to the Commission.

Administrator Elliott said the MOU will bolster America’s status as a net exporter of LNG, adding that the U.S. already exports LNG to over 25 countries internationally.

PHMSA Rulemakings Update. The tables below summarize the status of the PHMSA’s pending pipeline safety rulemaking initiatives as reflected in the Department of Transportation’s (DOT) August [Significant Rulemaking Report](#) and the Office of Management & Budget’s (OMB) Office of Information and Regulatory Affairs (OIRA) Spring 2018 Unified Agenda of Regulatory and Deregulatory Actions. The Unified Regulatory Agenda appears in two principal parts, [Current Agenda Agency Regulatory Entries for Active Actions](#) and [Current Long Term Actions](#). DOT has not released a September Significant Rulemaking Report.

Pending Final Rules

Proceeding	DOT Estimated Submission to OMB	DOT Estimated Publication	OIRA Estimated Publication
Enhanced Emergency Order Procedures	Not Provided	October 24, 2018	August 2018

Recent Van Ness Feldman Publications

[Update of National Artificial Intelligence Strategic Plan: What Clients Need to Know](#) – October 2, 2018

[Trump Administration Moves to Address Cybersecurity Concerns, Congress Funds Cyber Programs](#) – September 26, 2018

[Update on Tax Legislative and Regulatory Priorities](#) – September 25, 2018

[WOTUS Rule Reinstated in 26 States after Court Enjoins Delay](#) – August 27, 2018

[Van Ness Feldman Enhances Litigation and Environmental Capabilities with Five Lateral Partners, Adds San Francisco Bay Area Office](#) – August 23, 2018

[EPA Proposes Affordable Clean Energy Rule](#) – August 22, 2018

Plastic Pipe Rule	Not Provided	September 28, 2018	August 2018
Safety of Gas Transmission Pipelines, MAOP Reconfirmation, Expansion of Assessment Requirements and Other Related Amendments	Not Provided	March 14, 2019	March 2019
Safety of Gas Transmission Pipelines, Repair Criteria, Integrity Management Improvements, Cathodic Protection, Management of Change, and Other Related Amendments	Not Provided	December 20, 2019	Not Listed
Safety of Gas Gathering Pipelines	Not Provided	December 20, 2019	Not Listed
Safety of Hazardous Liquid Pipelines	Not Provided	December 28, 2018	September 2018
Underground Natural Gas Storage Facilities	Not Provided	January 21, 2019	September 2018

Pending Notices of Proposed Rulemakings

Proceeding	DOT Estimated Submission to OMB	DOT Estimated Publication	OIRA Estimated Publication
Gas Pipeline Regulatory Reform	Not Listed	Not Listed	February 2019
Liquid Pipeline Regulatory Reform	Not Listed	Not Listed	February 2019
Periodic Standards Update	Not Listed	Not Listed	Not Listed
Valve Installation and Minimum Rupture Detection Standards	Not Provided	January 17, 2019	November 2018

Pending Advance Notices of Proposed Rulemakings

Proceeding	DOT Estimated Submission to OMB	DOT Estimated Publication	OIRA Estimated Publication
Class Location Requirements	N/A	Issued August 31, 2018	N/A
Coastal Ecological Unusually Sensitive Areas	Not Listed	Not Listed	November 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

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analyses in support of the proposals. The EO sets out deadlines for OMB evaluation, but review periods are often extended.

OTHER PHMSA UPDATES

PHMSA announces 2018 pipeline safety and hazardous materials grants. On September 27, PHMSA [announced](#) that it will issue almost \$90 million in grants for FY2018 from its pipeline and hazardous materials safety programs. PHMSA will award \$3.7 million to reimburse 4 states for activities related to their safety oversight of underground natural gas storage facilities; \$56 million in Pipeline State Base Formula Grants to 46 states, the District of Columbia, and Puerto Rico to fund their pipeline safety programs; \$1.1 million in One-Call Grants to support 46 projects in 31 states; \$1.5 million in State Damage Prevention Program grants to support 24 projects in 24 states designed to improve existing damage prevention programs; and \$1.5 million in Technical Assistant Grants to local communities and groups of individuals to fund 20 projects in 14 states.

PHMSA announces CAAP grants to support pipeline safety technology. On September 28, PHMSA [announced](#) that it is awarding over \$3.8 million to 11 universities as part of the Competitive Academic Agreement Program (CAAP) for pipeline safety research innovation. The grants will be used to promote the development of research projects that could prevent or mitigate pipeline corrosion and to mitigate other pipeline safety challenges.

PHMSA submits report to Congress on OPS actual staffing and hiring plan. On September 5, PHMSA submitted a [report](#) to Congress regarding the Office of Pipeline Safety's (OPS) actual staffing in FY2017 and hiring plan for FY2018. During FY2017, OPS staffing increased from 285 to 292 full-time personnel. OPS hired 30 pipeline safety employees, including 17 inspection and enforcement staff, and 23 employees departed the agency. In FY2018, OPS received funding for 308 pipeline safety positions, and on September 30, 2017, 292 (95%) of those positions were filled. Of those positions, 205 were dedicated to inspection and enforcement. Of OPS's 16 vacancies, 12 were inspection and enforcement. The report describes PHMSA's efforts to recruit and retain employees.

UPDATES FROM INDUSTRY

The Common Ground Alliance releases 2017 DIRT Report. The Common Ground Alliance (CGA) released the [Damage Information Reporting Tool](#) (DIRT) for 2017 which analyzes damage and near-miss events from excavation activities related to buried facilities.

SELECT UPDATES FROM STATES

MASSACHUSETTS

On September 26, Governor Charlie Baker [announced](#) that the Massachusetts Department of Public Utilities has been directed to retain an independent consultant to examine the safety of natural gas distribution systems in Massachusetts. The assessment, which will examine the physical integrity and safety of natural gas distribution systems and the operation and maintenance policies and practices of gas distribution companies operating in Massachusetts, was ordered in the wake of the September 13 incident involving Columbia Gas of Massachusetts.

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.