



Dates of Interest

October 2017

3 [API Pipeline Information Exchange](#), Houston, TX

November 2017

2-3 [Pipeline Safety Trust Annual Conference](#), New Orleans, LA

7-9 [AGA Executive Leadership Safety Summit](#), Washington, DC

14 [Common Ground Alliance Best Practices Committee Meeting](#), Houston, TX

14-15 [AGA Natural Gas Odorization Workshop](#), Aurora, CO

15 [API/AFPM Fall Operating Practices Symposium](#), Dallas, TX

29-30 [PHMSA Voluntary Information Sharing System Working Group](#), Arlington, VA

Pipeline Safety Update

ISSUE NO. 130 – SEPTEMBER 25, 2017

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

White House nominates Howard "Skip" Elliott to be PHMSA Administrator. PHMSA Rulemakings Update. Voluntary Information-Sharing Working Group meets on November 29-30. PHMSA issues stays of enforcement for operators affected by recent hurricanes. PHMSA announces One-Call grants. U.S. House of Representatives passes amendment addressing automatic and remote shutoff valves. Pipeline Association for Public Awareness releases pipeline awareness and emergency response resources. Select Updates from States.

White House Nominates Howard "Skip" Elliott to be PHMSA Administrator

On September 11, President Trump [nominated](#) Howard ("Skip") R. Elliott to serve as the Administrator of the Pipeline and Hazardous Materials Safety Administration (PHMSA). According to a White House [announcement](#), Mr. Elliott had a long career in the freight rail industry, and for the last 10 years served as the group Vice President of Public Safety, Health, Environment and Security for CSX Transportation, where he worked on hazardous materials transportation safety, homeland security, crisis management, and environmental compliance and operations. He was involved in developing and implementing computer-based tools to assist emergency management officials, first responders, and homeland security personnel in preparing for and responding to a railroad hazardous materials or security incident.

The [Senate Commerce, Science & Transportation Committee](#) will consider Mr. Elliott's nomination on September 27.

PHMSA Rulemakings Update. The tables below summarize the status of pipeline safety rulemakings pending before PHMSA, as reflected in the Department of Transportation's (DOT) August [Significant Rulemaking Report](#) and the Unified Regulatory Agenda, released in July by the Office of Management & Budget's (OMB) Office of Information and Regulatory Affairs (OIRA). The Unified Regulatory Agenda now appears in two principal parts: [Current Agenda Agency Regulatory Entries for Active Actions](#) and [Current Long Term Actions](#).

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.

Pending Final Rules

Proceeding	DOT Estimated Submission to OMB	DOT Estimated Publication	OIRA Estimated Publication
Enhanced Emergency Order Procedures	Not listed	Not listed	September 2017
Plastic Pipe Rule	Not listed	Not listed	December 2017



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

PHMSA offers training on gas and hazardous liquid pipeline safety regulations. More information is available [here](#).

October 2017

- 16-20 Illinois (Gas)
- 23-27 Kansas (Gas)
- 24-26 Virginia (Gas)

Recent Van Ness Feldman Publications

[Court Ruling on Post-Spill Access to Records Highlights Importance of Corporate Safety Culture](#) – August 15, 2017

[DOI's Repeal of Obama Administration Valuation Reforms May Signal More Change for Coal, Oil & Gas Industries](#) – August 8, 2017

[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

Safety of Gas Transmission and Gathering Pipelines	No Date Provided	No Date Provided	June 2018
Safety of Hazardous Liquid Pipelines	December 26, 2017	December 29, 2017	December 2017
Underground Natural Gas Storage Facilities	No Date Provided	January 31, 2018	January 2018

Pending Notices of Proposed Rulemaking

Proceeding	DOT Estimated Submission to OMB	DOT Estimated Publication	OIRA Estimated Publication
Class Location Requirements	December 26, 2017	April 9, 2018	Not Listed
Standards Update Rule – 2015 and Beyond	Not listed	Not listed	September 2017
Valve Installation and Minimum Rupture Detection Standards	Not Listed	Not Listed	September 2017

OTHER PHMSA UPDATES

Voluntary Information-Sharing Working Group will meet on November 29-30. On September 25, PHMSA issued a [notice](#) announcing that the Voluntary Information Sharing (VIS) Working Group will meet on November 29 and 30 to continue discussing the need for and the identification of a voluntary information sharing system. The VIS Working Group, created under section 10 of the Protecting Our Infrastructure of Pipelines and Enhancing Safety (PIPES) Act of 2016, will address the following topics: mandate requirements, existing integrity management regulations, data types and tools, inline inspection repair methods, geographic information system pipeline data and operator implementation, potential subcommittee needs, past integrity management lessons learned, examples of existing information-sharing systems, and the potential need for additional expertise with committee membership. The VIS Working Group will meet in Northern Virginia.

PHMSA issues stays of enforcement for operators affected by recent hurricanes. Following Hurricanes Harvey and Irma, PHMSA on [September 1](#) and [September 6](#) issued temporary stays of enforcement of operator qualification requirements and pre-employment and random drug testing requirements for pipeline personnel involved with activities related to hurricane response and recovery. The stays of enforcement state that PHMSA will not pursue enforcement actions relating to these regulations. PHMSA encourages operators to document instances of their inability to comply with regulations. Unless extended, the stays are in effect for 45 days from their issuance dates.

PHMSA announces One-Call grants. On September 6, PHMSA [announced](#) awards of \$1.3 million in One-Call Grants to 26 states. State agencies use the grants to strengthen damage prevention programs, related compliance activities, training, and public education on One-Call Notification Programs.

UPDATES FROM CONGRESS

U.S. House of Representatives passes amendment addressing automatic and remote shutoff valves. The House of Representatives adopted an [amendment](#) to the FY18 Transportation, Housing and Urban Development Appropriations bill that would require that \$1,000,000 of PHMSA's budget be set aside for the adoption of regulations requiring automatic or remote-controlled shut-off valves, or equivalent

**State-Specific Association
Meetings**

October 2017

- 12 [Indiana Oil & Gas Association Annual Meeting](#), Evansville, IN
- 18-19 [Illinois Commerce Commission Pipeline Safety Conference](#), Effingham, IL
- 24-25 [Kansas Pipeline Safety Seminar](#), Junction City, KS
- 24-26 [Virginia State Corporation Commission Pipeline Safety Conference](#), Virginia Beach, VA

technology, on newly constructed or replaced transmission pipelines. The amendment was offered by Congressman Salud Carbajal (D-CA) and is intended to facilitate implementation of 49 U.S.C. § 60102(n) which was adopted in section 8(b)(3) of the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 requiring that PHMSA, if appropriate, adopt regulations.

UPDATES FROM INDUSTRY

Pipeline Association for Public Awareness releases pipeline awareness and emergency response resources.

The Pipeline Association for Public Awareness has published the 2017 edition of its [Pipeline Emergency Response Guidelines](#), a reference resource for pipeline emergencies. This year's edition includes a new Appendix E covering storage facilities, additional information about security measures, and revised incident response steps to more closely match those in PHMSA's Emergency Response Guidebook.

On September 22, PAPA released a narrated presentation entitled "[Pipeline Awareness and Emergency Response](#)."

SELECT UPDATES FROM STATES

KANSAS

On September 12, the Kansas State Corporation Commission issued an [order](#) requiring that specified gas utilities develop a plan for the systematic accelerated replacement of all of their bare steel and cast iron pipelines in Class 3 locations. Preliminary plans are due no later than December 12, and final proposed plans are due by March 12, 2018. The plans are subject to approval by the Commission. The order provides for a surcharge of up to \$0.40 per residential customer per month for a return of capital expenditures for replacement projects approved by the Commission. The gas utilities also must prepare a plan for increased leak detection of obsolete plastic systems, develop a plan for annual reports updating the Commission on the mileage of mains per material by class location, and develop an annual lost and unaccounted for gas report.

NORTH DAKOTA

The North Dakota Industrial Commission, Department of Mineral Resources, Oil and Gas Division has proposed numerous [amendments](#) to the Administrative Code addressing the safety of gas and oil wells and drilling and producing locations. The proposed regulations would, among other things, require that contractors obtain the regulations before commencing operations, and require that operators purchasing existing wells be aware of the location of all oil and gas pipelines leaving the well site or facility and submit accurate schematic drawings identifying flow lines and transfer lines leaving the pad or facility. [Public hearings](#) will be held on October 11-12 to address the proposed amendments.

WISCONSIN

The Wisconsin Public Service Commission has [adopted](#) a final rule incorporating into its regulations Parts 192, 193, and 199 of the federal pipeline safety regulations effective October 1, 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.