



Dates of Interest

April 2019

- 9-11 [API Pipeline Conference and Control Room Forum](#), Phoenix, AZ
- 11-12 [SGA Compliance Workshop for Natural Gas Pipeline Operators](#), Plano, TX
- 12 Comments due on [Pipeline Safety: Information Collections](#)
- 14-17 [GPA Midstream 2019 Convention](#), San Antonio, TX
- 23 [NTSB Meeting on Silver Spring, Maryland, Natural Gas Explosion](#), Washington, DC
- 29-5/3 [2019 AGA Operations Conference & Biennial Exhibition & Spring Committee Meetings](#), Nashville, Tenn.

May 2019

- 7-9 [SGA Practical In-Line Inspection Workshop](#), Tulsa, OK
- 8 Comments due on [DOT Notice of Review of Guidance](#)
- 21 Comments due on [PHMSA Information Collection](#)
- 21-22 [SGA Gas Pipeline Integrity Management Seminar](#), Houston, TX
- 21-23 [SGA Advanced In-Line Inspection Workshop](#), Dublin, OH

June 2019

- 4-5 [SGA Pipeline Safety Management Systems](#), Houston, TX
- 25-26 [PHMSA GPAC Meeting](#), Washington, DC
- 26-28 [2019 AGA Construction Inspection Workshop](#), Las Vegas, NV

Pipeline Safety Update

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PHMSA announces enforcement discretion regarding inspection of farm taps. DOT Office of Inspector General initiates audit of PHMSA's safety culture. DOT extends deadline for commenting on guidance documents that should be repealed or revised. PHMSA Rulemakings Update. DOT's FY 2020 budget would decrease funding for PHMSA's pipeline safety programs. The Voluntary Information-Sharing System Working Group releases recommendations. PHMSA seeks comments on information collections related to safety-related condition reports and hazardous liquid integrity management. PHMSA releases report to Congress analyzing the safety of shipping crude oil by various modes.

PHMSA Announces Enforcement Discretion Regarding Inspection of Farm Taps

On March 26, the Pipeline and Hazardous Materials Safety Administration (PHMSA) announced that it will exercise enforcement discretion with respect to farm taps which PHMSA describes as "individual service lines that are directly connected to transmission, gathering, and production pipelines lines." Specifically, PHMSA has announced that it will not initiate enforcement against an operator that elects to manage the safety of farm taps under a distribution integrity management plan (DIMP) instead of performing the inspections specified in section 192.740 of the pipeline safety regulations. The purpose of PHMSA's announcement is to allow operators to choose whether to address the safety of farm taps under section 192.740 or DIMP. PHMSA's announcement becomes effective on March 26 and remains effective until further notice. PHMSA also states that it is considering whether to revise sections 192.740 and 192.1003 to codify the option of managing the safety of farm taps under either regulation.

Although not addressed in PHMSA's announcement, state regulators will have the same enforcement discretion with respect to state-regulated farm tap facilities.

The background to this announcement is that, in January 2017, PHMSA issued a final rule adopting section 192.740 which requires that operators inspect and perform tests on pressure regulating or limiting devices, relief devices (except rupture discs), automatic shut off devices and associated equipment that are located on "any service line directly connected to a production, gathering, or transmission pipeline that is not operated as part of a distribution system." Under section 192.740, an operator is required to inspect such facilities once every 3 calendar years, not to exceed 39 months. The final rule also adopted section 192.1003(b) exempting individual service lines directly connected to transmission, gathering, and production pipelines from DIMP.

After issuance of these regulations, the American Gas Association (AGA), Interstate Natural Gas Association of America (INGAA) and American Petroleum Institute (API) filed comments in response to the Department of Transportation's (DOT) October 2, 2017 notice seeking input on existing rules that are good candidates for repeal, replacement, suspension or modification. The associations urged that sections 192.740 and 192.1003 be modified to give operators the flexibility to address the safety of farm taps under either regulation. In particular, the trade associations argued that operators continue to have the ability to manage farm tap risks under DIMP. PHMSA's announcement addresses that request.

DOT Office of Inspector General Initiates Audit of PHMSA's Safety Culture

On March 13, DOT's Office of Inspector General (OIG) issued a [memorandum](#) to PHMSA announcing an audit to assess PHMSA's safety culture in carrying out its mission of ensuring safe transportation of energy by pipeline and the safe transportation of hazardous materials. Noting that PHMSA's strategic plan contains a goal of emphasizing safety over competing goals and demands, OIG states that the audit

State-Specific Association Meetings

April 2019

- 8-11 [MN 2019 Pipeline Safety Educational Conference](#), Breezy Point Resort, MN
- 16-18 [VA State Corporation Commission Damage Prevention Conference](#), Virginia Beach, VA
- 24-26 [TN Damage Prevention Summit](#), Murfreesboro, TN

May 2019

- 15-17 [AR Damage Prevention Summit](#), Little Rock, AR
- 30-31 [PA Gas Transmission & Distribution Seminar](#), Camp Hill, PA

July 2019

- 29-8/1 [LGA Pipeline Safety Conference](#), New Orleans, LA

**Van Ness Feldman's
Environmental Cost Recovery
Unit**

Recognizing client demand for efficient environmental cost recovery strategies particularly tailored to today's challenging business conditions, Van Ness Feldman has established an environmental cost recovery unit (CRU) that enables clients to maximize use of customized fee structures and insurance assets for environmental cost recovery. The CRU team is comprised of former government enforcement attorneys and insurance recovery specialists to support clients in prioritizing, funding, and maximizing environmental cost recovery efforts.

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will assess how PHMSA influences its own safety culture through internal controls such as compliance and enforcement measures and by upholding leading practices.

DOT Extends Deadline for Commenting on Guidance Documents That Should Be Repealed or Revised

On March 8, DOT issued a [notice](#) extending until May 8 the deadline for submitting comments on a [Notice](#) issued February 5 inviting the public to file comments identifying guidance documents issued by DOT modal agencies, including PHMSA, that should be repealed or revised.

PHMSA Rulemakings Update. The chart below shows the status of PHMSA' pending pipeline safety rulemaking initiatives as reflected in DOT's February [Significant Rulemaking Report](#), PHMSA's [Chart](#) (updated March 12) summarizing the status of legislatively mandated actions, and the Office of Management & Budget's (OMB) Office of Information and Regulatory Affairs (OIRA) Fall 2018 Unified Agenda of Regulatory and Deregulatory Actions. The Unified Agenda appears in two principal parts, [Current Agenda Agency Regulatory Entries for Active Actions](#) and [Current Long Term Actions](#).

New information appears in bold. Note that, according to PHMSA's chart, the final rule on the Safety of Onshore Hazardous Liquid Pipelines was transmitted to OMB on March 8.

Pending Final Rules

Proceeding	DOT Estimated Publication	OIRA Estimated Publication	PHMSA's Chart
Emergency Order Procedures	March 20, 2019	October 2018	April 22, 2019
Safety of Gas Transmission Pipelines, MAOP Reconfirmation, Expansion of Assessment Requirements and Other Related Amendments	July 2, 2019	March 2019	July 2, 2019
Safety of Gas Transmission Pipelines, Repair Criteria, Integrity Management Improvements, Cathodic Protection, Management of Change, and Other Related Amendments	December 20, 2019	December 2019	Not Listed
Safety of Gas Gathering Pipelines	December 20, 2019	December 2019	Not Listed
Safety of Onshore Hazardous Liquid Pipelines	May 27, 2019	December 2018	June 18, 2019
Underground Natural Gas Storage Facilities	July 2, 2019	December 2018	July 2, 2019

Pending Notices of Proposed Rulemakings

Proceeding	DOT Estimated Publication	OIRA Estimated Publication	PHMSA's Chart
Class Location Requirements	Not Specified	September 2019	Not Listed
Gas Pipeline Regulatory Reform	August 14, 2019	May 2019	Not Listed
Liquid Pipeline Regulatory Reform	Not Listed	Feb. 2019	Not Listed
Periodic Standards Update	Not Listed	April 2020	Not Listed
Repair Criteria for Hazardous Liquid Pipelines	Not Specified	Next Action Undetermined	Not Listed
Valve Installation and Minimum Rupture Detection Standards	August 7, 2019	January 2019	August 7, 2019

**Recent Van Ness Feldman
Publications**

[FERC Revisiting its Policy for ROE Determinations and Seeking Comments](#) – March 22, 2019

[Emerging Technologies Update](#) – February 26, 2019

[Federal Guidance on Section 404 Permitting Under Development](#) – February 14, 2019

[Van Ness Feldman Launches Environmental Cost Recovery Unit for Energy, Industrial, and Government Clients](#) – February 1, 2019

[Critical Infrastructure: 2018 Cybersecurity Year in Review/2019 Year Ahead Analysis](#) – January 24, 2019

[Emerging Technologies Update](#) – January 23, 2019

[BSEE Requests Comments on Deepwater Decommissioning-in-Place Policies](#) – January 2, 2019



**Know what's below.
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Pending Advance Notices of Proposed Rulemakings

Proceeding	DOT Estimated Publication	OIRA Estimated Publication	PHMSA's Chart
Coastal Ecological Unusually Sensitive Areas	Not Listed	April 2020	Not Specified

Other PHMSA Updates

DOT's FY 2020 budget would decrease funding for PHMSA's pipeline safety programs. On March 11, DOT released its Budget [Highlights](#) for Fiscal Year 2020 which reflects a request for \$149 million for PHMSA's pipeline safety program. The FY 2020 budget request reflects a decrease of \$16 million from enacted FY 2019 levels.

The Voluntary Information-Sharing System Working Group releases recommendations. On March 12, the Voluntary Information-Sharing (VIS) System Working Group released its [Recommendation Report](#). The VIS Working Group was developed to explore issues relating to the development of a centralized, organized system to permit operators to voluntarily share information about pipeline safety for the purpose of improving safe pipeline operations. The VIS Working Group offered three recommendations that, combined with continued emphasis on robust safety management system programs, are essential to establishing an effective VIS: (1) congressionally authorized VIS, including a technology platform, that provides for the participation of operators, PHMSA and other stakeholders; (2) federal legislation to provide confidentiality, non-punitive, and other legal protections for participating operators; and (3) inclusion of information about distribution systems.

PHMSA seeks comments on information collections related to safety-related condition reports and hazardous liquid pipeline integrity management. On March 22, PHMSA issued a [notice](#) requesting comments regarding the renewal of two expiring information collections. The first involves the requirement that operators submit safety-related conditions when such conditions exist on gas or hazardous liquid pipelines or LNG facilities. The second involves recordkeeping and reporting requirements under PHMSA's hazardous liquid pipeline integrity management regulations. Comments must be filed at PHMSA by May 21.

PHMSA releases report to Congress analyzing the safety of shipping crude oil by various modes. On March 19, DOT Secretary, Elaine Chao, transmitted a [report](#) to Congress analyzing the comparative safety of shipping crude oil by truck, rail and pipeline. The study concluded that, when the percentage of product spilled per volume shipped is used as a proxy for safety, shipping by water is the safest, followed by pipeline, truck and rail. If the rate of incidents is used as the proxy, shipping crude by pipeline is more safe than truck, followed by rail. If safety is measured using human consequences (i.e., serious injuries and fatalities), then shipping crude by rail is safer than truck, followed by pipeline.

PHMSA recommended further study using additional composite consequence metrics, including economic or environmental damage, and the exploration of additional risk methodologies, such as a risk matrix methodology. PHMSA also emphasized that significant knowledge gaps exist regarding the exposure, vulnerability and consequences of crude oil transportation, and noted that PHMSA is conducting additional studies and surveys to fill those knowledge gaps as required under the Fixing America's Surface Transportation (FAST) Act of 2015. DOT prepared the March 19 report pursuant to the Fiscal Year 2016 Senate Appropriations Report.

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.