



Dates of Interest

September 2016

- 6 [Comments due on PHMSA ICR](#)
- 6-9 [NAPSR Southwest Region Meeting](#), Ruidoso, New Mexico
- 12-16 [AGA Operations Section Fall Committee Meetings](#), Nashville, TN
- 13-16 [2016 AOPL Annual Business Conference, Chicago, IL](#)
- 14-15 [SGA Pipeline Safety Management Systems](#), Atlanta, GA
- 15-16 [AGA Executive Leadership Safety Summit](#), Nashville, TN
- 15-16 [SGA Hazardous Liquids Pipeline Safety Regulations for Gas Operators](#), Houston, TX
- 26-30 [NAPSR National Meeting](#), Indianapolis, IN

October 2016

- 10-13 [API Tank, Valves and Piping Conference](#), Las Vegas, NV
- 19-21 [AGA Gas Utility Best Practices Technical Training and OQ Roundtable](#), Henderson, NV
- 20-21 [Pipeline Safety Trust Conference](#), New Orleans, LA

November 2016

- 9 [API & AOPL Pipeline Safety Management Systems Webinar](#)
- 13-16 [NARUC Annual Meeting](#), La Quinta, CA
- 16 [API/AFPM Fall Operating Practices Symposium](#), New Orleans, LA

Pipeline Safety Update

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

PHMSA Issues Advisory Bulletin to Clarify Regulatory Requirements for Active and Abandoned Pipelines. PHMSA Rulemakings Update. New FAA Procedures Will Enable Use of Drones for Inspection and Monitoring of Pipelines. DOT and PHMSA Request Dismissal of NWF’s Lawsuits Challenging Approval of Oil Spill Response Plans. API and AOPL Release Annual Pipeline Report. CPUC Fines PG&E \$25.6 Million for Record-keeping Violations.

PHMSA Issues Advisory Bulletin to Clarify Regulatory Requirements for Active and Abandoned Pipelines

On August 16, the Pipeline and Hazardous Materials Safety Administration (PHMSA) issued an [advisory bulletin](#) to clarify the regulatory requirements applicable to active and abandoned pipelines. The advisory bulletin stated that a gas or hazardous liquid pipeline is either active, and therefore subject to all applicable safety regulations in Part 192 or 195, or abandoned, i.e., permanently removed from service and not subject to Part 192 or 195. The advisory stated that the pipeline safety regulations do not recognize an “idle,” “inactive,” or “decommissioned” status. PHMSA indicated, however, that a pipeline purged of product presents different risks and may warrant different regulatory treatment. In particular, deferral of certain activities on purged but active pipelines may be acceptable and the agency is considering proposing procedures that would address how owners and operators would notify regulators of such pipelines. In the interim, owners and operators should coordinate deferred activities with regulators in advance.

Van Ness Feldman has prepared an overview of the [Protecting Our Infrastructure of Pipelines and Enhancing Safety \(PIPES\) Act of 2016](#), and a redline showing how the PIPES Act modified the legislative text of the pipeline safety laws. For copies, contact Susan Olenchuk at SAM@vnf.com or Bryn Karaus at BSK@vnf.com.

PHMSA Rulemakings Update. The tables below summarize the status of PHMSA’s rulemakings as reported in the Department of Transportation’s (DOT) [August Significant Rulemaking Report](#) and by OMB’s Office of Information and Regulatory Affairs (OIRA) in the Spring 2016 [Unified Regulatory Agenda](#). Revised dates appear in **bold**.



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

State-Specific Association Meetings

September 2016

- 7-8 [Pennsylvania PUC Gas Safety Seminar](#), State College, PA
- 11-13 [Arkansas Gas Association Annual Conference](#), Hot Springs, AK
- 26-28 [Michigan Pipeline Safety Conference](#), Mt. Pleasant, MI

October 2016

- 2-3 [New Mexico Oil & Gas Association Annual Meeting](#), Santa Fe, NM
- 4-6 [Alabama Damage Prevention Summit](#), Montgomery, AL
- 25-27 [Virginia State Corporation Commission Pipeline Safety Conference](#), Virginia Beach, VA

November 2016

- 2-4 [Mississippi Damage Prevention Summit](#), Tunica, MS

Regulations and Code Compliance: Upcoming PHMSA State Seminars

PHMSA offers training on gas and hazardous liquid pipeline safety regulations.

More information is available [here](#).

September 2016

- 12-16 New York (Gas & Hazardous Liquid)
- 19-23 Kentucky (Gas)
- 26-30 California (Gas)
- 26-30 Michigan (Gas)
- 26-30 Utah (Gas)

October 2016

- 17-21 Maine (Gas)
- 24-28 New Jersey (Gas)

Pending Final Rules

Proceeding	DOT Estimated Submission to OMB*	DOT Estimated Publication	OIRA Estimated Publication
Expanding the Use of Excess Flow Valves in Gas Distribution Systems to Applications Other than Single-Family Residences	September 21, 2016	February 1, 2017	January 2017
Operator Qualification, Cost Recovery, Accident and Incident Notification, and Other Pipeline Safety Proposed Changes	Not listed by DOT	Not listed by DOT	October 2016
Plastic Pipe Rule	Not listed by DOT	Not listed by DOT	October 2016
Safety of Gas Transmission and Gathering Pipelines	Information Not Available	Information Not Available	Information Not Available
Safety of Hazardous Liquid Pipelines	September 12, 2016	December 20, 2016	October 2016
Underground Storage Facilities (interim final rule)	October 12, 2016	January 23, 2017	August 2016

Pending Notices of Proposed Rulemaking

Proceeding	DOT Estimated Submission to OMB*	DOT Estimated Publication	OIRA Estimated Publication
Periodic Updates of Regulatory References to Technical Standards and Miscellaneous Amendments	Not listed by DOT	Not listed by DOT	July 2016
State Pipeline Safety Program Certification	Not listed by DOT	Not listed by DOT	August 2016
Valve Installation and Minimum Rupture Detection Standards	January 24, 2017	May 3, 2017	September 2016

*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.

UPDATES FROM OTHER FEDERAL AGENCIES

New FAA procedures will enable use of drones for inspection and monitoring of pipelines. The Federal Aviation Administration (FAA) recently issued a final rule to regulate the commercial use of small unmanned aircraft or drones. In addition, Congress has instructed the FAA to develop procedures to exempt monitoring and inspection of critical infrastructure, such as pipelines, from any provisions in the final rule that could prevent using drones for such purposes. Van Ness Feldman recently issued an [Alert](#)

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Recent Van Ness Feldman Publications

[BSEE Director Urges Action on Offshore Well Cementing Safety Issues](#) – August 30, 2016

[BSEE Looks to Address Offshore Safety Component Failures at Upcoming Forum](#) – August 22, 2016

[Proposed BSEE Rule Continues Interior Department Focus on Decommissioning Costs and Obligations](#) – August 17, 2016

[Use of Drones for Monitoring and Inspection of Energy Infrastructure](#) – August 17, 2016

[Little-Noticed Provision in BSEE's Well Control Rule May Have a Major Impact on Risk Reduction](#) – August 8, 2016

providing an overview of the requirements and steps a pipeline operator must follow to operate drones for monitoring and inspection operations.

UPDATES ON LITIGATION

DOT and PHMSA request dismissal of NWF's lawsuits challenging approval of oil spill response plans. On August 22, DOT and PHMSA filed a [response](#) opposing motions for summary judgment filed by the National Wildlife Federation in separate pending lawsuits, that have (1) alleged that the Secretary of Transportation violated the Clean Water Act by failing to review and approve oil spill response plans, and (2) challenged PHMSA's approval of an oil spill response plan submitted by Enbridge for its Line 5, which transports oil under the Straits of Mackinac. DOT and PHMSA argued that NWF's suit is now moot because DOT has ratified PHMSA's approval and that NWF lacks standing. DOT and PHMSA also filed [motions for summary judgment](#) requesting that the cases be dismissed.

UPDATES FROM INDUSTRY

API and AOPL release annual pipeline report. On August 18, the American Petroleum Institute and the Association of Oil Pipe Lines released their annual [report and strategic plan](#). The report summarizes pipeline safety principles, analyzes industry safety records, and outlines efforts liquid pipeline operators are making to advance technologies and implement innovative approaches to inspecting, monitoring, and managing pipeline safety programs.

SELECT UPDATES FROM STATES

CALIFORNIA

CPUC Fines PG&E \$25.6 million for record-keeping violations. On August 26, the CPUC issued a [decision](#) finding that Pacific Gas & Electric Company failed to maintain accurate records of its natural gas distribution system and imposing a fine of \$25.6 million. The decision closes an investigation initiated in 2014 in response to six incidents attributed to inaccurate mapping of facilities or incorrect recording of facility specifications. The CPUC increased the fine proposed by the administrative law judge by \$1.3 million.

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.

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