



Dates of Interest

December 2018

- 17 Comments due on [PHMSA draft Guidance for Extending 7-Year Integrity Management Reassessment Interval](#)
- 18-19 [PHMSA Voluntary Information-sharing System Working Group](#), Washington, DC
- 28 Comments due on [TSA pipeline security information collection](#)

January 2019

- 8-10 PHMSA GPAC and LPAC Meetings, Washington, DC
- 11 Responses due on [NGA RFP re Pipeline Safety Management Systems](#)
- 22-25 [2019 API/AGA Joint Committee on Pipeline Welding Practices](#), San Antonio, TX

March 2019

- 11 [Common Ground Alliance 2019 Conference and Expo](#), Tampa, FL

April 2019

- 9-11 [API Pipeline Conference and Control Room Forum](#), Phoenix, AZ



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Pipeline Safety Update

ISSUE NO. 143 – DECEMBER 11, 2018

[Susan Olenchuk](#), [Bryn Karaus](#), and [Marco Bracamonte](#)

PHMSA issues final rule addressing plastic pipe. PHMSA seeks comments on FAQ guidance for obtaining extensions of 7-year integrity management reassessment interval. PHMSA Rulemakings Update. DOT increases maximum civil penalties under the Pipeline Safety Act. The random drug testing rate remains at 50 percent for 2019. PHMSA Voluntary Information Sharing Working Group to meet on December 18-19. DOT's Office of Inspector General (OIG) announces audit of PHMSA's oversight of LNG facilities. TSA seeks comment regarding extension of information collection request involving pipeline security information. AGA releases report on leading practices to reduce over-pressurization events. Northeast Gas Association seeks consulting assistance implementing pipeline safety management systems.

PHMSA Issues Final Rule Addressing Plastic Pipe

On November 20, the Pipeline and Hazardous Materials Safety Administration (PHMSA) published a [final rule](#) amending the pipeline safety regulations applicable to the use of plastic pipe in the transportation of gas. The amended regulations apply to new, repaired, and replaced plastic pipe and will become effective January 22, 2019. Below is an overview of the amendments to the regulations.

- **Traceability and tracking provisions delayed:** PHMSA delayed adopting proposed definitions of "traceability information" and "tracking information" and the proposed requirements that operators implement the tracking and traceability provisions of industry standard ASTM F2897-11a and retain tracking and traceability records for the life of the pipeline. PHMSA explained that the incorporation of the 2012 editions of material standards for polyethylene (PE) pipe and PA-12 pipe, which require that operators mark plastic pipe with the 16 character ASTM F2897-11a markings, will promote standardization of how component attributes are marked and captured in asset management systems. PHMSA will, however, require that markings be legible until the time of installation.
- **Increased design factor of PE pipe:** The final rule increases the allowable design factor for new and replaced PE pipe from 0.32 to 0.40, subject to limiting the minimum wall thickness for 0.40 design factor pipe to 0.090 inches. The higher design factor also will apply to pipe sizes less than one-inch Iron Pipe Size and Copper Tubing Size.
- **Expanded use of Polyamide-11 (PA-11) pipe:** The design factor for new and replaced PA-11 pipe is increased to 0.40. In addition, the maximum operating pressure is increased from 200 psig to 250 psig and the maximum pipe diameter is increased to 6-inches. Similar to PE pipe, the increased design factor for PA-11 pipe also applies to smaller diameter pipe. PHMSA is incorporating by reference ASTM F2945-12a, an industry standard for PA-11 pipe, and other modern industry standards for PA-11 and PA-12.
- **Permitted use of Polyamide-12 (PA-12) pipe:** Operators are permitted to install PA-12 pipe for the first time and to use a design factor of 0.40. PA-12 pipe may be used at pressures up to 250 psig and for pipe up to 6 inches in diameter. PHMSA is incorporating by reference ASTM F2785-12 which defines material properties, manufacturing tolerances, test methods and requirements, marking requirements, and minimum quality control program requirements for

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[Federal Administration Issues Climate Report](#) – December 6, 2018

[FERC Proposes Rule Requiring Transmission Providers to Revise Rates Following Tax Rate Change](#) – November 16, 2018

[2018 Election Results: What Happened Yesterday and What Happens Next](#) – November 7, 2018

[Significant Cyber Supply Chain Management Changes on the Horizon for Electric Utilities](#) – October 31, 2018

[Congress Enacts Legislation to Promote New Hydropower Development](#) – October 24, 2018

[Landmark FERC Order Adopts New Method for ROE Determinations](#) – October 17, 2018

PA-12 pipe, and ASTM F2767-12 which sets forth specifications for electrofusion fittings on PA-12 systems.

- **Design and construction of risers:** The final rule adds new requirements for the design and construction of plastic risers, and incorporates by reference ASTM F1973, an industry standard for plastic pipe risers. PHMSA retained the requirement that risers be rigid, but removed the requirement for a 3-foot horizontal base leg. PHMSA also clarified that operators may install field-assembled anodeless risers.
- **Fittings:** PHMSA is incorporating a requirement to use “Category One” joints, as defined by a listed specification. A Category One joint provides resistance to lateral forces so that a large force on the connection would cause the pipe to yield before the joint. PHMSA also adopted revised cathodic protection requirements for newly installed electrically isolated metal fittings.
- **Plastic pipe installation:** The final rule adopts new requirements for a number of installation processes, including: installation via trenchless excavation, pipe joining, qualifying joining procedures, qualifying individuals to perform joints, procedures for bends and elbows, service line connections to mains, and pipe joining equipment maintenance. PHMSA did not adopt proposed repair criteria and plans to revisit this issue in a future rulemaking. PHMSA also will prohibit mechanical leak repair clamps as a permanent repair.
- **Other Amendments:** The final rule permits the use of PVC pipe, adopts a variety of modern industry standards, and revises regulations related to storage and handling, component design, valve design, standard fittings, and pipe testing. PHMSA clarified that Type B regulated onshore gathering lines constructed with plastic pipe must comply with the regulations for plastic pipe. The final rule does not adopt proposed repair criteria and enhanced backfill requirements.

PHMSA Seeks Comments on FAQ Guidance for Obtaining Extensions of 7-Year Integrity Management Reassessment Interval

On November 15, PHMSA issued a [Request for Comments](#) on draft Frequently Asked Questions (FAQs) that PHMSA developed to provide guidance on what constitutes sufficient justification for obtaining a 6-month extension of the 7-year interval for performing reassessments under the gas transmission integrity management regulations. The guidance will implement authority granted by Congress in Section 5(e) of the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011. Comments are due December 17.

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) November [Significant Rulemaking Report](#) 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 Regulatory Agenda appears in two principal parts, [Current Agenda Agency Regulatory Entries for Active Actions](#) and [Current Long Term Actions](#). In addition, PHMSA has recently updated its [Chart of PHMSA Regulations](#), required by the 2016 Protecting Our Infrastructure of Pipelines and Enhancing Safety (PIPES) Act.

Pending Final Rules

Proceeding	DOT Estimated Publication	OIRA Estimated Publication	PHMSA’s 2016 PIPES Act Chart
Enhanced Emergency Order Procedures	December 7, 2018	October 2018	December 24, 2018

Plastic Pipe Rule	Issued November 20, 2018		
Safety of Gas Transmission Pipelines, MAOP Reconfirmation, Expansion of Assessment Requirements and Other Related Amendments	April 4, 2019	March 2019	March 14, 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	March 15, 2019	December 2018	January 7, 2019
Underground Natural Gas Storage Facilities	January 21, 2019	December 2018	January 21, 2019

Pending Notices of Proposed Rulemakings

Proceeding	DOT Estimated Publication	OIRA Estimated Publication	PHMSA's 2016 PIPES Act Chart
Class Location Requirements	Not Provided	September 2019	Not Listed
Gas Pipeline Regulatory Reform	May 10, 2019	May 2019	Not Listed
Liquid Pipeline Regulatory Reform	Not Listed	February 2019	Not Listed
Periodic Standards Update	Not Listed	April 2020	Not Listed
Repair Criteria for Hazardous Liquid Pipelines	Not Listed	Next Action Undetermined	Not Listed
Valve Installation and Minimum Rupture Detection Standards	March 29, 2019	January 2019	January 14, 2019

Pending Advance Notices of Proposed Rulemakings

Proceeding	DOT Estimated Publication	OIRA Estimated Publication
Coastal Ecological Unusually Sensitive Areas	Not Listed	April 2020

OTHER PHMSA UPDATES

DOT increases maximum civil penalties under the Pipeline Safety Act. On November 27, DOT issued a [final rule](#) increasing the civil penalties that PHMSA may assess under section 60122 of the Pipeline Safety Act. The maximum civil penalty for each pipeline safety violation increased from \$209,002 to \$213,268, and the maximum penalty for a related series of pipeline safety violations increased from \$2,090,022 to \$2,132,679. The maximum penalty for liquefied natural gas pipeline safety violations increased from \$76,352 to \$77,910. These increases account for inflation.

The random drug testing rate remains at 50 percent for 2019. On December 11, PHMSA issued a [Notice](#) that the minimum random drug testing rate for covered employees will remain at 50% during calendar year 2019. The notice reminds operators with 50 or more employees to submit their annual Drug and Alcohol Management Information System (DAMIS) reports containing drug and alcohol testing information for employees and contractors performing (or ready to perform) covered functions. DAMIS user names and passwords will be available via the PHMSA Portal in January 2019.

PHMSA Voluntary Information Sharing Working Group to meet on December 18-19. On November 27, PHMSA issued a [notice](#) that the Voluntary Information-Sharing (VIS) Working Group will meet on December 18-19 in Washington D.C. to continue discussions regarding establishment of a voluntary information-sharing system. Information on this meeting and previous meetings is [here](#).

DOT's Office of Inspector General (OIG) announces audit of PHMSA's oversight of LNG facilities. On October 16, DOT's OIG [announced](#) that it has initiated an audit of PHMSA's oversight of LNG facility operators' compliance with Part 193 safety regulations which address the siting, design, construction, operation, and security of LNG facilities. PHMSA also oversees 151 LNG plants in conjunction with state pipeline safety offices. Noting that PHMSA's LNG oversight responsibilities may increase as U.S. LNG exports are projected to increase and that PHMSA's oversight will need to be effective and efficient, OIG states that it will assess PHMSA's oversight of LNG operators' compliance with federal regulations and states that conduct inspections of LNG facilities.

UPDATES FROM OTHER FEDERAL AGENCIES

TSA seeks comment regarding extension of information collection request involving pipeline security information. On October 29, the Transportation Security Administration (TSA) issued a [Notice](#) requesting public comment on a proposed extension of a currently approved information collection request under which pipelines are encouraged to notify the Transportation Security Operations Center of incidents that may indicate a deliberate attempt to disrupt pipeline operations and activities that could be precursors to such an attempt. Notifications are provided to TSA pursuant to the Pipeline Security Guidelines. Comments are due December 28.

UPDATES FROM INDUSTRY

AGA releases report on leading practices to reduce over-pressurization events. On November 26, the American Gas Association (AGA) released a report entitled "[Leading Practices to Reduce the Possibility of a Natural Gas Over-Pressurization Event](#)." The document provides guidance to natural gas utilities identifying practices that exceed regulatory requirements that may, depending on the unique characteristics of each operator's system, help to reduce over-pressurization events.

Northeast Gas Association seeks consulting assistance implementing pipeline safety management systems. On November 26, the Northeast Gas Association (NGA) issued a [request for proposals](#) (RFP) seeking a consultant to develop a framework to guide NGA members in consistently implementing pipeline safety management systems, in particular, the approach described in American Petroleum Institute (API) Recommended Practice (RP) 1173. Proposals are due January 11, 2019.

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@vnf.com) at (202) 298-1896 or sam@vnf.com, [Bryn Karaus](mailto:bryn.karaus@vnf.com) at (202) 298-1821 or bsk@vnf.com, or any member of the firm's [Pipeline & LNG](#) practice group.

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