



Dates of Interest

March 2016

- 1-2 [AGA Pipeline Safety Management Systems Workshop](#)
- 2 Comments due on Missouri Public Service Commission [Staff Draft Amendments to Gas Safety Rules](#)
- 7-10 [Common Ground Alliance 811 Excavation Safety Conference](#), Las Vegas, NS
- 14-16 [SGA Pipeline Safety Management Systems Workshop](#), Houston, TX
- 17 Comments due on ACC [Supplemental Notice of Proposed Rulemaking](#)
- 21 Comments due on IURC [notice of proposed rulemaking](#)
- 29-31 [APGA Security & Integrity Foundation Operations Conference](#), Savannah, GA

April 2016

- 4-6 [Midwest Energy Association Leak Detection Class](#), Fitchburg, WI
- 5-6 [AGA/SPE Underground Storage Operators Workshop](#), Evansville, IN
- 5-7 [API Pipeline Conference & Cybernetics Symposium](#), Carlsbad, CA
- 10-13 [Gas Processors Association Convention](#), New Orleans, LA
- 19-22 [AGA Operations Conference](#), Phoenix, AZ
- 24-28 [Compressed Gas Association Annual Meeting](#), Petersburg, FL
- 25-29 [NAPSR Southern Region Meeting](#), Biloxi, MS

Pipeline Safety Update

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President Obama's proposed FY 2017 budget includes funding increase for PHMSA. Secretary Foxx Names John Drake PHMSA Deputy Administrator. House subcommittee schedules hearing on pipeline safety reauthorization. PHMSA rulemakings update. PHMSA releases preliminary findings on cause of crude oil pipeline failure in Santa Barbara, California. PHMSA issues Advisory Bulletin on dangers of snow and ice build-up on gas distribution systems. National Wildlife Federation announces intent to sue PHMSA for approving Enbridge facility response plans. Industry endorses pipeline inspector certification program. AGA revises Commitment to Enhancing Safety. Trade associations release information on underground natural gas storage facilities. NEB releases Safety Advisories and an order addressing safety issues. Select updates from states.

President Obama's Proposed FY 2017 Budget Includes Funding Increase for PHMSA

On February 9, the Obama Administration released its [proposed FY 2017 budget](#), which includes a total request of \$295.2 million for the Pipeline and Hazardous Materials Safety Administration (PHMSA), an increase of more than \$45 million from 2016 enacted funding levels. Approximately \$176.4 and \$68.2 million would be allocated to PHMSA's pipeline safety and hazardous materials programs, respectively, and the agency would be authorized to hire an additional 34.5 full time employees for the pipeline safety program. With respect to pipeline safety funding, the proposed budget requests: (1) \$5.8 million to support a pipeline safety information sharing system that would enable federal and state inspectors and pipeline operators to share critical information such as inspection results, location, and condition of pipelines; (2) \$5.3 million for grants supporting state pipeline safety inspections and community preparedness, and for research and development; and (3) \$2 million for a Design Review Fund, which would facilitate a new fee to be imposed on operators and developers to offset the costs associated with reviewing pipeline projects that either have design and construction costs of \$2.5 billion or more, or that use new or novel technologies or design.

Secretary Foxx Names John Drake PHMSA Deputy Administrator

On February 23, DOT Secretary Anthony Foxx named John Drake to serve as PHMSA's deputy administrator. Mr. Drake, who does not require Senate confirmation, will serve under PHMSA Administrator, Marie Therese Dominguez. Previous positions held by Mr. Drake include DOT's deputy assistant secretary for transportation policy, the director of government affairs for the Federal Motor Carrier Safety Administration, and as a staff member of both the Senate Commerce Committee and the House Transportation and Infrastructure Committee.

House Subcommittee Schedules Hearing on Pipeline Safety Reauthorization

The House Transportation and Infrastructure Subcommittee on Railroads, Pipelines, and Hazardous Materials will hold a hearing on February 25 to address reauthorization of the federal pipeline safety program, including the status of rulemakings required under the previous reauthorization and priorities for the next reauthorization. Witnesses include PHMSA Administrator Marie Therese Dominguez, industry representatives from the Association of Oil Pipe Lines, the Interstate Natural Gas Association of

**Dates of Interest
(continued)**

May 2016

- 3-5 [SGA Practical In-Line Inspection Workshop](#), Tulsa, OK
- 9-13 [NAPSR Western Region Meeting](#), St. George, UT
- 18 [2016 API/AFPM Spring Operating Practices Symposium](#), Chicago, IL
- 23-27 [NAPSR Eastern Region Meeting](#), Dover, DE
- 24-26 [SGA Advanced In-Line Inspection Workshop](#), Dublin, OH

State-Specific Association Meetings

March 2016

- 16 [Louisiana Mid-Continent Oil and Gas Ass'n Annual Meeting](#), Baton Rouge, LA
- 21-23 [Louisiana Damage Prevention Summit](#), Baton Rouge, LA

April 2016

- 4-7 [Georgia Municipal Association Pipeline Safety Seminar](#), Macon, GA
- 11-14 [Minnesota Pipeline Safety Education Conference](#), Breezy Point, MN
- 12-14 [New Mexico Gas Association Pipeline Safety Seminar](#), Ruidoso, NM
- 19-21 [Virginia State Corporation Commission Damage Prevention Conference](#), Virginia Beach, VA

America (INGAA), and the American Gas Association (AGA), and a representative from the Pipeline Safety Trust. The hearing will be live streamed. Additional information is available [here](#).

PHMSA Rulemakings Update. The tables below summarize the status of PHMSA's rulemakings as reported in the Department of Transportation's (DOT) February [Significant Rulemaking Report](#) and by OMB's Office of Information and Regulatory Affairs (OIRA) in the Fall 2015 [Unified Regulatory Agenda](#). Revisions appear in bold font.

Pending Notices of Proposed Rulemaking

Rulemaking	Submitted to OMB*	DOT Estimated Publication	OIRA Estimated Publication
Safety of Gas Transmission Pipelines	April 27, 2015	March 7, 2016	December 2015
Valve Installation and Minimum Rupture Detection Standards	April 15, 2016 (estimated)	July 27, 2016	October 2016
Periodic Updates of Regulatory References to Technical Standards and Miscellaneous Amendments	Not listed in report because deemed non-significant	Not listed by DOT	March 2016
State Pipeline Safety Program Certification	Not listed in report because deemed non-significant	Not listed by DOT	August 2016

Pending Final Rules

Rulemaking	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 30, 2016	January 17, 2017	N/A
Issues Related to the Use of Plastic Pipe in Gas Pipeline Industry	Not listed in report because deemed non-significant	Not listed by DOT	June 2016
Operator Qualification, Cost Recovery, Accident and Incident Notification, and Other Pipeline Safety Proposed Changes	Not listed in report because deemed non-significant	Not listed by DOT	June 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.

OTHER PHMSA UPDATES

PHMSA releases preliminary findings on cause of crude oil pipeline failure in Santa Barbara, California. On February 17, PHMSA released its [preliminary findings](#) identifying external corrosion as the primary cause of the May 2015 Plains Pipeline failure in Santa Barbara, California. According to PHMSA, a third-party



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April 2016

- 11-15 North Carolina (Gas)
- 11-15 North & South Dakota (Gas)
- 18-22 Maryland (Gas)

May 2016

- 9-13 Oklahoma (Gas & Hazardous Liquid)
- 9-13 Puerto Rico (Gas)
- 16-20 California State Fire Marshall (Hazardous Liquid)

vendor performed metallurgical analyses of the failed segment and determined that the leak occurred at an area experiencing external corrosion. Independent in-line inspection (ILI) experts also analyzed the date from the operator's most recent ILI survey of the failed segment, and concluded that the most recent survey did not accurately size the amount of external corrosion in the failed area. PHMSA expects to release its final accident report in late spring 2016.

PHMSA issues Advisory Bulletin on dangers of snow and ice build-up on gas distribution systems. On February 11, PHMSA issued an [advisory bulletin](#) reminding operators to take appropriate steps to prevent damage to pipeline facilities caused by the build-up of snow and ice on gas distribution systems. The advisory recommends that operators: (1) notify customers of the need to clear snow and ice from exhaust and combustion air vents for gas appliances to prevent operational problems and the accumulation of carbon monoxide in buildings; (2) monitor snow and ice accumulation that may cause operational problems with pressure control, regulators, or relief valves; (3) use caution in clearing snow and ice from facilities to prevent damage; and (4) remind the public to contact the gas company or emergency responders in the event they smell gas.

LITIGATION UPDATES

National Wildlife Federation announces intent to sue PHMSA for approving Enbridge facility response plans. On February 22, the National Wildlife Federation (NWF) [notified](#) PHMSA of the organization's intent to file suit against PHMSA alleging that the agency's approval, in 2013, of Enbridge's facility response plans (FRP) for the Lakehead Pipelines ("Line 5") violated the National Environmental Policy Act (NEPA), the Endangered Species Act (ESA), and the Oil Pollution Control Act of 1990 (OPA). NWF alleges that PHMSA's approval of FRPs for the onshore portions of Enbridge's Lakehead Pipelines ("Line 5") without performing an environmental impact statement or evaluating impacts on listed or proposed to be listed species or their habitat violated NEPA and ESA, respectively. NWF also alleges that approving FRPs for Line 5's inland offshore sections violated the OPA because approval authority lies with the DOT Secretary. NWF contends that PHMSA must notify Enbridge that approval of the FRPs has no legal effect and is revoked. NWF intends to initiate a lawsuit against PHMSA in 60 days if PHMSA does not take these actions.

UPDATES FROM INDUSTRY

Industry endorses pipeline inspector certification program. On February 18, INGAA, the INGAA Foundation, the Canadian Energy Pipeline Association (CEPA), and the CEPA Foundation [trade associations](#) voted to endorse a program that would provide that all pipeline inspectors working for their member companies are certified by 2018. Certification would be based on the American Petroleum Institute's (API) Recommended Practice (RP) 1169, *Basic Inspection Requirements for New Pipeline Construction*. The purpose of the program is to enhance the quality of new pipeline construction through the standardization of inspector certification and to promote pipeline inspection as a genuine career choice.

AGA revises Commitment to Enhancing Safety. AGA announced that it has revised its [Commitment to Enhance Safety](#) to promote the use of API RP 1171, *Functional Integrity of Natural Gas Storage in Depleted Hydrocarbon Reservoirs and Aquifer Reservoirs*, and API RP 1170, *Design and Operation of Solution-mined Salt Caverns Used for Natural Gas Storage*. AGA's Commitment to Enhance Safety describes voluntary actions taken by AGA or individual operators to promote safe and reliable pipeline operations.

Trade associations release information on underground natural gas storage facilities. INGAA, AGA, and API have [released](#) a brochure and fact sheets explaining underground natural gas storage facilities and communicating their importance in providing consumers with reliable service.

UPDATES FROM CANADA

NEB releases Safety Advisories and an order addressing safety issues. On February 5, the National Energy Board (NEB) issued [Safety Advisory SA 2016-01](#) noting instances where pipe and components with substandard material properties have been installed on pipelines and expressing the NEB's expectation that operators develop or enhance fitting and pipe specifications beyond industry-accepted standards

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and Arm's-Length Bargaining –
February 3, 2016](#)

[Supreme Court Upholds FERC
Rule on Pricing of Demand
Response in Organized
Electricity Markets – January
27, 2016](#)

and implement quality assurance programs to ensure that pipe and components meet those specifications. In a companion [order](#), the NEB directed operators to file reports detailing the existence of pipe and fittings known to not satisfy the material property requirements of the Canadian Standards Association. The NEB also issued [Safety Advisory SA 2016-02](#) describing a 2013 gas pipeline rupture where a contributing cause was lack of clear operating criteria and thermal expansion of the pipeline. The Safety Advisory conveys the NEB's expectation that, when designing pipelines, companies implement quality assurance processes and procedures.

SELECT STATE UPDATES

ARIZONA

On December 11, 2015, the Arizona Corporation Commission issued a [supplemental notice of proposed rulemaking](#) to incorporate by reference federal pipeline safety standards and forms that have been adopted through October 1, 2015, and to make certain rules consistent with the federal pipeline safety regulations. Staff responses to certain questions were due February 22; public comments are due March 17.

CALIFORNIA

[AB1903](#) (Wilk): Introduced on February 11, this bill would require the California Public Utilities Commission (CPUC) and the State Department of Public Health to conduct a joint study of the long-term health impacts of the Aliso Canyon natural gas storage facility leak, and would require the CPUC to report its findings to the state legislature on a biennial basis, beginning in 2018 and continuing until 2032.

[SB1393](#) (De León): Introduced on February 19, this bill would direct that the CPUC require the installation of automatic shutoff or remote-controlled sectionalized block valves on intrastate transmission lines that transport gas to or from a storage facility, unless the CPUC determines that doing so is preempted by federal law. Existing law requires the CPUC to require such valves, absent preemption, on intrastate transmission lines located in a high consequence area or crossing an active seismic earthquake fault.

IDAHO

[HB479](#): On February 12, the State Affairs Committee introduced legislation that would amend Idaho's Public Utilities Law to increase the maximum civil penalties for pipeline safety violations from \$2,000 to \$100,000 for each day a violation exists, and to increase the penalty cap from \$200,000 to \$1 million for any related series of violations.

[HB454](#): On February 9, the Environment, Energy, and Technology Committee introduced legislation that would create a Damage Prevention Board to prevent damage to underground facilities through community outreach and education and to review alleged violations. The Board would be funded by a fee imposed on those operators of underground facilities that are required to participate in the state's one-call program. The bill was reported out of Committee with Do Pass Recommendation on Feb. 17.

ILLINOIS

[HB6165](#) (McCasey): Introduced on February 11, this bill would require each person engaged in the transportation of gas or who owns or operates pipeline facilities to obtain independent, third-party liability insurance with coverage up to \$100 million for general liability, and \$25 million for environmental liability.

INDIANA

On January 13, the Indiana Utility Regulatory Commission issued a [notice of proposed rulemaking](#) to reflect recent changes to the federal pipeline safety standards. A [public hearing](#) will be held on March 14; comments are due March 21.

**Federal Funding Resource
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MISSOURI

On February 1, the Missouri Public Service Commission proposed [regulatory amendments](#) to incorporate into its regulations, with certain clarifications, the federal pipeline safety standards. Comments are due March 2.

NEW JERSEY

[A2416](#) (Eustace): Introduced February 4, this bill would expand the state's damage prevention statute by amending the definition of the term "operator" to include a person issued a permit that regulates an engineering or institutional control for underground contamination pursuant to the Side Remediation Reform Act.

NORTH DAKOTA

On February 19, the North Dakota Industrial Commission preliminarily approved [revised rules](#) that would require operators of proposed and existing underground crude oil and produced water gathering pipelines to submit and obtain the Commission's approval of a surety bond prior to placing the pipeline in service, or by July 1, 2017, respectively. The revised rules also would require advanced notification, including submission of design drawings, to the Commission prior to beginning construction of any underground gathering pipeline, and include detailed requirements relating to design and construction, leak detection and spill response, corrosion control, pipeline integrity and repair, and abandonment of underground gathering lines. The revised rules were filed with the North Dakota Legislative Council for review and approval.

WEST VIRGINIA

[HB4323](#) (Cowles and Miley): Introduced January 28, this bill would require that incidents at a well, well pad, or pipeline facility be reported to the Division of Homeland Security and Emergency Management in the Department of Military Affairs and Public Safety within 15 minutes of ascertaining that an incident has occurred. The bill has passed the House and was introduced in the Senate on Feb. 18.

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, or any member of the firm's [Pipeline & LNG](#) practice group.

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