



Dates of Interest

May 2019

- 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
- 4-6 [AGA Gas Utility Operations Best Practices Program](#), White Bear Lake, MN
- 5-6 [API 3rd Annual Safety Culture Summit](#), Chicago, IL
- 25-26 [PHMSA GPAC Meeting](#), Washington, DC
- 26-28 [2019 AGA Construction Inspection Workshop](#), Las Vegas, NV

July 2019

- 21-24 [NARUC Summer Policy Summit](#), Indianapolis, IN

August 2019

- 13-15 [MEA Gas Operations Technical & Leadership Summit](#), Rochester, MN

Pipeline Safety Update

ISSUE NO. 149 – MAY 21, 2019

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PHMSA Stays Enforcement of 45th Edition of API Specification 5L

On May 1, the Pipeline and Hazardous Materials Safety Administration (PHMSA) issued a [notice](#) announcing that it will not enforce the 45th edition of American Petroleum Institute (API) Specification 5L, "Specification for Line Pipe," if an operator demonstrates compliance with the more stringent provisions of the 46th edition of API Spec. 5L. The 45th edition, dated December 2012, is incorporated by reference into the federal regulations, but PHMSA will allow operators to comply with the 46th edition, dated April 2018, which contains more stringent pipe end-straightness tolerances, clarifies how to define and measure end-squareness, and includes new annexes addressing welded jointers and pipe used in strain-based design.

PHMSA's notice remains effective until a final rule is issued addressing the 46th edition of API Spec. 5L.

PHMSA Rulemakings Update. The chart below shows the status of PHMSA's pending pipeline safety rulemaking initiatives as reflected in the Department of Transportation's (DOT) April [Significant Rulemaking Report](#), PHMSA's status [Chart](#) of legislatively mandated actions, and the Office of Management & Budget's 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](#).

Consistent with an April 11 [Executive Order](#) (EO) directing PHMSA to revise safety regulations applicable to liquefied natural gas (LNG) facilities, DOT has added "Amendments to LNG Facilities," to the April Significant Rulemaking Chart. Among other things, the EO requires that PHMSA issue new regulations updating the Part 193 LNG safety standards to reflect best practices and best-available technologies. To the maximum extent possible, new regulations must reflect risk-based standards. The EO also requires PHMSA to issue regulations allowing the transportation of LNG by rail car within 13 months.

New information appears in bold.

Pending Final Rules

Proceeding	DOT Estimated Publication	OIRA Estimated Publication	PHMSA's Chart
Emergency Order Procedures	May 15, 2019	October 2018	April 22, 2019
Safety of Gas Transmission Pipelines, MAOP Reconfirmation, Expansion of Assessment Requirements and Other Related Amendments	August 20, 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	June 26, 2020	December 2019	Not Listed
Safety of Onshore Hazardous Liquid Pipelines	June 28, 2019	December 2018	June 18, 2019

State-Specific Association Meetings

May 2019

30-31 [PA Gas Transmission & Distribution Seminar](#), Camp Hill, PA

June 2019

26-28 [MANGO Pipeline Safety Conference](#), Osage Beach, MO

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.

[Click here for more information.](#)

Underground Natural Gas Storage Facilities	August 27, 2019	December 2018	July 2, 2019
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Pending Notices of Proposed Rulemakings

Proceeding	DOT Estimated Publication	OIRA Estimated Publication	PHMSA's Chart
Amendments to LNG Facilities	September 2, 2019	Not Listed	Not Listed
Class Location Requirements	November 15, 2019	September 2019	Not Listed
Gas Pipeline Regulatory Reform	August 14, 2019	May 2019	Not Listed
LNG by Rail	July 29, 2019	Not Listed	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	June 26, 2020	Next Action Undetermined	Not Listed
Valve Installation and Minimum Rupture Detection Standards	August 7, 2019	January 2019	August 7, 2019

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

PHMSA amends drug testing regulations to reflect recent DOT requirement to test for opioids. On April 23, PHMSA issued a [final rule](#) making technical corrections to drug testing regulations to ensure consistency with 2017 amendments requiring that DOT-regulated drug testing programs test for oxycodone, oxymorphone, hydrocodone, and hydromorphone, *i.e.* opioids. The final rule amends Part 199's definition of a Prohibited Drug to directly reference DOT's Part 40 regulations governing drug testing procedures. PHMSA also is updating the Management Information System (MIS) form to be consistent with this change.

PHMSA issues advisory bulletin reminding pipeline operators of the risk of damage caused by earth movement. On May 2, PHMSA issued an [advisory bulletin](#) to operators of gas and hazardous liquid pipelines cautioning that earth movement caused by landslides and subsidence in variable, steep and rugged terrain can damage pipelines and threaten their integrity. The advisory bulletin reminds operators that existing regulations require that pipeline facilities be designed to consider load imposed by geological forces and that operators actively monitor and address risks associated with geological hazards. The advisory bulletin recommends that operators take numerous steps to mitigate the risk of damage caused by earth movement, including identifying areas prone to earth movement; using geotechnical engineers when designing, constructing, and operating a pipeline system; developing site-specific design, construction and monitoring plans and procedures that address identified hazards; and developing mitigation measures to remediate identified locations. The advisory bulletin also identifies specific monitoring and mitigation measures that operators should consider.

Updates on Reauthorization of the Pipeline Safety Act

On May 1, the Subcommittee on Energy of the House Energy and Commerce Committee convened a hearing on "The State of Pipeline Safety and Security in America." Witnesses included PHMSA Administrator Howard "Skip" Elliott, the Acting Director of the Government Accountability Office (GAO) W. William Russell, Commissioner Lawrence Friedeman of the Public Utilities Commission of Ohio, and representatives of the Association of Oil Pipelines, the American Gas Association, and the Pipeline Safety Trust. Prepared statements, testimony, and a video link to the hearing, is [here](#).

**Recent Van Ness Feldman
Publications**

[Implementation of Recent
Amendments to the 45Q
Carbon Sequestration Tax
Credit](#) – May 3, 2019

[New Hazardous Waste
Pharmaceutical Rule Imposes
New Obligations on Health
Care Providers](#) – April 5, 2019

[EPA Issues New Emergency
Response Requirements for
Community Water Systems](#) –
April 3, 2019

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



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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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