

INSIGHTS

PHMSA Publishes Long-Awaited Final Rules

September 30, 2019

By: [Catherine D. Little](#), [Annie Cook](#) and [Mandi Moroz](#)

Tomorrow's Federal Register will include three final rules published by the Pipeline and Hazardous Materials Safety Administration (PHMSA) that have been years in the making: (1) [Safety of Gas Transmission Pipelines: Maximum Allowable Operating Pressure Reconfirmation, Expansion of Assessment Requirements, and Other Related Amendments](#); (2) [Safety of Hazardous Liquid Pipelines](#); and (3) [Enhanced Emergency Order Procedures](#). All three rules have been lingering at the Office of Management and Budget (OMB) for review for at least several months, and probably none have been more anticipated than the gas transmission and liquid pipeline rules.

The gas transmission rule is the first phase of what has been referred to as the '[gas mega rule](#),' and was in part prompted by a 2010 incident in San Bruno, California, National Transportation Safety Board recommendations that followed, and the Pipeline Safety Act amendments of 2011 and 2016. There are many significant components to this lengthy final rule, especially regarding maximum allowable operating pressure (MAOP) reconfirmation and records, and as recognition of that, the effective date of this final rule is not until July 1, 2020.

The liquid pipeline safety final rule was initially cleared for publication at the end of the Obama Administration on January 13, 2017. The rule was [subsequently withdrawn by PHMSA](#) on January 24, 2017, following transition to the Trump Administration and the issuance of Executive Memorandum instructing agencies to withdraw regulations that had been sent to the Federal Register but had not yet been published for review and approval by the new Administration. In light of the significance of this rule that will extend the applicability of a number of requirements beyond their current scope, including for integrity management, the effective date is also not until July 1, 2020.

Lastly, the enhanced emergency order procedures final rule follows the interim final rule published under the prior administration in October 2016 as mandated in the Pipeline Safety Act amendments of 2016. Although not as yet invoked, these rules provide PHMSA with a powerful tool to wield in the event of an "imminent hazard," similar to authority it has under the Hazardous Materials Transportation Act. This rule will become effective approximately 60 days from publication, on December 2, 2019.

We will provide more in-depth analysis of these rules in future posts. Given that there has been no further congressional activity with respect to the 2019 Pipeline Safety Act reauthorization process since before the August recess, the fact that these three rules are finally completed may help to reinvigorate reauthorization discussions.