

## INSIGHTS

## Underground Natural Gas Storage IFR Comment Period Reopened

October 20, 2017

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

On October 19, 2017, the Pipeline and Hazardous Materials Safety Administration (PHMSA) **announced** an additional comment period on its December 19, 2016 **interim final rule** (IFR) which established minimum federal safety standards for underground natural gas storage facilities. PHMSA will accept comments until November 20, 2017. This notice comes amidst the current administration's executive orders on deregulation and a recent DOT request for comment on regulatory reform.

In the Notice, PHMSA explains that it reopened the comment period in response to a January 18, 2017 petition for reconsideration jointly filed by industry trade groups the American Gas Association (AGA), API, the American Public Gas Association, and the Interstate Natural Gas Association (INGAA). The petition asked PHMSA to reconsider that IFR because, among other things, it made mandatory API RP 1171 recommendations that were previously voluntary. As previously reported on [pipelaws.com](#), PHMSA **announced** in June 2017 that it will not enforce parts of the newly written regulations that are the subject of the petition and that it plans on addressing the issues raised by the petition, as well as issues raised in other comments it receives, in a final rule that it expects to publish by January 31, 2018. PHMSA also recently formally **extended** the deadline for operators to submit their first underground natural gas storage facility annual reports to March 15, 2018 (which were originally due July 18, 2017).

The IFR was issued in response to a Congressional mandate in the Protecting our Infrastructure and Enhancing Safety Act of 2016 (**PIPES Act**) following a 2015 natural gas leak at the Aliso Canyon Facility in Southern California. The IFR incorporated by reference both mandatory and voluntary provisions in newly published industry standards API Recommended Practice (RP) 1170, "Design and Operation of Solution Cavens used for Natural Gas," and API RP 1171, "Functional Integrity of Natural Gas Storage in Deleted Hydrocarbon Reservoirs and Aquifer Reservoirs."

The IFR was also the subject of legal challenges in the D.C. and 5th Circuit Courts of Appeals. The D.C. Circuit challenge, which was brought by AGA and INGAA, was **dismissed** on June 27, 2017 because the court found that parties "may not simultaneously seek agency reconsideration and judicial review of the same agency order." The Fifth Circuit challenge, which was brought by the State of Texas and the Texas Railroad Commission, is currently **stayed** until thirty days after PHMSA issues a new final rule.