



Billing Code: 4910-60-W

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[[Docket No. PHMSA-2016-0016]]

Pipeline Safety: Safety of Underground Natural Gas Storage Facilities; Petition for Reconsideration

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice.

SUMMARY: On January 18, 2017, PHMSA received a petition for reconsideration of its interim final rule (IFR), “Safety of Underground Natural Gas Storage Facilities.” This Notice informs the petitioners and other interested persons that PHMSA intends to address the issues raised by the petitioners in a final rule, which it expects to issue by January of 2018. In the interim, and for one year after the publication of a final rule, PHMSA will not issue any enforcement citations to operators for failure to meet any provisions that are non-mandatory in an American Petroleum Institute (API) Recommended Practices (RPs) RP 1170 and RP 1171 but that were converted to mandatory provisions by the IFR. Despite this stay of enforcement, PHMSA still reserves the right to exercise its other authorities, if necessary, to address any emergencies that present an imminent hazard or specific conditions that are or would be hazardous to life, property, or the environment. This Notice also informs operators of the availability of further guidance on implementation to help operators develop assessment schedules and carry out compliance programs.

FOR FURTHER INFORMATION CONTACT: Byron Coy, Senior Technical Advisor, Pipeline Safety Policy and Programs, by telephone at 609-771-7810 or by email at byron.coy@dot.gov.

SUPPLEMENTARY INFORMATION: On December 19, 2016, (81 FR 91860) PHMSA published an IFR titled “Safety of Underground Natural Gas Storage Facilities.” PHMSA issued this IFR in response to a statutory mandate in section 12 of the “Protecting our Infrastructure of Pipelines and Enhancing Safety Act of 2016” (Pub. L. 114-183). The IFR incorporates by reference two API RPs: (1) API RP 1170, “Design and Operation of Solution-mined Salt Caverns used for Natural Gas Storage,” issued in July 2015, and (2) API RP 1171, “Functional Integrity of Natural Gas Storage in Depleted Hydrocarbon Reservoirs and Aquifer Reservoirs,” issued in September 2015.

On January 18, 2017, the American Gas Association, API, American Public Gas Association, and the Interstate Natural Gas Association of America (INGAA) submitted a petition seeking reconsideration of the IFR, insofar as it modified the non-mandatory nature of many of the recommendations in the RPs. The petitioners also contended that the implementation periods were impracticable and should reasonably be extended. On April 17, 2017, INGAA withdrew from the petition for reconsideration. For further review, interested parties can access this petition in the docket.

Under subpart D of 49 CFR Part 190, PHMSA’s general policy is to take action on a petition for reconsideration of a regulation, whenever practicable, within 90 days of the regulation’s

publication in the Federal Register. PHMSA determined that it would be impracticable to respond to the petition for reconsideration within that time period. Therefore, this document provides notice to the petitioners and the public of the time period in which action will be taken in accordance with 49 CFR 190.337(b). PHMSA plans to leave the petition for reconsideration open and evaluate the petition, along with the comments it has received, during the development of a final rule. PHMSA plans on using the final rule to address the comments and the petition for reconsideration and revise the requirements detailed in the IFR accordingly. PHMSA expects to issue a final rule by January 2018.

Regarding the manner in which non-mandatory sections of the RPs were made mandatory by the IFR, the petitioners expressed concern that, in certain instances, treating non-mandatory practices as mandatory could result in unnecessary burdens for operators. During the 60-day public comment period on the IFR, PHMSA received similar comments to those raised in the petition on this issue. PHMSA understands these concerns and is reviewing the treatment of non-mandatory provisions as mandatory and will respond to these points in a final rule.

In the meantime, PHMSA will not issue any enforcement citations to operators for non-compliance with any provisions that are non-mandatory in the RPs until at least one year following publication of a final rule. During the same time period, PHMSA will not issue enforcement citations to operators for non-compliance with the requirement to justify and document deviations from the non-mandatory provisions. PHMSA does intend, however, to retain and enforce the other compliance deadlines in the IFR, including the requirement that operators of existing underground gas storage facilities develop, by January 18, 2018, policies

and procedures to implement those sections of the RPs that are identified as mandatory in the actual RPs.

Notwithstanding this stay of enforcement, nothing in this Notice is intended to prevent or discourage an operator from carrying out any recommended practice that is non-mandatory in the RPs if the operator determines that the recommended practice needs to be followed to ensure the safe operation of its facilities.

Finally, PHMSA reserves the right to exercise its authorities separate and apart from the IFR, if necessary, to address any pipeline facility, including any underground gas storage facility, found to be an imminent hazard under 49 U.S.C. 60117(o) or to order corrective actions where the operation of such facility is or would be hazardous to life, property, or the environment under 49 U.S.C. 60112. This exercise of PHMSA's enforcement discretion does not affect any other obligations that operators may have under the pipeline safety regulations or any other applicable law.

Regarding the implementation periods discussed above, PHMSA has recently published informal guidance in the form of Frequently Asked Questions (FAQs) which can be found at <https://primis.phmsa.dot.gov/ung/faqs.htm>. The FAQs explain PHMSA's expectations for the timing of implementing the RPs.

Issued in Washington, DC on June 15, 2017, under authority delegated in 49 CFR 1.97.

Alan K. Mayberry,
Associate Administrator for Pipeline Safety.
[FR Doc. 2017-12806 Filed: 6/19/2017 8:45 am; Publication Date: 6/20/2017]