



**Billing Code: 4910-60-W**

**DEPARTMENT OF TRANSPORTATION**

**Pipeline and Hazardous Materials Safety Administration**

**[Docket No. PHMSA-2017-0129]**

**Pipeline Safety: Underground Natural Gas Storage Facility User Fee**

**AGENCY:** Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT)

**ACTION:** Notice of agency action and request for comment.

**SUMMARY:** On August 16, 2017, the Office of Management and Budget approved the collection of calendar year (CY) 2017 Underground Natural Gas Storage (UNGS) Facility Annual Reports. This notice includes a PHMSA proposal to use CY 2017 annual report data in the user fee rate structure for both fiscal year (FY) 2018 and 2019.

**DATES:** PHMSA invites interested persons to comment on the underground natural gas storage facility data collection described in this notice by **[INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Comments should reference Docket No. PHMSA-2017-0129. Comments may be submitted in the following ways:

- **E-Gov Web Site:** <http://www.regulations.gov>. This site allows the public to enter comments on any Federal Register notice issued by any agency. Follow the instructions for submitting comments.
- **Fax:** 1-202-493-2251.
- **Mail:** Docket Management System, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue, SE, Room W12-140, Washington, DC 20590.

Hand Delivery: DOT Docket Management System, Room W12-140, on the ground floor of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9:00 a.m. and 5:00 p.m. Monday through Friday, except federal holidays.

***Instructions:*** Identify the docket number PHMSA-2017-0129 at the beginning of your comments. If you submit your comments by mail, submit two copies. If you wish to receive confirmation that PHMSA has received your comments, include a self-addressed stamped postcard. Internet users may submit comments at <http://www.regulations.gov>.

***Note:*** Comments will be posted without changes or edits to <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act Statement below for additional information.

### **Privacy Act Statement**

Anyone may search the electronic form of all comments received for any of our dockets. You may review the DOT's complete Privacy Act Statement in the Federal Register published April 11, 2000 (65 FR 19476), or visit <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** Crystal Stewart by telephone at 202-366-1524, by fax at 202-366-4566, by email at [Crystal.Stewart@dot.gov](mailto:Crystal.Stewart@dot.gov), or by mail at U.S.

Department of Transportation, PHMSA, 1200 New Jersey Avenue, SE, PHP-2, Washington, DC 20590-0001.

### **SUPPLEMENTARY INFORMATION:**

#### **Background**

The Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA) (Pub. L. 99-272, sec. 7005), codified at 49 U.S.C. 60301, authorizes the assessment and collection of user fees to fund the pipeline safety activities conducted under Chapter 601 of Title 49. COBRA requires that the Secretary of Transportation establish a schedule of fees for pipeline usage, bearing a reasonable relationship to miles of pipeline, volume-miles, revenues, or an appropriate combination thereof. In particular, the Secretary must take into account the allocation of departmental resources in establishing the schedule.<sup>1</sup> In accordance with COBRA, PHMSA also assesses user fees on operators of liquefied natural gas facilities as defined in 49 CFR Part 193 and UNGS facilities as defined in 49 CFR Part 192.

On June 22, 2016, President Obama signed into law the Protecting our Infrastructure of Pipelines and Enhancing Safety Act of 2016 (Pub. L. 114-183) (PIPES Act of 2016). Section 12 of the PIPES Act of 2016 mandates PHMSA to issue regulations for underground natural gas storage facilities, impose user fees on operators of these facilities, and prescribe procedures to collect those fees. Section 2 of the PIPES Act of 2016 authorizes \$8 million per year to be appropriated from those fees for each of FYs 2017 through 2019 for the newly established UNGS Facility Safety Account in the Pipeline Safety Fund. PHMSA is prohibited from collecting a user fee unless the expenditure of such fee is provided in advance in an appropriations act. If Congress appropriates funds to this account for FY 2018 and 2019, PHMSA will collect these fees from the operators of the facilities.

---

<sup>1</sup> Pipeline user fee assessments under COBRA were upheld by the U.S. Supreme Court in *Skinner v. Mid-America Pipeline Co.*, 490 U.S. 212 (1989).

For FY 2017 UNGS facility user fee billing, PHMSA used Energy Information Agency data to develop the UNGS facility user fee rate structure. On August 16, 2017, the Office of Management and Budget approved the collection of CY 2017 UNGS Annual Reports. The CY 2017 Annual Reports are due March 15, 2018. (82 FR 45946; Oct. 2, 2017.) PHMSA expects to start accepting UNGS Annual Reports in the PHMSA Portal (<https://portal.phmsa.dot.gov/portal>) no later than February 15, 2018.

During the FY 2018 user fee process, PHMSA will use CY 2016 annual report data for gas transmission pipelines, hazardous liquid pipelines, and liquefied natural gas facilities. Using CY 2016 data ensures adequate time to verify annual report data quality and still be able to send user fee assessments promptly after appropriation. If Congress appropriates UNGS funds for FY 2018 and 2019, PHMSA will use the CY 2017 UNGS annual report data to develop the UNGS user fee rate structure for both FY 2018 and 2019. Specifically, PHMSA will use the number of injection/withdraw wells (section C7 of the UNGS annual report) and monitoring/observation wells (section C8 of the UNGS annual report) in the rate structure.

PHMSA proposes the following steps for developing the user fee rate structure. PHMSA will sum the number of wells from sections C7 and C8 of the UNGS annual report for each operator. The operator well counts will be parsed into 10 tiers. The lowest values will be in tier 1 and the highest values in tier 10. The minimum and maximum well counts for each tier will be selected to place an equal number of operators in each tier. The tier fee structure is designed to place a larger share of the user fee on operators with higher well counts. The following percentages of the total user fee would be billed to each tier:

Tier	Percentage of Total
------	---------------------

1	2
2	4
3	5
4	6
5	8
6	10
7	12
8	13
9	15
10	25

PHMSA will not know the total amount of user fees until Congress completes appropriation for FY 2018. Since PHMSA does not currently have data on the number of wells in UNGS facilities, we can provide neither tier boundaries nor fee per tier.

Issued in Washington, DC on December 1, 2017, under authority delegated in 49 CFR 1.97.

Alan K. Mayberry,  
Associate Administrator for Pipeline Safety.  
[FR Doc. 2017-26485 Filed: 12/7/2017 8:45 am; Publication Date: 12/8/2017]