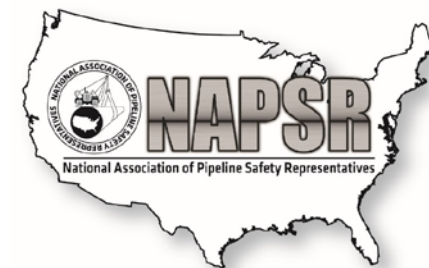
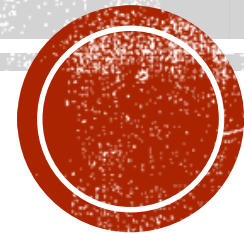


# REGULATION OF PIPELINES

OVERVIEW OF THE FEDERAL / STATE PARTNERSHIP AND CURRENT FEDERAL AND STATE PIPELINE SAFETY REGULATION EFFORTS

2022 Oklahoma Corporation Commission Seminar

Dennis Fothergill--Manager



# FEDERAL REGULATION OF PIPELINES

- Pipelines are regulated by U.S. Department of Transportation.
- The specific office is the Pipeline and Hazardous Materials Safety Administration (PHMSA)
- PHMSA has two parts – the Office of Pipeline Safety, and the Office of Hazardous Materials Safety
- Delegation of Responsibility: US DOT (Secretary of Transportation) -> PHMSA -> States



# Who is PHMSA?

U. S. Department of Transportation (DOT)

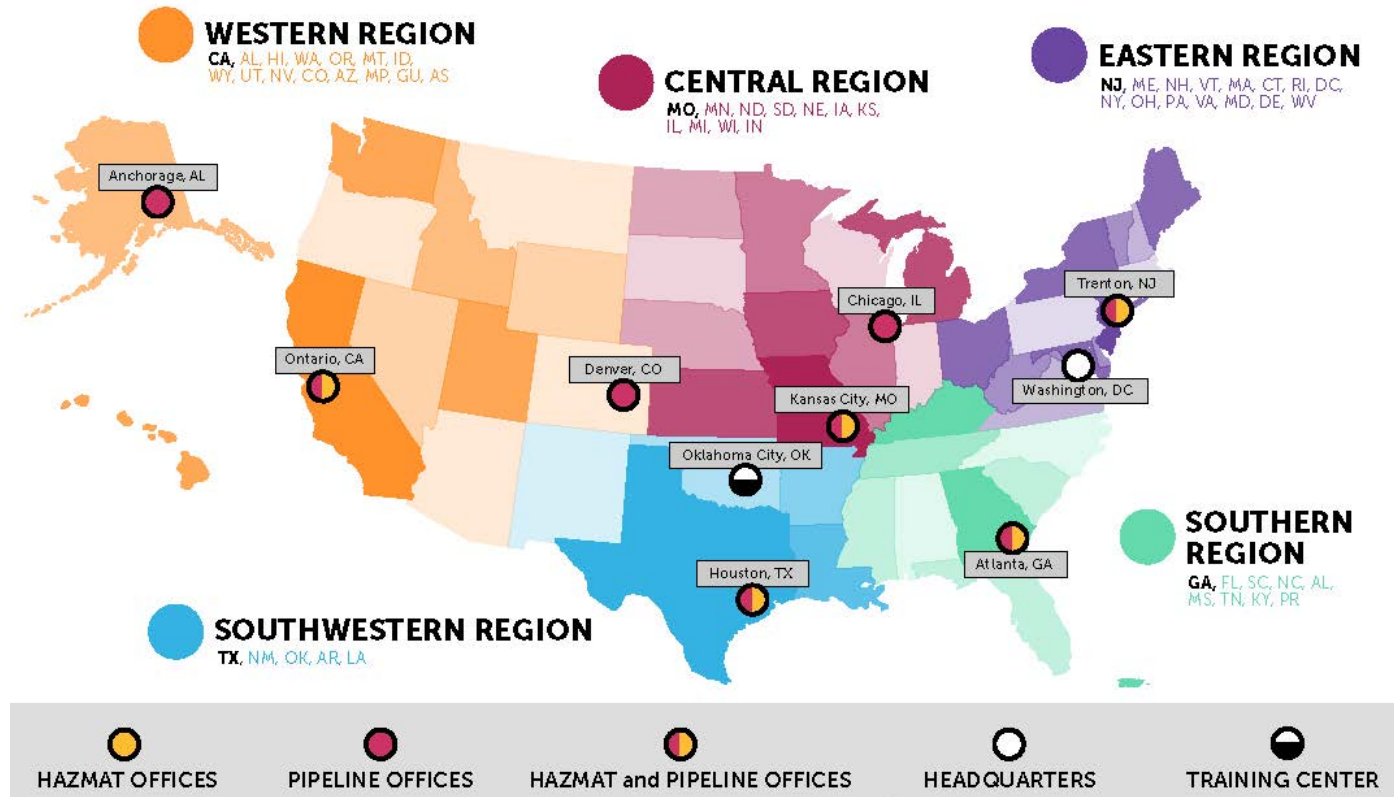


# PHMSA ROLES AND RESPONSIBILITIES

- Inspection and oversight of regulated INTERSTATE pipelines in Oklahoma
- Enforcement of pipeline safety regulations
- Investigation of pipeline accidents and incidents—generally AID
- Education of the public on pipelines and pipeline safety-Community Liaison Services—Bill Lowry, James Prothro for SW region
- Conducting research on technologies and methods needed to improve standards
- Provision of pipeline safety and other grants to state in support of their pipeline safety programs



# PHMSA REGIONAL OFFICES



# THE FEDERAL — STATE PARTNERSHIP

- PHMSA may grant the authority to inspect and enforce the Pipeline Safety Regulations to individual states for intrastate pipelines
- States may have gas or hazardous liquid pipeline programs, or **both—Oklahoma has both**
- Some states are “interstate agents” – i.e. they can perform field inspections on interstate pipelines. Enforcement authority for interstate pipelines remains with PHMSA. **Oklahoma is not an Interstate agent—other than Excavation Damage**
- States must enforce the minimum Federal standards; and may have laws that are more stringent. Oklahoma enforces federal code



# PHMSA OFFICE OF STATE PROGRAMS

## **Evaluations of State Pipeline Safety Programs:** Conducted annually

- Comprehensive records & field review of state pipeline safety programs
- Review of State damage prevention program: Conducted annually
- Review scoring may impact grant funding dollar amounts

**Grant Review:** Every 3 years, PHMSA will audit the state program use of grant money





# **OKLAHOMA CORPORATION COMMISSION PIPELINE SAFETY DEPARTMENT**

**OUR role:**

**Enforcement of Parts 191, 192, 195, 199, 40, including UNGS, and Enforcement of excavation damage for both INTERSTATE and regulated INTRASTATE operators including any oil or gas pipeline in a public right of way**





# **NATIONAL ASSOCIATION OF PIPELINE SAFETY REPRESENTATIVES (NAPSR)**

- Helps to strengthen state pipeline safety programs through promotion of improved safety standards, education, training, and technology
- Non-Profit organization. Consists of state pipeline safety Program Managers, directors, inspectors, and technical personnel
- National / Regional officers (Elected to 1-year terms; Officers in progression from National Secretary, Vice Chair, then National Chair)
- Annual meetings at the national/regional level in conjunction with PHMSA and other stakeholders focused on information sharing



# **NAPSR** (CONTINUED)

## **Resolutions**

- The NAPSR Articles of Incorporation provide a mechanism to draft and adopt NAPSR Resolutions by which NAPSR raises serious pipeline safety concerns to PHMSA at the national level
- Resolutions are reviewed annually, voted on by members and re-submitted to PHMSA

## **NAPSR Standing Committees: Grant Allocation, Legislative, and Liaison**

### **Task Group participation**

- State personnel work with PHMSA and regulatory/industry task groups to provide Subject Matter Expert support/regulatory input-- Oklahoma members are:

Dennis Fothergill—NARUC Staff Subcommittee on Pipeline Safety

Kelly Phelps—Gathering Line Task Group, OQ Task Group

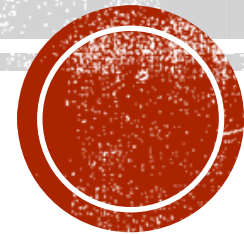
John Harper-OQ Task Group, ASTM F17, Plastic Piping Systems,

NAPSR Gas IM TEAM

Randy Snyder—Gas Piping Technology Committee (GPTC)



# PHMSA RULEMAKING PROCESS



# DIFFERENCE BETWEEN A LAW AND A REGULATION

- Laws are general requirements passed by Congress.
- Congress has passed laws creating PHMSA and giving them the authority to write and enforce pipeline safety regulations.
- Federal pipeline safety statutes (law): 49 U.S.C. § 60101 to 60141. USC is “United States Code”
- Regulations are specific instructions on how to comply with the law.
- Regulations are found in 40 C.F.R. 190 through 199. CFR is “Code of Federal Regulations”.



# TITLE 49 — CODE OF FEDERAL REGULATIONS

- Part 190: Pipeline Safety Programs/Rulemaking
- Part 191: Reporting Requirements
- Part 192: Natural and Other Gas Pipelines
- Part 193: LNG Facilities
- Part 194: Oil Spill Response Plans (OPA)
- Part 195: Hazardous Liquid Pipelines
- Part 196: Protection of Pipelines From Excavation
- Part 198: State Grants
- Part 199: Drug and Alcohol Testing
- Part 40: Procedures for Transportation Workplace Drug and Alcohol Testing



# CONGRESSIONAL REAUTHORIZATION

- Every four years Congress reviews the national pipeline safety program (Pipeline Safety Act). Also determines agency funding.
- Process is known as a Congressional Reauthorization.
- Congress may also include mandates for PHMSA to develop new rules, amend existing rules, or perform studies on the practicality of new requirements.



# PHMSA RULEMAKING PROCESS

- Federal rulemaking process steps/goals:
  - Inform the public
  - Review economic impact of proposed rules
  - PHMSA receives and answers all public comments
  - Review by Gas Pipeline Advisory Committee / Haz Liquid Advisory Committee
    - Advisory committees (GPAC/LPAC) have representatives from industry, regulators, and the general public.
  - Office of Management and Budget (OMB) must review before any regulations become final
  - Congress routinely calls on PHMSA to provide updates on the status of rulemakings and mandates





# PHMSA RULEMAKING PROCESS (CONTINUED)

- Advance Notice of Proposed Rulemaking (ANPR) – PHMSA publishes intent and asks for public comment before an NPRM is published
- Notice of Proposed Rulemaking (NPRM) – PHMSA publishes proposed rule language with a public comment period.
- Supplemental Notice of Proposed Rulemaking (SNPRM) – Issued if changes and further public comment is necessary.



# PHMSA RULEMAKING PROCESS

- Final Rule (FR)
  - Final rule text and implementation date is published along with responses to issues raised by public comment (preamble)
  - Implementation date, 30 – 90 days depending on significance of regulation

## Direct Final Rule (DFR)

- Used for non-controversial issues



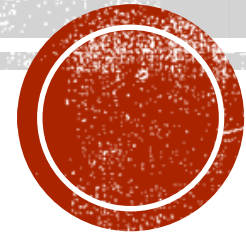
# PHMSA RULEMAKING PROCESS

- Other Federal Register Notices
  - Information Collection and Other Notices
  - Notifications such as Drug & Alcohol Testing rates
  - Announcing public meetings
  - Etc.

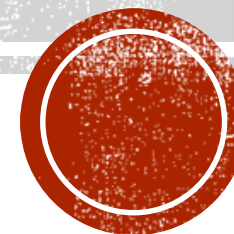


# PHMSA RULE DEVELOPMENT SUMMARY

Other presentations will cover this



# PHMSA ADVISORY BULLETINS



# WHAT IS AN ADVISORY BULLETIN?

- Alerts operators to safety threats and best practices.
- May also be used to request operators perform certain actions or collect data/information.
- Advisory Bulletins are published in the Federal Register and on PHMSA's website.



# WHERE CAN I FIND ADVISORY BULLETINS?

- <https://www.phmsa.dot.gov/standards-rulemaking/notices-and-advisory-bulletins>
- This site provides Notices for all types of Transportation not just Pipeline Bulletins.





# ARE ADVISORY BULLETINS ENFORCEABLE?

- **No** Bulletins have not gone through the rule development process and are not legally binding
- Explains how PHMSA understands and intends to enforce their regulations
- Helps your organization learn from other operator experiences and best practices.



# GOING FORWARD

As part of the PHMSA Guidelines, states are asked to ensure operators are made aware of Advisory Bulletins. Operators will be asked to review advisory bulletins and inform the state of your results. IE—if they apply or not to the operators operations.



# **2020 BULLETINS**

**Overpressure Protection on Low-Pressure  
Natural Gas Distribution Systems, Issued:  
9-29-2020**

**Inside Meters and Regulators, Issued: 9-29-2020**



# 2021 BULLETINS

‘Protecting our Infrastructure of Pipelines and Enhancing Safety Act of 2020’—dealing with methane emissions.

It contains a self-executing mandate requiring operators to update their inspection and maintenance plans to address eliminating hazardous leaks and minimizing releases of natural gas (including intentional venting during normal operations) from their pipeline facilities. Operators must also revise their plans to address the replacement or remediation of pipeline facilities that are known to leak based on their material, design, or past operating and maintenance history. The statute requires pipeline operators to complete these updates by December 27, 2021.—published June 10, 2021.



# **2022 BULLETINS**

**4-8-2022 Requirement of Valve Installation and Minimum Rupture Detection Standards**

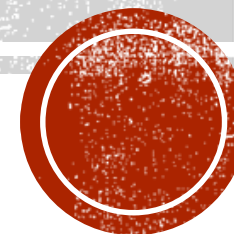
**5-4-2022 & 6-13-2022 Safety of Gas Gathering Pipelines: Extension of Reporting Requirements, Regulation of Large, High-Pressure Lines, and Other Related Amendments: Response to a Petition for Reconsideration; Technical Corrections; Issuance of Limited Enforcement Discretion**

**6-2-2022 Potential for Damage to Pipeline Facilities Caused by Earth Movement and Other Geological Hazards**



**PHMSA**

**INTERPRETATIONS**



# WHAT IS A PHMSA INTERPRETATION?

- PHMSA will respond when someone asks them to interpret Pipeline Safety Regulations requirements.
- Generally, a scenario is presented to PHMSA with an accompanying question. Example:
  - Is my pipeline regulated?
  - Is this a covered task?
  - Did the work performed constitute full compliance?





# WHAT IS A PHMSA INTERPRETATION?

- Requests can be made for interstate or intrastate pipelines.
- Interpretations are only applicable to the exact scenario and question provided in the request.
- All parties involved must abide by the interpretation.



# WHO CAN REQUEST A PHMSA INTERPRETATION

- Anyone can request an interpretation
- Requestor does not have to have a direct interest
- The scenario provided in the request need not be an actual situation, a hypothetical situation will do.
- PHMSA prefers to deal with specific, actual scenarios as broad interpretations may have unintended impacts



# HOW TO REQUEST A PHMSA INTERPRETATION

- Requests for interpretation shall be made in writing to:
  - Director, Office of Standards and Rulemaking
  - USDOT Office of Pipeline Safety
  - Pipeline and Hazardous Materials Safety Administration
  - U.S. Department of Transportation
  - 1200 New Jersey Avenue, SE
  - Washington, DC 20590-0001
- Send by Certified Mail (or mail with tracking ability)
- There is no deadline for receiving a response



# WHERE CAN I FIND PHMSA INTERPRETATIONS?

<https://www.phmsa.dot.gov/regulations/title49/b/2/1/list?filter=Pipelines>

- Interpretations are organized by applicable code sections. Some interpretations may be found under multiple sections of code
- Interpretations are identified by the year and order in which they are received, not by the date they are issued
  - PI-85-0101 (101<sup>st</sup> request received in 1985)
  - PI-16-0002 (2<sup>nd</sup> request received in 2016)

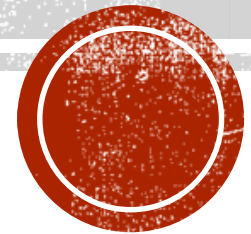


# INTERPRETATIONS OF INTEREST TO OKLAHOMA

- NONE at this time or within the last 3 years



# WAIVERS AND SPECIAL PERMITS



# SPECIAL PERMITS

- A Special Permit is defined in 49 CFR 190.341.
- PHMSA agrees to waive compliance with a part of the Pipeline Safety Regulations under the standards set forth in 49 U.S.C. 60118(c). PHMSA must agree the conditions in the Special Permit are “not inconsistent with pipeline safety”
- PHMSA issues special permits for interstate pipelines
- Most special permits issued by PHMSA are for transmission line class location changes



# WAIVERS

- States issue waivers for intrastate pipelines
- States may have their own rules and guidelines on what needs to be in a waiver request
- Waivers may cover design, materials (i.e. – Fiberspar, Flexsteel), O&M, IBR standard editions or anything else covered by the Pipeline Safety Regulations





# HOW TO APPLY FOR A WAIVER/SPECIAL PERMIT

- Basic operating information
- Specific regulation operator is seeking relief from
- Explanation of why regulation or standard is unnecessary or inappropriate
- Alternative compliance measure and how they provide an equal or greater level of safety
- Operator certification that granting of waiver would not be inconsistent with pipeline safety
- Individual States may have additional requirements



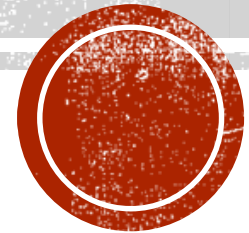
# WAIVER / SPECIAL PERMIT APPLICATION

## - PROCESS

- Submitted in writing at least 120 days before requested effective date
  - Interstate the request goes to PHMSA
  - Intrastate the requests go to State agency
- PHMSA special permits requires public comment
  - State rules may differ
- State approved waivers still must be reviewed and accepted by PHMSA
- PHMSA has 60 days to review state-approved waivers. PHMSA may overrule the state. If they don't the waiver is granted
- PHMSA issued special permits may require renewal



# INCIDENT INVESTIGATIONS AND LESSONS LEARNED



# INCIDENT AND ACCIDENT REPORTING

- Operators must give notice to the National Response Center at 1-800-424-8802 within one hour of confirmed discovery.
- Gas Pipelines have Incidents. See 49 CFR 191.3—Oklahoma Telephonic
- **If the Incident meets the Federal Reporting requirement—then a telephonic must be made within 1 hour after discovery**
- Hazardous Liquid Pipelines have Accidents. See 49 CFR 195.50—Oklahoma Telephonic
- **If the accident meets the Federal Reporting requirement—then a telephonic must be made within 1 hour after discovery**



# WHO IS INVOLVED IN INCIDENT/ACCIDENT INVESTIGATIONS?

- State investigators may become involved in an investigation.  
Purpose:
  - Independent documentation of facts
  - Determine if code violations caused or contributed to the incident
  - Develop recommendations to prevent future recurrences
- PHMSA has an Accident Investigation Division (AID)
  - Interstate investigations and other areas where States do not have jurisdiction.
  - May participate in State lead investigations as observers.
- National Transportation Safety Board (NTSB)
  - Reports directly to Congress
  - Has authority to investigate any transportation accident
  - NTSB investigation assesses both operator and State/PHMSA actions



# INCIDENT AND ACCIDENT NATIONAL TRENDS

- PHMSA has resources on incident trends and root causes for distribution, transmission and hazardous liquid pipelines.
- <https://www.phmsa.dot.gov/data-and-statistics/pipeline/data-and-statistics-overview>



# **NATIONALLY SIGNIFICANT INCIDENTS/ACCIDENTS 2021-2022**

**Gathering—9 significant \$103 million**

**Transmission—75 significant \$45 million**

**HL—143 significant \$185 million**

**UNGS-2 significant \$130,000.00**

**1 Injury—No fatalities**



# STATE - SIGNIFICANT INCIDENTS/ACCIDENTS 2021-2022

1 Significant Distribution TPD \$388,000.00

1 Significant Transmission compressor material failure \$2.5 million

2 Significant HL--\$95,000.00—TPD & 2<sup>nd</sup> Party damage \$156,000.00

1 Significant UNGS \$127,000.00

**NO INJURIES NO FATALITIES**





# STATE - SIGNIFICANT INCIDENTS / ACCIDENTS 2021-2022

**Significant Accidents (HL)** are those including any of the following conditions, but **Fire First incidents** are excluded:

1. Fatality or injury requiring in-patient hospitalization
2. \$50,000 or more in total costs, measured in 1984 dollars
3. Highly volatile liquid (HVL) releases of 5 barrels or more
4. Non-HVL liquid releases of 50 barrels or more
5. Liquid releases resulting in an unintentional fire or explosion



# STATE - SIGNIFICANT INCIDENTS

## 2021-2022

**Significant Accidents/Incidents** are those including any of the following conditions, but **Fire First incidents** are excluded:

- (1) An event that involves a release of gas from a pipeline, gas from an underground natural gas storage facility (*UNGSF*), liquefied natural gas, liquefied petroleum gas, refrigerant gas, or gas from an *LNG facility*, and that results in one or more of the following consequences:
  - (i) A death, or personal injury necessitating in-patient hospitalization;
  - (ii) Estimated property damage of \$129,300 or more, including loss to the operator and others, or both, but excluding the cost of gas lost. For adjustments for inflation observed in calendar year 2021 onwards, changes to the reporting threshold will be posted on PHMSA's website. These changes will be determined in accordance with the procedures in appendix A to part 191.
  - (iii) Unintentional estimated gas loss of three million cubic feet or more.
- (2) An event that results in an emergency shutdown of an LNG facility or a UNGSF. Activation of an emergency shutdown system for reasons other than an actual emergency within the facility does not constitute an incident.
- (3) An event that is significant in the judgment of the operator, even though it did not meet the criteria of paragraph (1) or (2) of this definition.



# QUESTIONS?

