

The graphic features the year '2025' in large, white, stylized digits. A horizontal red banner with white text is positioned across the middle of the digits. Below the banner, the words 'GPA MIDSTREAM CONVENTION' are written in white, all-caps, sans-serif font. The entire graphic is set against a dark, smoky background with a bright light source from the left, creating a lens flare effect. The floor is made of dark wood planks.

**2025**  
*UNVEILING THE MAGIC OF MIDSTREAM INNOVATION*  
**GPA MIDSTREAM CONVENTION**

**Welcome!**

# GO TALK TO LEGAL: All Things Pipeline Safety

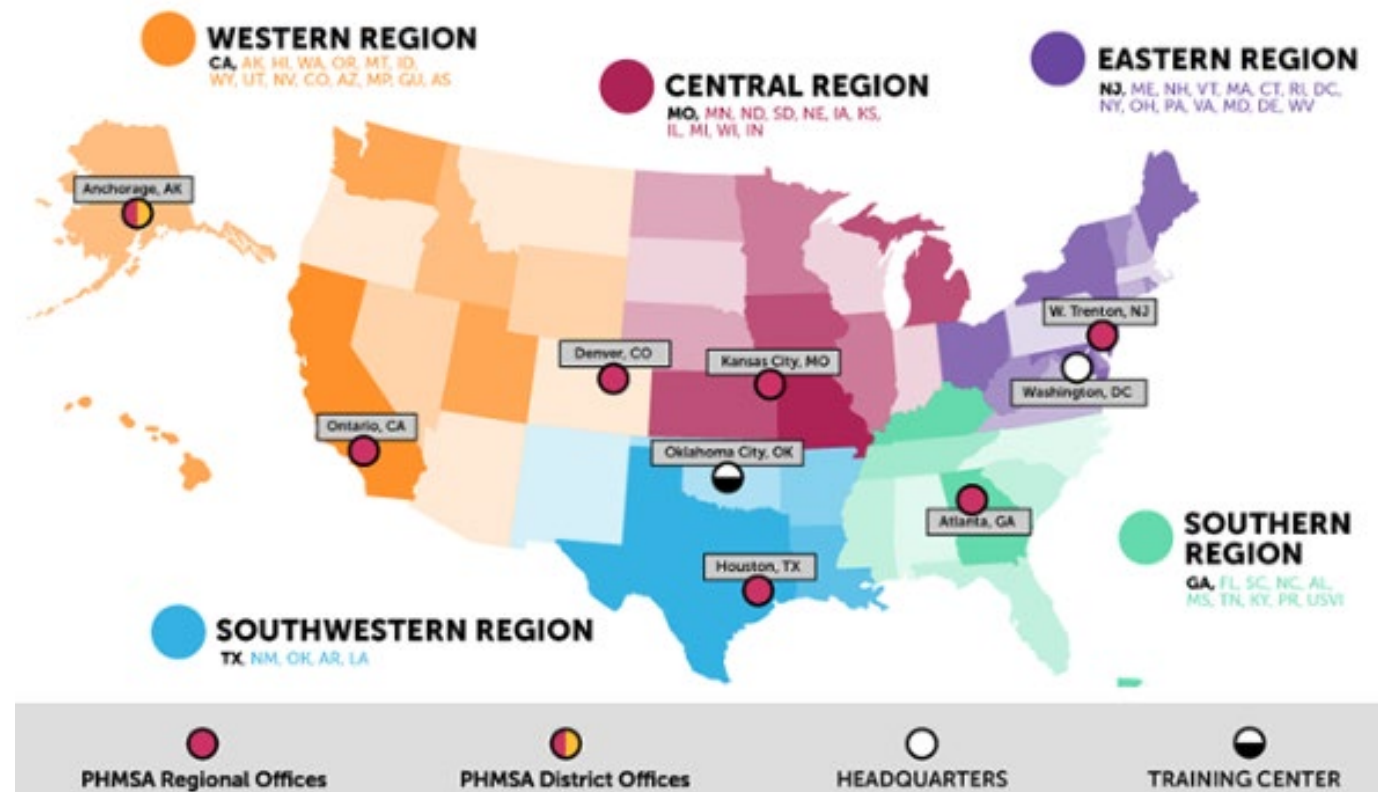
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# Overview

- PHMSA – What It Is and What It Does
- Natural Gas Pipeline Safety Regulations
- PHMSA's Enforcement Tools
- Operator Response Options
- Tactics and Strategies
- Regulatory and Policy Updates
- Examples of When to “Go Talk to Legal”

# PHMSA – What It Is and What It Does

- PHMSA Organization
  - HQ in DC – Set policy, make rules, etc.
  - Five Regions – Field operations, enforcement



# PHMSA – What It Is and What It Does

- HQ – In Transition
  - Administrator Paul Roberti [pending Senate Confirmation]
  - Deputy Administrator Ben Kochman
  - *Acting* Associate Administrator Linda Daugherty
  - *Acting* Deputy Associate Administrator Field Operations Rod Seeley
  - *Acting* Deputy Associate Administrator Policy & Programs Timothy Gaither
- Chief Counsel Keith Coyle
  - Assistant Chief Counsel, Pipeline Safety Division Benjamin Fred

# PHMSA – What It Is and What It Does

- The PHMSA Regions
  - Region Director
  - Operations Supervisors
  - Inspectors – General Engineers
  - What Do They Do?
    - Inspect pipeline systems and regulated facilities
    - Investigate incidents (not all – AID)
    - Initiate enforcement actions

# Natural gas pipeline safety regulations

## Federal Pipeline Safety Program

- Pipeline Safety Act (PSA)
  - The PSA grants authority over pipeline safety to the Secretary of the U.S. Department of Transportation (DOT) – 49 USC 60101 *et seq.*
- Among the powers granted by Congress:
  - To promulgate safety standards (regulations) for design, installation, inspection, emergency plans and procedures, testing, construction, personnel qualification, operation and maintenance, corrosion control
  - To inspect pipeline systems for adherence to the safety standards
  - To enforce compliance with the safety standards
  - To direct that unsafe, or hazardous, pipeline systems be made safe

# Natural gas pipeline safety regulations

## Federal Pipeline Safety Program

- Among the powers granted by Congress (continued):
  - To monitor State pipeline safety programs for oversight of intrastate pipelines
  - To encourage State damage prevention programs
  - To grant funds for State programs and research activities
  - To collect user fees from pipeline operators
- But Congress dictated that PHMSA cannot:
  - Determine pipeline siting, regulate certain excepted facilities, or apply new design, construction or initial testing standards to existing lines

# Natural gas pipeline safety regulations

## Federal Pipeline Safety Program

Federal vs. State Jurisdiction – Who's Your Safety Regulator?

### Interstate Jurisdiction

The Office of Pipeline Safety (OPS) in PHMSA is delegated the Secretary's powers

PHMSA/OPS is the agency with primary safety jurisdiction over **interstate pipelines**.

States also may inspect for PHMSA as interstate agent

### Intrastate Jurisdiction

States exercise safety oversight by certifying their programs to PHMSA (15\* states Hazardous Liquids, 51 Gas)

State regulatory program must be compatible and no less stringent than the federal program (may be more stringent)

States incorporate Federal Regulations into State Regs (then there's LA...)

# Natural gas pipeline safety regulations

## Federal Pipeline Safety Program

### The Regulations – Overarching Subjects

- Performance-Based Regulation (Mostly)
  - Performance vs. Prescriptive
  - Desired safety objectives can be reached
  - Without impeding future industry innovations
- Standards Incorporated by Reference (49 CFR 192.7)
  - API, ASTM, ASME, NACE, NFPA, etc.
  - Get the right version!!!
- Best Practices – In Practice, *You Will Be Compared to Others...*

# Natural gas pipeline safety regulations

## Federal Pipeline Safety Program

### The Pipeline Safety Regulations

- Part 192
  - Design
  - Construction and Testing
  - Operations and Maintenance
  - Integrity Management
  - Corrosion Control
- Part 191
  - Reporting
- Part 190
  - Enforcement Procedures
  - Regulatory Procedures

# PHMSA's Enforcement Tools

## Enforcement – 49 CFR Part 190

- Inspections & Investigations
- Requests for Information
- Notice of Amendment
- Warning Letter
- Notice of Probable Violation
- Compliance Order
- Civil Penalties
- Safety Order
- Corrective Action Order
- Emergency Order

# PHMSA's Enforcement Tools

## Enforcement – 49 CFR Part 190

- Inspections & Investigations
  - 190.203(b) – Inspections scheduled:
    - Routine scheduling (3-5 years)
    - Following an incident
    - “Whenever deemed appropriate” by Associate Administrator
- Requests for Information
  - 190.203(c)
    - Region Director may request information with deadline to provide within 30 days
    - Operator may request an extension
- Obstruction? 190.203(e)
  - Operator must “provide all reasonable assistance in the investigation” – actions “known or reasonably should have been known to prevent, hinder, or impede an investigation without good cause will be subject to [ ] civil penalties”

# PHMSA's Enforcement Tools

## Enforcement – 49 CFR Part 190

- 190.203(f) – When OPS determines that information gathered from inspection warrants further action, OPS may initiate one or more enforcement proceedings
- Notice of Amendment
  - 190.206 – notice specifies the alleged inadequacies and proposed revisions
    - Operator has 30 days to respond – if found inadequate, Order of Amendment
- Warning Letter
  - 190.205 – upon determining that a probable violation has occurred, PHMSA may issue a warning and advise to correct or be subject to future enforcement
    - Operator may respond – no adjudication

# PHMSA's Enforcement Tools

## Enforcement – 49 CFR Part 190

- Notice of Probable Violation
  - 190.207 – notice states alleged violation(s) and response options
    - May propose civil penalties under 190.221 or compliance order under 190.217
- Compliance Order
  - 190.217 – proposes remedial action
- Civil Penalties
  - 190.221 and 190.223 – proposes civil penalties
    - Statutory maximum penalty for each violation for each day continues, not to exceed maximum for related series of violations

# PHMSA's Enforcement Tools

## Enforcement – 49 CFR Part 190

- Corrective Action Order - 190.233
  - Pipeline facility is or would be hazardous to life, property, or the environment
  - Order the operator to take corrective action
- Safety Order - 190.239
  - After notice and an opportunity for hearing
  - Pipeline facility has a condition(s) that pose a pipeline integrity risk to public safety, property, or the environment
- Emergency Order - 190.236
  - Determination that unsafe condition or practice constitutes or is causing an imminent hazard
  - Issued without notice or opportunity for a hearing

# Operator Response Options

- Respond within 30 days of receipt
  - To contest or not contest?
    - Contest allegations and/or contest civil penalties
- How to respond?
  - Submit written response
  - Seek informal consultation
  - Request hearing
- Response materials *may* be posted online

# Tactics and Strategies

## Tips and Tricks for participating in Inspections

- The seemingly minor decisions that can impact the outcome:
  - Single point of contact
  - Company spokesperson vs. room full of people?
  - Counsel present?
- When you thought it was over . . .
  - Use of RFIs after inspections – a few best practices on handling the information
  - Marking documents
  - Lengthy close out docs

# Tactics and Strategies

**Best practices – BEFORE enforcement is commenced**

- Know your inspector; know your Region Director
- Know your objectives
  - Put your best foot forward
  - Make it make sense – connect the dots
  - Think outside the box on compliance
- Know when to... Go Talk To Legal

# Tactics and Strategies

## Best practices – AFTER enforcement is commenced

- Informal meeting
- Can you offer a solution that reduces the risk of recurrence?
- Consent Agreement process
- Is settlement considered a violation for future penalty calculations?
- Know when to... Go Talk To Legal

# Regulatory and Policy Updates

Since Trump took office, many regulatory and policy actions have been initiated:

- CO<sub>2</sub> NPRM Withdrawn
- PHMSA Advisory Bulletin: ADB-2025-01 (90 FR 13658 (Mar. 25, 2025))
- DOT NPRM: Administrative Rulemaking, Guidance, and Enforcement Procedures (90 FR 20956 (May 16, 2025))
- Policy Change: Calculating Civil Penalties (Chief Counsel Memo May 20, 2025)
- Policy Change: Contents of the Case File in Enforcement Cases (Chief Counsel Memo May 29, 2025)

# Regulatory and Policy Updates



- Direct Final Rule: Clarifying Recordkeeping Requirements for Testing in MAOP Reconfirmation Regulation (90 FR 28054 (July 1, 2025))
  - PST Petition for Reconsideration and Request for Stay – July 31, 2025
  - Notice of Comment Period (90 FR 38429 (August 8, 2025))
  - Now we wait...



# Examples of when to...

## Go Talk to Legal

# Questions?

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