

# Indiana Utility Regulatory Commission

*Rulemaking and PHMSA Update*







# Overview



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- **Standards and Rulemaking**
- **Regulatory Reform and changes by new Administration**
- **Pipeline Advisory Committees**
- **Gas Transmission and Gathering Line Rule**
- **National Academy of Science study:**  
*“Designing Safety Regulations for High-Hazard Industries”*
- **Upcoming Events**



# PHMSA Standards and Rulemaking

- **PHMSA uses the process of rulemaking to propose and adopt changes to regulations. The process of rulemaking can include: proposing and finalizing rules, posting notices, advisory bulletins, special permits and state waivers, interpretations, and NTSB recommendations.**
- **The general public may participate in the rulemaking process by filing written comments on any rulemaking document that asks for comments, participating in public meetings, or filing a petition for rulemaking requesting to add, amend, or delete a regulation.**





# Where do New Standards Come From?

- **Pipeline safety standards arise from the desire to improve overall safety for the public and environment and often times arise in response to a significant incident or tragedy.**
- **Congressional Mandates which are typically made during reauthorization of the Pipeline Safety Act**
- **NTSB Recommendations**
- **PHMSA safety initiatives**



# Rulemakings Impacted by the Change in Administration

- **January 20, 2017 – Chief of Staff issued regulatory freeze memo**
  - HL rule withdrawn from Federal Register
  - OQ FR publishes, no rules are required to be delayed
- **Regulatory Reform – New or Early Stage Rulemakings must meet Executive Order Requirements**



# Rulemakings Review and Reform

- **Executive Order 13771**
  - 2 for 1 initiative
  - Zero sum cost
- **PHMSA convened in-house SMEs to review:**
  - Existing regulations
  - Petitions for rulemaking
  - Active rulemakings
  - Special Permits



# Rulemakings Review and Reform

- **PHMSA solicited comments from the Public to Office of the Secretary of Transportation (OST) Docket (Closed December 3, 2017)**
- **Continuing to evaluate submittals against internal regulatory review.**
- **Interesting times ahead – NAPS R position is generally not in support of a reduction in regulations – with exceptions**





# Gas and Liquid Pipeline Advisory Committees (GPAC and LPC)

- **PHMSA has two advisory committees mandated by law. Section 60115 of Title 49, United States Code, requires the establishment and prescribes the duties of two committees formally named the Technical Pipeline Safety Standards Committee (TPSSC) and the Technical Hazardous Liquid Pipeline Safety Standards Committee (THLPSSC).**
- **These are commonly referred to as the Gas Pipeline Advisory Committee (GPAC) and the Liquids Pipeline Advisory Committee (LPAC)**



# Gas and Liquid Pipeline Advisory Committees (GPAC and LPAC)

- **The GPAC and LPAC review PHMSA's proposed regulatory initiatives to assure the technical feasibility, reasonableness, cost-effectiveness and practicability of each proposal. The committees also evaluate the cost-benefit analysis and risk assessment information of the proposals.**
- **“Significant” rulemakings come before the GPAC and LPAC for vote**



# Gas Transmission and Gathering NPRM

- PHMSA plans to break-up the mega-rule into three smaller rulemakings. This first rulemaking is associated with the 2011 congressional mandates, including: MAOP reconfirmation, pipeline integrity for non-HCAs and O&M. Most believe it will be published in the federal register as a final rule before the end of the year.
- The second rulemaking will deal with the remaining mega-rule proposals, minus gas gathering. And, the third rulemaking will deal with new regulations applicable to gas gathering pipelines. These rulemakings are expected sometime in 2019.





# Gas Transmission and Gathering NPRM First Rulemaking

- **Safety of Gas Transmission Pipelines: MOP Reconfirmation, Expansion of Assessment Requirements, and Other Related Amendments**
  - 6-month grace period for 7 calendar-year reassessment intervals
  - Seismicity threats related to integrity management
  - MAOP exceedance reporting
  - Material verification, MAOP reconfirmation, & amendments related to 192.619
  - Related record provisions



# Gas Transmission and Gathering NPRM Second Rulemaking

- **Safety of Gas Transmission Pipelines: Repair Criteria, Integrity Management Improvements, Cathodic Protection, Management of Change, and Other Related Amendments (will cover all remaining elements of the NPRM except gas gathering)**
  - Repair criteria (HCA and non-HCA)
  - Inspections following extreme events
  - Safety features on ILI launchers and receivers
  - Management of change
  - Corrosion control
  - Integrity management clarifications
  - Strengthened assessment requirements



# Gas Transmission and Gathering NPRM Third Rulemaking

- **Safety of Gas Transmission Pipelines:** will address the following items for gas gathering
  - Reporting requirements
  - Appropriate safety regulations for gas gathering lines in Class 1 locations
  - Definitions related to gas gathering
- **September 2018: (POSTPONED until ?)**
  - Committee to consider Gas Gathering requirements



# Designing Safety Regulations for High-Hazard Industries

*The National Academies of*

SCIENCES • ENGINEERING • MEDICINE



# Task

PHMSA contracted with the *National Academy of Science – Transportation Review Board* to conduct a study comparing the advantages and disadvantages of prescriptive and performance-based safety regulation and identify possible opportunities for, and constraints on, making greater use of the latter.



# Implications for PHMSA and Other Regulators of High-Hazard Industries

- Use of macro-level regulations like IM may be advantageous when sources of risk are complex and context-specific, as characteristic of low-frequency, high-consequence events.
- These regulations can serve a valuable purpose by addressing risks that cannot be controlled by highly targeted micro-level regulatory interventions. They can augment micro-level regulations
- But regulators must take into account their ability to enforce, motivate, and support acceptable levels of compliance





# Implications for PHMSA and Other Regulators of High-Hazard Industries

## Four Basic Regulation Design Types with Examples of Commonly Used Descriptors

	<i>Means</i>	<i>Ends</i>
<i>Micro</i>	<i>Micro-means</i> "Prescriptive"	<i>Micro-ends</i> "Performance-based"
<i>Macro</i>	<i>Macro-means</i>	<i>Macro-ends</i> "General duty/ liability"



# Summary Assessment

- Too much emphasis is placed on simplistic and often misconstrued lists of generic advantages and disadvantages of types of regulations.
- The regulator will want to choose a design that is suited to the nature of the problem and the characteristics of the regulated industry, as well as the regulator's capacity to promote and enforce compliance.
- Regulators should consider whether the best approach to achieving their regulatory goals may be to combine various regulatory approaches.



# Upcoming Events

- **Risk Modeling (follow up) Workshop:** *Summer*
- **R&D Forum:** *September*
- **Gas Pipeline Advisory Committee:** *Fall*
- **Voluntary Information Sharing Working Group:** *Jun/Aug/Oct/Dec*





# Questions?



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