

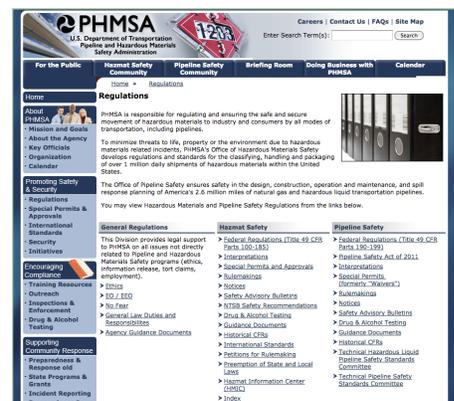
Getting Information And Answers From PHMSA About Pipeline Safety

Whether you are new to the world of pipeline safety or not, at some point it's likely that you'll come to a question that you can't answer by yourself. It could be something about how pipelines work or something mysterious in one of the regulations, or a question about how PHMSA interprets and enforces some part of the regulations. You'll need help to either find it in PHMSA's website or publications, or, if it's something that's not on their website (or maybe just not readily apparent), you might need some help to track down someone who can answer it or send you to the right information. The information in this briefing paper will no doubt overlap with the information in Briefing Paper #14 on jurisdictional issues, as well as Briefing Paper number #15 intended for members of the media or others looking for statistics on enforcement, incidents, particular operators or geographic regions.

PHMSA Website

There is a wealth of current and historical pipeline safety information on the PHMSA website. Unfortunately, the site seems to be in a constant state of revision, and there are several incarnations of the site, all of which remain live, accessible and only sometimes internally linked. Some of the information is out of date, some is duplicative of information on another part of the site, but parts of the older sites are the only place where you can find certain items. This makes it difficult to find things, to find them in the same place if you go back at a later time, and to have much certainty that information (other than statistics, which seem to now be relatively reliably ensconced in the DataMart - see below) is current. Compounding those general difficulties with the website, each iteration of the site has its own internal idiosyncrasies. The labels below are only for identification purposes. For the most part, your entry point to all of these pages is: www.phmsa.dot.gov.

- 1) **Original/old pages:** (narrow format): Some of these pages contain information that is out of date, and some of these pages are not being updated, so make sure you try the search function, sidebar menus and internal links to see if you get to additional, possibly newer pages with information on the same topic. Unfortunately, some of the information on these pages can only be found here. PHMSA also maintains a Library, Electronic Reading Room and Briefing



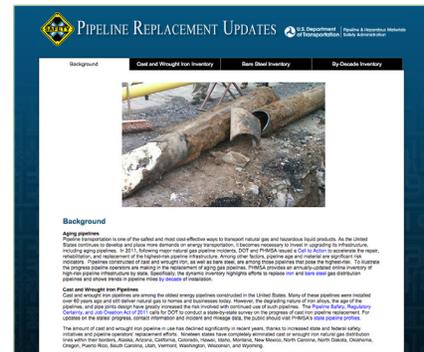
Room in this set of pages, containing information and copies of statutes and regulations, advisory bulletins and other governing documents, press releases, testimony before Congress, frequently requested (through FOIA) documents, statements or enforcement documents relating to recent high profile incidents (though sometimes these are just in the enforcement pages), and other valuable information.

- 2) Stakeholders Communication** - (URLs that begin with “primus”) This section of the website was launched several years ago and was touted as the results of the agency’s efforts to make the scads of data it obtains more accessible to the agency’s stakeholders. Until 2014, it was the portal for incident data and enforcement action information and documents, information about regulations by each state, PIPA,



the National Pipeline Mapping System and other frequently used pages. Much of that information is now moved onto the ‘new’ pages, or is available through Oracle database reports that are created as you ask for them, freeing PHMSA staff from having to create new static reports for the website with every update of the data.

- 3) Pipeline Safety Awareness** Shortly after the Allentown and San Bruno gas pipeline incidents in 2010 the Secretary of Transportation, Ray LaHood issued a “call to action” on pipeline safety, vowed to prepare a Report to America on the state of pipelines, and directed PHMSA to create a new set of web pages to house the federal/state correspondence, an inventory of cast iron and bare steel pipelines by states and updated information about replacement of pipelines and each of the recent incidents. PHMSA set up a nearly completely separate website for these pages. Since then, this set of pages have been moved and partially integrated into the rest of the website here: <http://phmsa.dot.gov/pipeline/library/pipeline-safety-awareness-archive/psa-banner>, though some still have the old banner that looks like this:



- 4) New Pages** (including Oracle/Pipeline DataMart) - As PHMSA slowly upgrades its website, the goal is that it will all be integrated into an updated set of pages with a single new format. Entering the website from the homepage phmsa.dot.gov, you find the newly developed pages - a slightly wider format with a gray background. Over the last year or two, a great deal of information has been moved from older PHMSA pages to these new pages. With some of them, we haven’t yet had enough exposure to them to know whether any valuable information has been left behind, or if PHMSA succeeded in moving it all. Included in this information migration has been an effort to provide direct access to the databases of statistical

information on pipeline mileage, incidents, cast and wrought iron inventories, among others, all moved to an Oracle database named the Pipeline Data Mart (PDM). The PDM lets the user essentially create customized result reports based on selections of data sets in the database, e.g., onshore or off shore, product in pipe, the whole U.S. or a specific state, etc. The great thing about these reports is that they are created with current, up to the minute information in PHMSA's possession. The flip side of that is that the data constantly changes as new operator or state reports come in, creating challenges for relying on published PHMSA data to inform ongoing policy dialogues; the second challenge is that the reports are not linkable to be able to provide direct reference to them to share the data with members of the public, policy makers or members of the media.



If you need help tracking something down that you think should be on PHMSA's website, please let us know. We're happy to try to walk you through it to the right page if we can.

Sources of Pipeline Safety Regulatory Authority

Statutes

The US Department of Transportation is authorized to regulate the safety of pipelines under a set of statutes that are commonly, though not technically correctly, referred to as the Pipeline Safety Act. You can find the statutes [here, at 49 U.S. Code §§60101-60301](#). Every four years, more or less, the program goes through a reauthorization process in Congress, usually resulting in changes to the program, sometimes minor, sometimes profound, in a new Act, the provisions of which are then codified and included in the statutes. These reauthorization acts are variously titled the Pipeline Safety Act of 1979, the Pipeline Safety Reauthorization Act of 1988, the Pipeline Safety Act of 1992, the Pipeline Safety Improvement Act of 2002, the Pipeline Inspection, Protection, Enforcement and Safety Act of 2006, and the Pipeline Safety, Regulatory Certainty and Job Creation Act of 2011, among others, but none of them contains the whole set of pipeline safety statutes. For that, you need to go to Title 49 of the U.S. Code, referred to above. To complicate that slightly, there are certain provisions of various reauthorization acts that have not been codified, for example the provisions relating to statewide governor appointed advisory committees from the 2006 Act. It is still law, just not codified.

Regulations, Rulemakings, Waivers/Special Permits

For the most part, the pipeline safety statutes do not establish the requirements for specific action on the part of an operator. The statutes set out broad duties on the part of the Secretary of Transportation (frequently delegated from the Secretary to PHMSA), to carry out research studies, establish standards, adopt regulations and enforce them. Those regulations are found in Title 49 of the Code of Federal Regulations (CFR) at [Parts 190-195](#). Those parts include procedural rules about how PHMSA will do its business, as well as substantive rules that apply to natural gas pipelines (Part 192), liquefied

natural gas facilities (Part 193), spill response planning for lines subject to the Oil Pollution Act (Part 194) and Hazardous Liquid lines (Part 195). Make liberal use of the index and electronic versions that will allow for a word search to help in finding the various regulations that might relate to a given topic, and keep in mind that the rules for gas lines are not the same as the rules for liquid pipelines, although there are usually some parallels.

From the “Rulemakings” page on the PHMSA website, <http://www.phmsa.dot.gov/pipeline/regs/rulemaking>, you can access recent, pending, and archived rulemakings through links to the Federal Register (look in the upper right under the “Rulemaking Menu”). Monthly status reports on current rulemaking efforts (where they are, when the next step in the process might occur, etc.) are published on the Department of Transportation’s web page here: <http://www.dot.gov/regulations/report-on-significant-rulemakings>

From that same PHMSA “Rulemakings” page, you can also access information about special permits and waivers - both names for agency-granted exemptions from a particular regulation. There is an application process to obtain a special permit, and each one is published in the federal register along with some level of analysis from PHMSA on the potential impacts of granting the waiver.

Advisory Bulletins

PHMSA occasionally issues advisory bulletins to operators to notify them of a manufacturer’s part recall, or to highlight a particular risk or regulation that operators need to attend to. Occasionally, these are issued after a situation where failure to meet a regulation or attend to a particular risk resulted in an incident or in substantially worse consequences of an incident caused by something else. In recent years, that has included passing along lessons learned after the Marshall, Michigan spill on the Enbridge Line 6b, a couple of advisories about risks from flooding and river scour, preparation of spill response plans, particular risks relating to reversals and repurposing of pipelines, and reminders about aspects of regulations relating to preconstruction notifications and integrity management plans. Advisory bulletins are published in the Federal Register, and they can also be found on the agency website here: <http://www.phmsa.dot.gov/pipeline/regs/advisory-bulletin>

Interpretations

There are many aspects of the PHMSA regulations that are pretty vague, intentionally or not. PHMSA offers letters of interpretation upon request, but their applicability is limited. The website provides this advice:

“A pipeline safety regulatory interpretation applies a particular rule to a particular set of facts and circumstances, and may be relied upon only by those persons to whom the interpretation is specifically addressed.”
<http://www.phmsa.dot.gov/pipeline/regs/interps>

The website includes many years’ worth of interpretations. Be careful to determine whether the interpretation letter you read from this site is interpreting the same regulatory language you are researching. As the regulations change, previous interpretations may no longer be valid.

Guidance to inspectors

Along with providing interpretations by letter, PHMSA also makes available the guidance it provides to its inspectors on compliance questions and the manuals it uses to train inspectors:

<http://www.phmsa.dot.gov/foia/e-reading-room>: under “Staff Manuals and Instructions” in the middle of the page, there are listed a series of documents used by inspectors.

<http://www.phmsa.dot.gov/pipeline/tq/regs>: The page would have you believe that under each regulatory section, there is a link to all of the materials used to train inspectors on those aspects of the regulations. However, (at least at the time of this writing) when you follow each of those links, it leads you only to a list of all of the various amendments to that regulatory part since its origin. There is no inspector guidance information at all. The “Guidance Manuals” link in the right menu leads you to a series of links for operator training manuals, not inspector training or guidance. It appears this may be another area where the website is in flux and things will likely be moving around a bit.

Enforcement decisions

In the past several years, PHMSA has become relatively reliable in eventually posting enforcement decisions for violations of pipeline safety standards. Enforcement proceedings can stem from either an inspection or an incident. All of the enforcement documents made available can be found through PHMSA’s enforcement pages, accessed from here: <http://primis.phmsa.dot.gov/comm/reports/enforce/Enforcement.html>

The PHMSA pages make enforcement documents and statistical information available based on the type of enforcement action taken or by operator (for which you must know the operators name it uses for its PHMSA operator ID). Unfortunately, the enforcement documents are not divided between inspections- and incident-based enforcement, nor are enforcement proceedings from a particular incident found together with the investigation from that incident. If an incident resulted in a corrective action order as well as a civil penalty, those two sets of documents relating to the same incident might be found on two separate pages, and they will not be cross-referenced.

Having the enforcement decisions available is one important step, but the decisions are not categorized in any way that would let you determine, for example, whether PHMSA has been consistent in the way they have responded to the same type of violation over time, or whether their enforcement strategy has changed over time. To undertake that kind of analysis would require reading all of the documents and creating a database of which regulations were violated and what the enforcement response was so that one could research just a single set of violations.

CATS (Community Assistance Technical Services)

In each PHMSA region, there are PHMSA staffers designated to respond to requests for assistance from individuals and communities. Contact information for the CATS staffers can be found here: <http://primis.phmsa.dot.gov/comm/CATS.htm>

PHMSA describes some of their responsibilities:

- Communicating information to help communities understand pipeline risks and improve pipeline safety and environmental protection.
- Fostering effective communications regarding pipeline safety among PHMSA, other federal agencies, state pipeline safety regulators, elected and emergency officials, pipeline operators and the public.
- Responding to public inquiries and complaints regarding pipelines and pipeline operations.

Unfortunately, the CATS staffers also have inspection, repair permitting, damage prevention program and other job duties which sometimes keeps them from being as responsive to public needs as they might otherwise be.

FOIA - Freedom of Information Act

If what you need is simple documentary information that isn't on PHMSA's website and you can't convince a PHMSA staffer to send you a copy, you may need to resort to the Freedom of Information Act, or FOIA, a federal statute that makes most federal governmental documents available to the public. Like many public agencies, PHMSA is sometimes quite slow to respond to these requests, and it can be several weeks to more than a year to receive documents this way. There are also some specifics you need to understand to make a FOIA request, including requesting a fee waiver if you are eligible for one. PHMSA provides more direction on using FOIA, and links to the contacts here: <http://www.phmsa.dot.gov/about/foia>

Congressional Inquiries

If you are in a situation where you have been unable to get the information, assistance or response from PHMSA that you need, you may want to inquire as to whether your Congressional delegation or a member of it would be willing to send an inquiry or demand on your behalf. Congressional inquiries usually get prompt attention and sometimes get more information than the agency will provide to you. It also helps sometimes to have the agency aware that someone else is paying attention to your issue besides just you.