



Know what's **below**.
Call before you dig.

HLC

Herdes Law & Consulting LLC

Update of Pipeline Safety Regulations

Texas Public Utility Law Section Annual Meeting
August 18, 2017

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Herdes Law & Consulting, LLC



Agenda

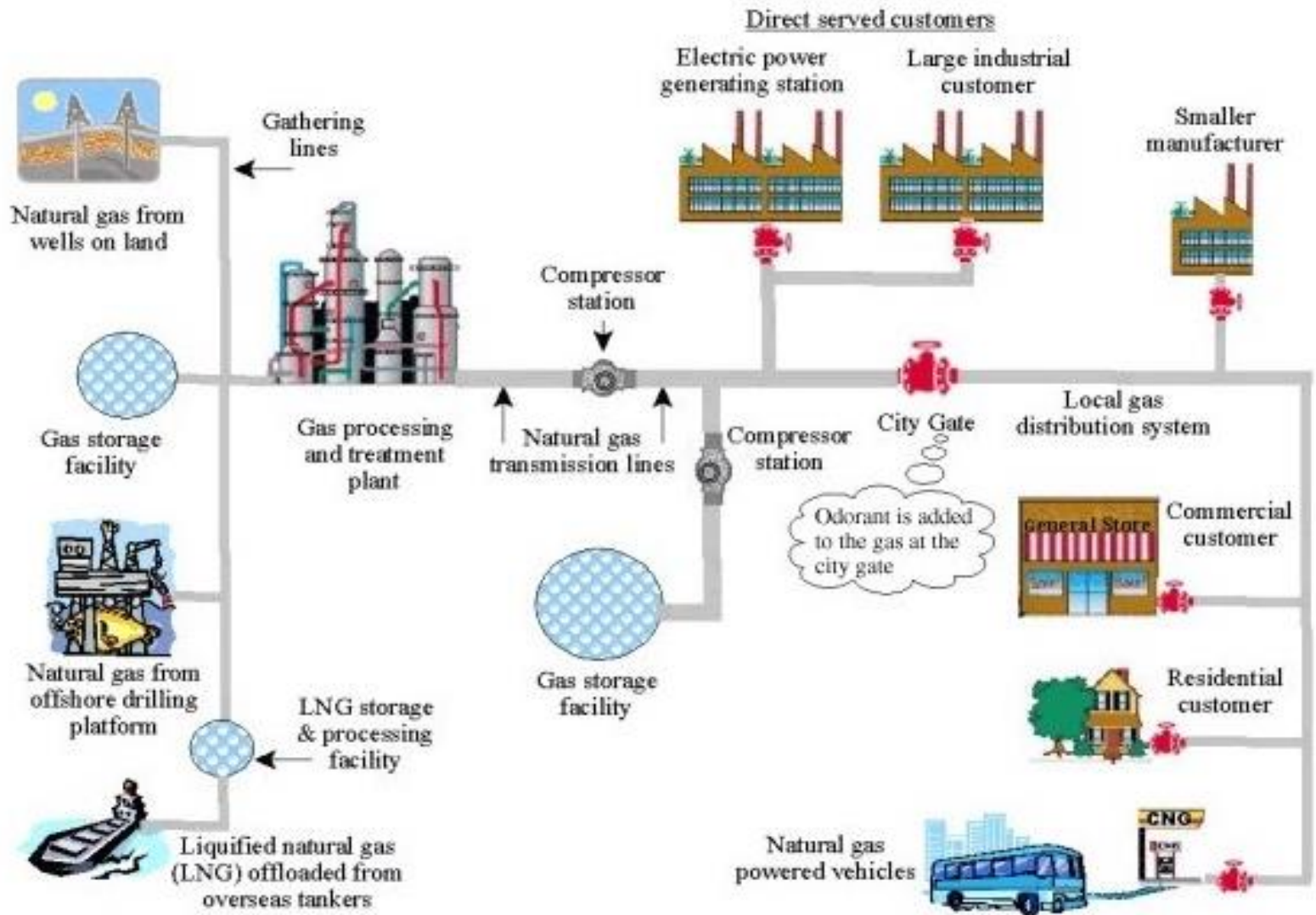
- > Introduction
- > Pipeline Safety for Utilities (aka Local Distribution)
 - How it Works
 - Why it Matters
 - What's Happening Now?
- > Questions?

Introduction

Introduction

- > Herdes Law & Consulting LLC: focused on pipeline safety
- > Elizabeth Herdes
 - Pipeline lawyer for nearly 20 years
 - Breadth of experience in Pipeline Safety
 - Natural gas and hazardous liquids
 - Gathering, processing, transmission, distribution
 - Construction, operations, regulatory and litigation
 - Post-incident response and culture enhancements
 - Root cause analysis and integrity management

How it Works



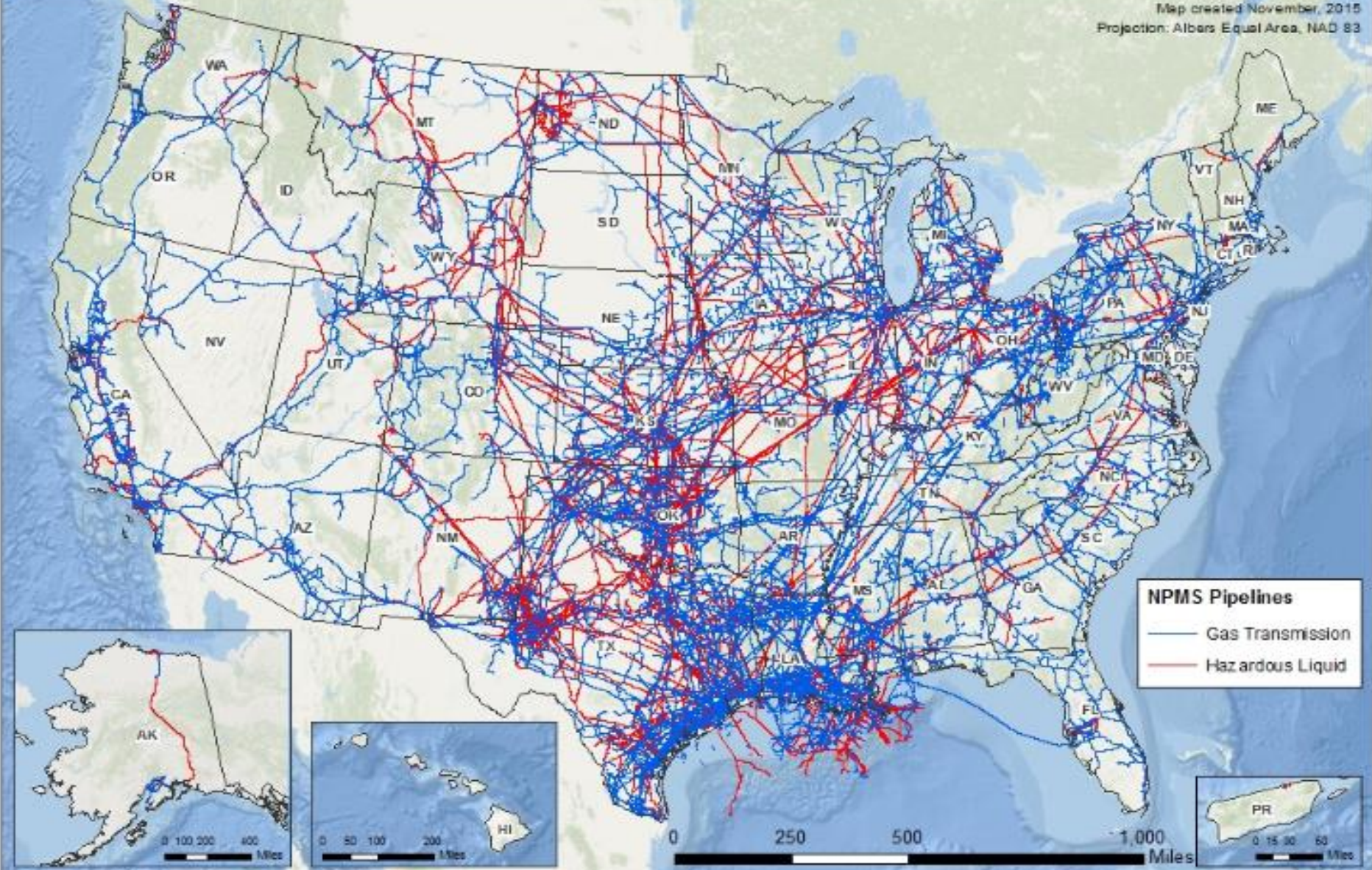


Gas Transmission and Hazardous Liquid Pipelines

Pipeline data as of 09/17/2015



Map created November, 2015
Projection: Albers Equal Area, NAD 83



NPMS Pipelines

- Gas Transmission
- Hazardous Liquid



Federal Pipeline Safety Law

- > Natural Gas Act of 1938 + Subsequent Laws
 - Laws reside at 49 U.S.C. 60101 et seq.
 - Regulations at 49 C.F.R. Parts 190-199
- > Regs: prescribe “minimum safety requirements for pipeline facilities and transportation of gas”
 - Covers Gathering, Transmission and Distribution Lines
 - Utility Companies may have gas transmission pipelines and will have distribution pipelines. Distribution pipelines =
 - A pipeline “other than a gathering or transmission pipeline”
 - **Includes: mains, services, customer meters and regulators**

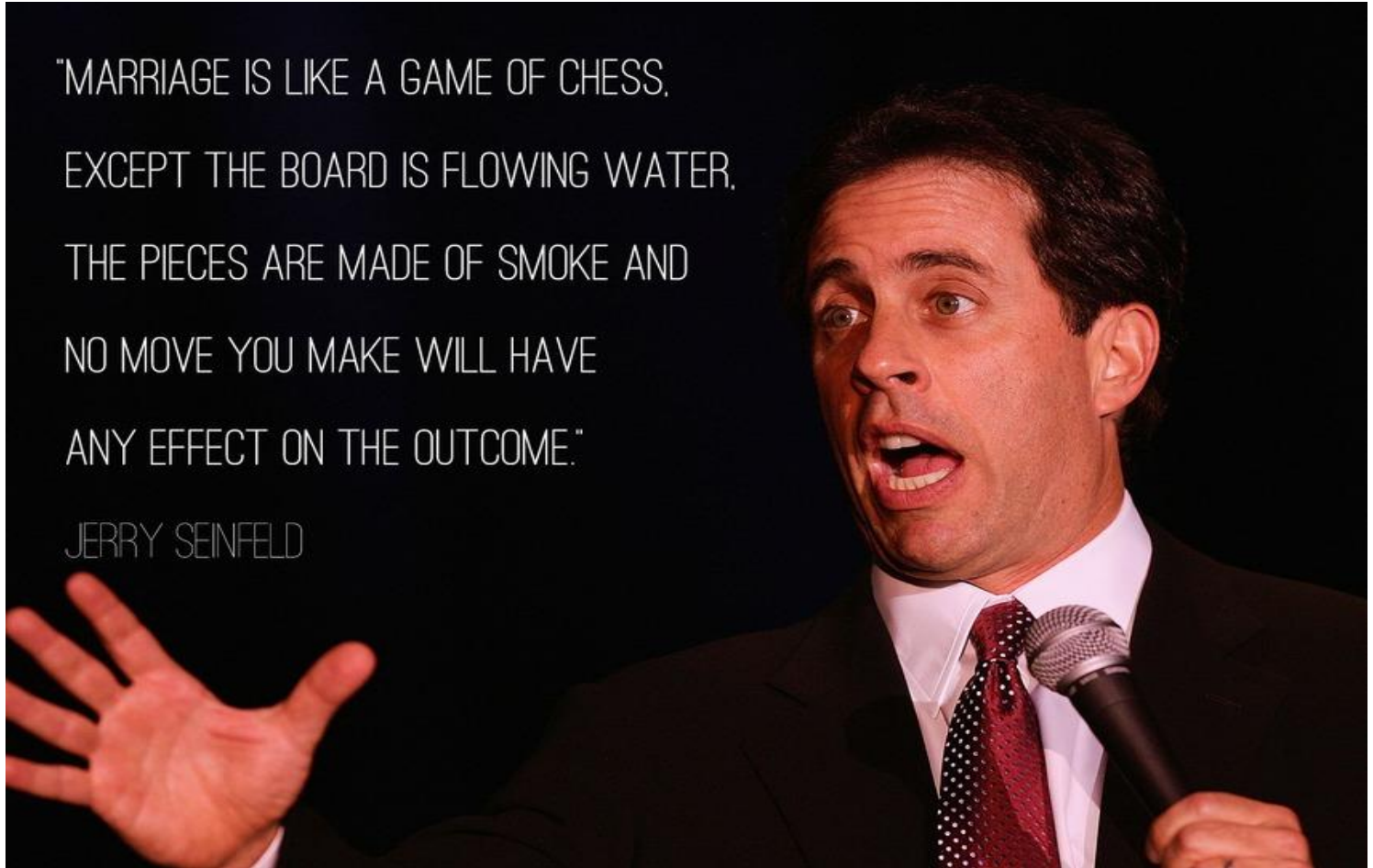
PHMSA Regulations, Guidance and Enforcement

- > Rulemakings lead to new Regulations
- > Guidance
 - Inspections and Audits
 - Advisory Bulletins, Interpretation Letters
 - Gas and Liquid Technical Advisory Groups
 - Public Workshops (regulatory and technical)
- > Enforcement Actions
 - NOPVs, COAs, NOAs, Compliance and Consent Decrees
 - Criminal Prosecution for Violating Pipeline Safety Laws

Being Regulated is a little like being Married

"MARRIAGE IS LIKE A GAME OF CHESS,
EXCEPT THE BOARD IS FLOWING WATER,
THE PIECES ARE MADE OF SMOKE AND
NO MOVE YOU MAKE WILL HAVE
ANY EFFECT ON THE OUTCOME."

JERRY SEINFELD



WHY IT MATTERS

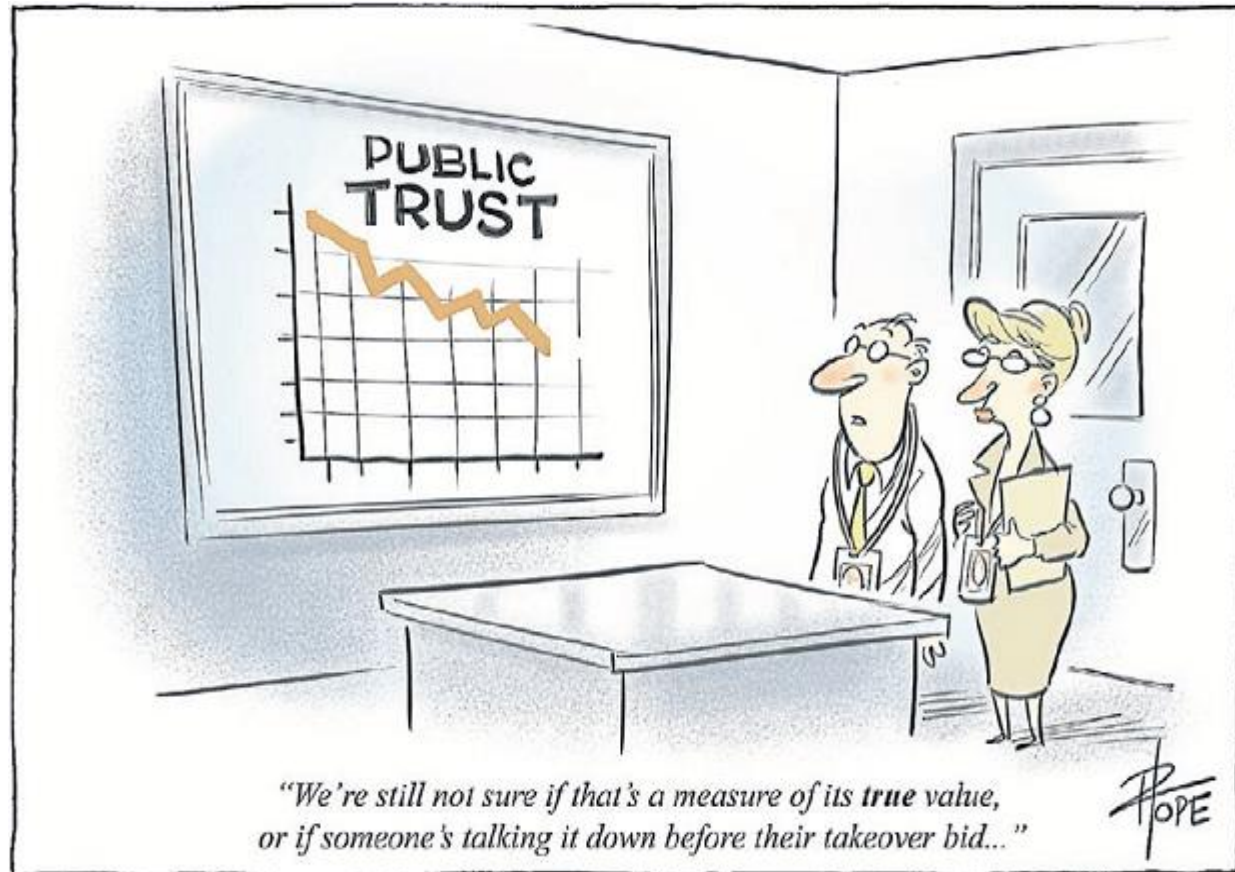
PGE Gas Transmission Rupture in San Bruno - Sept 9, 2010



Con Edison East Harlem rupture March 12, 2014



Public Trust continues to drop



What's Happening Now?

President Trump's New Administration



Pipeline Safety in the New Administration

- > Awaiting an appointment of PHMSA Administrator
- > Impact of Executive Orders still unclear
 - EO requiring replacing “two with one” w/ net 0 cost
 - EO requiring US-Produced Materials and Equipment
- > Rulemaking still having an impact
 - Emergency Order Authority Interim Final Rule in effect
 - Excess Flow Valves Final Rule in effect
 - Underground Gas Storage Interim Final Rule partly in effect
 - Mega Gas Rule continuing through process
- > Complete Records Still Matter

Emergency Order Authority

- > Issued October 14, 2016 as an “Interim Final Order”
 - Required by law (PIPES 2016)
 - In effect even though no final rule yet
- > Created an “Emergency Authority”
 - Grants PHMSA ability to apply an emergency order to entire industry on a given topic or matter
 - Requires finding of an “imminent hazard” to people, property or environment
 - Numerous concerns about the IF Rule
- > What you need to know/think about:
 - Consider tracking Federal Register notices of PHMSA ER Orders to determine if your client is affected

PHMSA's Excess Flow Valve Final Rule

- > EFVs automatically halt flow of gas caused by damage
- > Final Rule:
 - > Effective April 14, 2017
 - > Expands the requirement for EFVs to NEW multi residential and small commercial customers
 - > Requires installation of curb valves
 - > Requires notification to existing customers of right to request
- > What you need to know/think about:
 - Are your clients in compliance?
 - Should they do more than rule requires?

Natural Gas Underground Storage

- > Underground Storage allows utilities and other companies to:
 - Store natural gas when demand is low
 - Ramp up delivery quickly when demand increases
- > In Texas
 - Among the largest in the nation.
 - 36 active storage facilities
 - Half are in depleted oil and gas fields converted for storage use
 - Half were developed in salt caverns.

IFR: Underground Natural Gas Storage

- > PHMSA Issued December 19, 2016
 - Required by law (PIPES 2016)
- > Requires operators use integrity management programs
- > On June 20, 2017, PHMSA announced:
 - Final rule to be published in January 2018
 - In the interim and for a year following publication, no enforcement of the non-mandatory practices in the API Standards
- > What you need to know/think about:
 - If your client has underground gas storage facilities: focus on gap analysis and implementation of regulatory requirements
 - If do not, be aware rule may result in increased storage rates

Mega Gas Rule

> Status

- Initiated January 2011
- Published April 8 2016 (Safety of Gas Transmission and Gathering Pipelines (PHMSA-2011-0023))
- Extensive Comments submitted July 7, 2016
- Applies to Transmission; Has Impacts on Distribution

> Action now at PHMSA Gas Advisory Committee

- “Advises” PHMSA on language/methods
- Met in Jan and June 2017 on Mega Gas Rule
- Next meeting Sept 6-7, 2017

Mega Gas Rule

- > Finding agreement on many topics
 - IM improvements (including assessing plastic pipe)
 - Inspections following extreme events
 - Corrosion control (both internal and external)
 - Interference currents (assessing risk when pipes near electric lines)
 - Requiring exceedances of MAOP be reported to PHMSA

- > Still many contentious issues
 - Using hydrostatic testing as sole means to validating MAOP
 - Requiring spike test pressures
 - Overly prescriptive material verification criteria
 - Failure to accurately measure costs or benefits of regulations

Records Still Matter

- > Accurate records = foundation for accurate assessment of threats and mitigation efforts to ensure pipeline integrity
- > NTSB plus PHMSA Advisory Bulletins (ADB 2011-01 in Jan 2011 and ADB–2012–06 in May 2012)
 - Records relied upon to establish MAOP must be **reliable, traceable, verifiable and complete**
 - Directed operators to review records to determine accuracy of records to support operational parameters
- > Applies to all pipeline operators
- > Continues to be a challenge for some
- > Don't expect this issue to go away

QUESTIONS?



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