



MURCHISON
LAW FIRM, PLLC

Dallas Bar Association Energy Section

Pipelines – Law, Regulation and Policy

The Legal and Regulatory Who, What, When, Where,
How, and Why

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July 15, 2015

The Pipeline & Energy Authority



Subject Areas to Cover

- Pipelines – The Seemingly Simple
- Regulation of Pipeline Transportation
- What's The Beef?
- What's That All Mean?
- Q & A



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Pipelines – The Seemingly Simple

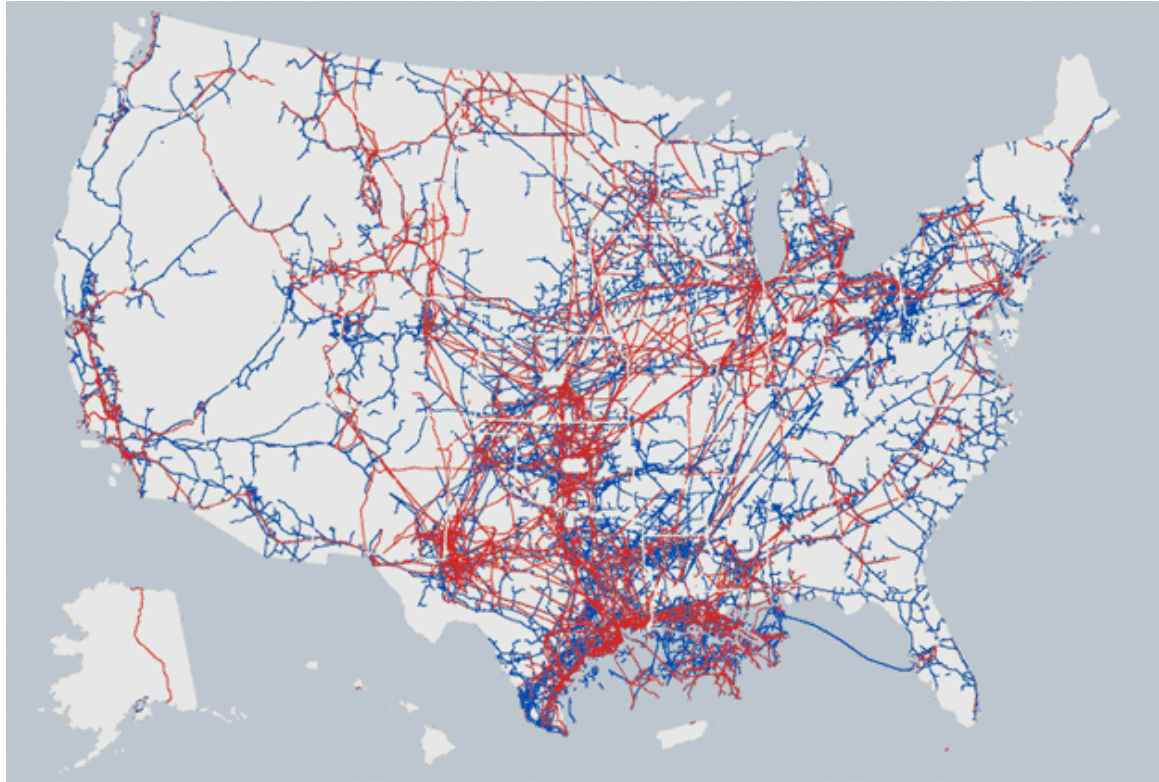


There's Not That Much to It, Right?





There's Not That Much to It, Right?



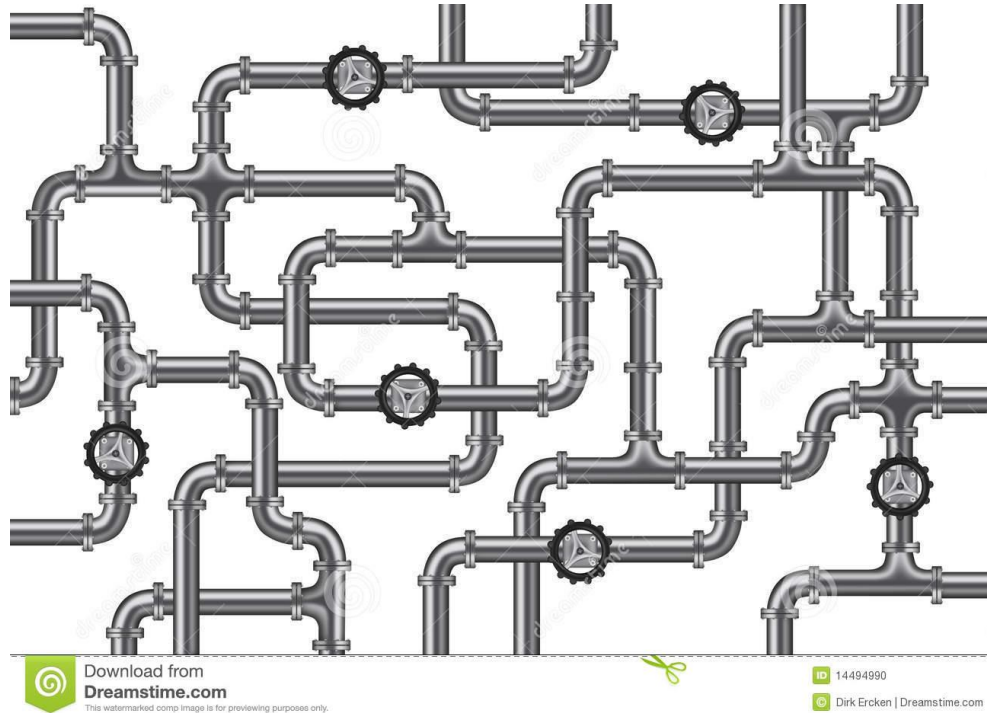
Map of major natural gas and oil pipelines in the United States. Hazardous liquid lines in red, gas transmission lines in blue. Source: Pipeline and Hazardous Materials Safety Administration.

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There's Not That Much to It, Right?



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Low Probability, High Consequence Events



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Regulation of Pipeline Transportation



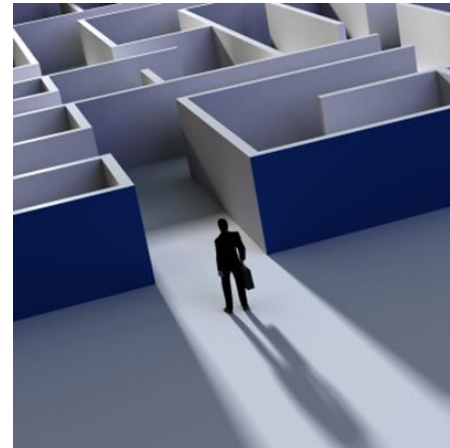
Regulation of Pipeline Transportation

The Pipeline Safety Act

Natural Gas Pipeline Safety Act of 1968 (NGPSA)

The Hazardous Liquids Pipeline Safety Act of 1979 (HLPESA)

- The NGPSA and the HLPESA were recodified in 1994 into the Pipeline Safety Act (PSA)
- 49 United States Code 60101, *et seq*
- Reauthorization – Every 5 years +/-
- Next Up: 2015
- Temperature's Rising



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Regulation of Pipeline Transportation

The Pipeline Safety Act

Power and Authority

- The PSA grants authority over pipeline safety to the Secretary of the U.S. Department of Transportation

Among the powers granted by Congress:

- To promulgate safety standards (regulations) for the design, installation, inspection, emergency plans and procedures, testing, construction, extension, operation, replacement, and maintenance of pipelines
- 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



Regulation of Pipeline Transportation

The Pipeline Safety Regulations

- The Pipeline and Hazardous Materials Safety Administration
- aka PHMSA
- Natural Gas: 49 C.F.R. Parts 191 and 192
- Hazardous Liquids: 49 C.F.R. Part 195
- Procedural Regulations: 49 C.F.R. Part 190
- Hazardous Liquids vs. Natural Gas
 - Hazardous Liquids = Crude Oil, Refined Products, NGLs, CO² (“liquid”), Anhydrous Ammonia, Biofuels
 - Natural Gas = Natural Gas, Flammable Gas, or Gas which is Toxic or Corrosive



Regulation of Pipeline Transportation

The Pipeline Safety Regulations

Overarching Concepts:

- Performance-Based Regulation
- Performance vs. Prescriptive
- Desired safety objectives can be reached
- Without impeding future industry innovations 33 Fed. Reg. 10213 (July 17, 1968)
- Standards Incorporated by Reference
- API, ASTM, ASME, NACE, NFPA, Etc.
- Best Practices – *You Will Be Compared To Others...*
- Safety Culture, Safety Management Systems



Regulation of Pipeline Transportation

The Pipeline Safety Regulations

- General: Applicability, Definitions, Etc.
- Annual, Accident, and Safety-Related Condition Reporting
- Design Requirements
- Construction
- Operation and Maintenance
- Integrity Management
- Operator Qualification
- Enforcement



Regulation of Pipeline Transportation

Enforcement

- Inspections
- Investigations
- Requests for Information
- Notices of Amendment
- Warning Letters
- Notices of Probable Violation
- Compliance Orders
- Civil Penalty (most likely, Penalties)
- Safety Orders
- Corrective Action Orders
- Administrative Procedure



Regulation of Pipeline Transportation

Overarching Federal Regulation – Who Regulates My Pipeline?

- Parts 191, 192, 195, and 190
- Interstate vs. Intrastate
- State Certification or Agreement
- Interstate Agent
- The Intrastate Landscape
 - Hazardous Liquids – only a few states
 - Natural Gas – most states
 - PHMSA takes the rest



Regulation of Pipeline Transportation

Jurisdictional Overview: Interstate vs. Intrastate

- What it is
- What it means

Interstate Jurisdiction

The Office of Pipeline Safety (OPS) in the Pipeline and Hazardous Materials Safety Administration (PHMSA), in the DOT is delegated the Secretary's powers.

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

Intrastate Jurisdiction

Safety oversight for intrastate pipelines is largely the role of the states – much more so for gas vs. liquids.

State laws and regulations must be no less stringent than the PSA and the federal regulations (but may be more stringent).

What it Means

All pipelines that fall within the scope of 49 CFR Parts 192 and 195 will be subjected to the same or similar regulations.

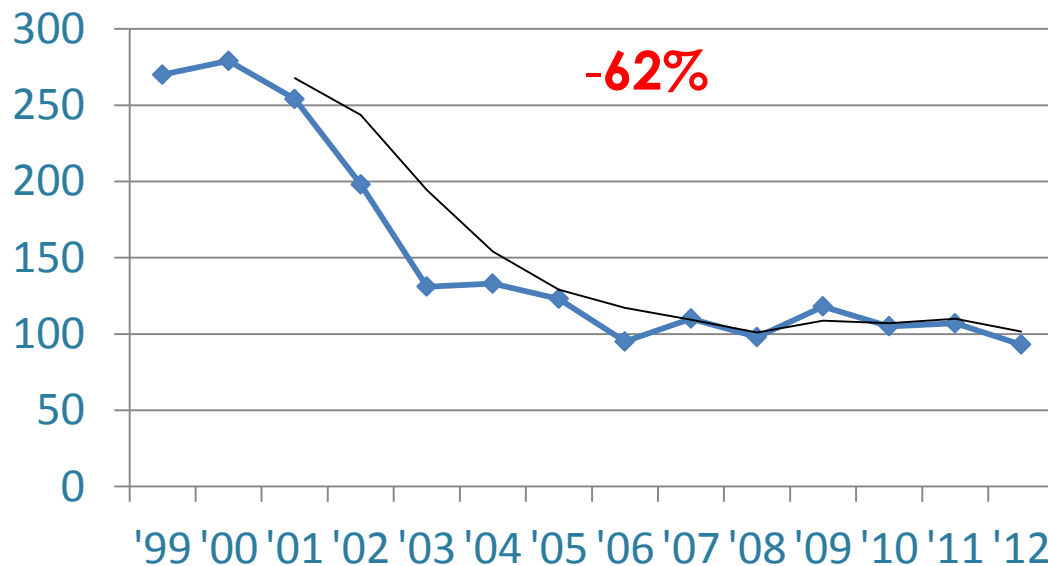
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What's The Beef?



Liquid Pipeline Safety Record

2001 - 2012



62% decrease of
accidents (per
1,000 miles)

of Releases

The Pipeline & Energy Authority





What's The Beef?

The More Recent Record – Upward Bound

- 2013-2015 Has Seen an Uptick in Number of Incidents
- Explanations?
- Facilities
- New Construction

Does It Matter?

High Consequence Events – The Last Five Years

- Deepwater Horizon
- Marshall, Michigan
- San Bruno, California
- Allentown, Pennsylvania
- Mayflower, Arkansas
- Santa Barbara, California

And That Ain't All....



Deepwater Horizon

- Considered the largest accidental marine oil spill in the history of the petroleum industry
- A sea-floor open-flow well flowed for 87 days, until it was capped on 15 July 2010
- Is a “Riser Pipe” a pipeline?



Marshall, Michigan

- The July 25, 2010 rupture of Enbridge's Line 6B
- The most expensive onshore spill in U.S. history, with cleanup costs exceeding \$1 Billion
- According to NTSB, more than 80 percent of the total amount spilled was due to controllers erroneously restarting the line twice, not recognizing that a rupture had occurred



San Bruno, California



In addition to eight deaths,
dozens of people were injured,
38 homes destroyed, 70 damaged



Allentown Gas Pipeline Explosion

- February 9, 2011: Explosion on a cast iron gas main in Allentown, Pennsylvania
- Five killed, three hospitalized, eight homes destroyed





Mayflower Crude Oil Spill

- March 29, 2013: Pegasus Pipeline rupture
- In excess of 5,000 barrels of crude oil out, contaminated 22 homes



Santa Barbara Crude Oil Spill



- May 19, 2015
- 2,500 BBL Released
- Oil on the Water





What's The Beef?

The Governmental Response

- DOT Call to Action – The White House Got Involved
 - Pipeline Report to the Nation (Thud...)
 - PHMSA Gets Grilled
- PSA of 2011 – Then Congress Got Involved
 - Study This, Study That – Valves, Leak Detection, Etc.
 - Gas Transmission Grandfathering – The End is Near
 - Increased Penalty Power:
 - \$200,000 per Violation
 - \$2,000,000 per Series of Related Violations
- NTSB Recommendations – Marshall and San Bruno
 - Cracks, Integrity Management, Operator Decision Making
 - Knowledge of the System, Emergency Response, Valves
 - Pipeline Safety Management Systems – API RP 1173
- Rules, Rules, and More Rules



What's The Beef?

Industry Response

API-AOPL Leadership Safety Initiatives

- Leak Detection
- Damage Prevention
- Enhanced Data Integration
- Sharing Practices
- External Communications
- Strategic Planning
- Research & Development/Enhanced Technology
- Emergency Response

Purpose: Undertake significant near-term and long-term actions that will make real improvements in industry performance



What's The Beef?

Industry Response

Pipeline Safety Management Systems – API RP 1173

- Plan – Do – Check – Act
- Leadership Roles
- Predictive
- Flexible – Company Status and Company/System Size

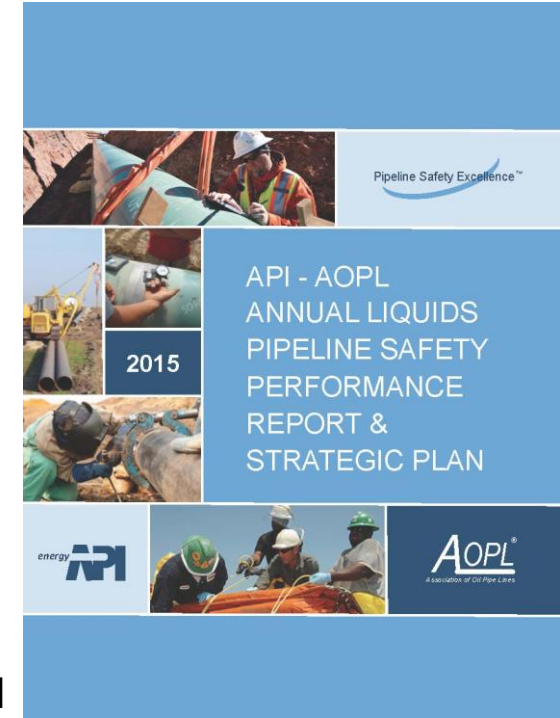


What's The Beef?

Industry Response

Strategic Planning Initiative – AOPL and API

- Development: Performance Excellence Team
- Adoption: Pipeline Leadership
- Key Initiatives - 2014, 2015
 - In-Line Inspection R&D – Cracks
 - Crack Recommended Practice
 - Data Integration
 - Learning Demonstration Program
 - Construction Quality Management System
 - Leak Detection Program Management Recommended Practice
 - Emergency Response





What's That All Mean?



What's That All Mean?

The United States is on the cusp of an emerging, rejuvenated, pipeline safety regulatory regime

- Safety of On-Shore Hazardous Liquids Pipelines
 - ANPRM Issued in 2010
 - NPRM Expected Summer or Fall of 2015
- Safety of Gas Transmission Pipelines
 - ANPRM Issued 2011
 - NPRM Expected When?
- Valve Installation and Minimum Rupture Detection Standards
 - NPRM Expected Summer 2015
- And a Few More....
- A Word About PHMSA Rulemaking



What's That All Mean?

- Performance-Based Regime Evolving Toward The Prescriptive
- Seemingly arbitrary regulators (maybe it's the regulations)
- The Process
- Is All Well with PHMSA?



What's That All Mean?

- To You, the Public, What Does It All Mean?
- To You, the Producer, What Does It All Mean?
- To You, the Pipeliner, What Does It All Mean?
- To You, the Consumer, What Does It All Mean?



Want to Know More?

Q & A





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