

Great Lakes and Coastal USA Definitions  
PHMSA Public Meeting  
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Credible.  
Independent.  
In the public interest.

- Three full years since PIPES Act signed, so why is PHMSA still asking the public where it can find GIS data sets for these areas?
- One previous workshop in 11/2017 - basically asking and discussing same questions
- Agenda and pre-reads for this meeting were not available until recently, not on specified docket, and even once you get them they only include a link to maps being considered.

# Why it's difficult for the public to comment

- Public can not see what areas are HCAs on NPMS, or what operators consider they “could affect”
- Public can't see most USA designations
- No maps have been provided to show differences among options discussed in pre-read from PHMSA, yet expect public to make comments choosing among definitions

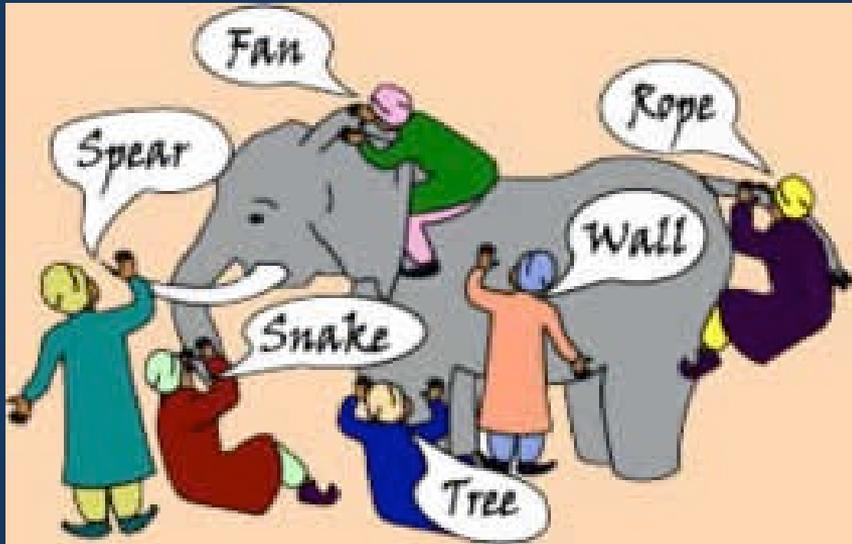


Avoid repeating past mistakes in defining and mapping USAs

Maps and definitions should look like, and define, what is commonly meant.

Congress mandated commonly understood areas as USAs – “riverine or estuarine systems, national parks, wilderness areas, wildlife preservation areas or refuges, wild and scenic rivers ...”

If you are defining and describing an elephant, your picture should be a complete, recognizable elephant



PHMSA implementation has been tortured and not followed, and perhaps included, the congressional mandated intent

For example, for the Great Lakes, why was the PIPES Act directive even necessary?

We hear a USA regulatory designation of:

“waters where a substantial likelihood of commercial navigation exists”

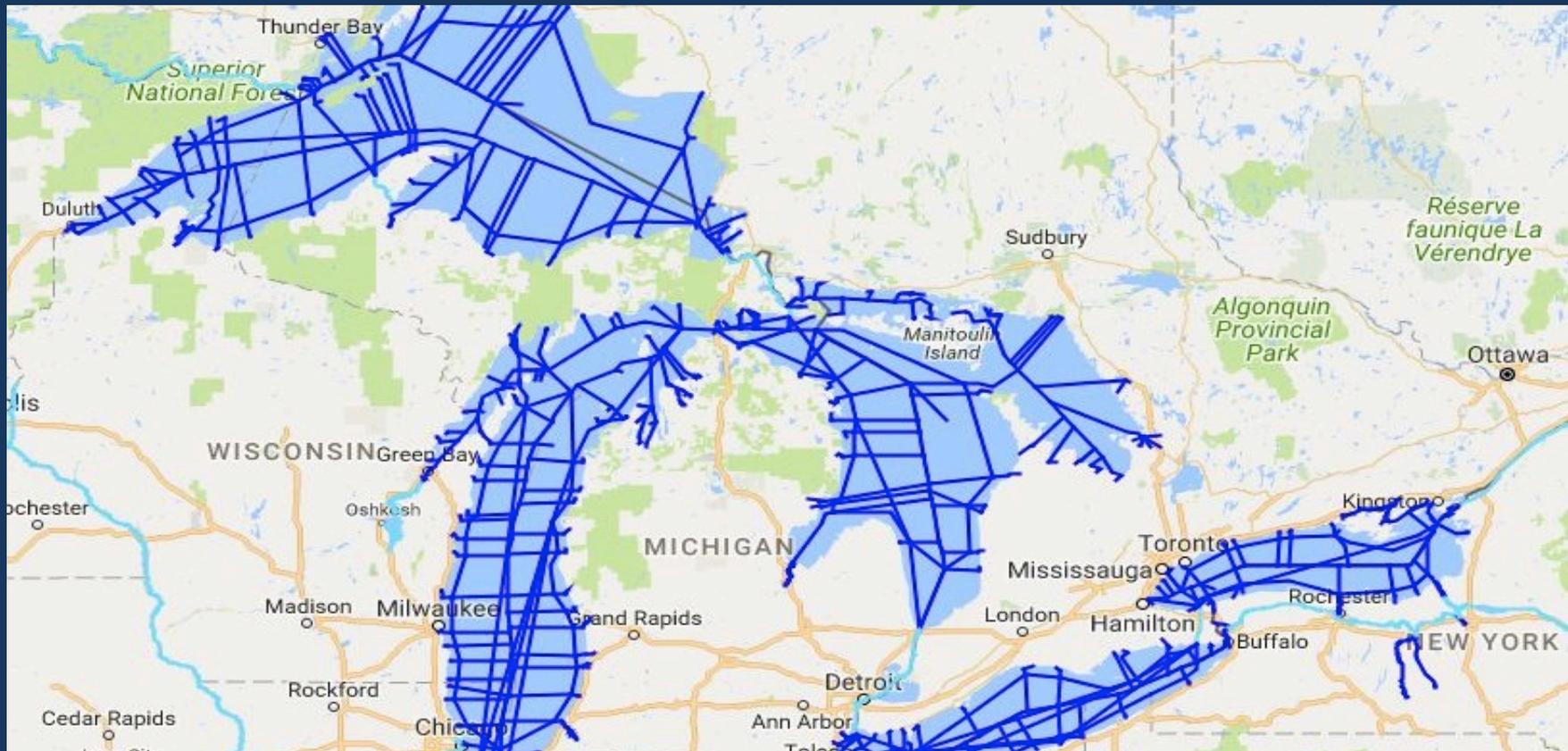
and think:

The Great Lakes are already Unusually Sensitive Areas (USAs), right?



But no.

“**Substantial likelihood** of commercial navigation” turned into “commercially navigable waters” which then turned into a map of **actual** freighter and tanker routes.



From NPMS, 2017

This tortured definition Ignored:

Commercial fishing, treaty-reserved tribal commercial and subsistence fishing, charter and pleasure boating

All of which provide massive commercial benefits to Great Lakes region

But Congress through the 2016 PIPES Act's unusually explicit directive has made this task easier:

*The Secretary of Transportation **shall revise** section 195.6(b) of title 49, Code of Federal Regulations, to explicitly state that the **Great Lakes, coastal beaches, and marine coastal waters** are USA ecological resources for purposes of determining whether a pipeline is in a high consequence area (as defined in section 195.450 of such title).*

## §195.452 Pipeline integrity management in high consequence areas.

*(a) Which pipelines are covered by this section?*

This section applies to each hazardous liquid pipeline and carbon dioxide pipeline that could affect a high consequence area, including any pipeline located in a high consequence area unless the operator effectively demonstrates by risk assessment that the pipeline could not affect the area.

# Issues to Resolve

- 1) Regulatory definitions
- 2) How those defined USAs are mapped as HCAs, and surrounding areas that “could affect” them, and by whom.
- 3) How operators will be held accountable for properly identifying and updating HCAs and related risk analysis

# For the Great Lakes and Marine Coastal Waters

We suggest using the well defined, scientifically understood, and inclusive watershed-based method to show both the defined USA and the “could affect” area.

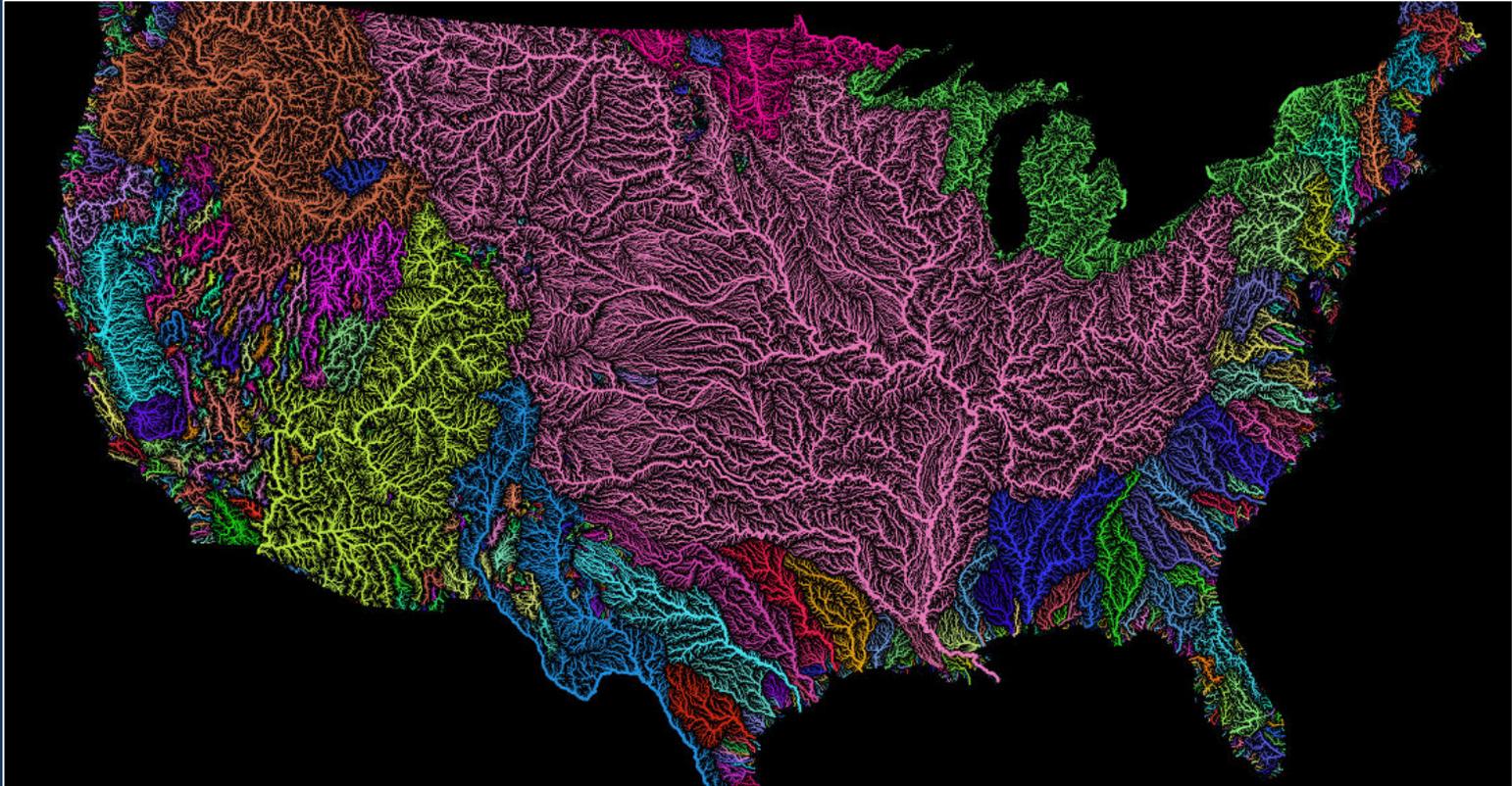
# The Great Lakes Watershed

A spill in the  
Green area  
“could affect”  
the Blue



This then puts the onus on the operator to include any pipe segment in the watershed in their IM plan or demonstrate by risk assessment that the pipeline could not affect the USA.

Same applies to most watersheds of the U.S. as  
“could affect” areas for marine coastal waters



The Clean Water Act seems like a logical possibility to use for the marine coastal waters designation, and another EPA statute, 33 USC 1268 defines the Great Lakes and would be a reasonable choice for that purpose.

The [marinecadastre.gov](http://marinecadastre.gov) map of this area is shown next, defining the seaward extent of CWA jurisdiction.



## Comment:

Quit fussing over the details and just pick existing watershed-based GIS data layers. The “could affect” part of the rule is broad enough to include all the concerning details. Pick GIS Layers:

- That are used for other purposes
- that avoids confusion or conflicts with other regulatory schemes

# Comment:

- Pick some options, or pick one
- Provide those interested in these issues with some maps and explanations of your choices
- Put out a proposed rule and let people officially comment

- Adopt a rule, and enforce it.
- Hold operators accountable for accurately mapping and updating their HCAs and “could affect” areas.
- Make the USAs and HCA designations publicly available on NPMS.

# Thank You!



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