



Joint Gas and Liquid Pipeline Advisory Committee Meeting

November 14, 2019



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Today's Discussion Topics

- Background on the Office of Chief Counsel
- DOT GC Memos and White House E.O.
- Emergency Waiver Authority
- Reauthorization
- The Committees and Input from API/GPA Midstream



PHMSA's Mission

“To protect people and the environment by advancing the safe transportation of energy and other hazardous materials that are essential to our daily lives”

Four Pillars Undergirding PHMSA's Mission:

- Safety – Prevent incidents by establishing national policy, setting and enforcing standards, educating, and conducting research
- Infrastructure – Support policies that promote continuous investment in legacy systems
- Innovation – Promote research and development to enable new technologies and innovation
- Accountability – Hold regulated industries accountable for meeting safety standards, and be held accountable as an effective regulator



Office of Chief Counsel

- The Chief Counsel is the principal legal officer of PHMSA.
- The Office of Chief Counsel provides a comprehensive program of legal services and representation relating to all aspects of PHMSA's safety program activities and PHMSA administration and management.



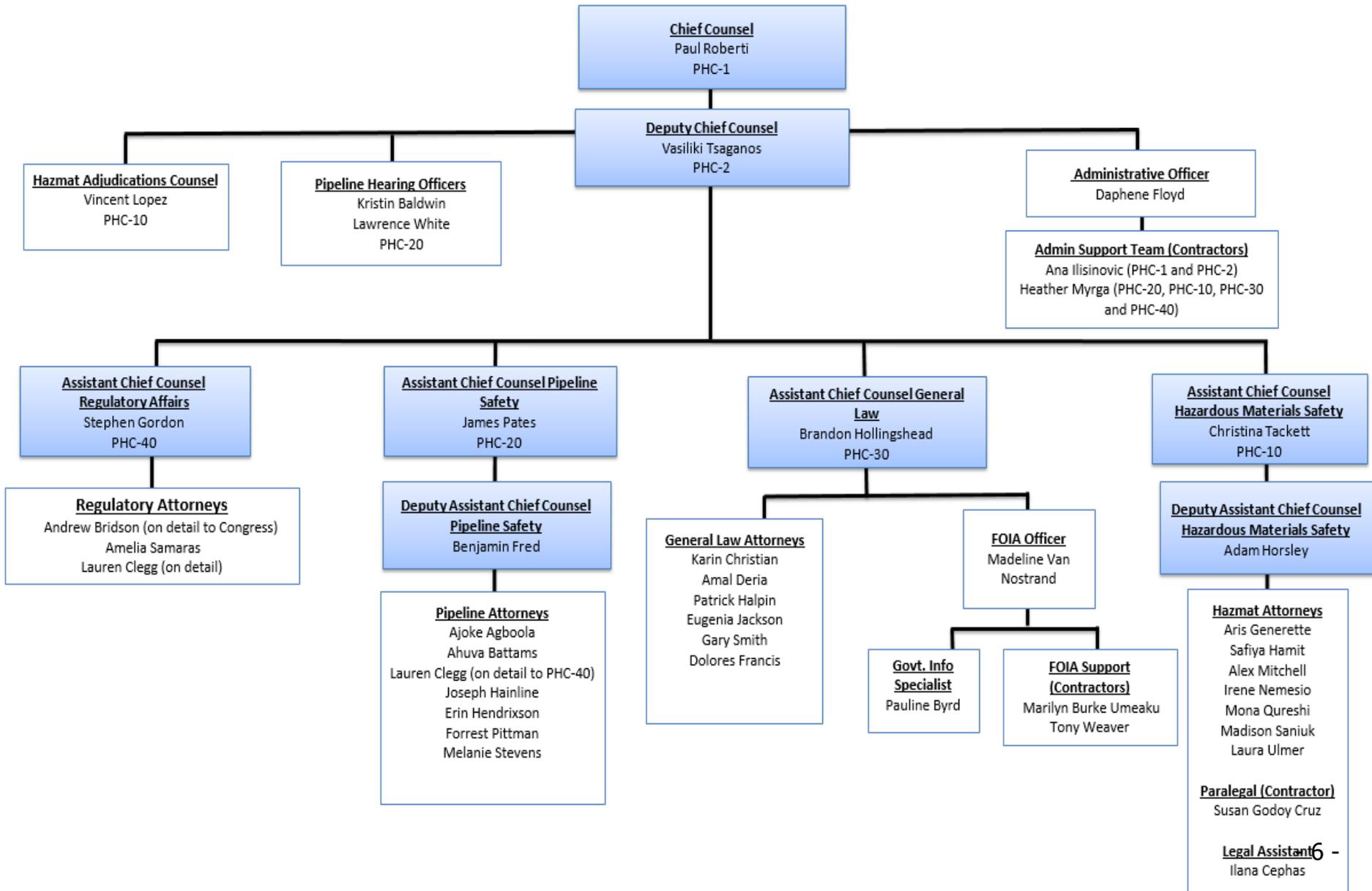
Office of Chief Counsel

Four Legal Divisions:

- Hazardous Materials Safety Law Division
- Pipeline Safety Law Division
- General Law Division
- Regulatory Affairs Division

Adjudications Counsel – Hazmat Safety Law

Presiding Official – Pipeline Safety Law





DOT General Counsel's Enforcement Memorandum

- February 15, 2019 DOT GC issued memorandum on Procedural Requirements for DOT Enforcement Actions
- October 9, 2019 E.O. on Promoting the Rule of Law Through Transparency and Fairness in Civil Administrative Enforcement and Adjudication



Procedural Requirements for DOT Enforcement Actions

- Ensure due process
- Prompt disclosure of compliance issues
- Statutory prosecution authority
- No broad or unduly expansive interpretations
- Legally sufficient basis for the action

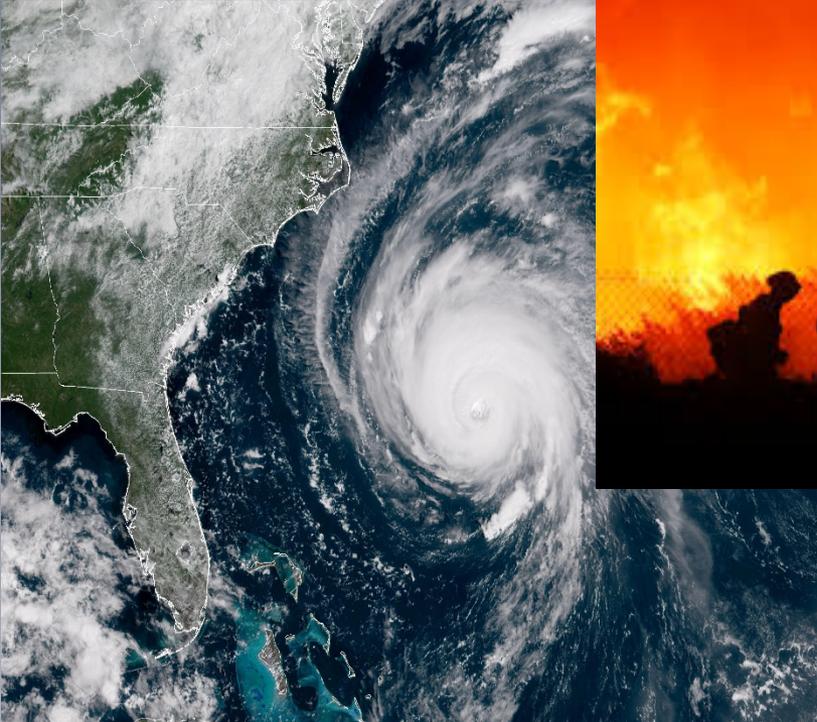


Procedural Requirements for DOT Enforcement Actions

- Mandatory disclosure of materially exculpatory evidence
- Penalty considerations
- Explanation of penalty calculation
- Limitation on use of guidance documents
- Other Objectives: Ex parte communications; ADR; Fair notice; Avoiding bias

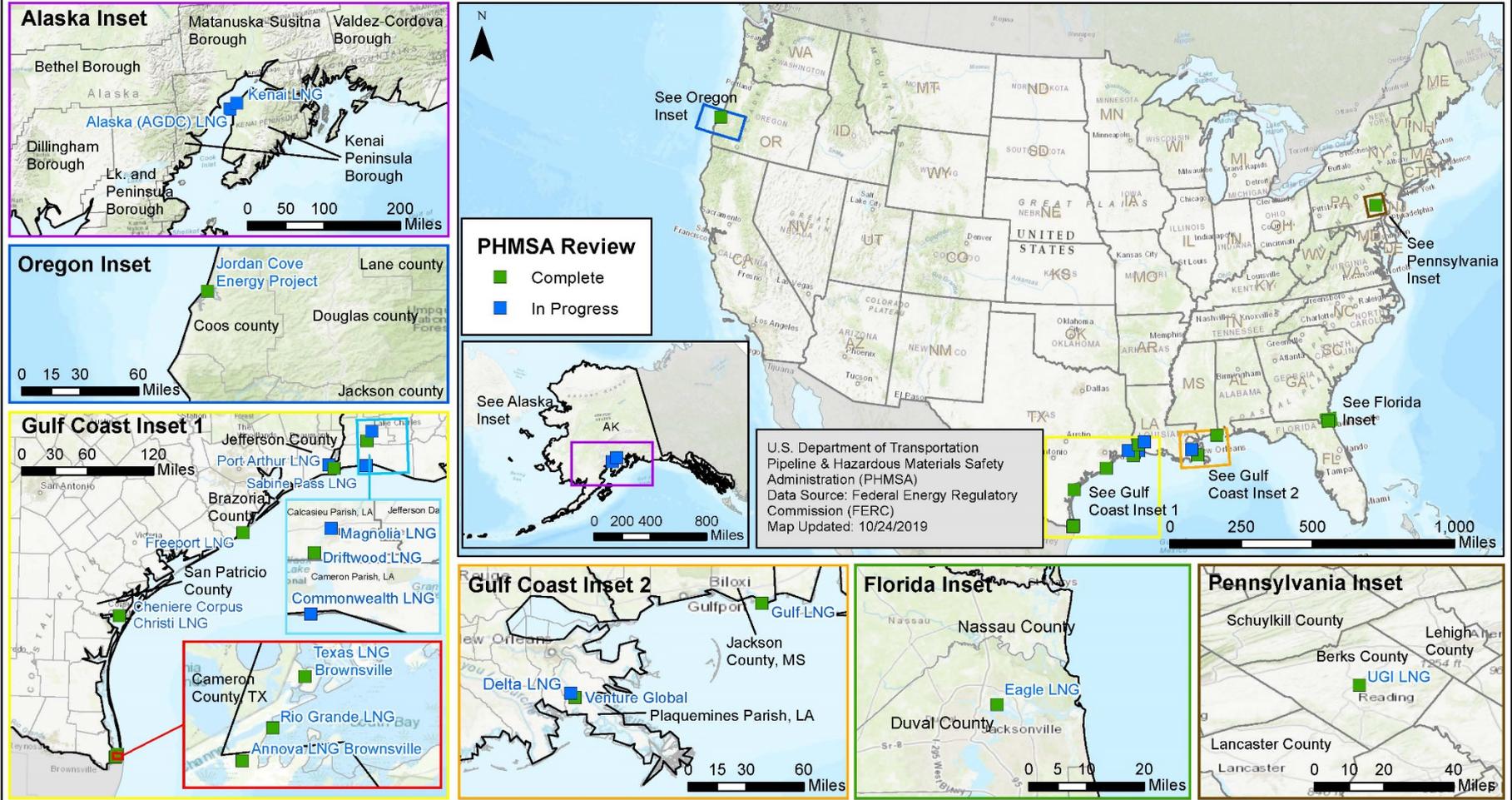


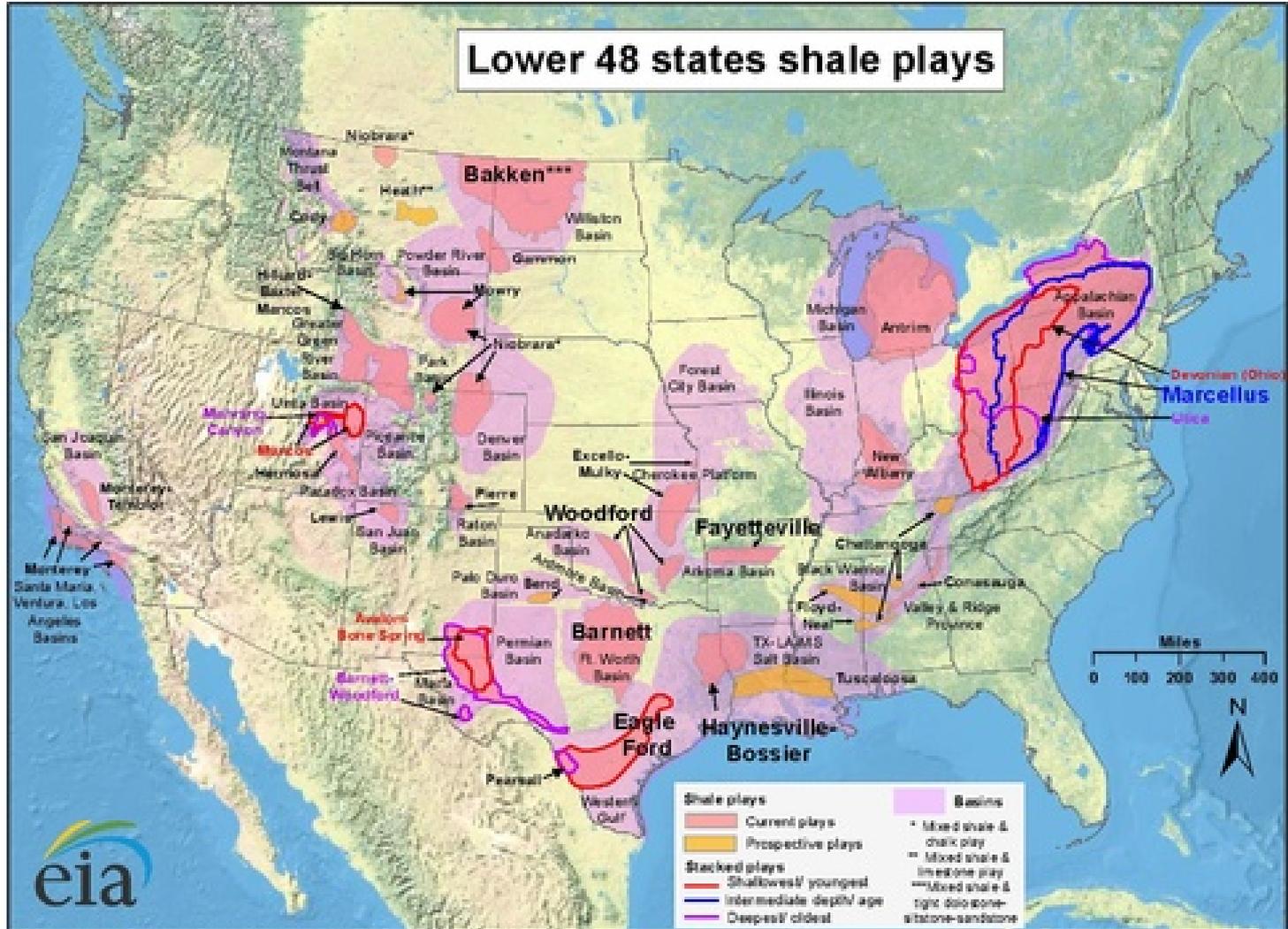
Emergency Waiver Authority





PHMSA Review of FERC Jurisdictional LNG Facilities





Source: Energy Information Administration based on data from various published studies.
Updated: May 9, 2011



U.S. LNG Exports to 37 Countries





LNG by Rail

April 10, 2019
E.O. on Promoting
Energy Infrastructure
and Economic Growth

October 24, 2019
NPRM Liquefied Natural
Gas by Rail





Reauthorization 2020

Administration Proposal	Congressional Proposals
Appropriations FY 2020-2024	Whistleblower Protection
Overpressure Protection/MOC/OQ for New Construction	Citizen Mandamus
Safety Incentives Program	LNG Center of Excellence
Voluntary Information Sharing	Regulatory Update
Underground Storage Fees	Self-disclosure of Violations
Property Damage Threshold (\$118K)	Community Right-To-Know
LNG Siting Review Fees	Physical and Cyber Security
Pilot Programs	Methane Emissions
Criminal Trespass Standard	
Operating Status: Idle Pipelines	
State Program Requirements	
Pipeline Construction Data Collection	



Tale of Two FACAs

- Two federal advisory committees pursuant to 49 U.S.C. § 60115:
 - Technical Pipeline Safety Standards Committee (a/k/a GPAC)
 - Technical Hazardous Liquid Pipeline Safety Committee (a/k/a LPAC)
- Function as peer review committees for all proposed safety standards
 - Technical feasibility
 - Reasonableness
 - Cost Effectiveness
 - Practicality
- "Shall prepare and submit" a report to the Secretary
- Secretary not bound by committee reports



FACA's Goals

- Increase **openness and transparency** regarding the ways federal entities receive advice from non-government entities.
- Ensure that the advice provided by advisory committees is **objective and accessible** to the public, and that proper committee records are kept.
- In addition to complying with FACA, the pipeline advisory committees (PACs) are required to comply with statutory provisions appearing at 49 U.S.C. § 60102 and 49 U.S.C. § 60115, which provide the committees' roles and responsibilities.



PAC Statutory Requirements

“Not later than 90 days after receiving the proposed standard and supporting analyses, the appropriate committee **shall prepare and submit to the Secretary a report on the technical feasibility, reasonableness, cost-effectiveness, and practicability of the proposed standard and include in the report recommended actions.**”



PAC Statutory Requirements

Peer review panels.—The committees referred to in subparagraph (A) **shall serve as peer review panels** to review risk assessment information prepared under this section. Not later than 90 days after receiving risk assessment information for review pursuant to subparagraph (A), each committee that receives that risk assessment information shall **prepare and submit to the Secretary a report** that includes—

- (i) an evaluation of the merit of the data and methods used; and
- (ii) any recommended options relating to that risk assessment information and the associated standard that the committee determines to be appropriate.



Questions?



Office of the Chief Counsel

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