Live Session:

Monday, April 23rd
@ 2 pm
Grand Ballroom 8B

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Jurisdictional Boundaries in Midstream

Where is the Line?

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Provenance Consulting

Presentation Focus

It is clear that pipelines are covered by PHMSA, but where is the line between PHMSA and PSM when the pipeline enters a midstream facility?

The OSH Act includes a provision limiting OSHA's jurisdiction of working conditions that are regulated by other Federal agencies.

The preemption only applies if the other Federal agency's regulations address occupational safety and health concerns.

In 1972, OSHA and DOT entered into a memorandum of understanding agreeing to communicate when questions arise regarding the OSHA preemption.

In 1992, OSHA consulted with DOT and determined that Part 192 addresses hazards of fire and explosion and therefore OSHA PSM is preempted for gas transmission and distribution, but not for gas processing facilities.

In general, OSHA starts where DOT end

Scope, Definitions & Acronyms

- DOT – Department of Transportation
- PHMSA – Pipeline and Hazardous Material Safety Administration
- OSHA – Occupational Safety and Health Administration
- PSM – Process Safety Management
- PHMSA prescribes minimum safety standards for pipeline transportation and pipeline facilities with a mission to protect the public and the environment
- PSM regulates processes that contain a threshold quantity of a highly hazardous chemical with a mission to protect employees
- **Transportation of —**

  Gas: the gathering, transmission, or distribution of gas by pipeline or the storage of gas

  Hazardous Liquid: the movement of hazardous liquid by pipeline, or the storage of hazardous liquid incidental to the movement of hazardous liquid by pipeline
- Pipeline Facility: a pipeline, a right of way, a facility, a building, or equipment used/intended to be used in transporting gas or hazardous liquid
- Process: any activity involving a highly hazardous chemical including any use, storage, manufacturing, handling, or the on-site movement of such chemicals, or combination of these activities

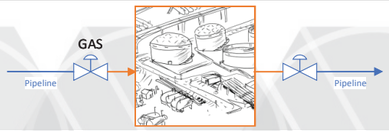
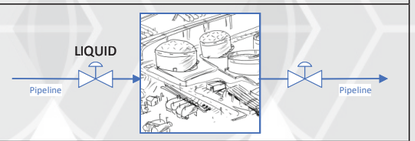
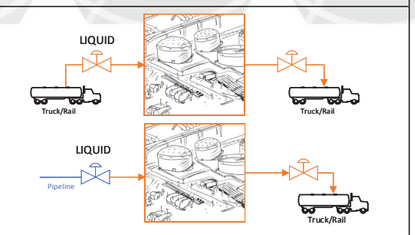
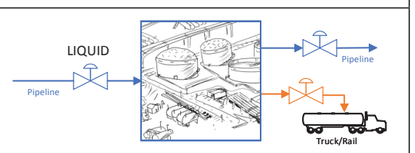
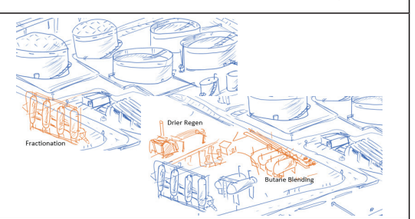
NGL Fractionation and Terminals –

There are three (3) factors that are considered when determining the governing regulation at a terminal:

The fluid phase the facility handles – gas or liquid

The modes of transportation in and out of the facility – pipeline or non-pipeline

If there is non-transportation related equipment (e.g. fractionation or dehydrator regeneration)

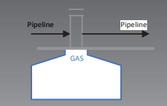
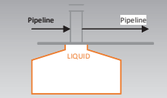
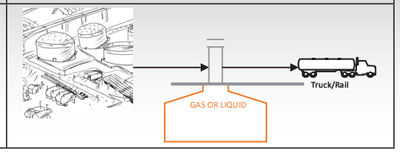
System	Governing Regulation	Representation
Materials transportation terminal (gas)	PSM	
Materials transportation terminal (hazardous liquid) that receives liquid from a pipeline and re-injects for continued transportation via pipeline	PHMSA	
Materials transportation terminal (hazardous liquid) that is exclusively between non-pipeline modes of transportation or between pipeline and non-pipeline	PSM	
Materials transportation terminal (hazardous liquid) that is not exclusively between non-pipeline/ pipeline modes of transportation (i.e. shared use lines are present)	Majority PHMSA	
Piping and equipment used exclusively for fractionation Systems that support the material transportation system (e.g. butane regeneration or butane blending)	PSM	

Underground Storage –

There are two (2) factors that are considered when determining the governing regulation for underground storage:

The fluid phase of the stored substance – gas or liquid

The modes of transportation in and out of the underground storage – pipeline or non-pipeline

System	Governing Regulation	Representation
Underground storage of gas incident to transportation	PHMSA	
Underground storage of hazardous liquid incident to transportation	PSM	
Underground storage of gas or hazardous liquid not incident to transportation	PSM	

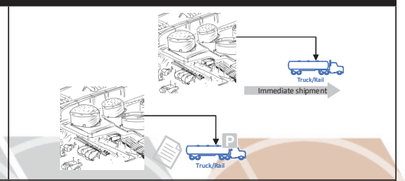
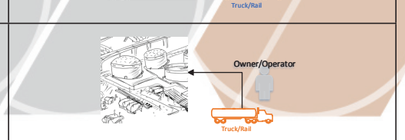
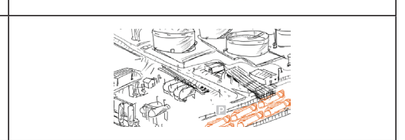
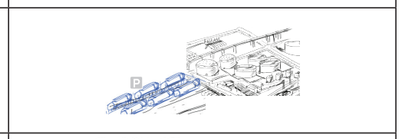
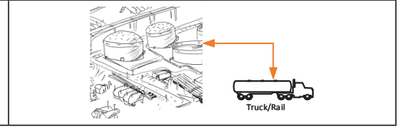
Rail Cars, Trucks, and Racks –

There are three (3) factors that are considered when determining the governing regulation for rail cars and trucks:

What will happen after loading: storage or shipment

Who is performing the unloading: carrier or owner/operator

Where is it being stored: on-site or off-site

System	Governing Regulation	Representation
Loading for immediate shipment Loading but the transport vehicle is held on-site and the pre-transportation functions have been completed	DOT	
Unloading by carrier or under its direct supervision	DOT	
Unloading by consignee or direct contractor of consignee	PSM	
Storage of transport vehicle on premises or private track	PSM	
Storage of transport vehicle on non-private track	DOT	
Loading/Unloading racks	PSM	

OSHA PSM Applicability Exemptions

Atmospheric tanks

PSM standard exempts flammable liquids stored in atmospheric tanks or transferred which are kept below their normal boiling point without benefit of chilling/refrigeration

Hydrocarbon used as a fuel

PSM standard excludes hydrocarbon fuels used solely for workplace consumption as a fuel so long as such fuels are not a part of a covered process

Normally unoccupied remote facilities (NURF)

- The PSM standard does not apply to a normally unoccupied remote facility
- No employees are permanently stationed at the facility
- Employees visit the facility less than 1.5 hours per day and less than a total of 14.5 hours per week
- The facility is geographically remote (4 – 5 miles) from all other buildings, processes, or persons

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